The Laws of Cooking
Part 1
Yeshiva Course

By Rabbi Yosef Ben David

Volume Two

Yeshiva Beit David, Inc.

The Laws of Cooking Part 1 – Yeshiva Course
By Rabbi Yosef Ben David

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The Laws of Cooking Part 1
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Shiur 01: Introduction to the Laws of Shabbat
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Preface

Although the Torah makes frequent mention of the obligation of Shabbat observance, its importance and the severity of its violation[1], the Mishna in Masekhet Chagiga (10a) declares, "The laws of Shabbat are like mountains suspended by a hair." These halakhot, with which we will deal in this series, entail fundamental principles described by the Mishna as "mountains," all of which are "suspended by a hair," as the written Torah offers very little information concerning the halakhic details of Shabbat. It only alludes to them in various places, such that they can be determined only through Chazal's derashot (extrapolations from the text).

We will open this series with a preliminary overview of the different areas included under the general category of Shabbat. Needless to say, we will not, at this stage, address the halakhic details. The purpose of this overview is to acquaint ourselves with the range of topics associated with Shabbat, and develop the conceptual concepts that lie at the heart of Hilkhot Shabbat.

The Basic Principles of Shabbat

The Rambam writes (Hilkhot Shabbat, chapter 30):

Four things were said about Shabbat – two originate from the Torah, and two originate from the words of the Sages and are explicated by the prophets. From the Torah: "Zakhor" ["Remember" Shabbat] and "Shamor" ["Observe" Shabbat]. Explicated by the prophets: kavod [displaying honor] and oneg [enjoying oneself], as it says, "and you shall call Shabbat "[a day of] delight," and the sacred [day] of the Lord, "a respected [day]."

The Rambam divides all the laws of Shabbat into four categories: zakhor, shamor, kavod and oneg. Before we briefly discuss the precise definition of each term, let us first try to understand the Rambam's comments concerning kavod and oneg, which he claims "originate from the words of the Sages and are explicated by the prophets."

A famous debate exists as to whether the Rambam viewed kavod and oneg as Biblical or rabbinic obligations.[2] From the Rambam's formulation in this passage, it seems quite clear that he classified them as rabbinic obligations. In any event (as can be seen from the citations in note 2), the poskim who approach kavod and oneg as Torah obligations explain that the Rambam employs the term "divrei sofrim" in reference to laws that originate from Torah law but are not explicit in the Torah, derived instead by Chazal through the various rules of halakhic exegesis (the midot she-ha-Torah nidreshet ba-hen). These laws constitute dinim de-orayta (Torah laws) in every sense of the term, differing from other Torah laws only with respect to their title.[3]

We, too, will try to make our own contribution to this topic, by paying careful attention to the Rambam's formulation: "from the words of the Sages and are explicated by the prophets." How is it possible that the "words of the Sages" establishing the obligations of kavod and oneg were already explicated by the prophets, who lived much earlier? And if we explain this passage to mean that the prophets themselves instituted kavod and oneg, then what role did the Sages play in this process? These obligations were already in place since the times of the prophets, and thus constitute what in common terminology we call "divrei kabbala"!

The Torah emphasizes many times with regard to the holy days, Shabbat first and foremost among them, that these are days of mikra kodesh. We may suggest several definitions to this ambiguous term:
One must recite a text dealing with the sanctity of the day, similar to the obligation of kiddush.
One must recite on these occasions special prayers that lend them a quality of sanctity.
People must assemble to proclaim the day holy. (The word mikra would thus denote the holding of a public assembly, as in the phrase, "Kir'u atzara" – Yoel 2:15).
One must perform actions on these occasions to express their being sacred days, such as refraining from workweek activity, conducting special meals, wearing special clothes, and so on.
These and other explanations of mikra kodesh appear in the classical commentaries to the Torah. Echoes of the final explanation can be found in

Targum Onkelos, which translates the term as "me'ara kadish," or "a sacred event." Chazal similarly comment on this verse in the Sifrei, "Make it a special event through eating, drinking and fine clothing." As we saw, this interpretation, adopted by Onkelos and the Sifrei, is but one of several possibilities in explaining this expression. It would seem that Chazal chose this interpretation because Yeshayahu had already issued a prophecy to this effect: "and you shall call Shabbat '[a day of] delight,' and the sacred [day] of the Lord, 'a respected [day]'." This, then, is the prophet's interpretation of the term "mikra kodesh."

We may thus explain the Rambam's comments as follows. Kavod and oneg are the Sages' "translation" of the expression mikra kodesh, based on the prophet's interpretation of that expression. And it was Chazal who determined the content of kavod and oneg – eating, drinking, and fine clothing. According to this approach, it emerges that kavod and oneg are indeed Torah obligations, but since the Torah did not formulate them explicitly, and they are determined only through rabbinic interpretation, the Rambam refers to them as "divrei sofrim."

We might further suggest that the Torah issued a general imperative requiring that one conduct himself in a manner that expresses the day's sanctity, and Chazal established specific modes of conduct for this purpose.[4]

Let us now return to our overview, following the Rambam's sequence of zakhor, shamor, kavod and oneg.

1. "Remember the Shabbat day, to sanctify it"

A. This verse is the origin of the Biblical obligation of kiddush. Some sources place particular emphasis on the word zakhor as the basis of this mitzva. The Rambam formulates the obligation as follows:

There is a Biblical mitzvat asei ["positive commandment"] to sanctify the day of Shabbat with words, as it says (Shemot 20), "Remember the Shabbat day, to sanctify it," meaning, mention it with words of praise and sanctity. One must mention it both when it begins and ends: when it begins – with kiddush ha-yom, and when it ends – with havdala. (Hilkhot Shabbat 29:1)

Others, however, emphasized specifically the word le-kadesho as the source of this obligation. The Ramban, in his commentary to this verse, writes:

There is a further extrapolation from the word le-kadesho – that we must sanctify it by making mention of it, as in the verse, "You shall sanctify the fiftieth

year" (Vayikra 25:10), which demands sanctification by the Court, that it [the Court] declares, "Mekudash, mekudash" ["It is sanctified; it is sanctified"]. Here, too, He commanded that we make mention of the day of Shabbat by declaring it holy.[5]

B. The Rishonim debate whether this verse introduces an additional obligation as well. Rashi, in his commentary to the Torah, writes regarding the word zakhor, "Make a point of remembering the day of Shabbat at all times, such that if one comes upon a nice portion [of food], he should set it aside for Shabbat."

This interpretation is based on a berayta in Masekhet Beitza (16a):

It has been said of Shammai Ha-zakein that every day of his life he would eat for the honor of Shabbat. How? If he discovered a nice animal, he would say, "This will be for the honor of Shabbat." If the next day he discovered another, nicer animal, he would leave the second [for Shabbat] and eat the first. But Hillel Ha-zakein had a different practice; all his actions were for the sake of Heaven, as it says (Tehillim 68:20), "Blessed is the Lord; He supports us each and every day."

It is also stated in another berayta: Beit Shammai [the followers of Shammai] say, "From Sunday [start looking ahead] to Shabbat," whereas Beit Hillel [the followers of Hillel] say, "Blessed is the Lord; He supports us each and every day."

The Ramban offers the following response to Rashi's comments:

This is a berayta which appears in the Mekhilta as follows: "Rabbi Elazar Ben Chananya Ben Chizkiya Ben Garon says: 'Remember the day of Shabbat to sanctify it' – keep it in mind [already] from Sunday, such that if you come across a beautiful item, designate it for Shabbat." But this [berayta] is presented as a minority view, and is not in accordance with Halakha.

It would appear that for Rashi, Hillel does not necessarily disagree with Shammai with regard to the fundamental issue of having the honor of Shabbat in mind throughout the week. Rather, Hillel perhaps felt that this need not manifest itself in the realm of food preparation, since doing so conflicts with another value which Hillel championed, namely, a person's trust in God, in the sense of "Blessed is the Lord, He supports us each and every day." The Ramban, by contrast, understood that Hillel disagrees with Shammai on the fundamental issue of whether one must keep the needs of Shabbat in mind all week long. Later, the Ramban draws proof to this position from a passage in the Mekhilta De-Rabbi Shimon Bar Yochai:

The mention of Shabbat would never leave the mouth of Shammai Ha-zakein: when he purchased a good item, he would say, "This is for Shabbat"; [when he purchased] a new item, he would say, "This is for Shabbat." But Hillel Ha-zakein had a different practice, in that he would say, "All your actions should be performed for the sake of Heaven."

This berayta indicates that Hillel disagreed with Shammai even with respect to new items, claiming that one need not designate such an item specifically for Shabbat. Thus, the point of contention between Hillel and Shammai is clearly not restricted to the question of food preparation.

The Ramban therefore infers a different point from this verse, based on the Mekhilta:

This is a mitzva to constantly remember Shabbat, that we should not forget it or confuse it with the other days. For through our constant remembering of Shabbat, one recalls the act of creation at all times, and we will acknowledge at all times that the world has a Creator, and He commanded us with regard to this sign, as it says (Shemot 31:13), "for it [Shabbat] is an eternal sign between Me and you." This constitutes a fundamental principle in the belief of God.

On this basis, some authorities inferred an obligation to recall Shabbat each day, and wrote that one must have in mind to fulfill this obligation while reciting the daily shir shel yom, which we introduce by saying, "Hayom yom… be-Shabbat" ("Today is the… day to Shabbat).

2. "Observe the day of Shabbat, to sanctify it"

The Ramban (Shemot 20:7) writes:

Our Sages wrote in this regard (Rosh Hashanah 27a), "Zakhor and Shamor were proclaimed in a single utterance." What they z"l intended through this [remark] is that zakhor [introduces] a mitzvat asei, commanding that we remember the day of Shabbat to sanctify it, and that we do not forget it; whereas shamor in their view [introduces] a mitzvat lo ta'aseh ["negative commandment"], for wherever it says "hishamer," "pen" or "al," it refers to a lo ta'aseh (Eruvin 96a). It warns that we must observe it to sanctify it, [meaning,] that we should not desecrate it [by performing forbidden activity].

Shamor thus includes all the Shabbat prohibitions:

The thirty-nine categories of melakha, which Chazal derived from the work performed in the Mishkan.
The prohibition against the performance of melakha by one's servant or animal[6], and the prohibition of techum Shabbat [traveling beyond 2,000 cubits outside one's city].[7]
I believe that we should include under shamor also the entire system of shevutim – the prohibitions established by Chazal based on the verse, "on the seventh day you shall rest", as the Rambam writes (Hilkhot Shabbat 21:1):

It says in the Torah (Shemot 23), "tishbot" ["you shall rest"] – [meaning,] you must abstain even from activities that are not [deemed] melakha. There are many activities that the Sages forbade for the purpose of shevut ["resting"], including activities forbidden because they resemble melakhot, and activities forbidden as a decree lest they lead one to violate a prohibition punishable with sekila [stoning].

These comments correspond to the Ramban's remarks in his commentary to Parashat Emor (Vayikra 23:24):

"It shall be for you a shabbaton [day of complete rest]" – [meaning] that is shall be a day of cessation [of work], on which to rest. Our Sages commented (Shabbat 24b), "shabbaton constitutes an asei." Now one who performs forbidden activity on Yom Tov transgresses both a lav [prohibition] and an asei, whereas one who abstains [from forbidden activity] on [Yom Tov] fulfills an asei.
I saw in the Mekhilta, in the section of Ha-chodesh: "'You shall observe this day' (Shemot 12:17) – why is this stated? Does it not already say, 'no melakha shall be performed on them' (ibid. verse 16)? This tells me about only those activities involving melakha; from where [do we derive the prohibition concerning] activities forbidden for purposes of shevut? The verse states, 'You shall observe this day' – to include activities forbidden for the purpose of shevut"…
Now they explain shabbaton as requiring that one cease activity on this day entirely, even from activities that are not included among the principal melakhot or their derivatives… It seems to me that this Midrash means to say that we are commanded by the Torah to rest on Yom Tov [by abstaining] even from activities that do not constitute melakha, rather than exerting oneself the whole day measuring grain, weighing fruits and gifts, filling barrels with wine, moving utensils and stones from house to house and place to place. And if it were a walled city with its doors locked at night, they would load wine, grapes and figs onto the donkeys and bring all types of cargo on Yom Tov, and the market would be fully open for all transactions. Stores would be open, storekeepers would sell,

money-changers would sit at their tables with their gold coins in front of them, and laborers would arise early for work and hire themselves out for these and similar jobs like during the week. This is [otherwise] permissible on Yom Tov, and even on Shabbat itself, for none of this involves melakha. The Torah therefore said shabbaton – it should be a day of cessation [from activity] and rest, and not a day of exertion.

According to the Rambam and Ramban, we should not perceive the mitzva of shabbaton as but the converse of the prohibition of melakha, or, in halakhic jargon, as coming merely "liten asei al lo ta'aseh" ("to impose a mitzvat asei in addition to the lo ta'aseh"). In their view, the mitzva of shabbaton encompasses areas of activity well beyond the narrow parameters of the thirty-nine categories of melakha. It obligates a person to lend Shabbat a quality of menucha (rest) in all areas of human activity. Although the Torah did not specify the particular activities included under this mitzva, this is an example of a situation where Chazal came along and specified the modes of action from which one must abstain in order to fulfill a command issued by the Torah in general terms. It thus turns out that one who performs one of these activities proscribed by Chazal has violated a rabbinic prohibition, but if one engages in several such activities to the point where he infringes upon the nature of Shabbat as a day of rest and cessation from weekday activity – he transgresses as well the Torah obligation of shabbaton.

3. "Li-kdosh Hashem Mekhubad" – Honoring Shabbat

Included under the category of kavod is any activity performed in the house or within one's general framework in honor of Shabbat, such as preparing special food, cleaning and tidying up one's home for Shabbat, placing a white tablecloth, making the beds, putting out flowers, etc. Candle lighting and conducting a meal by candlelight also serve as an expression of kevod Shabbat. A second point of focus of kavod is the preparation of one's body for Shabbat, which includes all means of grooming: bathing, shaving, shoe polishing, fine clothing, and so on, as mentioned in the Midrashic passage cited earlier.

4. "Ve-karata La-Shabbat Oneg" – Enjoying Oneself on Shabbat

Oneg includes all activities that give a person enjoyment and gratification: Shabbat meals (eating one's meal by the light of the Shabbat candles is also included under oneg), making meals out of wine and fine foods, Torah study, sleep, and so on.[8]

Earlier, we classified the laws of Shabbat according to the four categories outlined by the Rambam (zakhor, shamor, kavod and oneg). I believe, however, that we may, essentially, speak of two basic requirements of Shabbat: zakhor and shamor. The other two obligations – kavod and oneg – are merely details within the broader mitzva of zakhor, which entails speaking of and sanctifying the day, and, as we have seen, kavod and oneg serve as expressions of the sacred nature of Shabbat. We might thus arrange the laws of Shabbat as follows:

ZAKHOR: kiddush, remembering Shabbat during the week[9], kavod and oneg.
SHAMOR: the thirty-nine categories of melakha, activities proscribed by Chazal for purposes of shevut, techum Shabbat, and the prohibition against the performance of work by one's animal.

In this overview, we identified the various fundamental principles of Shabbat, without embarking on a thorough analysis of the issues or the positions presented here. Starting with next week's shiur, we will be"H begin an in-depth, thorough study of various topics in Hilkhot Shabbat. Most of our attention will be devoted to the area of shamor, that is, the forbidden activities. This year, we will deal with the melakha of bishul – cooking and baking.

Notes:

1. See Shemot 20:7-10, 31:12-17, 35:1-3; Vayikra 23:1-3; Bamidbar 15:32-36; Devarim 5:11-14, and elsewhere.

2. The Chatam Sofer (responsa, vol. 1, O.C. 168) writes:

Now he [the Rambam] does not mean that it is merely a rabbinic obligation or [an obligation] from divrei kabbala [the prophets], such as Purim. Rather, it is actually from Torah, orally conveyed to Moshe Rabbenu a"h – a halakha le-Moshe mi-Sinai – and Yeshayahu came along and found a textual source for it. For if you say otherwise, that it is not a halakha le-Moshe mi-Sinai, [how could the prophet introduce a new obligation;] a prophet is not permitted to introduce a new law from this point [after the Torah was given] (Shabbat 104a)! Necessarily, then, it is a halakha le-Moshe mi-Sinai, and the Rambam refers to it as divrei sofrim, as is his wont.

Rav Moshe Feinstein adds (Iggerot Moshe, O.C., Dayish, 60):

It seems that the obligation of kavod also constitutes a Torah obligation. For the Rambam wrote, "are explicated by the prophets," rather than "were instituted by the prophets," suggesting that it is from the Torah. The term "mi-divrei

sofrim" is consistent with the Rambam's tendency to refer to anything not explicit in the Torah as divrei sofrim, even if it is a Torah law… The same is true of honoring Shabbat, which originates from the oral tradition and was explicated by the prophets through the Scriptural text.

The Divrei Yatziv (189) writes:

The Ramban comments in Parashat Emor (Vayikra 23:2) that regarding Shabbat it says mikra kodesh, requiring making it a day of feast and celebration. The Shulchan Arukh Ha-Rav (242) writes that they [kavod and oneg] essentially originate from the Torah, as Shabbat is among the mikra'ei kodesh… One might explain the Rambam's view to mean that they were explicated through the words of the Sages, but they have the status of Torah law. He also cites from the Tzemach Tzedek (28), who wrote that oneg originates from the Torah, and the Yerei'im's view in chapter 99 (412) is that the obligation of oneg was known through oral tradition, until Yeshayahu came and found a textual source for it.

By contrast, Rav Ovadya Yosef writes in Yabi'a Omer (1:15):

We learn from his [the Rambam's] comments that the obligation of oneg originates only from divrei sofrim, and not from the Torah. Mahari Taib indeed writes this in Erekh Ha-shulchan (end of 242). The Rashba's position, however, in his responsa (127) and his chiddushim to Yevamot (93), is that oneg Shabbat originates from the Torah, and that it is derived from the verse, "in order that you learn to fear the Lord your God forever."

3. I believe the Rambam had two reasons for distinguishing between laws that are de-orayta (from the Torah), and those which originate mi-divrei sofrim (through the process of rabbinic exegesis):

A. In the second of thirteen principles listed in the Rambam's introduction to his Sefer Ha-mitzvot, he establishes that only laws mentioned explicitly in the Torah should be counted among the 613 Biblical commandments. This list does not include laws extracted through the midot she-ha-Torah nidreshet bahen (techniques of extracting halakha from the Biblical text). He thus employs different terminology in referring to these two different categories of laws.

B. The Sanhedrin of later generations is empowered to utilize the thirteen exegetical tools to arrive at different conclusions than those reached by an earlier Sanhedrin. The Rambam writes in Hilkhot Mamrim (2:1):

If the High Court interpreted [verses] through one of the exegetical methods in accordance with what appears to them to be the law, and they decided upon the law, and then a later Court arose which adopted a different reasoning that

opposes it [the earlier Court's conclusion] – it may oppose it and rule in accordance with its reasoning, as it says, "[you shall come] to the judge who will be in those days" – you are obliged to follow only the court in your generation."

Compare this passage with his remarks in the first chapter of Hilkhot Mamrim:

There can be no dispute on divrei kabbala [laws that have been transmitted through oral tradition]. Anything regarding which you discover a dispute – it cannot be an oral tradition from Moshe Rabbenu. And matters derived through deduction – if the High Court decided upon them in unison, then they have decided [and their conclusions are binding].

4. Later, we will mention a similar idea regarding the obligation of shabbaton. There, too, the Torah issued a general command to lend the day a quality of rest and cessation from standard activity, and Chazal established the halakhic details to which we generally refer as shevut.

5. This question might impact our understanding of the essence of kiddush, whether we perceive it as merely a declaration of the sanctity of Shabbat, or if it itself sanctifies the day. For although the sanctity of Shabbat takes effect each week regardless of human involvement, nevertheless, through the recitation of kiddush one perhaps adds to the kedusha of Shabbat and becomes a partner with the Almighty in this regard. Of course, this issue requires further elaboration in a separate context.

6. Rambam, Hilkhot Shabbat (27:1):

It is forbidden to transport cargo on an animal on Shabbat, as it says (Shemot 23), "in order that your ox and donkey rest." This includes oxen and donkeys, as well as any animal, beast or bird. If one transported [cargo] on an animal he is not flogged, even though he is commanded with respect to its [the animal's] cessation from activity, because this prohibition emerges as a result of an asei [the positive command to allow one's animal to rest on Shabbat]. Therefore, one who directs his animal on Shabbat while it carries a burden is exempt [from punishment].

7. On the basis of the verse, "No man shall leave his place on the seventh day" (Shemot 16:29), the Rambam writes (Hilkhot Shabbat 27:1):

One who leaves outside the boundary of the municipality on Shabbat is flogged, as it says, "No man shall leave his place on the seventh day." "Place" refers to

the city's boundary. The Torah gave no measurement for this boundary, but the Sages transmitted [through tradition] that this boundary means beyond twelve mil, corresponding to the Israelite camp [during their travels in the wilderness]. And this is what Moshe Rabbenu told them: "Do not leave outside the camp." From the words of the Sages [we are taught] that one may leave the city only [a distance of] two thousand cubits. Beyond two thousand cubits, however, is forbidden, for two thousand cubits comprise the outskirts of the city.

8. We hope to discuss the obligations of kavod and oneg in greater depth at a later point. For now, we refer the reader to the Rambam, Hilkhot Shabbat, chapter 30.

9. Earlier, we discussed the explanations given by Rashi and the Ramban for this mitzva.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 02: Defining the Melakha of Bishul (Part 1)

A. Cooking Foods

The list of the thirty-nine melakhot – categories of activity forbidden on Shabbat – presented by the Mishna (Shabbat 73a) mentions the melakha of ofeh – baking. As the Gemara notes, all the categories of melakha are based upon the activities performed in the Mishkan, and thus the Mishna should have chosen the term mevashel – cooking – rather than baking, since this melakha stems from the boiling of dyes during the construction of the Mishkan.[1] The Gemara (Shabbat 74b) explains that the Mishna nevertheless preferred the term ofeh because it lists as melakhot the various stages in the preparation of bread (siddura de-pat).[2] In any event, it emerges from this Gemara that both baking and cooking are forbidden on Shabbat; the prohibition also includes roasting, frying and smoking.[3] In short, any action that renders a raw food item suitable for consumption, be it through water, oil or direct exposure to fire, constitutes a Torah violation of bishul. This prohibition thus differs from basar be-chalav (cooking meat and milk together), regarding which it is unclear whether the Torah forbids roasting or frying, since the verse specifies cooking ("Lo tevashel gedi ba-chalev imo" – Shemot 23:19 and elsewhere).[4] On Shabbat, by contrast, bishul is forbidden as part of the broader framework of the thirty-nine melakhot, regarding which the Torah prohibits any melekhet machashevet – intentional, constructive activity. Hence, any form of food preparation is forbidden on Shabbat.

B. "Cooking" Metals and the Like

It emerges from the Gemara's discussion (Shabbat 74b) that the bishul prohibition applies even to non-food items, such as metal and wax. So long as we deal with foods, we can define the melakha as preparation the item for consumption. With respect, however, to non-edible items, the Rambam writes (Hilkhot Shabbat 9:6):

One who melts any quantity of any kind of metal, or who heats the metal until it becomes a coal – this constitutes a tolada [derivative] of cooking. Similarly, one who melts wax, fat, tar, lime, sulfur or something similar – this constitutes a tolada of cooking, and he is liable [to the death penalty]. Similarly, one who cooks earth utensils to the point where they become earthenware is liable for [the melakha of] cooking. In sum, both burning a solid substance and solidifying a soft substance – one is thereby liable for [the melakha of] cooking.

The Rambam's formulation emphasizes two points:

One commits the violation by softening or solidifying a substance, even one that is not food.
The action must be performed specifically through fire.

We will discuss these two points and examine whether they are universally accepted, and their halakhic significance. Here we will address the first question, and the second will be dealt with be"H in the next shiur.

Softening of Solidifying

We begin with the following discussion in the Gemara (74b):

Rav Acha Bar Rav Avira said: One who casts a pin into an oven [for it to dry] is liable for mevashel. Is this not obvious? One would have thought that he intends to harden the tool; it therefore teaches that it is softened and only then contracts. Rabba Bar Rav Huna said: One who boils lime is liable for mevashel. Is this not obvious? One would have thought that since it [ultimately] hardens again, perhaps [one is] not [liable]; it therefore teaches [otherwise].

It emerges from the straightforward reading of the Gemara that one violates Shabbat specifically by softening a substance, and not by hardening it. This is also the implication of Rashi's comments to this passage. Commenting on the term "li-sherurei" (to harden), he writes: "To make it hard – and this does not constitute bishul." Then, Rashi cites the words "de-mirpa rafi" ("it is softened") and adds, "by the heat of the fire, and the water inside it leaves; after its water leaves, it 'contracts' – it hardens. And when it is initially softened – this constitutes its bishul."

On this basis, the Lechem Mishneh questions the Rambam's view, that even solidifying a substance violates this prohibition. He suggests the following explanation:

He maintains that any liquid that is cooked, even if it solidifies – one is liable for bishul, as it resembles baking. And that which they said regarding a pin… one might have thought that no melakha is performed, since they are already hard, and they merely harden even more. It therefore informs us that one is liable for bishul because the fire initially softens them and they become like liquid, and only then it hardens them. For this reason, one is liable. In all cases, however, one is liable for the hardening of any moist substance.

According to the Lechem Mishneh, since we find instances of the principal melakha – food preparation – involving both softening – such as cooking meat and vegetables – and hardening – such as baking bread – both these processes are likewise forbidden when dealing with non-food items. The prohibition discussed in our sugya involves the hardening that takes place after the initial softening.

It seems that most Rishonim[5] accept Rashi's interpretation, in accordance with the simple, straightforward reading of the Gemara. We might claim, however, that even this position agrees fundamentally that hardening a substance likewise violates the prohibition, and Rashi's comments refer only to the specific case of a pin, which does not undergo a significant change when placed in the oven for additional hardening. In a case, however, of baking clay so it becomes solid earthenware, Rashi would perhaps render one liable for bishul, as this process results in the clay's transformation into an actual utensil.[6] In any event, the poskim adopted the Rambam's position, and one must therefore refrain from any action involving the hardening or softening of products through exposure to fire.

Drying Clothes Near a Fire

The Mordekhai writes (Shabbat, 434), "We should forbid drying clothes [that had been] soaked in water near the fire on Shabbat, because of melaben [the melakha of laundering]… We should also forbid it because of mevashel, just like one who casts a pin into an oven, who is liable for mevashel." It is difficult to understand the comparison drawn between drying clothes near a fire and the case of a pin. Nevertheless, this halakha is codified in the Shulchan Arukh (O.C. 301:46): "It is forbidden to dry clothes that had been soaked in water near a fire." Rabbi Akiva Eiger, in his glosses to the Shulchan Arukh, seems to have understood that the water absorbed in the garment is "cooked" by the heat of the fire. This resembles the position of the Yerei'im and Piskei Ha-Rid, who explained the prohibition in the case of the pin as based upon the "cooking" of the moisture in the pin. In my opinion, however, this explanation is very difficult to accept; the act of water evaporation, through which one makes no use of the

"cooked" water, should not violate a Torah prohibition. The Hagahot Mordekhai explains differently: "Anything that dries first softens as a result of the moisture inside it, and then hardens, as it says… 'One who casts a pin…'" Meaning, the prohibition against drying an item through fire stems from the initial softening of the item, in accordance with Rashi's interpretation of the Gemara's discussion regarding heating a pin. The Vilna Gaon (in Hagahot Ha-Gra) appears to explain this way, as well.[7]

C. The Relationship Between Cooking Foods and "Cooking" Metals

Bishul Achar Bishul

As mentioned earlier, the category of bishul includes melting wax and metal. The Acharonim agree that although regarding food products Halakha generally dictates, "Ein bishul achar bishul" – meaning, once an item has been cooked, repeated cooking does not constitute bishul – nevertheless, repeated melting of metals indeed violates the bishul prohibition. Once the metal hardens after the initial melting, that initial melting is no longer taken into account at all, and we therefore consider the second melting equivalent to an initial melting.[8] This does not apply, however, to repeated cooking of fat. If one cooked fat to the point where it dissolved, and it then once again congealed, subsequent cooking would not constitute bishul, in accordance with the rule of ein bishul achar bishul. Even after the fat congeals, it does not return to its previous condition before it was cooked, and we therefore take the initial cooking into account. Indeed, the Kolbo rules explicitly that one may warm on Shabbat fat that had already been cooked, even after it congealed.

Hardening or Softening Foods

The Kolbo further writes, "Rabbi David Ben Rabbi Levi wrote that perhaps even if oil had become solid as if it had been frozen from the cold, one may warm it, because warming it is not equivalent to cooking it, given that it is not initially intended to be frozen." This position appears to maintain that melting an item that happened to have solidified constitutes a violation only if that item is meant to exist in a given chemical state which one now seeks to change. Since oil is not meant to exist as a solid, one does not violate bishul by melting it. According to this approach, we should forbid melting butter on Shabbat. Even though butter begins as liquid milk, nevertheless, its natural state as butter is that of a solid. Indeed, the work Kalkelet Ha-Shabbat (composed by the author of the Tiferet Yisrael commentary to the Mishna, as an introduction to the commentary to Masekhet Shabbat) rules that melting butter on Shabbat constitutes a Torah

violation of bishul, as it entails softening a solid substance. The work Shevitat Ha-Shabbat concurs.

Rav Moshe Feinstein, by contrast, in Iggerot Moshe (O.C. 4:74, s.v. teshuva), seems to indicate otherwise. He distinguishes between butter produced from pasteurized milk and from non-pasteurized milk, on the basis of the rule of ein bishul achar bishul, such that no prohibition would obtain when melting butter made from pasteurized milk. Rav Moshe compares the status of butter in this regard to that of fat which was cooked and then congealed, which, as we cited earlier from the Kolbo, may be dissolved again[9], since it had already been cooked. One may, however, question this comparison. The fat had already been cooked before it dissolved; therefore, even after it congeals, dissolving it once again would amount to cooking a second time (bishul achar bishul), and should thus be permitted. Butter, by contrast, has never been cooked as butter; the cooking occurred before the butter came into existence. The Iggerot Moshe perhaps understood the Kolbo's ruling to mean that the prohibitions of softening and hardening – as we saw with regard to non-food items – do not apply at all to food products. The rationale for such a position stems from our earlier discussion, where we noted that two distinct forms of bishul exist: preparing food for consumption, and softening or hardening an item through heat. This distinction gives rise to the question of whether the bishul prohibition involving hardening or softening applies to foods. This issue would affect cases of melting butter or cheese in soup or on a potato, on the one hand, and, on the other, making toast from slices of baked bread. It thus appears that according to the Iggerot Moshe, bishul with respect to foods includes only preparation for consumption, and we may therefore apply the rule of ein bishul achar bishul even in cases of transforming a food item from solid to liquid, or vice-versa.

Rav Ovadya Yosef addresses this issue in Yechaveh Da'at (3:22):

And even though the great author of Sho'el U-meishiv, in the Mahadura Telita'a (2:20), ruled that it is forbidden to place baked bread on the oven on Shabbat for it to further harden and become toast, bringing proof from the Rambam's ruling that one may not soften a hard item or harden a soft item, and here one transforms the soft bread into hard toast, nevertheless, even should we assume that we may equate the status of eggs with that of bread, it would still seem that the Sho'el U-meishiv's comments are not halakhically compelling. The Rambam's comments, that it is forbidden to soften a hard item or harden a soft item, do not apply to food items, for it constitutes the standard manner of eating. Just as one may soak dry bread in boiling soup to soften it, as the Kenesset Ha-gedola wrote (318:5), and as the great Maharsham also noted in his work Da'at Torah (318:5), that from the poskim's discussions plainly permitting baking a

previously-baked item, it emerges clearly that there is no prohibition against hardening soft bread, and that the Rambam's comments forbidding the hardening of a soft item do not apply to foods, as this is the normal manner of consumption.

The lenient position perhaps maintains that softening or hardening foods that had already been cooked constitutes merely refinement, rather than actual cooking, and thus cannot render one liable. This cannot be compared to melting metals or wax, which involves preparing the material for use in manufacture, for fashioning new utensils and the like.

The work Shemirat Shabbat Ke-hilkhata (chapter 1, note 173) discusses this issue at length and presents the deliberations of Rav Shlomo Zalman Auerbach zt"l on the matter. As for the final halakha, since we deal here with a question involving a Torah prohibition, such that according to the Shevitat Ha-Shabbat, Kalkelet Ha-Shabbat and Sho'el U-meishiv the Torah prohibition of bishul applies to softening or hardening food items, whereas the Iggerot Moshe and Yechaveh Da'at maintain that it does not, and Rav Shlomo Zalman Auerbach remained undecided on the matter, it would appear that one should endeavor to avoid melting butter and making toast on Shabbat. Those who act leniently, however, have authorities on whom to rely.

D. Distinguishing Between Cooking and Kindling

We will now turn our attention to the various rulings of the Rambam with regard to heating and melting metals.

In Hilkhot Shabbat 9:6, he writes, "One who melts any quantity of any kind of metal, or who heats the metal until it becomes red hot as a coal – this constitutes a tolada [derivative] of cooking." What is the difference between "melting" and "heating"? One might have suggested that one who melts metal violates the prohibition of softening a solid item, whereas one who heats metal is liable for the heating itself, regardless of the softening. (This would affect the question of whether kindling the filament in a light bulb constitutes bishul; there, too, the metal is not softened, but rather heated to the point where it becomes red hot.) However, this explanation of the Rambam's comments seems difficult to accept, in light of his remarks in his commentary to the Mishna (7:2): "The concept of 'cooking' is the softening of hard objects, and therefore one who melts any metallic item or heats it – this is a derivative of [the melakha of] baking." This passage suggests that both melting and heating stem from the prohibition against "softening hard objects." We must therefore conclude that

melting transforms the solid metal to liquid, whereas heating causes the material to soften, as the preparatory stage in the fashioning of the utensil.

On this basis, we can perhaps explain another ruling of the Rambam, which many writers found difficult to understand (12:1): "One who kindles even a slight amount is liable [for Shabbat desecration]… One who heats iron in order to refine it with water – this constitutes a derivative of mav'ir [kindling], and he is liable." The Ra'avad asks, "But why [is he not liable] for cooking, just like in the case of placing a pin in an oven, where it softens and then hardens?" The Lechem Mishneh contends that the Rambam would hold one liable for both mav'ir and bishul in such a case. However, the Rambam makes no mention of liability for bishul, and thus this understanding is difficult to sustain. The more compelling approach in explaining the Rambam's position is that presented by the Chazon Ish (50:9), who distinguishes between different objectives in heating the metal. If one softens the metal for the purpose of fashioning a utensil, then he performs the melakha of mevashel. When, however, one intends to strengthen and harden a utensil, then he cannot be said to have violated mevashel, since he has no interest in softening the utensil, and this effect is of no significance to him. Nor can we hold one liable in such a case for hardening a soft object, since the hardening of the iron occurs only through its exposure to water. The Rambam therefore classifies this case only under the melakha of mav'ir.

In chapter 9, the Rambam speaks of heating metal to the point where it becomes red hot, but yet he does not mention the melakha of mav'ir. This can be understood once we consider the fundamental nature of mevashel. A person can perform this melakha even by simply placing food on a fire and allowing it to cook, since this represents the standard manner of cooking. The act of kindling, by contrast, is done with one's own hands. The Rambam thus perhaps felt that only when one intends primarily to generate heat to refine the metal can we consider him as actively kindling the metal. Where, however, his primary objective is to soften the metal, then we do not look upon the burning metal as the result of his actions, and we can thus hold him liable only for bishul, and not for mav'ir.

Halakhic Conclusions That Emerge from This Shiur

On Shabbat one may not cook, fry, roast or bake food.
One may likewise not melt metals or wax and the like, or solidify them.
The poskim argue as to whether or not one may melt butter and yellow cheese, or make toast from bread. One should preferably refrain from doing so, but those who are lenient have authorities upon whom to rely.
One may not dry clothing on Shabbat by placing them near fire.

It should be noted that these halakhic conclusions are presented in brief, and are intended not as a comprehensive review of the entire shiur, but rather to help clarify the practical, halakhic issues discussed.

Notes:

1. The Gemara (74b) raises the question of why the Mishna refers to this melakha as ofeh – baking – rather than bishul – cooking, in light of the fact that it originates from the boiling of dyes during the construction of the Mishkan. The Yerushalmi likewise poses this question, only with a different formulation, asking why the Mishna mentions baking, which is merely a tolada (derivative) of the principal melakha of bishul. It is unclear whether the Bavli classifies ofeh as an av (principal melakha) or tolada. The Rishonim debate this point, but their dispute concerns not only the specific issue of the halakhic relationship between baking and cooking, but rather a more fundamental question that relates to other melakhot, as well. Namely, do we consider only the main activity the av, relegating all other actions to the status of tolada, or do we equate all parallel activities to the primary melakha, affording them all the status of av? This question affects the relationship between cooking and baking, as well as that between planting seeds and planting saplings (zorei'a and notei'a). Rabbenu Chananel (73b) follows the first approach, whereas Rashi (73b) and the Rambam (Hilkhot Shabbat, chapter 7) represent the second view.

2. At first glance, it appears that this style of presentation is intended simply as a technique to help remember the melakhot, as it arranges them according to the sequence of preparing bread. Perhaps, however, this reflects a more fundamental point, and the siddura de-pat process constitutes an essential theme of the list of melakhot. See, for example, the Tosefta in Berakhot (Lieberman edition, chapter 6):
Adam Ha-rishon exerted himself so, and did not taste a single morsel until he planted, plowed, harvested, winnowed, threshed, separated [the kernels from the chaff], ground, sifted, kneaded and baked; only then did he eat. But I arise in the morning and find all this ready for me.

The perspective underlying the list of the melakhot perhaps relates to the basic activities required for human existence. It should be noted that according to the Yerei'im, the Torah assigned the Sages the task of determining the various categories of forbidden activity on Shabbat. Of course, this requires further elaboration in a separate context.

3. The Yerushalmi (Shabbat 7:2) comments, "One who roasts, fries, boils and smokes – for all of them [he is liable] for mevashel."

4. The poskim debate the issue of whether frying meat with milk constitutes a Torah violation; see Rashi and Tosefot, Sanhedrin 4b. A similar question arises regarding roasting meat and milk; see Ran, Chulin 108a.

5. From the comments of Tosefot, the Ramban and the Ritva to this sugya it appears that they followed Rashi's interpretation, that only softening a substance can violate the melakha of bishul.

6. This is how the Minchat Chinukh explained Rashi's position (in the Mosakh Ha-Shabbat section). One might, however, explain differently, that earthenware likewise first softens before hardening, and one is liable only for the initial softening. Indeed, the Lechem Mishneh followed this understanding of Rashi's view, such that Rashi disagrees with the Rambam's position.

7. I am uncertain whether this prohibition would apply to modern-day clothing. True, according to Rabbi Akiva Eiger's understanding, attributing the prohibition to the "cooking" of the evaporating water, it should apply regardless of the type of clothing. According to the Hagahot Mordekhai, however, that the problem lies in the softening and hardening of the garment, this perhaps applies only to the clothing in that time period, which was rougher than today's garments. It is difficult to imagine modern-day clothing softening and hardening while drying near a flame. The matter requires further study, but in any event, one certainly should avoid drying clothing near a fire, and not rely on this theoretical distinction.

8. See Chazon Ish, 50:9; Har Tzvi – Telalei Sadeh, ofeh, p. 262.

9. He writes as follows: "Now butter in this country, which is produced from milk that is first boiled – called 'pasteurization' – if it had reached the point of yad soledet bo [the level of heat at which one's hand would instinctively recoil on contact], then the butter had been produced from cooked milk. And since it had solidified, it is considered a dry food item, which is no longer subject to bishul, as mentioned explicitly in the Magen Avraham (40) with regard to congealed fat, which has now become like a solid and is no longer subject to bishul, and even if it dissolved and became liquid, it does not matter."

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 03: Defining the Melakha of Bishul (Part 2)

In the previous shiur, we inferred from the Rambam's formulation that softening metals constitutes a tolada (derivative) of mevashel, and is hence a Torah violation on Shabbat, only when it occurs through the medium of fire. In this shiur we will attempt to clarify the concepts underlying this principle.

We have already identified two different areas within the category of bishul: 1) preparing raw foods for consumption; 2) softening or hardening various non-food items. Now, we will address the indispensable role of fire in each of these two kinds of bishul.

Fire as a Prerequisite in Cooking Foods

The Rambam writes in his commentary to the Mishna (Shabbat, chapter 4), "it is only forbidden on Shabbat to heat or add heat with a derivative of fire." Indeed, this is the straightforward understanding of the melakha of bishul, that it requires fire or a derivative thereof, and preparing a food item for consumption renders one liable for Shabbat violation only if he did so with fire. (The term toledat ha-eish – or "derivative of fire" – refers to an item or substance that was itself heated through fire.)

However, we find numerous discussions of this point in halakhic literature particularly as it applies to two instances – cooking through salting (maliach) and through pickling (kavush). The term maliach refers to a food soaked in salt, such that over the course of time the sharpness of the salt softens the food, rendering it edible. Halakha equates this process with standard cooking for purposes of beli'a – the absorption of forbidden taste. Thus, if a non-kosher maliach food comes in contact with a permissible food item, we assume that the kosher item absorbed taste from the maliach, just as it would from a very hot food item. This holds true as well for kavush – soaking a food in water or some other liquid for a twenty-four period is deemed halakhically equivalent to cooking, and we assume that taste transfers during this process, just as it does as a result of normal cooking. The question thus arises whether these two processes of maliach and kavush are forbidden on Shabbat, given that they constitute a form of cooking.

Maliach

The Ramban (Avoda Zara 74b), amidst his discussion of the relationship between the cooking process and the transfer of taste, writes:

I find it very difficult: a bowl used for salting meat is forbidden, because salting is equivalent to boiling [and thus the bowl absorbed the blood from the meat – Chulin 111b], despite the fact that salting does not constitute cooking with respect to Shabbat, even if one needs it for a trip [and therefore salts the meat abundantly], as it says in Kelal Gadol [the seventh chapter of Shabbat – 75b].

The Ramban seeks to prove that transfer of taste can occur without a halakhically defined process of bishul, and in his view, this is precisely the situation during salting. However, his proof from the fact that salting does not constitute a Shabbat violation seems somewhat difficult. One could easily claim that salting indeed constitutes bishul, but nevertheless does not violate Shabbat because it does not entail the use of fire. It would thus appear that the Ramban does not require the use of fire to violate the melakha of bishul on Shabbat, and he could therefore prove that salting is not equivalent to cooking from the fact that salting on Shabbat does not violate the melakha of bishul.

The Ran (Avoda Zara, 38b in the Rif) takes issue with the Ramban, but appears to agree on this fundamental point: "I do not understand this, because there [in Masekhet Shabbat]… they said only that it [salting] does not constitute me'abed [tanning]… But we never find that it does not constitute bishul." The Ran thus clearly accepted, in principle, the possibility of classifying salting under the category of bishul, despite the fact that it does not entail the use of fire.

The Peri Chadash, however, understood that the Ramban and Ran indeed debate this fundamental point, with the Ramban denying the possibility of classifying salting under bishul, as it does not involve fire. The Peri Chadash accepts this position he ascribes to the Ramban. In my opinion, however, his reading of the Ramban's comments is very difficult, for as we explained, they imply to the contrary, that the involvement of fire is not a necessary component of bishul.

Indeed, I found this argument advanced in a question posed to the Noda Bi-yehuda (Mahadura Tanina, Y.D. 43, s.v. ma she-sha'al):

I do not understand – according to this, what is the Ramban's proof? For [perhaps] the absorption and expulsion of taste indeed depends on cooking, and the reason why one who salts on Shabbat does not violate mevashel is not because salting does not constitute cooking, but rather because even if he actually cooked he would be exempt [from liability] for forbidden activity on Shabbat, as it says in [Masekhet] Shabbat 39, that as far as Torah law is concerned, one is liable for mevashel with regard to Shabbat only if it occurs through a derivative of fire.

In his response, the Noda be-yehuda accepted this argument in principle, and endeavors to explain the Ramban's position:

With regard to Shabbat, there is no prohibition of bishul for salting. This is because on Shabbat we derive [the melakhot] from the work performed in the Mishkan, and we therefore require a derivative of fire... But this does not pose a difficulty for the Ramban: the Ramban maintains that afiya [baking] proves the point – it was not done in the Mishkan, and nevertheless, since bishul was done in the Mishkan with the dyes, afiya is included under bishul. The reason why one is exempt [if he cooks] with the hot water from the springs of Tiberias is not because it does not constitute bishul since it does not resemble the activities performed in the Mishkan. Rather, the reason is that it is not customary to cook with it – something that is not a derivative of fire. The Rambam therefore ruled that even with regard to [the prohibition of] meat and milk, which certainly is not derived from the Mishkan, nevertheless, cooking [meat and milk] with it [water from hot springs] is forbidden but one is not subject to malkot [flogging] for it, since it is not the normal manner of cooking. He similarly ruled with regard to Shabbat, in Hilkhot Shabbat 9:3, that one who cooks with hot water from the springs of Tiberias is exempt from punishment. But his main reason is his uncertainty if it is customary to cook with it. But salting – had it constituted "cooking," then one would even be liable [for salting on Shabbat], since it is customary to salt [meat] if one needs it for a trip.

It thus appears that the Noda Be-yehuda himself maintains that bishul requires a derivative of fire[1], but he understood the Ramban as holding one liable for any manner of cooking that conforms to normal cooking procedures, regardless of whether it occurred through fire.

The Minchat Chinukh (Mosakh Ha-shabbat, 11) posits a novel theory, that salt indeed constitutes a derivative of fire: "But salt, [which one produces by] cooking water and thereby the salt is made, and it is not as salty before the

cooking as after the cooking, and it is thus a derivative of fire, since it is cooked with fire – it can perhaps be said to 'cook'." Clearly, this is a rather far-fetched contention. One might explain the Ramban's position far more simply, by suggesting that any preparation of food for consumption, irrespective of the medium employed, constitutes bishul. This is indeed the approach taken by the Avnei Neizer (Y.D. 88):

But salting – this is, of course, customary, to salt foods, and the taste of salted foods and that of cooked foods differ from one another; salted foods have a taste that cooked foods do not have, and thus one who wishes to eat a salted food necessarily does so without [making use of] a derivative of fire – [therefore,] if you would say that salting has the power of bishul, one should be liable [for cooking through salting on Shabbat].

The Yerei'im, by contrast, writes explicitly that salting does not render one liable for cooking on Shabbat (vol. 2, p. 139a, me'abed): "And although it says [in Chulin 111b] that salting amounts to boiling, one is not liable for salting on [Shabbat], since it is not derived from fire."

Kavush

The Rambam writes (Hilkhot Shabbat 22:10): "One may salt an egg, but [salting] radishes and the like is forbidden, because it resembles pickling, and pickling is forbidden because it is like cooking[2]. One may dip radishes and the like in salt and eat." This ruling has generated considerable interest among the Acharonim. The Rambam here forbids salting a radish because of this process's resemblance to pickling. Now if pickling itself is forbidden only mi-de-rabbanan (by force of rabbinic enactment), then a prohibition against salting radishes by virtue of its resemblance to pickling should amount to a gezeira le-gzeira – a rabbinic prohibition legislated as a safeguard against another rabbinic prohibition, which we generally do not find. Seemingly, then, the Rambam considered pickling a Torah violation of Shabbat. On the other hand, as can easily be seen in the Rambam's arrangement of his presentation of Hilkhot Shabbat, from chapter 22 and onward he addresses the shevutim – the Shabbat prohibitions enacted by the Rabbis. And in chapter 9, where he discusses the Torah prohibitions included under the category of bishul, he makes no mention whatsoever of kavush as a Torah prohibition of bishul. We should also note that when he does mention this prohibition, in chapter 22, he writes that pickling is "like cooking," but not actually a form of cooking. This, too, would seem to indicate the pickling constitutes a rabbinic, rather than Biblical, prohibition on Shabbat.

The Acharonim disagree in explaining the Rambam's position. The Kereiti U-pleiti and Mor U-ketzi'a understood that the Rambam approached kavush as a Torah prohibition, but the Chokhmat Adam and Sedei Chemed argued, claiming that it was legislated by Chazal. The Noda Be-yehuda (Mahadura Tanina, Y.D. 60) writes:

Regarding his difficulty with what I wrote, that the Rambam did not bring the law of kavush, in light of what he wrote in chapter 22 of Hilkhot Shabbat, "pickling is forbidden because it is like cooking" – I have difficulty with his difficulty. Why did he not take note of how I wrote very precisely that throughout the Rambam's Hilkhot Ma'akhalot Asurot I did not find this law of kavush? I was very careful [to point out that I referred specifically] to the issue of forbidden foods; what does Shabbat have to do with this? On Shabbat, if one prepares a completely inedible item so that it is now edible, he is liable for cooking, and just as cooking prepares it for consumption, so does this [pickling] prepare it. And the kulias ha-ispanin [Spanish colias fish] and mali'ach yashan [a type of salted fish], which one is liable if he rinses [in hot water], the Rambam likewise wrote in chapter 9 of Hilkhot Shabbat that their rinsing is their final stage of cooking.

Clearly, then, the Noda Bi-yehuda believed that one is liable on Shabbat for any food preparation, regardless of whether it involves fire or a derivative thereof.[3] According to this position, we might explain that the Rambam brings this law in chapter 22 because salting a radish is forbidden only mi-de-rabbanan, as it resembles the process of pickling, but pickling itself indeed constitutes a Torah violation.

Softening and Hardening Non-food Items

The Rambam's comments concerning this issue are more straightforward: "In sum, both burning a solid substance WITH FIRE and solidifying a soft substance – one is thereby liable for [the melakha of] cooking" (Hilkhot Shabbat 9:6). Here, the Rambam very clearly requires the use of fire. Of course, this is easily understood according to the Acharonim who apply this demand to cooking foods, as well; in their view, all instances of bishul require the involvement of fire. The other view, which claimed that one can violate bishul by cooking foods through other media, might explain that non-food items can be softened or hardened only through fire. If so, then essentially we have two types of toladot for the principal melakha of bishul. The principal melakha is the preparation of raw food for consumption and softening it through fire, and the derivatives of this av melakha come in two forms: preparing foods for consumption through any means, and softening or hardening non-food items through fire. The first type of tolada resembles the av in terms of its purpose – preparation for eating

– whereas the second resembles the av in terms of the actual process – softening through fire.

The Final Halakha

As we have seen, some Rishonim, including the Yerei'im and the Rambam in his commentary to the Mishna, write explicitly that the melakha of bishul requires the use of fire or a derivative of fire. Given the Rambam's explicit remarks to this effect in his commentary to the Mishna, I am inclined to explain his comments regarding kavush as referring to a rabbinically legislated prohibition.[4] By contrast, it appears from the comments of the Ramban and Ran that we may indeed classify other means of food preparation as bishul, the question being only with regard to salting, whether it has the capacity to "cook." The Acharonim, as mentioned, are is disagreement on the matter. In practice, the general consensus among the poskim restricts the Torah prohibition of bishul to processes involving fire and its derivatives, reducing salting and pickling to the status of rabbinic prohibitions. In fact, many authorities claim that salting and pickling do not involve the category of bishul at all, and are rather rabbinically ordained prohibitions under the melakha of me'abed (tanning; this melakha does not, on the level of Torah law, apply to salting foods, so these processes must be forbidden only mi-de-rabbanan).

The Shulchan Arukh (O.C. 321) cites the Rambam's formulation that kavush "is like cooking," to which the Mishna Berura (15) comments, "This reason is cited from the Rambam. Rashi gives the reason that foods harden as a result of the salt, and it is thus a tikun [preparation] similar to me'abed." In a different passage there, the Mishna Berura adds:

A vegetable pickled for preservation – since salt water is added as a preservative, it resembles the processing of leather, which is preserved by the salt. And even though we maintain that the Torah prohibition of me'abed does not apply to foods, it is nevertheless forbidden by force of rabbinic enactment, as the poskim write.

The Strength of the Fire

In light of our conclusion that the involvement of fire is a prerequisite for the melakha of bishul, we must address the issue of the minimum strength required to render a flame capable of performing bishul. It is clear that one can violate bishul by soaking food in hot water from a keli rishon (the original utensil in which the water was boiled) or by placing it near a flame or hot kettle, since Halakha equates derivatives of fire with fire itself for purposes of this melakha.[5] But the poskim argue regarding melting wax (or butter, according

to the view that butter is subject to bishul – see previous shiur) with heat at a level below the point of yad soledet bo (at which one's hand would instinctively recoil on contact). This question generally does not arise regarding foods and liquids, since, quite obviously, foods and liquids cannot reach the point where they are considered "cooked" (ke-ma'akhal ben drusai for foods; yad soledet bo for liquids) without exposure to this level of heat. Still, this question presents itself according to the view in the Gemara (Shabbat 40b) that warming oil violates bishul: would one be liable for warming oil with a heat source that does not generate heat at the level of yad soledet bo?

The Shevitat Ha-Shabbat (bishul section, 13, in Be'er Rechovot 13) writes very clearly that one is liable for melting butter even with heat below the point of yad soledet bo. This position appears as well in the Peri Megadim (Eishel Avraham, 318:37). However, Shemirat Shabbat Ke-hilkhata (chapter 1, note 173) writes the following in the name of Rav Shlomo Zalman Auerbach zt"l:

It is possible that anything that does not require heat at the level of yad soledet bo to soften – one is not liable for softening the solid substance, such as, for example, melting a piece of sugar. The aforementioned [comments of] the Peri Megadim refer to a case where the softened item will not reach the level of yad soledet bo. But if yad soledet bo is not necessary for the purpose of softening, it is not considered cooking at all.

Rav Shlomo Zalman thus maintained that only heat at a level of yad soledet bo can qualify as "fire" for purposes of bishul, and he attempted to reread the Peri Megadim's comments to accommodate this theory.

I believe that this issue might hinge on a debate among the Rishonim concerning the Gemara's discussion of warming oil. The Gemara (Shabbat 40b) tells:

Rabbi Yitzchak Bar Avdimi said: I once followed Rebbi [Rabbi Yehuda Ha-nasi] into the bathhouse, and I asked to place an oil flask in the bath for him. He said to me, "Take [some water from the bath] in a second utensil and place [the flask in that utensil]." We learn three [halakhot] from this. We learn that bishul applies to oil; we learn that a keli sheni [utensil into which hot liquid was poured from its initial utensil] does not have the capacity to cook; and we learn that warming it [oil] is equivalent to cooking it.

The Rishonim argue as to whether the final clause in this passage should read – as we cited it, based on Rashi's view – "warming it is equivalent to cooking it," or, as Rabbenu Chananel's text reads, "warming it is NOT equivalent to cooking

it." Rashi explains his version of the text as follows: "Warming it in a place capable of cooking is equivalent to cooking it, for all he [Rabbi Yitzchak] asked to do was to warm it, and he [Rebbi] forbade it." It appears from Rashi's comments that although warming oil constitutes bishul, this holds true only "in a place capable of cooking it." Therefore, even though a keli sheni is capable of warming the oil, nevertheless, since it does not have the capacity to effectuate bishul, one may use it to warm oil.

The Rashba challenged this version of the text and Rashi's explanation:

But in any event, their version of the text does not read well. For if it were true, there should be no difference between a [keli] rishon and [keli] sheni; it should be forbidden in any situation where it [the oil] cooks, for they distinguished between keli rishon and keli sheni only because one can effectuate cooking and the other cannot effectuate cooking.

According to the Rashba, once we consider warming oil halakhically equivalent to cooking, then one violates the prohibition even by cooking it in a keli sheni. He therefore prefers Rabbenu Chananel's version of the text, that "warming it is not equivalent to cooking it," and for this reason one may warm oil in a keli sheni.[6] It thus emerges that Rashi and the Rashba argue with regard to the possibility of effectuating bishul with a level of heat generally incapable of cooking, in those rare instances – such as oil, according to one view – where an item can be considered cooked without reaching the point of yad soledet bo. This debate very likely underlies the dispute among the Acharonim as to whether one may melt wax, butter and the like with a level of heat below yad soledet bo.

One may, however, distinguish between the two contexts, by contending that a temperature below yad soledet bo does not qualify as "heat" at all. Thus, even the Rashba, who accepts the possibility of effectuating bishul with the heat of a keli sheni, would permit melting wax and butter with a heat source that does not reach the level of yad soledet bo.

Halakhic Conclusions from this Shiur

The Torah prohibition of bishul applies only to cooking with fire or a derivative thereof.
The Rabbis forbade salting food on Shabbat.
Pickling foods is forbidden on Shabbat; the poskim debate the issue of whether this constitutes a Torah prohibition, or was legislated by Chazal.
The poskim debate whether one may melt wax, butter and sugar cubes through heat at a level below yad soledet bo.

Notes:

This would resolve the seeming contradiction noted by later Acharonim between this responsum of the Noda Be-yehuda and his comments elsewhere (Mahadura Tanina, O.C. 23). The support he expresses here for the possibility of considering salting a violation of bishul does not reflect his personal view, and was rather stated to explain the Ramban's position. See, however, his comments cited below concerning the issue of kavush.

The Rambam's position that pickling amounts to bishul runs counter to the implication of the Gemara in Shabbat 108b, as explained by the Rishonim, that the prohibition stems from the resemblance between pickling and tanning. Seemingly, kavush has no connection at all to bishul, since it does not involve the use of fire.

See above, note 1. These comments of the Noda Be-yehuda call into question our earlier claim, that he would not consider salting a violation of bishul. We might suggest distinguishing between salting and pickling. The Noda Be-yehuda perhaps felt that salting cannot constitute bishul since practically it does not cook, but rather triggers the process of absorption. Pickling, however, actually cooks the given food, and may thus violate bishul despite the absence of fire. We should also note that his proof from the kolias and mali'ach ha-yashan is hardly compelling, since in that case one rinses them with hot water – a toledat ha-eish (derivative of fire; meaning, it had been heated through fire). These issues of course require more comprehensive discussion in a separate context.

The Rambam here follows his general theory that all shevutim (Shabbat prohibitions enacted by Chazal) are anchored in specific melakhot. Here, too, he sees salting and pickling vegetables within the framework of rabbinic prohibitions involving food preparation, an adjunct to the melakha of bishul. We will encounter other examples of this tendency of the Rambam over the course of this series.

The Mishna in Masekhet Shabbat (145b) speaks of ha-ba ba-chamin – foods cooked in hot water, and an earlier Mishna (38b) forbids cooking an egg by placing it next to a hot kettle, which the Gemara (39a) considers a Torah violation. In a later shiur we will iy"H discuss these issues in much greater detail.

The Ritva, by contrast, claimed that both versions of the text yield the same result, interpreting Rashi in accordance with Rabbenu Chananel's approach. He writes:

The prevalent text, which is also the text of Rabbenu Chananel z"l, reads, "warming it is not equivalent to cooking it." Meaning, for this reason he allowed him [to warm the oil] in a keli sheni, which has the capacity only to warm. But Rashi z"l has a text that reads, "warming it is equivalent to cooking it." This does not mean to say that it constitutes actual bishul, for if so, then it should be

forbidden even in a keli sheni. Rather, this is what it means: where it can be cooked, even warming it is considered cooking it, and is forbidden. This is how Rashi explained. Both versions of the text are thus one and the same.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 04: Defining the Melakha of Bishul (Part 3)

In the previous two shiurim, we established the definition of the melakha of bishul as it pertains to foods and other items, and we addressed the need for the involvement of fire for an act to qualify as bishul, and the ramifications of this prerequisite. In this shiur, we will focus our attention on two important points:

1) The possibility of applying the melakha of makeh be-patish to foods;
2) The status of cooking fruits and vegetables that can be eaten raw.

Applying Makeh Be-patish to Foods

In the previous shiur, we concluded that food preparation does not qualify as bishul unless it occurs through heat generated from fire. However, we might consider holding one liable for cooking food without fire or a derivative of fire for an entirely different reason – the melakha of makeh be-patish (giving the 'finishing touch') (literally, "banging with a hammer"), which forbids completing the fashioning or preparation of an item on Shabbat.

The Mishna in Masekhet Shabbat (145b) states:

Anything that had been in hot water [meaning, that had been cooked] before Shabbat may be soaked in hot water on Shabbat, and anything that had not been in hot water before Shabbat may be rinsed in hot water on Shabbat, with the exception of meli'ach ha-yashan and kulias ha-ispinin [two types of small fish], whose rinsing constitutes its final preparation.

Many Rishonim interpret the term gemar melakha ("final preparation") in this Mishna in terms of bishul. Rashi, for example, explains, "For this constitutes its final preparation, and it is [therefore] bishul." Rabbenu Chananel, however, in his commentary to the Mishna, writes:

But meli'ach ha-yashan and kulias ha-ispinin – if there were not brought in hot water before Shabbat, then it is forbidden to even rinse them [in hot water] on Shabbat. If one violates [this prohibition] and rinsed them, he is obligated [to bring] a sin-offering for he has completed a task [she-gamar melakha].

These comments might be understood to mean that Rabbenu Chananel refers to the melakha of makeh be-patish, though this reading is not conclusive. Indeed, several Acharonim explain this Mishna in reference to makeh be-patish. The Rav Pe'alim (2:52) writes:

However, if this bread is very hard because it had sat for many days, to the point where it cannot be eaten at all without being soaked in soup, then this is forbidden because it constitutes gemar melakha, and one would be liable for makeh be-patish, and not for mevashel, as the Shulchan Arukh writes (318:4), "An item that was previously cooked and is dry – one may soak it in hot water on Shabbat. But if it is a dry item that had not been cooked before Shabbat, one may not soak it in hot water on Shabbat, but one may rinse it in hot water on Shabbat, except for meli'ach ha-yashan and the species of fish called kulias ha-ispinin, which require minimal cooking, and thus their rinsing constitutes their final preparation." And the Rema z"l wrote in his glosses, "This applies as well to any solid item that cannot be eaten without soaking; one may not soak it on Shabbat, as this constitutes its final preparation"… A dry item that cannot be eaten at all without soaking – regarding this our rabbi Moshe z"l wrote that one may not soak it on Shabbat, because it constitutes the final preparation. And even regarding this he did not write that one is liable for mevashel; he rather wrote, "because it constitutes its final preparation," and thus one is liable for makeh be-patish.

We might conclude, then, that any procedure performed to prepare an item for consumption that does not meet the criteria of mevashel, would nevertheless be forbidden on the grounds of makeh be-patish.[1] The Levush (318:4) indeed writes: "Similarly, any item that is solid and not suitable for consumption at all without soaking – one may not soak it on Shabbat, because this constitutes the final preparation. Even though one does not cook, he is liable for makeh be-patish."

Some Acharonim attempted to draw proof to this theory – that the melakha of makeh be-patish applies to food items – from the Talmud Yerushalmi (Shabbat, chapter 7). On the other hand, many Acharonim demonstrated from several passages in the Bavli that one cannot transgress makeh be-patish by completing the preparation of a food item. We will very briefly present the

various proofs brought for both sides of the issue, before reaching our own conclusion on this subject.

The Yerushalmi (Shabbat 7:2) delineates various stages in the processing of grain, identifying the specific melakha one violates with each stage. It concludes, "Gamra melakhta – mishum makeh be-patish" – when one completes the processing, he is liable for makeh be-patish. This very clearly suggests that the final act in preparing a food item renders one liable for makeh be-patish.

In the Bavli, by contrast, we find many indications that one may prepare foods on Shabbat, and doing so would not violate makeh be-patish. Firstly, the Gemara (Shabbat 155a) states that although one may not exert himself in the preparation of already edible fodder for his animals, he may exert himself to make fodder edible. The Gemara does not ban making the food edible on the grounds of makeh be-patish. Secondly, earlier in the Masekhet (39a), the Gemara explicitly allows cooking food in the sun, and forbids cooking with toledot ha-chama (derivatives of solar heat) only by force of rabbinic enactment. No mention is made of makeh be-patish as a basis for forbidding this method of food preparation. Some writers, however, dismissed these proofs, claiming that in the first instance, the Gemara deals with the mere slicing of vegetables for animals, which entails no significant act that can be deemed makeh be-patish. And in the second Gemara, they argued, one does not violate a Torah prohibition because he cooks in an unusual fashion ("ein derekh bishul be-khakh"), and only for this reason would makeh be-patish not apply.

Conversely, the work Pitchei Da'at dismisses the proof from the Yerushalmi. The Pitchei Da'at claims that the Yerushalmi applies makeh be-patish to food preparation because in a different context, it maintains that "ein bishul ela ke-she-ha-or mehalekh tachtav" – one violates bishul only when cooking with actual fire.[2] In order to explain the Mishna's ruling that one is liable for rinsing meli'ach ha-yashan and kulias ha-ispinin in hot water, the Yerushalmi was compelled to apply to this context the melakha of makeh be-patish. The Yerushalmi's position would thus have no bearing on normative Halakha, which allows for bishul violation with even derivatives of fire (such as boiling water).

The Bei'ur Halakha (318, s.v. she-hadachatan) concludes that the melakha of makeh be-patish does not apply to food preparation, in accordance with the straightforward implication of the Bavli.

Furthermore, I believe that a closer analysis of the underlying concepts of makeh be-patish will reveal that the Yerushalmi provides no proof that this melakha can apply to food preparation. The melakha of makeh be-patish

consists of two categories. The first is that of tikun keli – any action that prepares any sort of utensil for its function. Our discussion involves this category of makeh be-patish, and addresses the question of whether or not it pertains to the preparation of foods. In this respect, even the Yerushalmi agrees that it does not. The Shita Mekubetzet (Beitza 18a) discusses the distinction between immersing utensils on Yom Tov to render them usable, which Halakha forbids on the grounds of tikun keli, and purifying water that had become tamei by bringing it in contact with water in a mikveh, which is permissible on Yom Tov. The Shita Mekubetzet writes, "They [Chazal] said this only with regard to utensils; impure water, however, are not subject to [the prohibition of] tikun, because tikun applies only to utensils."[3] Accordingly, in our case, too, we would not define food preparation as tikun keli, since it does not involve a keli (utensil).

There is, however, a second category included under the melakha of makeh be-patish. When one embarks on a process of production entailing several stages, the action that completes the entire process is considered the gemar melakha, the completion of the given task, and renders one liable for makeh be-patish. This category may, indeed, pertain to food preparation, and it is to these kinds of cases that the aforementioned passage in the Yerushalmi refers.

In other words, the first form of makeh be-patish involves the completion of the item, and applies only to keilim, and the second category relates to the final action required by the individual. This second type would apply to foods, since it focuses on the individual, rather than the object.

We might draw proof to the application of makeh be-patish to foods from the comments of the Sefer Ha-pardes, cited in the Bet Yosef (318):

But tarit [a type of salty fish] – I say that it is permissible to wash it in some cold water on Shabbat and eat it, since it resembles washing cups and bowls, which one may do on Shabbat. And rinsing the tarit does not constitute gemar melakha, such that its rinsing would be forbidden on Shabbat, because it can be eaten with its salt[4], and anything that can be eaten with its salt, its rinsing does not constitute the completion of its preparation. And kulias ha-ispinin is a very salty fish that cannot be eaten with its salt, until it is rinsed in hot water.

It emerges that if the fish requires rinsing to become suitable for consumption, then rinsing it even in cold water would be forbidden. After all, the Sefer Ha-pardes permits rinsing the tarit in cold water only because it can be eaten even after its salt is rinsed out, indicating that otherwise, even rinsing in cold water would be forbidden. We can accept this position only if we accept one of the

following two assumptions: either that any preparation of food for consumption violates bishul regardless of the heat source[5], or that rinsing in cold water would be forbidden on the grounds of makeh be-patish. Indeed, the Peri Megadim adopted the second approach in understanding the position of the Sefer Ha-pardes. The Bet Yosef appears not to accept the ruling of the Sefer Ha-pardes.[6] In any event, this issue is clearly subject to a debate among the Rishonim. However, the decision of most Acharonim, including the Mishna Berura (in Bei'ur Halakha) and Rav Ovadya Yosef, is that the melakha of makeh be-patish does not apply to food items.

Cooking Fruits or Vegetables That Can be Eaten Raw

The Gemara in Masekhet Avoda Zara (38a) cites the ruling of Rav that the prohibition of bishul akum – partaking of food cooked by gentiles – does not apply to cooked foods that could be eaten raw. Although Chazal enacted a prohibition against eating bishul akum so as to prevent excessive social contact with non-Jews[7], they did not apply this prohibition to foods that could be eaten without cooking. Some authorities[8] extracted from this ruling that cooking such foods does not formally constitute bishul, and thus one would not violate the melakha of mevashel by cooking this kind of food on Shabbat. These authorities drew proof to this position from the Rambam's comment (Hilkhot Shabbat 9:3), "One who cooks over fire an item that is fully cooked or that does not require cooking at all, is not liable." They explained this ruling as referring to fruits that can be eaten raw and do not require cooking. However, the Magid Mishneh writes regarding this ruling of the Rambam:

That which he [the Rambam] wrote, "and also an item that does not require cooking" is straightforward, and derived from the debate in the chapter Kira (Shabbat 42b) as to whether or not oil is subject to bishul, indicating that according to all views something that does not require cooking is not subject to bishul.

According to the Magid Mishneh, the Rambam did not arrive at this ruling based on the halakha mentioned in Avoda Zara regarding bishul akum, and thus that ruling would not necessarily apply to bishul on Shabbat. It is possible that cooking an item that is edible raw would, in fact, constitute bishul, but the prohibition of bishul akum does not extend to these kinds of foods since there is no concern for close interaction when dealing with such foods. According to the Magid Mishneh's reading, the Rambam refers to items upon which the cooking process has no effect at all, meaning, cases where cooking plays no role in preparing the food for consumption. Later we will define this category more precisely.

Some Acharonim sought to prove the inapplicability of bishul to cooking fruit from Tosefot's comments in Masekhet Shabbat (48a, s.v. de-zeitim):

Rabbenu Shemuel says that one is permitted to place apples near the fire before dark [late in the day on Erev Shabbat] even if they will not be roasted by the end of the day, because they are eaten raw more commonly than foods are eaten at the point of ma'akhal Ben Derusai [half-cooked], which is permissible.

Tosefot appear to equate raw apples with foods cooked to the point of ma'akhal Ben Derusai, and thus according to the view that a food cooked to this point is no longer subject to bishul[9], bishul would likewise not apply to fruits. The Minchat Kohen makes this inference from Tosefot, but the Iglei Tal disagrees, explaining that Tosefot equate raw apples to ma'akhal Ben Derusai only with respect to the prohibition of shehiya – leaving uncooked food on the fire before Shabbat to finish cooking on Shabbat. Chazal enacted this prohibition out of concern that one might stir the coals under the pot to expedite the cooking process, and thus it does not apply to foods that have already been cooked to the point of ma'akhal Ben Derusai, since one will not need to hasten their cooking. Accordingly, Tosefot reason that regarding raw apples, too, which can be eaten raw, the shehiya prohibition would not apply. With respect, however, to the melakha of bishul – the prohibition against cooking on Shabbat itself – raw fruit has the same status as all uncooked foods, and is subject to bishul. We might draw proof to the Iglei Tal's reading from Tosefot's comments later in this passage:

If one covered apples together with the pot [with cushions to retain their heat], he may not return the pillows and cushions onto the pot that is with them… Even though this is permissible when there are no apples, [nevertheless,] when there are apples with the pot this is forbidden, because if one returns [the cushions before they [the apples] are cooked, he will have cooked on Shabbat.

Tosefot explicitly apply the bishul prohibition to apples, and thus their earlier comparison between apples and foods at the point of ma'akhal Ben Derusai referred only to the prohibition of shehiya, which stems from the concern that one might stir the coals to hasten the cooking.

The question, however, remains, why should bishul apply to foods that can be eaten in their current state? The definition of the melakha of bishul – preparing an item for consumption – appears to limit the application of this melakha to foods that require the cooking process to become suitable for consumption.

Two answers may be offered:

1) Any action resulting in the enhancement of the food's suitability for consumption constitutes a violation of bishul, since the melakha involves the process of improving a given item's taste.
2) Even if we insist that the melakha involves only preparing an item for consumption, whereas in our case the item is already prepared, we might claim that the cooked item is of an entirely different quality and nature, for which the food is not prepared in its initial, uncooked state. Apples, for example, are suitable for consumption as fruits, but once they undergo the process of cooking, they become compote – a different type of food altogether. Preparing a fruit for consumption as compote indeed constitutes a violation of bishul. Said otherwise, with respect to compote, the apple is not food, but rather the "raw material" which must undergo the process of cooking to transform into compote.

As for the final halakha, the Shulchan Arukh (254:4) codifies Tosefot's position:

Fruits that can be eaten raw – one may put them around the pot even if they cannot be roasted before dark. However, one must ensure not to return the cover if it came off after dark, and not to add onto it [the covering] until they are roasted, since this hastens the completion of their cooking on Shabbat.

Two conclusions emerge very clearly from the Shulchan Arukh's ruling:

1) Raw fruits have the same status as any other uncooked food with respect to the melakha of bishul, and thus one who cooks them or accelerates their cooking on Shabbat is liable for bishul.
2) With regard to leaving raw fruits near a pot before Shabbat, they have the same status as food cooked to the point of ma'akhal Ben Derusai, which one may leave on the fire before Shabbat, since there is no concern that he will stir the coals to hasten their cooking.

Foods that Do Not Require Cooking at All

Earlier, we mentioned the Rambam's comment that one is not liable for cooking foods that do not require cooking. Recall that the Magid Mishneh explained the Rambam's remarks in light of the sugya in Masekhet Shabbat 40b. We cite here the relevant passage in the Gemara:

Rabba and Rav Yosef both ruled leniently: oil, even to the point of yad soledet bo [where one's hand would instinctively recoil on contact], is not subject to

bishul. The first Tanna [cited in a previously recorded Berayta] maintains that oil is not subject to bishul. Rabbi Yehuda comes and says that oil is subject to bishul, but [merely] warming it [as opposed to heating it directly over a flame] does not amount to bishul; and Rabban Shimon Gamliel comes and says that oil is subject to bishul, and [merely] warming it constitutes bishul.

The Gemara thus delineates three positions among the Tanna'im regarding oil: 1) it is not subject to bishul at all, since it undergoes no change as a result of the cooking process; 2) oil resembles all other liquids, in that one violates bishul by heating it to the point of yad soledet bo; 3) warming oil, even without actually heating it, transgresses bishul, since oil is intended primarily for smearing, and warming it prepares it sufficiently for this function[10].

With regard to oil, the Rambam follows Rabbi Yehuda's position, which equates oil with other liquids, the cooking of which constitutes bishul once they reach the point of yad soledet bo. Nevertheless, the basic principle that emerges from the sugya, namely, that there can be foods that are not subject to bishul at all, very likely remains valid.

Indeed, the Or Zaru'a (62) cites the following comments of the Riva:

It appears to me that wine is likewise not subject to bishul when one warms it for drinking. But one who cooks it with honey and spices and makes it into a drink – this certainly constitutes bishul, since it transformed into a different taste as a result of fire. And vegetables that can be eaten raw, such as leeks and turnips, and also fruits, such as apples and other fruits, even though they are eaten raw, they are subject to bishul because their taste is sweetened and transformed to a different taste when they are cooked. And although with regard to bishul akum we say, "Anything that is eaten raw is not subject to bishul akum" – since bishul akum was enacted by the Rabbis, the Rabbis treated it leniently. Regarding Shabbat, however, it makes no difference [whether or not the food item can be eaten raw], for they say in Masekhet Avoda Zara that hot water is not subject to bishul akum, and yet here [in Masekhet Shabbat], it appears that according to all views water is subject to bishul, and one who cooks it must bring a sin-offering.

According to the Riva, merely warming wine does not violate bishul because the wine undergoes no change as a result[11], whereas cooking it with honey or fruits does constitutes bishul, since their taste changes as a result of this process.

As far as the Rambam is concerned, we do not know his view concerning the cooking of wine or other products. He clearly maintains that there are foods that undergo no enhancing transformation as a result of cooking[12], but since

he does not give specific examples, we cannot be certain about his view regarding any particular food item.

With regard to water, the sugya in Masekhet Shabbat (40b) states explicitly that one transgresses bishul by heating water to the point of yad soledet bo, but it does not specify whether this constitutes a Torah prohibition or was enacted by Chazal. The Rambam, however, writes (in Hilkhot Shabbat 9:1) that one who heats water is chayav ("liable," clearly referring to a Torah prohibition). It stands to reason that bishul applies to water not because of its transformation of taste, but rather due to the heating itself, as indicated by the Rambam's formulation, employing the word "ha-mechamem" ("one who heats…"), as opposed to "ha-mevashel" ("one who cooks").[13] Cooking water is intended primarily for the purpose of bathing, as indicated by the Rambam's discussion of the minimum quantity required to violate bishul. Generally speaking, the violation of bishul requires a minimum amount of a gerogeret of food, or a revi'it of liquids. When it comes to water, however, the Rambam writes that one violates bishul by heating the amount required to wash a small organ of the body. It thus appears that bishul as it applies to water forbids heating water for bathing purposes, and thus the prohibition is violated by virtue of the rise in the water's temperature, despite the absence of a substantive change in taste. One might, however, argue that regarding water bishul applies on two levels – in terms of heating for bathing, and heating for consumption – and the Rambam mentioned the first only because it is the smaller of the two quantities.

Of course, the question arises in light of this theory as to why one violates bishul by heating water specifically to the point of yad soledet bo, given that people generally bathe in water that has not reached this level of heat. The book Shevitat Ha-Shabbat (introduction to Mevashel, #17) addresses this question and writes that even though a person derives benefit from water at a lower temperature, raising water to that temperature does not cause a transformation in the water, and is thus permissible. Heating water to the point of yad soledet bo, however, indeed transforms the water and is therefore forbidden. In my opinion, this explanation is difficult to accept. A more likely answer is that although people bathe in water at a lower temperature, the water is initially heated to the level of yad soledet bo so that when the individual enters the water it is at a suitable temperature. However, this issue still requires further analysis.

Conversely, one might contend that for cooking water we should demand a higher temperature than yad soledet bo, since hot water is usually drunk only after it has been brought to a boil. We might explain that since the water becomes suitable for bathing at the point of yad soledet bo, this suffices to

render one liable, particularly in light of the Rambam's position discussed earlier, that bishul in reference to water involves mainly the heating itself, and not the preparation for consumption.[14] The question remains, however, according to the possibility we raised earlier that regarding water bishul is defined in terms of both bathing and drinking, whether one violates bishul by bringing to a boil water currently at the point of yad soledet bo.[15] One might suggest that in Talmudic times hot water was not brought to a boil for drinking, and was rather drunk at the point of yad soledet bo, as the Rashba writes (Shabbat 42a, s.v. notein), "because it is made for drinking, and a person does not drink very hot water, but rather lukewarm [water]."

In any event, the authorities all assume that one violates bishul by heating water to the point of yad soledet bo, and no violation is committed by bringing water at this temperature to a boil.

Practical Conclusions that Emerge from This Shiur

Most poskim maintain that the melakha of makeh be-patish does not apply to food items, and it is therefore permissible to prepare a food item for consumption in a manner that does not involve fire-generated heat (provided, of course, that this does not violate any of the other melakhot).

A salty fish that requires rinsing in cold water to render it suitable for consumption may be rinsed even in hot water. If, however, it requires rinsing specifically in hot water, then one who does so violates the Torah prohibition of bishul.

Halakha follows the view that the Torah prohibition of bishul forbids cooking even fruits and other items that are edible raw, so long as the cooking process enhances them and introduces new flavor.

The Torah prohibition of bishul forbids heating water, oil or wine to the point of yad soledet bo.

Notes:

[1] One might ask why anytime a person violates bishul he does not transgress as well the melakha of makeh be-patish. We could explain that the entire concept of makeh be-patish is work performed outside the parameters of the other melakhot.

[2] We will iy"H address this issue at length in a later shiur.

[3] This issue likely relates to a much broader discussion as to whether the melakhot of ibud (tanning), memachek (erasing), mechatekh (cutting) and tzovei'a (coloring) apply to foods. It all may very well depend on the point we develop here in this shiur, though obviously further analysis is required.

[4] Meaning, it can be eaten despite the large quantity of salt on the fish, even without rinsing.
[5] See our discussion in the previous shiur.
[6] The Bet Yosef's primary argument against the Sefer Ha-pardes relates to the issue of rinsing a tarit in hot water, which the Sefer Ha-pardes forbids, despite the fact that the fish is suitable for consumption without rinsing. Indeed, the Derisha understood the Pardes to mean that one may rinse the tarit even in hot water. The Derisha writes, "Since hot water is not required for its preparation [for consumption], and in cold water it is clearly permissible to rinse it and prepare it for consumption – so since it is rendered suitable even [by rinsing] with cold water, it is therefore permissible with hot water, since hot water is not required for its preparation."
[7] Rashi there writes, "So that a Jew will not frequently spend time with him eating and drinking, and he might feed him something non-kosher." The Rambam writes (Hilkhot Ma'akhalot Asurot 17:9), "in order that we be distanced from the gentiles to the point where Jews will not mingle with them and come to marry them."
[8] Rabbi Akiva Eiger, 254; Magen Avraham, 254:14; Minchat Kohen; see also Radbaz, 1:213, who writes that the prohibition is rabbinic in origin.
[9] Indeed, there are those who hinge the question of cooking fruits and the like on the issue of whether one may cook foods that have already been cooked to the point of ma'akhal Ben Derusai. Clearly, however, Tosefot here compare the two only with respect to the rabbinic prohibition of shehiya, and not to actual bishul.
[10] Some, however, claim that this position, which forbids the mere warming of oil, does so only on the level of rabbinic enactment, and not of the Torah prohibition of bishul. See Sefer Ha-teruma, 231; and Penei Yehoshua, Shabbat 40b.
[11] Later, however, the Or Zaru'a writes that the Riva ultimately retracted this ruling and held that bishul indeed does apply to wine.
[12] See also Iglei Tal – Melekhet Ha-ofeh, 19:8 and 19:21. The Sha'ar Ha-tziyon (318:114) comments, "It seems obvious, in my humble opinion, that this refers to something that is not enhanced at all through cooking, to the exclusion of fruits and the like, which is enhanced as a result of cooking."
[13] The Rambam perhaps detected this notion in the sugya on 40b, which says regarding water, "A person may bring a ladle of water and place it opposite a fire not to heat it, but rather that it will thaw." In the corresponding passage concerning oil, however, the Gemara employs the term bishul, rather than chimum (warming). This subtle shift in terminology perhaps indicated to the Rambam that when it comes to water, the melakha of bishul is defined as heating water for bathing, and not for drinking.

[14] For further discussion on this point, see Shevitat Ha-Shabbat, introduction to Mevashel, #18 and the VBM article, Cooking Liquids on Shabbat" by Rav Elyakim Krumbein at http://www.vbm-torah.org/halak56.html.
[15] There is one view in the Rishonim that indeed holds one liable for bringing water from the point of yad soledet bo to a boil, but for an entirely different reason, as we will discuss be"H in the next shiur.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 05: More on the Fundamental Definition of Bishul

This shiur will discuss the following two points regarding the fundamental definition of the melakha of bishul:

The issue of cooking that began on Shabbat and continues into Motza'ei Shabbat;
The minimum duration of cooking that constitutes bishul, and the halakhic status of bishul achar bishul – cooking a food that had already been cooked.

Cooking that Began on Shabbat and Continues Into Motza'ei Shabbat

This issue is not discussed either in the Gemara or in the writings of the Rishonim, but it is addressed by the Acharonim on the basis of a comparison between bishul and a different melakha – zorei'a (sowing). In both cases, the person is directly involved in the first stage – either embedding the seed in the ground, or placing a pot over the fire – but the rest of the process – the seed's taking root, or the cooking of the food – occurs independently. Regarding both these melakhot, therefore, the question arises as to whether one bears liability for the action performed in beginning this process, irrespective of when the end result of the cooking or taking root of the seed occurs.

When it comes to zorei'a, one is clearly liable even when the process is completed only after Shabbat, since this is necessarily the case in every instance of sowing: a person sows today and the seed takes root only several days later. The same concept would perhaps apply to baking and cooking, and one would therefore violate this melakha if he places bread in the oven just minutes prior to the end of Shabbat. The Rashash writes this explicitly in his chiddushim to Masekhet Shabbat (73b).

Conversely, the Gemara (Shabbat 3b) establishes that if a person placed bread in an oven on Shabbat and removed it before it is baked, he has not violated the melakha. Here, too, the Rashash equates bishul with zorei'a,

claiming that if a seed planted on Shabbat was removed from the earth before it took root, no violation has been committed. According to the Rashash, then, the melakha depends on the taking root and the baking, but the individual's role involves only the beginning of the process. Therefore, if the action occurred on Shabbat and ultimately reached its final result, then even if this final result took place only after Shabbat, a violation has been committed. If, however, the final result was never achieved, no violation has occurred.

The Chelkat Yoav brings two proofs to this position, that one bears liability even if the cooking process continues after Shabbat. The first stems from a cryptic passage in the Yerushalmi (Shabbat 1:6): "Beit Hillel infers [the halakha concerning] a permissible activity from [the halakha concerning] a forbidden activity: had he done this on Shabbat, would it not be forbidden? Similarly, if he did so before the end of the day, it is permissible." According to the Chelkat Yoav, this means that in Beit Hillel's view, since one bears liability when he begins a melakha on Shabbat and it concludes on Motza'ei Shabbat, it should be permitted to begin a melakha before Shabbat and have it continue on its own into Shabbat, since we follow the initial action. In my humble opinion, however, this does not appear to be the intent of this sugya. Indeed, the classic commentaries on the Yerushalmi explained this passage differently. According to the commentaries, Beit Hillel claimed that any action forbidden to perform on Shabbat itself may be performed before Shabbat, even if the process will then continue into Shabbat. In fact, the Chelkat Yoav's reading is very difficult to sustain, since it interprets Beit Hillel as inferring a clear and undisputed halakha – that one may perform a melakha before Shabbat, even if the process continues into Shabbat – from a halakha that is far from simple and certainly not undisputed, namely, that a melakha begun on Shabbat is forbidden even if the process will be completed only after Shabbat.

The Chelkat Yoav's second proof comes from a Gemara in Masekhet Beitza (22a), which holds one liable for mekhabeh (the prohibition against extinguishing a flame on Shabbat) if he removes some oil from a burning lamp. The Rosh writes the following in explaining this halakha:

The reason, it seems to me, is that one who removes some oil hastens its extinction… In this instance, both the oil and the wick facilitate the flame, and thus one who diminishes from one of them and hastens its extinction is liable. And this is also the reason for [liability in a case of] one who adds oil to a lamp – because he extends the kindling: had he not added oil to the lamp, it would have extinguished once the oil in the lamp was depleted. And its kindling from this point henceforth is considered as if he had kindled it. The same applies to

extinguishing, as well: one hastens the extinguishing process by removing [oil] from the lamp, and he is thus considered as having himself extinguished.

The Rosh implies that one who removes oil from a lamp violates mekhabeh even if the lamp had enough oil to continue burning until after Shabbat. The Chelkat Yoav proves from this position that one violates Shabbat by performing the first stage of a given melakha, even if the process will be completed only after Shabbat. Here, too, I believe that the proof is hardly compelling. These comments of the Rosh have no connection at all to the issue of when the extinguishing occurs. The Rosh here simply posits a new definition of mekhabeh, namely, that even diminishing from the substance sustaining the flame constitutes mekhabeh. Moreover, even if the Rosh indeed meant that one is liable for hastening the moment of extinction, which will occur on Motza'ei Shabbat, nevertheless, he speaks of a unique feature of mekhabeh: had the removed oil been the only oil in the lamp, the flame would have extinguished immediately, and one therefore violates mekhabeh by removing this oil, even if the flame will extinguish only some time in the future. This would not necessarily apply to cooking, which by definition is a melakha that entails an extended process, and thus its violation quite possibly depends on the process's completion before the end of Shabbat.

Sure enough, many Acharonim disputed this position of the Rashash and Chelkat Yoav, and distinguished between cooking and sowing in this respect. In their view, one violates mevashel only if the cooking/baking process was completed before the end of Shabbat. We find several different approaches taken in defining the distinction between zorei'a and bishul:

The Arukh Ha-shulchan (252) writes:

In truth, there is no comparison, because regarding sowing, the act of sowing was performed in the manner in which people generally sow, whereas this is not the case regarding baking; it is considered "cooking" only if it is baked or cooked such that it will be suitable for consumption, and therefore, one has not done anything on Shabbat.

His intention is not entirely clear, but we might explain as follows. In the case of zorei'a, the action performed by the human being ends with the act of planting, and we thus follow that moment when the process was begun. When it comes to cooking, by contrast, the person generally remains involved throughout the process (such as by supervising the cooking, adjusting the fire, and stirring when necessary), until the point where he removes the pot from the fire. We must

therefore view the entire process as part of the melakha, and thus it cannot be violated if any part of the process occurred after Shabbat.
In the case of zorei'a, the process cannot possibly conclude on Shabbat, since the seed takes root only several days later; by definition, then, the melakha is transgressed through the act of sowing itself. The Iglei Tal (Zorei'a, 8) adds that for this reason one would violate zorei'a even if the seed never takes root, so long as one planted it in a place suitable for this process. Regarding bishul, by contrast, since the result generally occurs just a short while after the initial stage, the entire process is included in the definition of this melakha, and therefore the results must take place on Shabbat for a violation to be committed.
The Minchat Chinukh (298) writes:

This stands to reason with regard to cooking or baking – the completion of the baking or the cooking is referred to as "baking"… But before it is baked, this is not referred to as "baking" at all, even if he placed it in the oven. The term "planting," however, becomes relevant immediately once one scatters the seed on the ground; it is then zorei'a.

This distinction suggested by the Minchat Chinukh is essentially a linguistic one. The term "planting" refers to the act, whereas the word "baking" denotes the result. However, this linguistic distinction reflects the more fundamental distinction between zorei'a – where the emphasis is on the act (as in the famous verse, "Those who plant with tears will harvest with joy") – and bishul, where specifically the result receives emphasis.

Indeed, Halakha appears to follow this second view, that one does not violate the melakha of bishul if the cooking process is not completed before the end of Shabbat, whereas one violates zorei'a even if he decides later to remove the seeds before they take root, since there the violation stems from the act of planting itself.

The Minimum Duration of Cooking

The Mishna in Masekhet Shabbat (19b) forbids placing meat, onions or eggs on the fire before Shabbat unless they will be roasted before the onset of Shabbat. The Gemara (20a) comments on this Mishna:

Rabbi Elazar said in the name of Rav: [The Mishna means] "unless they will be roasted" to the point of ma'akhal Ben Derusai [either half or one-third cooked; see below]. It was likewise said: "Rav Asi said in the name of Rabbi Yochanan: any [food] that is [already] at the point of ma'akhal Ben Derusai – it is not subject to [the prohibition against partaking of] food cooked by gentiles." A Berayta

states: "Chananya says: any [food] that is [already] at the point of ma'akhal Ben Derusai – one may leave it on the stove [before Shabbat], even if it is not cleared of its ashes or covered."

Thus, the stage in the cooking process known as ma'akhal Ben Derusai constitutes the determining point in two areas of Halakha:

1) food cooked by a Jew to the point of ma'akhal Ben Derusai may be eaten even if a gentile cooked it further, and it does not attain the status of bishul akum;

2) food already cooked to this point may be left on an open flame before Shabbat to finish cooking on Shabbat.

The Rishonim also deduced from here the minimum duration of cooking that constitutes bishul.

Furthermore, the Gemara comments in Masekhet Menachot (57a):

Rabbi Yochanan said: If one placed meat on coals – if he turns it over, he is liable; if he does not turn it over, he is not liable… This applies when had he not turned it over, one side would have been cooked to the point of ma'akhal Ben Derusai, but now that he turns it over, both sides are cooked to the point of ma'akhal Ben Derusai. And it comes to teach us that whenever only one side reaches the point of ma'akhal Ben Derusai, this is not considered anything.

Thus, one violates the melakha when the item reaches the point of ma'akhal Ben Derusai on both sides; if only one side is cooked, it must be cooked completely to qualify as bishul.[1]

As for the definition of ma'akhal Ben Derusai, Rashi writes that it refers to one-third of the cooking process, at which point one can eat the food under extenuating circumstances, as the outlaw Ben Derusai ate his food. The Rambam, however (Hilkhot Shabbat 9:5), defines it as referring to the halfway point in the cooking process, and many consider this a clear dispute between Rashi and the Rambam. The Mishna Berura (253:38) brings both views and concludes that under pressing circumstances one may rely on the more lenient position. However, one might argue that when the Rambam uses the term chatzi bishul ("half-cooked"), he does not refer to the precise halfway point, but rather more generally to partial cooking to the point where the food can be eaten under dire circumstances, without embarking on a precise definition.[2] Of course, this would require further analysis.

The Acharonim debate the point of how precisely we calculate the halfway or one-third point in the cooking process. The Chazon Ish (37:6) held

that we measure the time needed for the food to fully cook after the water boils. For example, if a piece of meat would require an hour to fully cook once the water boils, then the point of ma'akhal Ben Derusai would occur twenty minutes after the water boils according to Rashi, or a half-hour according to the Rambam. Rav Moshe Feinstein zt"l, however, reportedly held that we calculate ma'akhal Ben Derusai based on the softness of the food. In my opinion, however, it is difficult to understand how one would determine the halfway or one-third point of a food's softening. It is far more likely that, as mentioned earlier, the issue depends mainly on the point where the food could be eaten under pressing circumstances, without requiring us to precisely define different stages of softness.

With regard to cooking liquids, it emerges from the Gemara in Masekhet Shabbat (40b) and elsewhere that one violates bishul by heating the liquid to the point of yad soledet bo (literally, this means the point at which one's hand would instinctively recoil on contact). The Gemara there explains more precisely, "What is yad soledet bo? Rechava said: whenever an infant's belly would be burned." Rashi and the Ritva there explain that the Gemara did not determine this point based on the human hand, in accordance with the straightforward implication of the term, because different people's hands have different levels of sensitivity. They therefore determined this point based on an infant's belly, which has a generally standard sensitivity level. The Ben Ish Chai (second year, Parashat Bo, 5) establishes the following principle in clarifying this point:

So long as the hot liquid is suitable for drinking or eating, that a person would not refrain from it due to its intense heat, this does not qualify as yad soledet bo. But if one will refrain from drinking it or eating it because of its intense heat, this is considered yad soledet bo.

Even this definition, however, requires further clarification. The Poskim struggled to reconcile the discrepancy between the point at which an infant's belly would be burned, which is a relatively low temperature, and the heat level required for cooking, which is considerably higher (and it emerges clearly from the Gemara that water at the temperature of yad soledet bo has the capacity to cook). Rav Feinstein, in Iggerot Moshe (4:74), establishes the following temperatures as the point of yad soledet bo to cover all stringent possibilities: no lower than 43 degrees Centigrade, and no higher than 71 degrees Centigrade. (For more on this subject, consult Shemirat Shabbat Ke-hilkhata, chapter 1, note 15.)

Bishul Achar Bishul – Cooking a Previously-Cooked Item

The Mishna (145b; cited as well on 39a) establishes that "any food that had been cooked in hot water before Shabbat may be soaked in hot water on Shabbat." The Gemara brings as an example the case of "Rabbi Abba's chicken." Rashi explains that Rabbi Abba would eat chicken for medical purposes, and would prepare it by cooking it and then letting it soak for several days in hot water so that it would dissolve.

The Rishonim argue in explaining the halakha established in the Mishna. The Ramban, the Rashba and most other Sephardic Rishonim interpret the Mishna as referring to a food that had been cooked before Shabbat to the point of ma'akhal Ben Derusai. The Mishna allows cooking such a food on Shabbat because once a food reaches the point of ma'akhal Ben Derusai, additional cooking does not violate bishul. This halakha would thus correspond to the halakha established in Masekhet Avoda Zara that the prohibition of bishul akum does not apply to food cooked by a gentile only after it had already reached the point of ma'akhal Ben Derusai. The Rashba (39a, s.v. gemara) writes, "Meaning, that it was cooked in hot water before Shabbat to the point of ma'akhal Ben Derusai; it is then no longer subject to bishul, and therefore one may soak it [on Shabbat] even in hot water in a keli rishon [the original utensil that had been on the fire]." Bear in mind that even according to this view Chazal forbade cooking previously-cooked food directly over a flame.[3]

By contrast, the Rambam (Hilkhot Shabbat 9:3) rules that one who cooks over a flame an item that had been fully cooked does not violate bishul, implying that if the item had not been cooked completely, cooking it further indeed constitutes bishul. Most commentaries to the Mishneh Torah indeed make this inference; see Maggid Mishneh and Kesef Mishneh.[4] The Rambam writes that in this case one is patur (exempt from punishment), implying that this is still forbidden by force of rabbinic enactment, because he speaks of cooking directly over the fire, which Chazal forbade even if the item had been previously cooked. However, the Rambam would permit cooking such an item in a keli rishon that is not over a fire.

A number of difficulties arise in trying to determine the position of other Rishonim regarding this sugya:

1. The Chiddushim Ha-meyuchasim La-Ran[5] (Shabbat 145b) writes:

Some explain that even if it had not been fully cooked before dark, and [was cooked] only to the point of ma'akhal Ben Derusai or more, this suffices. But this

is difficult, because a food which is improved by continuing to cook may not be placed on a stove [before Shabbat]… The correct [reading is that the Mishna refers to a food] that had been fully cooked before dark and one soaks it in hot water to dissolve.

Earlier (40b, s.v. shemen), however, the Ran himself wrote:

Any [food] that had been cooked before dark – even to the point of ma'akhal Ben Derusai – it is permissible [to cook it further] on Shabbat even at the point of yad soledet bo. And any [food] that had been cooked before dark would have been permitted to be cooked le-khatechila [even on the optimum level of observance] on a stove, if not for the concern of mar'it ha-ayin [the mistaken perception that one cooks on Shabbat].

The Ran appears to contradict himself in these two passages. It would seem that in his view the Torah prohibition of bishul does not apply if the food had been cooked to the point of ma'akhal Ben Derusai, but Chazal forbade placing such a food over fire out of concern for mari't ha- ayin. According to the Ran, this prohibition applies even to soaking food in hot water, and he was therefore compelled to explain the sugya on 145b, which permits soaking previously cooked food in hot water, as referring specifically to food that had been fully cooked.[6]

2. The Meiri, commenting on the Mishna on 145b, writes:

Some explain that "Any [food] that had been cooked in hot water" means that it was cooked to the point of ma'akhal Ben Derusai. But this seems incorrect, because it is still [a case where] continued cooking enhances it… In all these [cases] regarding which we mentioned that soaking them or rinsing them is forbidden, one who soaked or rinsed [inadvertently] is liable for a chatat [sin offering].

It emerges from the Meiri's comments that cooking a previously cooked food violates the Torah prohibition of bishul unless it had been completely cooked. This ruling appears to contradict the Meiri's own remarks towards the beginning of the third chapter of Masekhet Shabbat, in his commentary to the Mishna that allows returning a pot to the fire on Shabbat:

You should not explain it as referring to a food that has not even been cooked to the point of ma'akhal Ben Derusai…for regarding this, how could Beit Hillel allow even returning [it to the fire]? Undoubtedly, then, [it refers] to food that had been cooked to the point of ma'akhal Ben Derusai.

This passage, of course, suggests that one may cook food if it had previously been cooked to the point of ma'akhal Ben Derusai, whereas in the first passage he writes that doing so violates the Torah prohibition of bishul.[7]

It seems that the Meiri was well aware of this seeming inconsistency and sought to explain his position, but his explanation is ambiguous:

And since it has been cooked, its continued cooking does not concern us, since he has covered [the fire], because a covered [fire] does not constitute bishul for that which had already been cooked, as it merely retains [its heat]. And even though it visibly continues to cook, this is true even with heat that merely retains, and this is due to the length of time, and not as actual cooking.

The Meiri was clearly aware of the problem, but it is difficult to fully understand his answer. His main point seems to be that a covered stove cannot advance the cooking process, and can only retain the food's heat; and even though we see the food continuing to dry, this results from the retention of its heat, and not from additional cooking.[8]

Let us now examine the rationale underlying the two positions, as to whether bishul applies to food that has been cooked to ma'akhal Ben Derusai but not to completion.

We might suggest the following explanation for the view that allows cooking a food that had already reached the point of ma'akhal Ben Derusai. The melakha of bishul entails preparing a food item for consumption, and so the moment a food reaches the point of ma'akhal Ben Derusai, it is suitable for consumption and hence no longer subject to bishul. Said otherwise, a food that has reached the point of ma'akhal Ben Derusai takes on the formal status of mevushal (a cooked food), to which we would apply the rule established in the Tosefta (Shabbat, end of chapter 15), "One may bake a baked food and cook a cooked food."[9]

As for the stringent position, that one violates bishul by cooking foods that have already reached ma'akhal Ben Derusai, we might suggest two explanations:

1) Even once a food has reached ma'akhal Ben Derusai, it is still unsuitable for normal consumption until it is fully cooked. According to this approach, Halakha acknowledges two levels of preparation for consumption: preparing a food for the possibility of eating under extenuating circumstances – ma'akhal Ben Derusai; and preparing a food for normal consumption – or cooking a food completely.

2) The melakha of bishul involves the process of enhancing a food, and thus one violates this melakha through any substantive improvement in the food's taste resulting from the cooking process.

These two approaches to understanding the stringent position will yield practical ramifications. Firstly, they will impact the question of whether one violates bishul if he cooks a food that had already reached ma'akhal Ben Derusai, but he does not cook it fully. According to the first approach, one violates bishul only if he brings the food to the point where it becomes suitable for normal consumption, whereas the second approach would hold one liable for any significant improvement that occurs through cooking, even if the food is not fully cooked.

Indeed, this issue is subject to a debate among the Acharonim. The Shulchan Arukh (318:6) rules, "A utensil containing a hot item at the point of yad soledet bo – one may place it on Shabbat on a covered pot so that it will retain its heat and not cool." The Taz permits doing so even for a food that has not been fully cooked, since in this position it will never be cooked to completion. The Mishna Berura (50), however, forbids doing so, because the heat might nevertheless advance the cooking process. Clearly, these authorities debate the question of whether any additional cooking violates the prohibition, or only cooking an item fully.

In light of this discussion, we can return to the comments of Meiri cited earlier, permitting one to place on a covered flame a food that had been cooked to ma'akhal Ben Derusai. He perhaps held that since over a covered fire the food will never reach the point of "fully cooked," it may be placed there, even though it will undergo further stages in the cooking process.[10]

Secondly, this issue will affect the question of whether Halakha forbids cooking an item that has already been fully cooked. According to the first approach, bishul would not apply once an item has reached the point of suitability for normal consumption. According to the second understanding, however, there is room to discuss whether the effect of additional cooking constitutes a significant improvement in the food's taste to violate bishul.

We indeed find one view in the Rishonim that appears to apply bishul even to a fully cooked food. The Tosefot Yeshanim (Shabbat 37b) write: "If so, why is it forbidden to return [to the fire] a fully cooked food? Bishul does not apply to such a food! …We must explain that bishul certainly does not apply to oil, but bishul does apply to a food even if it was cooked before dark."[11]

The Or Zaru'a (62) likewise addresses the question of whether bishul can apply once a food is fully cooked, and appears undecided on the issue: "Only if it had been fully cooked on Erev Shabbat is it permissible to soak it…in a keli sheni [a utensil into which water was poured from its original utensil], for perhaps bishul applies even after a previous cooking."[12]

In light of what we have seen, we can understand the discussion in the Tosefot Ha-Rosh concerning the Mishna (145b) that permits soaking a previously cooked food in hot water. According to the Tosefot Ha-Rosh, the Mishna seeks to dispel the possible notion that "since it is prepared through this soaking, it constitutes its gemar melakha [final stage of preparation] and is forbidden." The Rosh apparently understood that one might have forbade the prolonged soaking of previously cooked food because of the significant enhancement that results from this process, which would render it forbidden even if the food had already been fully cooked. In conclusion, however, he maintains that bishul would not apply in this case – either because bishul is never applicable once a food has reached the point of suitability for normal consumption, or because any further enhancement beyond that point is not sufficiently meaningful to warrant a violation of bishul.

The Shulchan Arukh (318:4) rules that the Torah prohibition of bishul applies so long as the food had not yet been fully cooked, but once it reaches that point it is no longer subject to bishul. The Bei'ur Halakha notes that many Rishonim disagree, and therefore rules that if one cooked on Shabbat a food that had been previously cooked to the point of ma'akhal Ben Derusai, it may be eaten on Shabbat, as be-di'avad we may rely on the lenient position.

Notes:

1. See Tosefot (s.v. ve-im nitzla bo), who seem to indicate that the Torah prohibition is not violated until the one side is completely cooked.
2. According to this interpretation, chatzi would mean not "half," but rather "partial," as in the phrase "chatzi shiur asur min ha-Torah," where chatzi clearly refers not to "half," but rather to anything less than the full amount.
3. We will explain this halakha in much greater detail in subsequent shiurim, when we address the topic of reheating food on Shabbat.
4. The Iglei Tal, however, understood that even the Rambam does not hold one liable if the item had been cooked only to the point of ma'akhal Ben Derusai, and refers to a rabbinic prohibition against cooking it further unless it had been fully cooked.
5. The standard edition published under the name Chiddushei Ha-Ran was not written by the Ran, but rather by a student of the Ra'a. The Ran's chiddushim to

Masekhet Shabbat were published as the Chiddushei Ha-Ritva, and the chiddushim of both the Ran and the Ritva were recently published by Mosad Ha-Rav Kook. Once again, the standard editions of the Chiddushei Ha-Ran to Masekhet Shabbat were written by a student of the Ra'a, and not by the Ran.

6. We might suggest a similar distinction to explain the view of Tosefot. On 39a, they write that one may soak in hot water on Shabbat only food that had been fully cooked, whereas in the beginning of this chapter, they permit reheating even food cooked only to the point of ma'akhal Ben Derusai. We can reconcile these two rulings by explaining that an issur de-rabbanan forbids returning a food that had been cooked only to ma'akhal Ben Derusai to the fire under certain conditions. The Iglei Tal advances this theory in explaining the Tur's position, whereas the Beit Yosef understood that the Tur forbids reheating on the level of Torah law unless the food had been fully cooked.

7. The Bei'ur Halakha (318) inferred from the Meiri's comments that bishul does not apply to food that has already reached the point of ma'akhal Ben Derusai; he apparently did not see the Meiri's explicit comments to the contrary on 145b.

8. Later, we will explain the Meiri's answer based on a principle that we will develop further in the shiur.

9. Note, however, the variant texts of this Tosefta cited in Rabbi Saul Lieberman's Tosefta Ke-pshuta (Shabbat, end of chapter 14, p. 241).

10. One may, of course, explain the Meiri's view differently, and claim that in this instance the food does not undergo any advancement in its cooking process (as the straightforward reading of his comments suggests), or that whatever advancement is achieved in this case is not significant enough to constitute a violation.

11. One might, however, explain the Tosefot Yeshanim as referring to liquid that had cooled off after having been cooked, as we will discuss in the next shiur.

12. The Or Zaru'a's ambivalence likely stems from the sugya of hatmana on 34a, from which it emerges that bishul applies even to cooking a fully cooked item. The Or Zaru'a therefore felt that the Mishna permitting soaking a previously cooked food in hot water might refer specifically to soaking in a keli sheni, which does not involve actual bishul. In the next shiur we will suggest other solutions to this problem.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 06: Bishul Achar Bishul Be-davar Lach –
Cooking a Previously Cooked Liquid

A. Bringing Hot Water to a Boil

In the previous shiur, we saw that when dealing with solid foods, bishul is defined by two stages: the point of ma'akhal Ben Derusai (at which the food can be eaten under extenuating circumstances), and the point of the cooking's completion. As we saw, the Rishonim disagree as to whether one transgresses the bishul prohibition by further cooking an item that has already reached the point of ma'akhal Ben Derusai. Today, we will turn our attention to liquids (known in halakhic jargon as davar lach), and discuss whether here, too, Halakha recognizes two critical stages in the cooking process: the point of yad soledet bo (see previous shiur for precise definition), and the point of boiling. We do not find any explicit reference to these two stages in the writings of the Rishonim, and to the contrary, the general assumption is that bishul as it pertains to liquids does not apply past the point of yad soledet bo. The Beit Yosef (318) went so far as to establish that "anything at the point of yad soledet bo is considered boiling."

The difference between solids and liquids in this respect stems from the fact that regarding solid foods, bishul entails cooking, whereas regarding liquids, it involves primarily warming, raising the liquid's temperature, and there are no two different, significant stages in the process of warming. One might further contend that even if regarding liquids, too, the prohibition involves cooking, and mot merely warming, nevertheless, liquids are not drunk at the boiling point, but rather around the level of yad soledet bo.[1]

Rabbenu Yona, however, indeed applies bishul even to the act of boiling water that had already reached the point of yad soledet bo. His comments are of great importance to our discussion, so we cite them here in full:

It is a terrible mistake made by some people who cover a kettle of hot water [to retain its heat] so that they can place [the water] into a pot on Shabbat when the food begins to dry. At times one is not at the point of yad soledet bo and the other is at the point of yad soledet bo, and they cook together, such that cooking is done on Shabbat. And even if they are both at the point of yad soledet bo, there is a view in the Yerushalmi that poured [liquid] does not have the same status as [liquid in] a keli rishon [the original utensil in which it was cooked]. Thus, when one pours the water, the moment it leaves the utensil – even if it is still boiling – its level of boiling no longer has the capacity to cook, just like a keli sheni [the utensil into which food is poured from a keli rishon], which cannot cook, and it is therefore cooked inside the keli rishon. And water that has been cooked is [nevertheless] subject to bishul if it stopped boiling.

We will first[2] address Rabbenu Yona's second point, namely, that bishul applies even to hot water if it had stopped boiling, even though its temperature remains well above the point of yad soledet bo. Rabbenu Yona apparently acknowledged two stages in the bishul process as it pertains to water: the point of yad soledet bo, and the final stage, of boiling.

I believe, however, that this double focus in truth reflects two different functions served by heating water:

1) Water as an item being cooked, be it for bathing or drinking purposes. For this function, we would define bishul as yad soledet bo, and in this respect boiling would bear no significance at all.
2) Water as an item that cooks other foods, which requires specifically boiling water.

Indeed, Rabbenu Yona wrote about water poured from a keli rishon, "its level of boiling no longer has the capacity to cook, just like a keli sheni." Bringing water to a boil gives it the ability to cook other foods, and granting water this power constitutes bishul.

According to this understanding, the two stages of cooking solid food – ma'akhal Ben Derusai and the point of completion, which mark two stages along the single continuum of preparing food for consumption – are not parallel to the two stages of heating water, yad soledet bo and the boiling point. When it comes to liquids, these two stages involve two fundamentally different definitions of cooking, as we explained.

B. Reheating Water After it Has Cooled

Although Halakha establishes that ein bishul achar bishul – the bishul prohibition does not apply to items that had already been cooked – one sugya in Masekhet Shabbat (34a) gives rise to some uncertainty on the matter. The Gemara rules that one may not cover a pot of liquid on Shabbat even if the covering will merely retain – and not increase – the pot's temperature, because, the Gemara explains, "gezeira shema yarti'ach" – Chazal feared that one might boil the liquid in the pot. Rashi explains, "One might see when he wants to cover it that his pot has cooled, and he will therefore first boil it, and will thus be cooking on Shabbat." The Rosh (chapter 3, end of siman 10), by contrast, claims that one would not violate bishul by reheating the contents of the pot, and therefore explains that in this Gemara Chazal feared that one might stir the coals underneath the pot, which constitutes a Torah prohibition. According to the Rosh, then, we draw no distinction between solids and liquids, and indeed many Rishonim do not suggest such a distinction, indicating that they concurred with the Rosh. The Rambam (Hilkhot Shabbat 9:3) draws no distinction, and this is indeed the position of the Sephardic Rishonim generally. In fact, the Ran goes so far as to declare, "I see no difference between cooked water and other cooked items."

But Rashi, as we saw, explains this Gemara to mean that one would violate bishul by boiling the water that had cooled. The Rosh (ibid., siman 11) explained his position as follows: "Bishul applies even to food that has already been cooked, if it contains liquid." The principle of ein bishul achar bishul, the Rosh writes, pertains strictly to solid foods. This is the position of several of the Ba'alei Ha-Tosefot, the Or Zarua and Semak, and the Rosh, too, appears to favor this view.

Yet a third position appears in the comments of Rabbenu Yerucham, who writes the following in the name of Rabbenu Yona:

All that we have said concerning returning [cooked food to the fire] applies only if it had already reached the point of ma'akhal Ben Derusai during the day [of Erev Shabbat]. But if it hadn't reached [this point before Shabbat], one may not return it [to the fire] if he had removed it. And even if it had reached [the point of ma'akhal Ben Derusai before Shabbat], if one waited while it was in his hand until the food cooled, it is forbidden to return it if it contains broth, for anything which contains liquid, and further cooking will enhance it, and it has cooled – returning it to the stove so that it continues to cook constitutes outright cooking.

According to this approach, reheating food containing liquid constitutes bishul only in a case of mitztamek ve-yafeh lo – if continued cooking will be beneficial. At first glance, it is difficult to explain the need for the combination of these two factors – that the food contains liquid, and that it is enhanced by continued cooking. (We will discuss this view further a bit later in the shiur.)

Conceptually, we can more readily understand the view that draws no distinction in this regard between solids and liquids, and applies the rule of ein bishul achar bishul even to water that has completely cooled. In order to explain the other position, that a cooked liquid is still subject to bishul after it has cooled, we must adopt one of the following two theories:

1) The essential definition of bishul – preparing a food item for consumption and enhancing its flavor – remains the same when dealing with solids and liquids, but they nevertheless differ regarding the issue of cooking an item after it has cooled. Warming a previously cooked liquid significantly changes its taste, and thus qualifies as bishul, whereas reheating a cooked, solid food does not enhance its taste to such an extent that would render this process bishul.
2) Alternatively, the prohibition of bishul perhaps assumes an entirely different definition in the context of solid foods – either as the exclusive definition in this case, or in addition to the standard definition, of preparing an item for consumption. Namely, when dealing with liquids, we would define bishul as warming, rather than cooking, as we saw in our discussion of the Rambam's view concerning water[3]. Accordingly, even if the prohibition of preparing a food item for consumption would not apply to a cooked liquid after it has cooled, nevertheless, the other definition of bishul – raising an item's temperature – would certainly apply.

We must emphasize that the Rambam draws no distinction between solids and liquids with respect to the rule of ein bishul achar bishul, and yet, it would nevertheless appear that he would hold one liable for reheating water after it had cooled. For in his view, as we discussed in a previous shiur, the melakha of bishul as it pertains to water involves raising its temperature in preparation for bathing, and thus once it cools, its prior heat is no longer of any significance. In truth, even if we assume that heating water is done primarily for drinking purposes, rather than bathing, we might still consider reheating water bishul.

Of course, as stated earlier, some Rishonim apply the rule of ein bishul achar bishul even to water, as the Ran categorically declared, "I see no difference between cooked water and other cooked items." The Acharonim explained this view as maintaining that boiled water does not return to its previous condition after it cools. The Iglei Tal (Ha-ofeh, Hashmatot section), for example, writes,

"The proof is the fact that people heat water to a boil so that it will be fully cooked, and once it is cooked and cools, they do not heat it again to such an extent – only to the point where it is warm enough to be drunk." In his view, then, water does not return to its initial condition, and we therefore should not distinguish between heating water after it cools and reheating any other food item.[4]

Earlier, we mentioned the view of Rabbenu Yona, cited by Rabbenu Yerucham, that previously cooked foods containing liquid are subject to bishul only in situations of mitztamek ve-yafeh lo – where further cooking is beneficial to the food. Many writers found this position difficult to explain. If reheating liquids constitutes bishul, why should this depend on the issue of mitztamek ve-yafeh lo? The distinction between solids and liquids stems from the fact that regarding liquids the primary factor is the rise in temperature, as explained above, and therefore mitztamek va-yefeh lo should bear no relevance to the status of liquids in this respect. Indeed, for this very reason, the Bach dismissed Rabbenu Yona's position.

The Rama, however, brings the view of Rabbenu Yona (318:4), and even the Shulchan Arukh mentions it (318:8; the commentaries to the Shulchan Arukh discuss the question of whether the Shulchan Arukh accepted this view as authoritative). The Taz (see especially 318:6) attempts to explain this position, and I believe his analysis is correct. Fundamentally, bishul does not apply to a previously cooked food with liquid, even if additional cooking enhances its taste, since this further enhancement is insufficient to qualify as bishul. However, once the food has cooled, cooking it further is significant due to the heating of the liquid, and in a situation of mitztamek ve-yafeh lo, the food's taste is enhanced also as a result of the additional cooking. In the person's mind, the heating of the liquid and the enhanced taste of the food combine to render this process a significant act of bishul.

Still, further clarification of this view is required.

C. The Conclusions of the Shulchan Arukh and Rama

The Shulchan Arukh (318:4) rules that heating previously cooked liquids indeed constitutes bishul if it had dropped below the level of yad soledet bo. The Peri Megadim boldly asserted that once a liquid has been transferred to a keli sheni, we consider it to have "cooled" even if it remains above the temperature of yad soledet bo, and therefore one may not reheat it. (This position is cited in Bei'ur Halakha, 318:4 s.v. im nitztanen). This stringency evolves from Rabbenu Yona's comments cited towards the beginning of the shiur, regarding the

practice he observed to add hot water to a pot on Shabbat. The Shulchan Arukh indeed codifies Rabbenu Yona's position (253:4): "One must object to those who have the practice of covering a pot of hot water during the day [of Erev Shabbat] and placing the water into a pot on Shabbat when the food begins to dry." However, most commentaries to the Shulchan Arukh explain this prohibition based on the first reason Rabbenu Yona mentions, namely, that at times either the pot or the water will be at the level of yad soledet bo while the other is at a lower temperature, and thus one will cook from the other when they are mixed. The Peri Megadim, by contrast, held that the moment the item leaves its original utensil, we immediately consider it to have "cooled," based on the second reason given by Rabbenu Yona. However, the Peri Megadim applies this ruling only to pouring water from a keli rishon into an empty utensil, claiming that even though it remains above the point of yad soledet bo, one may not heat it any further. However, unlike Rabbenu Yona, he does not forbid pouring from a keli rishon into another keli rishon containing food. This distinction is very difficult to understand. Why would bishul apply to water at or above the level of yad soledet bo after it is transferred to a keli sheni? Rabbenu Yona held that only boiling water has the capacity to cook, and therefore once it is no longer boiling it is subject to bishul. We thus understand why, in Rabbenu Yona's view, water that leaves a keli rishon is immediately subject to bishul, even when poured into another keli rishon. The position of the Peri Megadim, however, requires explanation.

In any event, the Rama disagrees with this entire approach, and writes (318:15):

Some are lenient and claim that so long as one does not place [the liquid] over the fire or directly on the stove, but rather adjacent to it, it is permissible even if it has cooled. The practice is to be lenient in this regard if it has not cooled completely, as I wrote earlier, in siman 253.

According to the Rama, a previously cooked liquid is not subject to bishul so long as it has not cooled completely, and he therefore dismisses Rabbenu Yona's stringency. Likewise, he would certainly not accept the Peri Megadim's view treating water transferred to a keli sheni as if it has cooled; quite obviously, hot water in a keli sheni would be no worse than water in a keli rishon that has begun to cool, which the Rama allows reheating so long as it has not cooled completely.

From where did the Rama derive this ruling, distinguishing between liquids that have begun to cool, and that have cooled completely? The Pitchei Da'at (p. 31) writes that this view originates from the Or Zarua, who allows gentile butlers to reheat food "because presumably they [the foods] are still somewhat warm, near the point of yad soledet bo, and it is permissible to

increase their heat because they are not even subject to bishul." The Or Zarua appears to maintain that bishul does not apply to liquids even after their temperature drops below the level of yad soledet bo, so long as they have not completely cooled.

The Acharonim disagree in explaining the reason behind the Rama's ruling. Some understood that he follows the view applying the principle of ein bishul achar bishul even to liquids, but feels that the Sages nevertheless forbade reheating liquid that has cooled completely. This explanation is offered by the Peri Megadim (Eshel Avraham, 318:39). Rav Moshe Feinstein similarly writes in Iggerot Moshe (4:74), "The Rama's reason is that he essentially sides with the Rambam and Rashba, that even regarding liquids 'ein bishul achar bishul,' but [nevertheless] we are stringent if it has completely cooled." Others, by contrast, explain that although generally one may reheat liquid, once it has completely cooled reheating it is forbidden at the level of Torah law. This is the understanding of the Magen Avraham (253:37) and Shulchan Arukh Ha-Rav by Rav Shneur Zalman of Liadi, first Rebbe of Lubavitch (318:9). See also the comments of the Iglei Tal (Ha-ofeh, hashmatot section).

The Acharonim also disagree concerning the precise definition of the Rama's expression, "nitztanen le-gamrei" ("completely cooled"). The Chazon Ish appears to have held that so long as one can tell that the liquid had been heated at some point, it has yet to "cool completely," and one may reheat it. It seems that this would apply so long as the liquid is above room temperature. By contrast, the comments of the Shulchan Arukh Ha-Rav suggest that in his view, the liquid must be warm enough that it could still be drunk as a warm drink.

Some have suggested hinging this debate on the earlier question of whether the Rama forbade reheating water that had completely cooled as a Torah prohibition, or merely by force of rabbinic enactment. This theory posits that if the prohibition applies on the level of Torah law, then we would accept the stringent view of the Shulchan Arukh Ha-Rav, whereas if this prohibition was enacted by Chazal, we should adopt the more lenient definition, as established by the Chazon Ish. But this is not necessarily true, as this debate concerning the definition of "nitztanen le-gamrei" may involve technical, local issues, and not the broader question as to the origin of this prohibition. One might suggest hinging this debate on the issue we addressed earlier, as to the definition of bishul as it pertains to liquids. If bishul relates to raising the liquid's temperature, then we would likely accept the Chazon Ish's view, whereas if we define bishul even in the context of liquids as preparing food for consumption, the position of the Shulchan Arukh Ha-Rav would appear more compelling.

D. Foods Consisting Only Partially of Liquids

Rabbenu Yerucham, in the passage cited earlier, writes that bishul applies to reheating "any item that contains broth." The Beit Yosef (318), however, cites a slightly different formulation of Rabbenu Yerucham's ruling: "anything that consists mostly of broth." Of course, these divergent texts will yield different rulings in a case of a food that is mostly solid but contains some liquid.

The Peri Megadim (Mishbetzot Zahav, 253:13) explains Rabbenu Yerucham's view in light of the theory advanced by the Taz, pointing to the individual's intent as the critical factor. If the food is mostly liquid, then additional cooking will enhance its taste, and therefore reheating it would constitute bishul. But if the food consists only partially of liquid, and is mainly solid, then additional cooking would be detrimental to the food and is therefore permitted. However, besides the novelty of this reading of Rabbenu Yerucham's comments, which do not suggest such a distinction at all, the assumption itself – that additional cooking of all dry food is detrimental, and of all liquids is beneficial – is highly questionable.

In any event, the poskim debate this issue concerning foods that are mainly solid but contain a small amount of liquid. Rav Ovadya Yosef rules leniently; we cite here his comments in Yechaveh Da'at (2:45):

It is explained in the Beit Yosef – citing Rabbenu Yona and Rabbenu Yerucham – that a food is considered "liquid" in this respect only if it consists mainly of broth and soup. But a food consisting of meat or fish with just a small amount of broth or fat is not subject to bishul once it has been cooked, since it is mostly solid. The great Rabbi Avraham Pimantel, in the work Minchat Kohen, agreed to this. And this indeed stands to reason, for there is no meat dish that does not have juice or fat, and it is nevertheless treated as a solid food in this respect. The Peri Megadim wrote this, as well. Therefore, regarding a dish of meat, fish or potatoes and the like, so long as it is mostly solid, one may warm it on Shabbat even in such a manner that it will reach the point of yad soledet bo. But a liquid dish, such as soup, even if contains pieces of meat, may not be warmed on Shabbat since it is mostly clear and liquid, to which bishul applies [even] after it has been cooked.

By contrast, Rav Shlomo Zalman Auerbach and Rav Moshe Feinstein ruled stringently even if the food only consists partially of liquid. Rav Feinstein writes in Iggerot Moshe (4:74):

I do not understand the distinction between a majority of liquid and a minority of liquid, given that the minority of liquid will be cooked after it has cooled. He must therefore explain like the implication of the Peri Megadim, that when the majority [is liquid], additional cooking is beneficial, and when the minority [is liquid], additional cooking is detrimental, in which case we should forbid [reheating if it consists only partially of liquid], because many authorities disagree with the Rama, who wrote that bishul applies to a previously cooked item only if additional cooking is beneficial.

Later, he discusses the possibility of permitting reheating foods consisting only partially of liquid, and concludes: "The reason perhaps is that strictly speaking, [the rule of] ein bishul achar bishul applies even to liquid. This law thus remains unclear, and it is proper to act stringently. But under extenuating circumstances perhaps one may be lenient."

Practically speaking, I believe one should act stringently in this regard, because logically, it would appear that even if only a minority of the food is liquid, that small amount of liquid will be cooked, according to the view that bishul applies to previously cooked liquids. And as for Rav Ovadya Yosef's contention that all solid foods contain a small amount of juice, we might respond that liquid that exists independently is subject to bishul in any quantity, while the natural moisture in solid foods is not defined as "liquid" and can therefore be ignored.

E. A Solid That Becomes a Liquid

The Tur writes (318):

It is forbidden to place an inpenada[5] even at a distance [from a fire], because its fat that had congealed will now again dissolve; it thus constitutes nolad [transforming an item into a different entity] and is forbidden. The Sefer Ha-mitzvot permitted this, because one does not do [the act of nolad] with his hands. But my father and master, the Rosh, forbade [doing so].

This discussion originates from the comments of the Sefer Ha-teruma (235), and must be addressed from two different directions:

1) The problem of bishul achar bishul:

The Shulchan Arukh (318:16) sides with the lenient view: "It is permissible to place an inpenada opposite the fire at a place where one's hand would recoil [on contact], even though its fat that had congealed will once again dissolve." Most Acharonim, including the Magen Avraham, Mishna Berura and others, permit

this entirely, since the fat is solid at the time it is placed near the fire. Others, however, held that the fat is subject to bishul achar bishul because it will become liquid as a result of its exposure to heat. These authorities therefore allow placing it only at a distance where the fat will not reach the level of yad soledet bo. Accordingly, the Levush contends that the text in the Shulchan Arukh resulted from a misprint, and it should actually read "at a place where one's hand would not recoil." The Taz, by contrast, argued that we need not emend the text, but nevertheless held that one may not place this item at a distance where it could reach the point of yad soledet bo. The Shulchan Arukh, the Taz explains, meant that one may place the inpenada at a place where one's hand would instinctively recoil, but not where the food would reach that level of heat.

This debate perhaps touches upon the fundamental definition of the bishul violation, whether the liability results from the act, or from the result. In this instance, the act occurs with a solid food item, but the result involves a liquid item, and the question thus arises as to which stage determines the food's status. Needless to say, this would require further analysis. In any event, the majority of poskim seem to have accepted the lenient position, that bishul would not apply in such a case because the item begins as a solid food. The Shevitat Ha-Shabbat, however, wrote that one should le-khatechila follow the stringent view; this is also the conclusion of Shemirat Shabbat Ke-hilkhata.

2) The problem of nolad:

The Gemara (Shabbat 51b) establishes that one may not crush snow on Shabbat, and the Rishonim debate the reason underlying this halakha. Some explain that crushing snow resembles melakha in that one "creates" water (Rashi), whereas others claimed that this constitutes nolad (Sefer Ha-teruma). The clear practical difference between these views involves a case of ice that melted on its own: according to Rashi, one has performed no act resembling creation, and the water should therefore be permissible, whereas according to the Sefer Ha-teruma, a new entity has come into existence and is therefore forbidden on the grounds of nolad. The Shulchan Arukh follows the lenient position, while the Rama rules that one should preferably act stringently in this regard, and partake of water from naturally melted ice only in situations of need. According to all opinions, however, if the melted ice is in a cup and the water it produces mixes with the beverage in the cup, one may drink the beverage with the melted ice, because the nolad prohibition applies only when the produced item is separate and discernible.

In light of this discussion, the Sefer Ha-teruma forbade warming the inpenada as described above because the dissolution of the congealed fat

constitutes nolad. Here, too, the Shulchan Arukh follows the lenient position, whereas the Rama rules stringently:

Shulchan Arukh:

"It is permissible to place an inpenada opposite the fire at a place where one's hand would recoil [on contact], even though its fat that had congealed will once again dissolve."

Rama:
"Not to mention that a pot with congealed broth, such that when the fat dissolves it is no longer discernible, it is permissible [to place it near a fire], but some rule stringently. The practice is to be stringent, but in situations of need one may rely on the first position."

The Shulchan Arukh maintains that one may place the pie opposite the fire. This does not violate nolad because it dissolves independently, in accordance with Rashi's view, and it does not constitute bishul because the fat is still solid when it is placed near the fire. (Recall from our earlier discussion that some authorities do apply bishul in this case, and therefore allow placing the pie near the fire only if it will not reach the point of yad soledet bo; as we saw, most poskim rule leniently in this regard.)

The Rama, however, maintains that le-khatechila one should follow the stringent position of the Sefer Ha-teruma regarding nolad. If there is liquid around the pie such that any dissolved fat would mix with that liquid and be indiscernible, then one may place the pie near the fire even according to the Rama's position. In such a case, however, the problem of bishul resurfaces, given that one places liquid near the fire. Accordingly, the Mishna Berura (318:104) restricts this halakha to situations where the liquid will not reach the point of yad soledet bo.

The Peri Megadim (Eishel Avraham, 318:41) raises the question – based on two possible readings of the Magen Avraham – as to whether a congealed substance that is usually in liquid form has the status of a solid or liquid with respect to bishul. From the discussion of the Beit Yosef on this topic, though, it seems perfectly clear that bishul achar bishul applies only to actual liquid, and not to congealed liquid, and thus the Peri Megadim's question seems difficult to understand.

In light of what we have seen until this point, we would, seemingly, permit adding sugar or salt to food even in a keli rishon, since it has already been cooked

and is a solid food item, and it is therefore not subject to bishul. The Mishna Berura (318:71), however, cites a number of poskim who rule stringently on this issue, presumably because the salt and sugar transform into a liquid, despite the fact that, as mentioned earlier, most poskim rule leniently regarding such a case. We might perhaps distinguish between dissolved fat and substances such as salt and sugar, which dissolve immediately upon entering the utensil and might therefore warrant greater stringency. The Mishna Berura concludes that one should optimally add sugar and salt only in a keli sheni, and not in a keli rishon.

Notes:

The Rashba writes this in his chiddushim to Shabbat 40b.

Towards the end of the shiur, when we present the halakhic conclusions from our discussion, we will address the other points that emerge from Rabbenu Yona's comments.

See end of shiur #4, in the section entitled, "Foods that Do Not Require Cooking at All."

Nevertheless, the Iglei Tal concludes his discussion by saying that one who acts stringently with regard to water "is deserving of blessing." In my humble opinion, his analysis is not very compelling; it seems more likely that according to the Rambam, heating water resembles heating metal, in that once it cools it returns to its initial condition, such that reheating would constitute bishul.

A type of pie, with dough at either end, and pieces of fat in between.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 07: Cooking an Item that Had Been Baked or Roasted

After having elaborated on the issue of cooking an item that had already been cooked, let us now turn our attention to the question of cooking an item that had been baked or roasted, and, conversely, baking or roasting an item that had been cooked. The Gemara makes no explicit reference to these cases, nor is it mentioned by most of the Rishonim. Our discussion will focus on comments made by two Rishonim – the Yerei'im and the Ravya – who dealt with this issue and arrived at opposite conclusions. In addressing this topic, we will assess the various proofs brought for each side, and then deal with what we feel to be the more fundamental question – the connection between the sugyot cited by these Rishonim and the unique case of bishul achar afiya (cooking an item that had previously been baked) on Shabbat.

Bishul Achar Afiya with Respect to Matza; Bishul Achar Tzeliya with Respect to Korban Pesach

The Gemara in Masekhet Pesachim (41a) discusses the prohibition against eating the meat of the korban pesach boiled, instead of roasted. In this context the Gemara cites a Berayta establishing that this prohibition applies even to roasted meat that one then boiled, and boiled meat that one then roasted. The Gemara then comments on this Berayta:

We can understand that [for meat that] one cooked and then roasted one is liable, because it was cooked; but if he roasted it and then cooked – it is roasted, so why [is one liable]? Rav Kahana said: Whose view is this? Rabbi Yossi's, as is stated in a Berayta: One fulfills his obligation [of matza] with a soaked piece, and with a cooked piece that had not dissolved – this is the view of Rabbi Meir. Rabbi Yossi says: One fulfills his obligation with a soaked piece, but not with a cooked piece, even if it had not dissolved. Ula said: It can even follow Rabbi Meir's view; this is different, because the verse states, "u-vashel mevushal" – in any event.

In order to explain the second halakha in the Berayta, that one violates this prohibition by eating meat that was roasted and then cooked, Rav Kahana felt compelled to associate the Berayta with Rabbi Yossi's position, that cooking baked matza is indeed formally considered "cooking" and disqualifies the matza for the mitzva. Rav Kahana argued that the same principle would apply to korban pesach meat that one roasted and then cooked: Halakha considers the meat mevushal (cooked), and one who partakes of it violates the prohibition against eating boiled korban pesach meat.

The Yerei'im understood this to be the sugya's conclusion:

But there is [halakhically defined] bishul after roasting, and there is [halakhically defined] tzeliya [roasting] after cooking, as it says in the Berayta in Pesachim… And when one cooks it after it is baked, it is considered mevushal, for there is [halakhically defined] bishul after baking. The same applies to roasting and then cooking – there is [halakhically defined] bishul after roasting. And we say in Eruvin that [when there is a dispute between] Rabbi Meir and Rabbi Yossi, Halakha follows Rabbi Yossi… And just as there is bishul after roasting and baking, so is there tzeliya after cooking, for it is the same principle.

One problem, however, arises from the Gemara's discussion. Once we ascribe to the Berayta the position of Rabbi Yossi, that cooking a roasted item constitutes bishul, and, according to the Yerei'im, this also means that roasting a cooked item constitutes tzeliya, the Berayta's first clause becomes difficult to understand. The first clause establishes that one violates the prohibition with cooked meat that one then roasted. But if roasting after cooking constitutes tzeliya, the meat should be considered roasted, and not cooked. Why, then, does the Berayta apply to this case the prohibition against eating the korban Pesach meat cooked? Indeed, were it not for the Yerei'im's comments, we would have deduced from the sugya that cooking after roasting constitutes bishul, and that roasting after cooking does not constitute tzeliya.[1]

To resolve this difficulty against the Yerei'im's position, we might explain that although roasting a cooked item constitutes tzeliya; The initial cooking is not erased as a result of the roasting, and therefore the prohibition still applies. This meat is considered both roasted and cooked, and thus one who partakes of it has eaten cooked meat, in violation of the prohibition. However, this view would concede that cooking after roasting or baking erases the initial roasting or baking, for Rabbi Yossi holds that cooking matza that had been baked erases its status as "bread" – which is defined by baking – and thus disqualifies it for the mitzva of matza. Necessarily, then, even though roasting or baking a cooked

item does not erase the prior cooking, cooking a baked or roasted item indeed erases the initial baking or roasting.[2]

The Ravya (197) dismisses the Yerei'im position, on the basis of a sugya in Masekhet Berakhot (38b) which discusses Rabbi Yossi's position and comments, as cited by the Ravya, "Rabbi Yossi said this only with regard to matza, because we require the taste of matza in one's mouth, which is absent [in such a case]."

The Gemara there discusses the issue of which berakha one recites over shelakot – cooked vegetables, whether one recites the standard berakha for the given vegetable, or she-hakol, since its status changes as a result of the cooking process. We cite here the Gemara's discussion:

Rav Nachman taught in the name of our rabbi – that is, Shemuel: Shelakot – one recites over them the berakha of borei peri ha-adama. But our colleagues who come from the Land of Israel – that is, Ula – say in the name of Rabbi Yochanan: Shelakot – one recites over them the berakha of she-hakol nihya bi-dvaro. And I [Rav Nachman] say: This is subject to a debate [among the Tanna'im], as the Berayta states: "One fulfills his obligation [of matza] with a soaked piece, and with a cooked piece that had not dissolved – this is the view of Rabbi Meir. Rabbi Yossi says: One fulfills his obligation with a soaked piece, but not with a cooked piece, even if it had not dissolved." But this is incorrect. All views agree that over shelakot one recites the berakha of borei peri ha-adama, and Rabbi Yossi said this there only because we require the taste of matza, which is missing. But here – even Rabbi Yossi would agree.

Rav Nachman hinges the question of which berakha one recites over shelakot on the debate between Rabbi Meir and Rabbi Yossi regarding matza that one cooked after it was baked. According to Rabbi Meir, the cooking has no effect on the matza's status, and it remains matza. Therefore, the status of vegetables, too, remains unchanged as a result of the cooking process, and the appropriate berakha is thus borei peri ha-adama. According to Rabbi Yossi's view, by contrast, that cooking matza changes it status such that it can no longer be considered "bread," which means a baked food item, cooking vegetables likewise changes their status with respect to berakhot, and they now warrant the berakha of she-hakol. But the Gemara rejects this extension of that debate to the issue of shelakot, claiming that Rabbi Yossi disqualifies cooked matza not because cooking eliminates its status as "bread," but rather because it does not have the flavor of matza required for the fulfillment of the mitzva.

The Ravya thus argues that in light of this sugya's conclusion, even Rabbi Yossi agrees that cooking after baking does not constitute halakhic bishul. In the

Ravya's view, we must understand the Gemara's discussion in Pesachim in light of Ula's comment cited in that sugya, that roasted meat that was then cooked is forbidden even though the cooking does not constitute a halakhic bishul, because of the Torah's formulation, "u-vashel mevushal," which forbids korban pesach meat cooked in any manner.

To explain the Yerei'im's view, we might suggest that he afforded primacy to the sugya in Pesachim, due to the principle of sugya bi-mekoma adifa – meaning, when the Gemara addresses a topic in its primary context, its conclusions are more authoritative than those reached as part of a tangential analysis in a different context. The Gemara in Pesachim addresses the topic of bishul achar tzeliya frontally, whereas in Berakhot it comes upon this issue tangentially, and thus we should perhaps accept the implications of the sugya in Pesachim as more authoritative.[3]

The Beit Yosef (O.C. 318) records the positions of both the Yerei'im and the Ravya and notes that the challenge raised by the Ravya against the Yerei'm's view is indeed compelling.

Until now, we have discussed these issues as they pertain to the laws of matza and korban pesach. Both the Yerei'im and the Ravya – each in his own direction – work on the assumption that we may reach conclusions with regard to the laws of Shabbat on the basis of these halakhot concerning matza and korban pesach. One might, however, question the validity of this comparison. If we define the melakha of bishul as preparing a food item for consumption, we should presumably conclude that cooking after baking would not violate the bishul prohibition, since the item was already edible. By contrast, if we define bishul as the process of transforming and enhancing a food's flavor, then we would, indeed, consider it bishul when one cooks a baked item. Seemingly, we could reach these conclusions irrespective of the sugyot addressed by the Yerei'im and Ravya, because these conclusions evolve strictly from the principles relevant to hilkhot Shabbat. The silence of the other Rishonim on this issue may very likely relate to these points that we just raised.

The Yerei'im and Ravya may have held that even if we define bishul as preparing an item for consumption, it might still forbid cooking a food that had been baked. If Halakha generally considers cooking a baked item bishul, then the final cooking likely erases the initial baking, effectively negating the initial preparation of the food for consumption. At this point, then, the item is prepared for consumption through cooking, in violation of bishul. We might suggest another explanation in light of a concept developed in an earlier shiur, that cooking a food that is edible raw should perhaps be seen as preparing the

food for an entirely different type of consumption, and would thus constitute bishul. Here, too, even though the food has already been made edible through roasting, cooking it prepares it anew for a different type of consumption.

Conversely, even if we define bishul as transforming taste, we might still apply the broader question of whether cooking after baking constitutes bishul, and claim that the transformation of taste is significant enough to violate bishul only if the food attains a new status as a result of the cooking.

In summary, one might argue for dissociating the issue of cooking after baking – and the reverse – on Shabbat from the corresponding issue in other areas of Halakha. According to the Yerei'im and Ravya, however, the status of these cases regarding Shabbat indeed hinges on the corresponding halakhot in other areas.

The Rulings of the Shulchan Arukh and the Rama

The Shulchan Arukh (O.C. 318:5) writes:

There is a view that if an item had been baked or roasted, if one then cooks it in a liquid, it constitutes bishul, and one may not put bread even in a keli sheni [the utensil into which liquid had been poured from the pot] at the point of yad soledet bo; others permit this.

The Rama adds, "[others permit this] in a keli sheni; and some are lenient even in a keli rishon. The practice is to preferably ensure not to place bread even in a keli sheni, so long as it is at the level of yad soledet bo."

The Shulchan Arukh initially cites the Yerei'im's position, that cooking a baked item indeed constitutes bishul, and adds that bread might be classified as kalei ha-bishul – an easily cooked food – in which case it may not be placed even in a keli sheni at the temperature of yad soledet bo. He then cites a second position – "others permit this" – without clarifying to which halakha this refers. It may very well refer to the stringency forbidding placing bread in a keli sheni, in which case the Shulchan Arukh here records the view of the Tur, who argued with the Yerei'im only on this particular issue. If so, then the Shulchan Arukh does not record the Ravya's position at all; this is how several Acharonim, including the Magen Avraham (318:19), understand the Shulchan Arukh's ruling.

Others, however, understood that the Shulchan Arukh permitted cooking baked foods altogether, in accordance with the Ravya's position that cooking a baked food does not constitute bishul. The Be'er Ha-gola and most Sephardic

authorities follow this reading. In general, when the Shulchan Arukh cites two anonymous views the second is considered the more authoritative position. We should also note that in this instance, he cites the first view in the singular form – "Yeish mi she-omer" – whereas he speaks of the second position in the plural – "ve-yeish matirin," suggesting that he viewed the second view as more mainstream. Additionally, as mentioned earlier, in the Beit Yosef the Mechaber indicates his preference for the Ravya's position.

The Rama records all positions and recommends following both stringencies associated with the Yerei'im's view, namely, that cooking a baked item constitutes bishul, and bread should not be placed even in a keli sheni. Even so, the Mishna Berura (318:46) rules that be-di'avad, if one did place bread in hot liquid, he may eat the bread, even if it were placed in a keli rishon, as in such a case we may rely on the Ravya's position.

The Mishna Berura (318:47), citing the Peri Megadim, rules that one may place bread in a keli shelishi (the utensil into which the liquid was poured from a keli sheni) even le-khatechila (optimally). On the basis of this ruling the practice has become to allow putting bread or croutons and the like in one's bowl of soup. The soup is removed from the pot – the keli rishon – in the ladle – which becomes the keli sheni – and then poured into the bowl, which is thus the keli shelishi. And although some opinions consider the ladle a keli rishon, with regard to this issue we may factor in as well the position allowing cooking a baked item in a keli rishon, and thus permit adding bread or croutons to one's bowl of soup.

Baking or Roasting a Cooked Item

As recorded earlier, the Yerei'im maintains that just as cooking a baked item constitutes bishul, so does baking a cooked item violate the prohibition. The Shulchan Arukh (318:15), however, writes, "An item that was fully cooked and is dry, containing no liquid soup, may be placed near the flame, even in a place at the point of yad soledet bo." The Bei'ur Halakha asks, "Earlier, in se'if 5, he brings the view of the Re'em [the Yerei'm']… according to whom there is likewise [halakhically defined] roasting after cooking. How, then, does he plainly allow here [roasting after cooking]?" Since we deal here with a dry, cooked item which one places near a flame, this is a case of tzeliya, which the Yerei'im forbids despite the item's having been previously cooked. And the Rama, who earlier requires following the Yerei'im's view, does not dispute the Shulchan Arukh's lenient ruling.

Due to the Bei'ur Halakha's question, some people refrain from warming cooked meat on Shabbat, and eat only cold meat. The Acharonim offered several

approaches to resolve this difficulty; we briefly cite here three solutions proposed:

The Minchat Kohen (Mishmeret Ha-Shabbat section, 2:4) writes that although cooking after roasting constitutes bishul, roasting after cooking does not. The Shiltei Ha-giborim (Shabbat 61a in the Rif, #3) writes this, as well, in explaining the Tur's position. To explain the distinction, we might suggest that cooking occurs through active heating (with water), whereas roasting occurs through neutral heating (without water). Therefore, cooking after roasting would violate bishul, whereas roasting after cooking would not. In any event, it would be difficult to ascribe this position to the Shulchan Arukh and Rama, given that the Mechaber makes no mention of such a distinction in the Beit Yosef, and he cites the Yerei'im's view in full, including both components.

The Chazon Ish (Shabbat 37:14) and Arukh Ha-shulchan (318:57) wrote that cooking food in a pot without any liquid might have the status of bishul, rather than tzeliya, and therefore reheating a cooked food in this fashion would be permitted, and would not constitute "roasting after cooking." We might draw support for this approach from the sugya in Pesachim (41a), which cites the view of Rebbi forbidding korban pesach meat roasted in this fashion (called tzeli keidar), as it is considered mevushal.[4] And even the majority position, which allows partaking of this meat, does so because the Torah forbade only korban pesach meat prepared with water or other liquids, and therefore even though tzeli keidar formally constitutes bishul, it is not included under the prohibition regarding the korban pesach.

The Chazon Ish further writes that in the case discussed in the Shulchan Arukh, the person reheating the food has no intention to produce the taste of roasted meat, and wants to heat it in its present taste. Therefore, we do not consider this a case of "roasting after cooking," and it is permissible.

The widespread practice is to be lenient in this regard. One must ensure, however, not to leave the food on the fire long enough to reach the point where we would consider it "roasted."

Cooking an Item that Had Been Previously Cooked and Then Roasted (Bishul Achar Tzeliya Achar Bishul)

The Peri Megadim (Eishel Avraham, 318:17) permitted cooking or roasting on Shabbat food that had been cooked and then roasted before Shabbat. He arrives at this ruling from the aforementioned sugya in Pesachim (41a), which indicates that although roasting after cooking constitutes tzeliya, the roasting does not erase the initial cooking. In our case, then, of a food that had been cooked and then roasted, one may cook it again on Shabbat because ein bishul achar bishul

– one may cook previously cooked food – and ein tzeliya achar tzeliya – one may roast previously roasted food. The Bei'ur Halakha (318 s.v. yeish mi) writes that according to the Peri Megadim, the converse would also be true: food that had been roasted and then cooked before Shabbat may be cooked or placed in an oven without liquid (which is akin to roasting) on Shabbat. Just as in the Peri Megadim's case the initial cooking remains, and one may therefore cook the food again on Shabbat, so does the initial roasting remain in our case, thus allowing one to roast the food again on Shabbat. In my opinion, however, as we discussed earlier, it emerges from that sugya that although the initial cooking is not erased through roasting, in the reverse case, cooking does, in fact, erase a previous roasting. Therefore, the Peri Megadim would not extend his ruling to allow roasting an item that had been previously roasted and then cooked. In such a case, the initial roasting is erased as a result of the cooking, and therefore we must consider the food cooked, but not roasted. Any subsequent roasting would thus be forbidden.

The Bei'ur Halakha proceeds to dispute the Peri Megadim's ruling entirely. According to the Bei'ur Halakha, the last action performed on the food establishes its status, as it infuses the food with its dominant flavor, and therefore only that final action – cooking or roasting – may be repeated on Shabbat.

In light of this discussion, we might arrive at yet another method of allowing reheating food in a pot without liquid on Shabbat, without resorting to the three approaches mentioned in the previous section. If one takes a food that had been cooked in water and places it for several minutes before Shabbat in a pot without any liquid (which, according to the stringent position, constitutes tzeliya), he will then be allowed to repeat this action on Shabbat to warm up the food.

Frying After Cooking or Roasting

The question arises as to whether we should classify frying as a separate category of food preparation, or assign it the same status as cooking or roasting. Shemirat Shabbat Ke-hilkhata hinges this question on a halakha mentioned by the Mishna Berura (451:63-65) regarding the kashering of utensils. The Mishna Berura writes that a utensil used for frying with just a small amount of oil is considered to have been used for roasting, and thus requires libun (direct exposure to fire), whereas if the pan is used with large quantities of oil, we consider it a cooking utensil, for which hag'ala (immersion in hot water) suffices. On this basis, Shemirat Shabbat Ke-hilkhata hinges the status of frying with respect to bishul on the amount of oil used. But this approach is difficult to

accept. How can one bring proof from the laws of kashering to the laws of bishul? In the context of kashering, we deal with the question of whether the utensil absorbs taste directly, without any liquid medium, or through the medium of a liquid; this very point underlies the distinction between libun and hag'ala.[5] Regarding bishul on Shabbat, however, the fundamental issue is the food's taste, and since fried food certainly tastes differently than cooked and roasted food, we should seemingly assign frying a separate category. In terms of the essential definition of the action, too, frying differs from cooking, as Rashi explicitly states in Sanhedrin (4b) with regard to the prohibition of cooking meat with milk – the Torah forbade only cooking, and not frying[6]. And the same can be said of roasting, as well.

It would seem, therefore, that those who follow the Yerei'im's position, that one violates bishul by cooking a baked item or baking a cooked item, should likewise refrain from cooking or roasting a fried food and from frying a cooked or roasted food.

Notes:

[1] Later we will be"H discuss the reason for distinguishing between cooking a roasted item and roasting a cooked item.

[2] We can prove this analysis from the proof brought by the Yerei'im towards the end of this passage, from the sugya in Yevamot 40a: "Even though he cooked it, since he then baked it in an oven, it is considered 'bread'." We have already shown that baking does not erase the prior cooking, and bread that was cooked and then baked is nevertheless deemed "bread." Necessarily, then, when Rabbi Yossi disqualifies matza that one baked and then cooked, he does so because the cooking erases the previous baking. It thus emerges that he distinguishes between cooking, which erases prior roasting, and roasting, which does not erase prior cooking. As noted in the previous note, later we will explain the rational basis for such a distinction.

[3] We might point to yet another reason why the Yerei'im preferred the conclusions in Pesachim over the sugya in Berakhot. The Gemara in Berakhot records two parallel discussions concerning the issue of the berakha recited over shelakot, and in the first discussion it draws no connection at all between this question and the status of cooking after baking with regard to matza. The Yerei'im perhaps felt that this first discussion is more straightforward and intuitive; this suggestion, however, is speculative. We might also suggest that the Yerei'im did not intend to dismiss the sugya in Berakhot at all, but rather held that given the severity of the Shabbat prohibitions, we should perhaps follow the stringent conclusions of the other sugyot with regard to the laws of Shabbat.

[4] One might refute this proof by arguing that Rebbi considers this meat mevushal only because of the Torah's expression, "u-vashel mevushal," as discussed earlier, and in essence this kind of cooking constitutes tzeliya and not bishul.

[5] With respect to hag'ala, too, some authorities argue with the Mishna Berura and maintain that oil differs from water, and a frying pan thus requires libun.

[6] We should emphasize that Chazal forbade cooking meat and milk together in any form, including frying.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 08: Cooking in a Keli Rishon

The Mishna (Shabbat 42a) states:

A kettle or pot that was removed [from the fire] as it was boiling – one may not add spices to it; but one may add [spices] into the bowl or serving dish. Rabbi Yehuda says: One may add [spices] into any [kettle or pot], except for something that contains vinegar or brine.

According to the Tanna Kama (first view recorded in the Mishna), a keli rishon ("initial utensil") has the capacity to cook spices added to it even after it is removed from the fire, but a keli sheni ("second utensil") – the bowl into which one poured from the initial pot – does not effectuate bishul. In light of the berayta cited by the Gemara, it emerges that Rabbi Yehuda considers a keli rishon capable of cooking spices only if it contains vinegar or brine, because only as a result of the combination between the intense heat of the keli rishon and the sharpness of the vinegar or brine is bishul effectuated.

In explaining Rabbi Yehuda's position, Tosefot (s.v. la-kol) write, "It would appear that he argues specifically with regard to spices; regarding other items, however, he agrees that a keli rishon effectuates bishul, even after one removes it from the fire." Tosefot's claim restricting the debate between the Tanna Kama and Rabbi Yehuda to the case of spices encounters numerous difficulties. It seems, at first glance, that spices cook more easily than other food items, and thus if Rabbi Yehuda maintains that they are not subject to bishul in a keli rishon, then all the more so would bishul not occur with other foods in a keli rishon.[1] Indeed, the Ramban, towards the end of Masekhet Avoda Zara, writes that to the contrary, even the majority position, which considers a keli rishon capable of cooking even after its removal from the fire, does so only with regard to spices which cook very easily. Other foods, however, are not subject to bishul off the fire, even according to the Tanna Kama. Similarly, the Ran (commenting on the Rif in our sugya, 20a in the Rif) writes:

We deduce from here that even though a keli rishon has the capacity to cook, this [applies to] only items that cook easily, such as water, oil, spices and the like. But items that cook with difficulty do not cook in it [a keli rishon off the fire]… But because we are not thoroughly knowledgeable in the nature of these things, we forbid placing anything in a keli rishon on Shabbat…

The Ran fundamentally agrees with the Ramban, but practically, he forbids placing any food in a keli rishon.

The Gemara cites a debate among the Amora'im concerning salt, which yields three possibilities: salt, like spices, is subject to bishul in a keli rishon but not a keli sheni; salt has a more stringent status than spices and cooks even in a keli sheni; salt cooks neither in a keli rishon nor in a keli sheni, but rather only on the fire, as the Gemara phrases it, "Salt requires cooking like beef." The Gemara's discussion requires some explanation. How is it possible that the Amora'im took such opposite views on this issue? Furthermore, we must explain what "cooking" salt really entails.

We might explain that the melakha of bishul includes two types of actions: 1) making foods suitable for consumption; 2) cooking salt and other spices, as a result of which the salt or spices infuses the food with taste, and this constitutes its bishul. In this regard, bishul means not cooking the salt and spices themselves, but rather the enhancement of other food that results from the process.[2]

With this in mind, we can explain the debate regarding bishul as it pertains to salt. The debate focuses on the question of which taste which the salt imparts into the food can be identified as bishul. The ideal taste, of course, is achieved when one places salt in the food over the fire. Occasionally, however, one adds salt to food in a keli rishon, off the fire, and at times one must add salt at a later stage, already in a keli sheni. The question addressed by the Amora'im is whether we demand the highest level of seasoning, or if bishul can occur even in the other cases. With regard to spices, the Mishna assumed that no reasonable degree of seasoning is possible other than in a keli rishon; with regard to salt, the issue is subject to the aforementioned debate among the Amora'im.

According to our approach, we arrive at a very stringent conclusion regarding the status of salt, sugar and other spices with respect to bishul. In light of what we have seen, the fact that salt and sugar are cooked during the process of their manufacturing is of no consequence for purposes of the rule of ein bishul achar bishul (a previously cooked item is not subject to further bishul). We cannot consider these items as previously cooked and thus allow subsequent

cooking, since bishul in this context involves the taste they impart into other food. This of course runs in direct contrast with the ruling of the poskim – which has become common practice – to treat salt, sugar and coffee as having been previously cooked. And one cannot argue that the rule of ein bishul achar bishul should apply even to these items, regarding which bishul is defined as imparting taste into other food, as the Chatam Sofer wrote in a responsum (74). The Chatam Sofer advanced this claim in discussing a food item that is eaten independently and also imparts taste to the other foods with which it is cooked. It is clear that even in the Chatam Sofer's view, foods for which cooking has no significance beyond the taste they impart to other foods would have a status similar to plants boiled for the production of dye, which he discuses in that same teshuva:

Now coffee is [previously] parched over fire, and in the responsa Ginat Veradim [the author] testified that in their countries people eat it that way, and they eat it even ground like flour. Thus, according to the majority position that bishul does not apply after baking, roasting or parching, then seemingly there is no Torah prohibition of bishul here. However, the aforementioned work [the Ginat Veradim] writes, "In this case, it imparts its taste into the water, and this constitutes bishul even though it has already been cooked, like stirring paint in the pot." In my humble opinion, he was not careful and these two cases are not comparable. There, the plants are not cooked for themselves at all, and are suitable for nothing other than extracting their color so that the color will be absorbed into the wool. Ein bishul achar bishul does not apply because so long as all their color has not been absorbed, they have not been cooked. But a food item that has been cooked, and that is independently suitable for consumption – its cooking has already been completed.

Since the sole significance of cooking salt and spices lay in the taste they impart into the food, they resemble the plants cooked solely for the purpose of extracting dye. This issue remains questionable as far as the practical halakha is concerned, though the prevalent practice indeed carries significant weight.[3]

Cooking in a Keli Rishon: A Torah Prohibition?

The Talmud Yerushalmi (Shabbat 3:5) comments, "What is outright cooking? Anytime there is fire burning underneath." According to the Yerushalmi, bishul occurs only in situations of food cooked over a fire, and it would thus appear that cooking in a keli rishon off the fire does not violate the Torah prohibition of bishul. Earlier (3:4), the Yerushalmi addressed the question of the practical difference between a keli rishon and a keli sheni, and it explained, "They enacted a safeguard for a keli rishon, but did not enact a safeguard for a

keli sheni." This, too, appears to mean that, according to the Yerushalmi, the prohibition against cooking in a keli rishon was enacted by Chazal to safeguard against actual bishul, over the fire. We do not find any explicit discussion of this issue in the Talmud Bavli. From the comments of several Rishonim it appears that they perceived this halakha as a Torah prohibition.[4] The Ran (20a in the Rif, s.v. u-de-amrinan) writes explicitly that the status of a keli rishon is subject to a debate between the two Talmudim: "We see that the scholars of Israel [the Talmud Yerushalmi] do not hold that pouring from a keli rishon has the capacity to cook; to the contrary, they are more lenient than our Gemara, for in their view, bishul occurs only when there is fire burning underneath."

The Ramban, by contrast (towards the end of his chiddushim to Masekhet Avoda Zara, 74b), cites the Yerushalmi's comments and appears to indicate that the Bavli would agree. He writes (end of s.v. ve-ha di-tenan):

We learn that according to all views outright bishul occurs only when there is fire burning underneath…even for spices. And for items that cook with difficulty it is permissible [in a keli rishon] even le-khatechila [at the optimum level of observance], for this does not constitute cooking at all.

The Ran, commenting on our sugya, writes that even though a keli rishon effectuates bishul only for kalei ha-bishul (items that cook easily), nevertheless, due to our inability to identify which items belong to this category, we must forbid placing any item in a keli rishon, except for what the Gemara explicitly permitted.

I believe that this debate between the Ramban and Ran whether to forbid placing any item in a keli rishon hinges on their previous dispute. According to the Ramban's view, that a keli rishon does not effectuate bishul on the level of Torah law, we need not be stringent with regard to general food items. The Ran, however, maintains that cooking in a keli rishon constitutes a Torah violation of bishul, and we must therefore act stringently given the uncertainty that exists.

The Rambam (Hilkhot Shabbat 22:6) writes: "Similarly, a boiling pot, even if one removed it from the fire – one may not add spices to it, but one may add to it salt, because the cooking of salt can occur only over a large fire." The Acharonim disagree in explaining the Rambam's position. Some claim that in his view keli rishon does not cook on the level of Torah law, as evidenced by the fact that he does not bring this halakha in chapter 9 of Hilkhot Shabbat, where he discusses the Torah prohibition of bishul, and includes it instead here in chapter 22, amidst the rabbinic prohibitions of bishul. The Iglei Tal (Mevashel, 23:2) made this inference from the Rambam's arrangement. However, the Shevitat

Ha-Shabbat (introduction to Mevashel section, 7) refutes this proof, claiming that even those who consider a keli rishon a Torah violation of bishul agree that some items do not cook in a keli rishon, and are forbidden to be placed in a keli rishon only by force of rabbinic enactment.[5] And because of our inability to ascertain which items are subject to the Torah violation of bishul in a keli rishon, the Rambam wrote simply that one may not cook in a keli rishon, without specifying that for some items doing so constitutes a Torah violation. It should be noted that even the Iglei Tal ultimately concludes that cooking in a keli rishon is forbidden on the level of Torah law.

The straightforward reading of the sugyot in the Talmud Bavli suggests that cooking in a keli rishon constitutes a Torah violation. The Mishna (145b) establishes that rinsing a fish called kulias ha-ispenin[6] violates the Torah prohibition of bishul, and there we deal with at most pouring hot water from a keli rishon. One might, however, argue that kulias ha-ispenin belongs to the category of kalei ha-bishul (as it is already soft due to its abundant salt); since all it requires is rinsing to eliminate its salt, even hot water poured from a keli rishon can effectuate the melakha of bishul. The Peri Megadim writes (Y.D., Mishbetzot Zahav 68, s.v. ha-din ha-bet): "…for one is liable for rinsing a kulias ha-ispenin even in a keli sheni; since it is thin and soft, its rinsing constitutes its final preparation." One might also suggest, according to some Acharonim, that the Yerushalmi would explain the Torah violation in the case of kulias ha-ispenin on the basis of makeh be-patish (completing a product), rather than bishul.[7]

Yet another difficulty arises from an earlier sugya (39a), which equates toledot ha-or (sources of heat derived from fire)[8] with fire itself with respect to bishul, such that one can violate the Torah prohibition of bishul by cooking even with derivatives of fire. Seemingly, cooking in a keli rishon should be considered no worse than cooking with a garment that was heated through fire. This does not necessarily pose a difficulty for the Yerushalmi; the Yerushalmi may very well disagree with the Bavli and maintain that toledot ha-or does not effectuate bishul.[9] Within the Bavli's view, however, this issue requires clarification.

The explanation would appear to be as follows. If the debate revolves around the scientific question of whether cooking can occur in a keli rishon, then to explain the view that bishul cannot occur in a keli rishon according to Torah law, we are forced to say that toledot ha-or are more capable of cooking than a keli rishon. It is far more likely, however, that we deal here with a fundamental, halakhic debate as to whether the Torah prohibition can apply to cooking in a keli rishon. To qualify as a Torah violation of bishul, the process must occur through a source of heat, and, at least according to the Bavli, fire derivatives are

considered "fire" for this purpose. A keli rishon, however, is merely a utensil containing an item that has undergone bishul. Perhaps, once we define the contents as an item that has undergone bishul, we can no longer perceive it as a heat source to allow for a prohibition against cooking in it on Shabbat. Moreover, according to this view[10], a keli rishon is not customarily used for cooking, and thus cannot be considered "fire" for purposes of bishul, other than in the rare cases where this is clearly the normal practice (such as kulias ha-ispenin, the rinsing of which constitutes bishul even in a keli sheni). In these exceptional situations, this utensil is indeed perceived as capable of effectuating bishul.

It should be noted that even though the Yerushalmi appears to view the prohibition of cooking in a keli rishon as rabbinic in origin, many commentators understood that even the Yerushalmi considers this a Torah violation. The Vilna Gaon, in his commentary to the Shulchan Arukh (Y.D. 105), explains the Yerushalmi to mean that the Torah violation of bishul occurs anytime fire had burned underneath the given utensil. The Peri Megadim (in the passage cited earlier) raised the possibility that this issue is subject to a debate among the Tanna'im and the Yerushalmi was uncertain which view to follow. He suggests that the Yerushalmi's question, "What is outright cooking" means that bishul occurs incontrovertibly only over a fire; when the pot is off the fire, we cannot be certain whether or not bishul can occur due to the debate surrounding this issue.

As for the Yerushalmi's other remark cited earlier, describing cooking in a keli rishon as a herchek ("safeguard"), implying that this prohibition was enacted by Chazal, this view would explain this phrase differently. It would refer to the halakha mentioned by the Yerushalmi allowing one to place an item near a fire at a place where "ha-yad sholetet" (literally, "where the hand has control")[11], but not at a place where "ein ha-yad sholetet" ("where the hand does not have control"). According to this reading, the Yerushalmi forbade placing an item in a keli rishon at a distance of ein ha-yad sholetet as a safeguard against the possibility that it might cook completely, in violation of the Torah prohibition of bishul.

In any event, we customarily follow the position that views cooking in a keli rishon a Torah violation of bishul, and we forbid cooking all items[12] in a keli rishon.

The Level of Heat Required for a Keli Rishon to Effectuate Bishul

The Ravya (202) writes[13]:

It seems likely to me that the Talmud distinguished regarding a kettle only when one places water in it immediately upon removing it from the fire, in which case it resembles that which the Mishna says, "A kettle or pot that was removed [from the fire] as it was boiling – one may not add spices to it; but one may add [spices] into the bowl or serving dish." But if one let it stand to cool from its boiling, it is considered like a keli sheni, and anything in a keli sheni is considered thawing [rather than cooking, and is permissible on Shabbat]. And the proof is the syntax – it [the Mishna] said, "that was removed as it was boiling – one may not add spices to them."

The Beit Yosef, however, disagrees: "But to me it appears from what was said in the chapter Kira [Shabbat 40b] with regard to placing a jug of water opposite a flame, that so long as yad soledet bo [one's hand would instinctively recoil on contact] it is considered a keli rishon." We thus have two opinions as to whether a keli rishon effectuates bishul only when its contents are still boiling, or so long as it remains at the level of yad soledet bo.

We might refute the proof suggested by the Beit Yosef from the sugya on 40b. The Gemara there discusses placing a jug of water near a flame, and forbids placing it at a distance where it can reach the point of yad soledet bo. The heat source, however, must certainly be at a higher level of heat, since no heat source can bring other items to the point of yad soledet bo if its own heat does not significantly exceed that level. This is perhaps what the Ravya meant: in order for something to reach the level of yad soledet bo, the heat source must be at the boiling point. The Beit Yosef, by contrast, perhaps held that Chazal drew no distinction in this regard, because it is impossible to determine the precise level of heat required to bring other items to the point of bishul or of yad soledet bo. They therefore established a general rule forbidding cooking in any keli rishon at the level of yad soledet bo. In this vein he understood the sugya that forbade placing a jug of water near a flame at a place of yad soledet bo, meaning, if the place where one places the jug is at the point of yad soledet bo. As for the final halakha, the poskim followed the stringent position of the Beit Yosef, and common practice indeed forbids placing foods in a keli rishon at the temperature of yad soledet bo or higher.

A Keli Rishon Below the Temperature of Yad Soledet Bo

The Ritva (Shabbat 42a, s.v. ha-ilfas) writes, "It appears that the Mishna states categorically, 'One may not add" – even [at the level of] ein ha-yad soledet ba-hen, as a decree out of concern for [cases of] yad soledet ba-hem, since he

removed them from the fire boiling." Likewise, the Magen Avraham (318:28) inferred from the Yerushalmi's comments that Chazal forbade cooking in a keli rishon under any circumstances, even below the temperature of yad soledet bo. The Vilna Gaon, however, understood the Yerushalmi differently. He claimed that one may cook in a keli rishon below the temperature of yad soledet bo, arguing that the Yerushalmi forbids placing food in a keli rishon even when one does not want it to reach the point of yad soledet bo, since he might forget it there until it cooks, in violation of bishul.

As for the final halakha, the Shulchan Arukh (318:9) writes, "A keli rishon is capable of cooking even after it is removed from the fire, so long as [it is at the temperature of] yad soledet bo." The Mishna Berura notes that the Shulchan Arukh here seeks to dispute both the Ravya's position, that a keli rishon effectuates bishul only if its contents are still boiling, and the Magen Avraham's view, forbidding cooking in a keli rishon even below the temperature of yad soledet bo. Indeed, the accepted halakha is to forbid placing foods in a keli rishon so long as it retains the level of heat of yad soledet bo.

Notes:

[1] The Rashash, commenting on Tosefot, notes that from the parallel discussion in Masekhet Ma'aserot (1:7) it appears that Rabbi Yehuda argues also with regard to oil (which the Gemara in Shabbat 40b classifies as one of the more easily cooked food items, in that one view considers the warming of oil a violation of bishul). It thus seems far more likely that Rabbi Yehuda disputes the entire notion of keli rishon. See also the discussion of the Penei Yehoshua on our Mishna.

[2] In a previous shiur regarding cooking a previously cooked liquid, we mentioned Rabbenu Yona's position from which a third definition of bishul seems to emerge, namely, lending an item the capacity to cook. Thus, one would violate bishul by bringing hot water to a boil, even if it had just been boiled, since boiling renders it capable of cooking foods.

[3]The poskim consider sea salt (as well as sugar and the like) as having already been cooked; see Shevitat Ha-Shabbat (Mevashel section, 12; and Be'er Rechovot, 26) and Mishna Berura (318:71). According to our approach, however, bishul in the context of salt and sugar has no significance unless they are added to a food for seasoning, and therefore the rule of ein bishul achar bishul should not apply.

[4] Tosefot (42b), in discussing the final halakha concerning salt (s.v. ve-hayenu), write that even though the standard rules of pesak would warrant following the more stringent view regarding salt (and it appears that Tosefot made this assumption because we deal with a Torah prohibition), nevertheless, it is

preferable to follow the lenient view in order to reconcile Rav Nachman's position with that of Rabbi Chiya. They thus approached this question of cooking salt in a keli rishon as an issue involving a Torah prohibition.

[5] In accordance with the Ran's position, cited earlier.

[6] This is a very salty fish that cannot be eaten before it is rinsed in hot water to eliminate its salt and make it suitable for consumption.

[7] In shiur #4 we discussed the issue of whether the melakha of makeh be-patish can apply to the preparation of foods.

[8] Toledot ha-or (derivatives of fire) are items such as cloth or metal that were heated through fire and then removed.

[9] The Yerushalmi in Masekhet Pesachim (chapter 9) records a debate as to whether or not toledot ha-or are equivalent to fire itself. We will be"H discuss this issue further in a later shiur.

[10] We emphasize that this point applies specifically according to this position, because according to Tosefot and the others who view a keli rishon as effectuating bishul on the level of Torah law, a keli rishon is customarily used for cooking and can thus be considered a heat source. In the next shiur we will be"H mention a similar concept relevant to a keli sheni, which would apply even according to those views who do not accept the theory as it pertains to a keli rishon.

[11] "Ha-yad sholetet" is equivalent to the Bavli's expression, "ein ha-yad soledet," whereas "ein ha-yad sholetet" corresponds to "yad soledet." For additional readings of the Yerushalmi's remarks, see Shevitat Ha-Shabbat, introduction to Mevashel section.

[12] With the exception of the items that the Gemara explicitly permits: salt (according to one view in the Gemara) and beef. We will return to this issue later in the shiur.

[13] His comments appear in the Hagahot Mordekhai, 79d.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 09: Cooking in a Keli Sheni

The Principle of Keli Sheni Eino Mevashel

The Mishna in Masekhet Shabbat (42a) allows adding spices into a keli sheni – the utensil into which the food is poured from the original utensil in which it was cooked. From here it is learned that keli sheni eino mevashel – a keli sheni is incapable of effectuating the halakhic process of bishul. This principle emerges also from an earlier sugya (40b), where Rebbi instructed his student, "Place it [a jug of oil] in a keli sheni [filled with water, to warm it] and give [it to me]." The Gemara infers from this incident that bishul cannot occur in a keli sheni. The Rishonim struggled to identify the precise point of distinction between a keli rishon and keli sheni, and developed different approaches in dealing with this question.

We will begin with the Yerei'im, who writes:

Bishul depends neither on a keli rishon nor on a keli sheni, but rather on the item being cooked. At times it is a soft item and can be cooked even in a keli sheni, whereas there are hard items that cannot be cooked even in a keli rishon, and some items are cooked in a keli rishon but not in a keli sheni… A person must therefore ensure not to place any item in a keli sheni or even in a keli shelishi [the utensil into which the food was poured from a keli sheni] at the point of yad soledet bo [where one's hand would instinctively recoil on contact], for we are unsure regarding soft and hard items, which are cooked in a keli sheni and which are not cooked [in a keli sheni].

In the Yerei'im's view, the fundamental distinction is not between the different types of utensils, but rather between different types of foods – hard food items and soft food items. Thus, soft foods may not be cooked even in a keli shelishi at a temperature of yad soledet bo.

The Rashba, by contrast, maintains that Chazal drew a clear distinction between a keli rishon and keli sheni. He writes (chiddushim, Shabbat 40b s.v. meivi adam), "They mentioned keli rishon and keli sheni only because the first is capable of cooking, and the other is not capable of cooking."[1] In light of this approach, the Rashba must deal with the empirical fact that cold water added to hot water in a keli sheni indeed reaches the level of yad soledet bo, seemingly proving that even a keli sheni is capable of cooking. Commenting on a later sugya (42a s.v. be-davar), the Rashba offers the following explanation:

Since it is a keli sheni, it will always be permissible, since it reaches only lukewarm [levels]. And even if the water was [at the point of] yad soledet ba-hen after cold water was mixed into it, this results not from the cold water in it becoming yad soledet, but rather from the original water, which did not cool [through its contact with the cold water].

Though it is difficult to fully understand this passage, the Rashba's intention is clear: the reality of yad soledet emerges not from the cold water that becomes hot, but rather from the hot water, which does not become cold.[2]

Tosefot (40b s.v. u-shema mina) develop a different approach:

It is difficult: How does a keli sheni differ from a keli rishon? If [it is at a temperature of] yad soledet, then even a keli sheni [is capable of cooking], and if it is not [at the point of] yad soledet, then even a keli rishon is not capable of cooking! We might say that because a keli rishon sat over a fire, its walls are hot and it retains its heat for an extended period. They [Chazal] therefore established the criterion that so long as [it is at the point of] yad soledet bo, it is forbidden [to cook in the keli rishon]. But a keli sheni – even when it is yad soledet bo it is permissible [to cook in it], because its walls are not hot and it gradually cools.

In posing their question, Tosefot advance the claim that the possibility of bishul occurring in any utensil should depend solely on the factor of yad soledet bo, and not on whether we deal with a keli rishon or keli sheni, on the assumption that level of heat is the determining factor. This assumption, which Tosefot ultimately dismiss, bears resemblance to the Yerei'im's position, which sees no fundamental difference between the various utensils. And this assumption is identical to a view recorded in the Yerushalmi (3:4): "Everyone agrees that it is permissible in a keli sheni. Wherein lies the difference between a keli rishon and keli sheni? Rabbi Yossi said: Here, one's hand would recoil; here, one's hand would not recoil." According to this view, the distinction pertains only to the level of heat.

In their answer, Tosefot assert that the criterion that defines bishul involves not merely the current level of heat, but also the period of time for which this level is retained, and the walls of a keli sheni cool at a faster rate than those of a keli rishon. In short, bishul is a function of a prolonged period of heat.

But Tosefot's answer does not resolve the problem completely. It is possible for a keli sheni to be at a relatively high temperature and lose its heat slowly either because of its narrow opening which allows limited exposure to air, or due to its thick insulation. We might therefore explain that Tosefot refers not simply to an empirical factor, but rather to a halakhic factor. In their view, bishul requires a heat source, and a keli sheni, which generally loses its heat quickly, is not generally perceived as a cooking utensil. Therefore, Halakha likewise does not consider it "fire" for purposes of bishul, except in those rare instances where people generally use a keli sheni for this purpose, such as in the case of kulias ha-ispenin (a type of salty fish), which we have discussed on several occasions in earlier shiurim.

We might draw proof to this theory from the Rambam's view, in light of the difficulties that arise from his comments regarding this issue. The Rambam writes in Hilkhot Shabbat (22:6):

Similarly, a boiling pot, even though one removed it from the fire, one may not add spices to it, but he may add to it salt, because salt is cooked only over a large fire. If one poured the food from a pot to a bowl, then even though it is boiling in the bowl, it is permissible to add spices to the bowl, for a keli sheni is incapable of cooking.

In the context of the laws of ma'aser, there is a rule, "Bishul kovei'a le-ma'aser." This means that whereas generally one may partake of food that has yet be tithed for an akhilat arai (a quick snack), the process of cooking automatically defines any subsequent eating of that food as an akhilat keva (an established meal), which is forbidden before tithing. Accordingly, the Rambam writes (Hilkhot Ma'aser 3:15):

Once oil drops down into the trough [of the olive press] – even though it already dropped down, one may take [oil] from the bale, press-beam or boards and place it into food in a small bowl or serving dish, even though it is hot, because it is not cooked in a keli sheni. But if it was exceedingly hot, such that it would burn a hand, one may not place it [the oil] into it [the bowl or serving dish] because it would cook.

The Rambam rules that the point when the oil drops into the trough of the press marks the gemar melakha – the final stage of the oil's preparation. Nevertheless, he permits placing oil into a keli sheni without tithing it, since the oil is not cooked as a result, and this therefore would not constitute akhilat keva. If, however, the food/liquid in the keli sheni is at a high temperature, such that one's hand would burn on contact, we deem the keli sheni capable of cooking the oil, and one may therefore not eat the oil in this fashion without first taking ma'aser.

This ruling appears to contradict the Rambam's comments in Hilkhot Shabbat. With regard to the prohibition of bishul on Shabbat, the Rambam rules that a keli sheni does not effect bishul even if its contents are still boiling, whereas with respect to ma'aser he writes that if the contents can burn a hand – which presumably occurs at a lower temperature than the boiling point – the keli sheni is capable of cooking.

It would appear that in the Rambam's view, a keli sheni generally does not have the capacity to cook, unless it is exceptionally hot, at the point where one's hand would be burned on contact. In Hilkhot Ma'aser, we deal with the empirical question of whether cooking actually occurs, and one may therefore eat oil as an akhilat arai without tithing in a regular keli sheni, but not in an exceptionally hot keli sheni, at the point of yad nikhveit (where one's hand would burn). With respect to Shabbat, however, a keli sheni does not accomplish bishul even at the boiling point, because a keli sheni cannot be classified as "fire" for purposes of the melakha of bishul, except in the case of kulias ha-ispenin, which is normally prepared in this fashion, and a keli sheni would thus qualify as "fire" in that particular instance.[3]

Summary of the Rishonim's Positions

We have thus encountered several different approaches in explaining the reason why a keli rishon is deemed incapable of accomplishing bishul:

Because of its low level of heat (Yerushalmi – "ein yad soledet bo").
It does not retain its heat for a prolonged period of time (Tosefot – "it gradually cools").
It is not defined as "fire" (our explanation of Tosefot and the Rambam).
It depends on the type of food (Yerei'im).
Practically speaking, it is never capable of cooking (Rashba – this was Chazal's empirical assessment).

Details Concerning Bishul in a Keli Sheni

1. Kalei Bishul – Easily Cooked Foods

The Yerei'im, as cited above, wrote that one may not cook any food in a keli sheni unless the Gemara specifically speaks of that food as incapable of being cooked in a keli sheni. We cannot ascertain the status of any other food vis-א-vis bishul in a keli sheni, and one must therefore refrain from cooking in it in a keli sheni. The Ran wrote that even in a keli rishon we are uncertain which foods are subject to bishul and which are not, and we therefore refrain from placing any foods in a keli rishon. It stands to reason that the Ran applied this stringency only to a keli rishon; in a keli sheni, however, the Ran would allow us to assume that it does not effectuate bishul, except in the case of kulias ha-ispenin, and, according to one view in the Gemara (42b), salt.

The Tur (318) cites the Yerei'im's stringent position that a previously baked food is subject to bishul, and that one may not place bread even in a keli sheni at the level of yad soledet bo. He then disputes the second halakha, which assumes that bishul can occur in a keli sheni. He writes:

Rabbi Eliezer of Metz wrote, "Even though bishul cannot occur after [a previous] bishul when dealing with a dry food item, an item that had been baked or roasted is subject to bishul if one cooks it afterwards in liquid. It is [therefore] forbidden to place bread even into a keli sheni [at the point of] yad soledet bo." But this is very difficult – why would they forbid [this] in a keli sheni? He perhaps compared it [bread] to salt, which the Gemara says – according to one view – can cook even in a keli sheni. But it does not seem correct that it should be forbidden in a keli sheni."

2. Which Foods are Considered Kalei Ha-bishul?

We mentioned earlier that the fish called kulias ha-ispenin, as well as – according to one view in the Gemara – salt, can be cooked in a keli sheni. The Chazon Ish (Shabbat 52:19) wrote that eggs likewise belong to this category of kalei ha-bishul (items that are easily cooked), and one may therefore not boil an egg in a keli sheni. He arrives at this theory based on an earlier sugya (38b), which considers roasting an egg alongside a hot kettle a Torah violation of bishul. According to the Chazon Ish, the Gemara here seeks to establish that cooking kalei ha-bishul constitutes a Torah violation, and thus eggs are invoked as an example of kalei ha-bishul. The work Pitchei Da'at cites Rav Yaakov Yisrael Fisher as allowing, strictly speaking, placing an egg in a keli sheni, though even he advises against doing so.

According to the Yerei'im, we must suspect every item of being among the kalei ha-bishul, with the exception of beef, spices, water and oil.

What about other liquids, besides water and oil? From the Shulchan Arukh (318:13) it appears that other liquids are not deemed kalei ha-bishul, and the Mishna Berura makes no comment on the Shulchan Arukh's ruling. Elsewhere in this siman, however, the Shulchan Arukh appears to indicate that we must, indeed, treat other liquids as possibly in the category of kalei ha-bishul. In any event, when dealing with liquids that were cooked and then cooled, we may allow placing them in a keli sheni, taking into account the view among the Rishonim that the rule of ein bishul achar bishul (foods are not subject to bishul if they had been previously cooked) applies even to liquids. Practically speaking, then, one may add cold pasteurized milk to a cup of coffee (since the milk has already been cooked, and the coffee cup is a keli sheni).

The Chazon Ish held that strictly speaking, we need not consider every food item potentially of the kalei ha-bishul type. At most, he maintained, we should apply this stringency only to bread, which the Yerei'im and Semag specifically mentioned. He concluded, however, that common practice is to forbid cooking all foods in a keli sheni, though he allowed placing lemon juice in a keli sheni.

3. A Keli Sheni at the Point of Yad Nikhveit

The Binat Adam writes in the work Sha'arei Tzedek, "It is very difficult that all the geonim…did not bring the Rambam's comments in Hilkhot Ma'aserot 3:15, where he wrote explicitly that if one's hand would be burned in a keli sheni – it is capable of cooking." We have already seen that the Rambam distinguishes in this regard between the laws of Shabbat and the laws of ma'aser; with respect to bishul on Shabbat, cooking is permitted in a keli sheni even if its contents are boiling, as the Rambam writes explicitly in Hilkhot Shabbat (22:6).

The Binat Adam drew support for his position from the aforementioned sugya in the Yerushalmi, Masekhet Ma'aserot, and from a sugya in the Bavli (Shabbat 42a) concerning a bathtub. The Tur wrote that although a tub is treated as a keli sheni, one should nevertheless consider its water capable of cooking because of its particularly high temperature. According to the Binat Adam, this applies equally to every keli sheni at the level of yad nikhveit. By contrast, the Shevitat Ha-Shabbat (introduction to Mevashel section, 10) permits cooking in a keli sheni, regardless of its heat.

The Acharonim generally ruled stringently in cases of yad nikhveit (see Mishna Berura 318:48). The Chazon Ish, however, claimed that the Bavli disagrees with the Yerushalmi on this point, but conceded that as a practical matter one should not be lenient in this regard given the severity of Shabbat. In practice, then, one should be stringent in cases of a keli sheni at the point of yad nikhveit, but be-di'avad (after the fact) one may lenient.

4. Davar Gush – Solid Foods in a Keli Sheni

In the Yoreh Dei'a section of the Shulchan Arukh, the Acharonim debate the issue of whether a davar gush (solid food item) in a keli sheni absorbs and emits taste of forbidden foods. The Rama (Y.D. 94:7) rules leniently, that taste is neither absorbed nor emitted in a keli sheni. The Shakh (94:30), however, disagreed, and wrote, "Even in a keli sheni it is treated like a keli rishon so long as yad soledet bo, and it requires hag'ala [immersion in hot water], since it is a solid item." This is also the view of the Maharshal, that a dry food – such as a piece of meat – transfers taste so long as its temperature is at a level of yad soledet bo, regardless of whether we deal with a keli rishon or keli sheni.

The Peri Megadim discusses whether this stringency applies as well to the issue of bishul on Shabbat. The Magen Avraham (318:45) rules that it indeed applies with regard to bishul, and a davar gush is capable of effecting bishul even in a keli sheni. The Mishna Berura writes that be-di'avad, one may rely on those authorities who rule leniently on this issue:

Several poskim maintain that a solid food is capable of cooking so long as yad soledet bo, even in a keli sheni. Nevertheless, be-di'avad, one need not forbid [the food] if it is placed in a keli sheni, as we may rely on the poskim [who hold] that a keli sheni is not capable of cooking under any circumstances.

Rav Moshe Feinstein (Iggerot Moshe 4:74) addresses the question of placing ketchup on a hot piece of meat in a keli sheni:

As for the final halakha, it would seem that one is permitted to place ketchup on boiling meat that had been placed in a keli sheni… But here, the stringency that a liquid is subject to bishul after having been previously cooked is but an additional stringency, for the most prominent poskim hold that even regarding liquids ein bishul achar bishul, and this is indeed the Rama's final decision – that this is the practice, and he rules stringently only if it has completely cooled. And also the stringency regarding a davar gush, considering it like it is boiling even in a keli sheni, is disputed by many, including the Rama… Therefore, even this law, despite the fact that the Shakh in 105:8 follows the Maharshal, as does the

Magen Avraham (45), we should not consider this a balanced safek such that since we cannot definitively rule leniently we must be stringent. You are therefore correct that one need not follow these two stringencies, even with regard to the prohibitions of Shabbat.

5. Ladles

Earlier we cited Tosefot's approach (40b) in explaining the difference between a keli rishon and keli sheni, claiming that the walls of a keli rishon retain their heat, whereas the walls of a keli sheni lose their heat and the utensil thus cools. The Taz (Y.D. 92:30) inferred from Tosefot that a ladle, which one places into a keli rishon to draw its contents and then pours into a bowl, has the status of a keli rishon. He notes that others disagree and treat ladles as a keli sheni. The Mishna Berura (318:87) comments on this issue:

Something is considered a keli sheni when a keli rishon, in which the hot food was boiled, is poured into this utensil; it is permissible [to cook in it] even at the level of yad soledet bo. But if one draws with an empty utensil from a keli rishon, some views hold it has the status of a keli rishon, particularly if he leaves the empty utensil in it until it boils – then it is certainly considered a keli rishon.

Earlier (318:45), however, the Mishna Berura implies that he considers the ladle a keli sheni: "But if one wishes to put bread [in soup], he should wait until the soup is no longer yad soledet, or, he should at least draw [the soup] from the pot with a spoon [= a ladle] so that the bowl will be a keli shelishi." We might explain the Mishna Berura's position as requiring one to optimally follow the stringent position, considering the ladle a keli rishon. However, where one wishes to place a previously baked item in hot liquid, in which case we are generally concerned for the Yerei'im's view forbidding placing bread even in a keli sheni, we may rely on the position that treats the ladle as a keli sheni, such that the bowl would be considered a keli shelishi.

This halakha essentially results from a sefeik-sefeika (a "double uncertainty"): perhaps Halakha follows the view that baked foods are not subject to bishul, and even if bishul indeed applies to such foods, perhaps we accept the opinion that a ladle constitutes a keli sheni, in which case one would be allowed to place bread in his bowl, which would be considered a keli shelishi.[4]

6. "Mechzei Ke-mevashel" in a Keli Sheni

Tosefot (Shabbat 39a s.v. kol) comment:

The Ri says that one may not soak [food] even in a keli sheni, because since the water is hot, it gives the appearance of cooking ["mechzei ke-mevashel"]. And although the Mishna later (42b) states, "but one may add [spices] to the bowl or serving dish," this applies only to spices, which are made [for the specific purpose] of adding flavor to [the food in] the pot, and it does not give the appearance of cooking. Or, one may indeed soak it, since we deal with a keli sheni, and it [the Mishna] mentions rinsing [rather than soaking] to teach us that even rinsing constitutes the final stage of preparation in the cases of mali'ach ha-yashan and kulias ha-ispenin.

Tosefot thus advance two approaches with regard to keli sheni. The first approach maintains that although bishul cannot occur in a keli sheni, one may not place foods in a keli sheni because it gives the appearance of cooking; spices, however, which serve merely to add flavor, may be placed in a keli sheni. Tosefot draw their novel theory from the Mishna's comment, "Any food that had not been cooked in hot water before Shabbat may not be soaked in hot water [on Shabbat], but may be rinsed in hot water [on Shabbat]." "Rinsing" here refers to pouring hot water from a keli sheni, indicating that raw food may not be soaked in a keli sheni. On this basis, Tosefot establish that the principle of mechzei ke-mevashel applies to cooking in a keli sheni. In their second approach, however, Tosefot explain that the Mishna seeks to emphasize that even pouring is forbidden in the cases of mali'ach ha-yashan and kulias ha-ispenin; other foods, by contrast, may indeed be soaked even in a keli sheni, since bishul cannot occur in a keli sheni.

The Meiri, in his comments to the Mishna, explains that the Mishna does not refer to a food that had not been cooked at all before Shabbat and is thus completely inedible. Rather, it deals with salty meat that can be eaten with difficulty even without rinsing. The Meiri explains that the Mishna here allows pouring water from a keli rishon onto the meat, but not soaking it. He explains:

Any food that had not been cooked in hot water before Shabbat, and is rather eaten on Shabbat with difficulty without cooking, such as exceptionally salty meat, may be rinsed in hot water on Shabbat, and we do not say that its rinsing amounts to cooking it, for even rinsing does not suffice for eating it comfortably, without any difficulty. "But it may not be soaked" – meaning, for an hour or a half-hour, because it soaking – given that it is done in a keli rishon – cooks it somewhat. "Except for mali'ach ha-yashan" – meaning, from the previous year

– "and kulias ha-ispenin" – which is a fish that is eaten by rinsing it in hot water. In all these cases, they [the food items] are forbidden even with only rinsing, because even during the week their rinsing is how they are cooked.

According to his reading, the Mishna does not deal with a keli sheni at all, and there is thus no basis for Tosefot's stringent position.

As for the final halakha, the Magen Avraham (318:15) rules stringently on the matter, and this is the conclusion of the Mishna Berura (318:34), despite the fact that neither the Shulchan Arukh nor the Rama brings this halakha. The Iglei Tal, by contrast, accepts the lenient view.

Notes:

The Rashba there objects to Rashi's text in the sugya, according to which "hefeshero zehu bishulo" – warming oil constitutes bishul, and yet one is permitted to place the jug of oil in a keli sheni because a keli sheni is not subject to bishul; we will elaborate on his view later. The Rashba found this approach untenable, because the entire distinction between the various utensils stems from Chazal's assessment that a keli sheni is incapable of cooking. Hence, if warming oil indeed constitutes bishul, it would be forbidden even in a keli sheni, which is capable of warming oil. The Rashba therefore adopts the alternate text of the Gemara, which reads, "hefshero lo zehu bishulo."
After all, according to the Rashba, Chazal very clearly determined that a keli sheni does not have the capacity to cook, and thus the empirical reality cannot indicate otherwise.
The Radbaz, in his commentary to Hilkhot Ma'aser, answers that generally a keli sheni is incapable of cooking, but with regard to ma'aser, a keli sheni at the level of yad nikhveit can effect bishul, since this completes the oil's preparation for consumption, such that it becomes obligated in ma'aser. He drew support for this theory from the Yerushalmi (Ma'aserot 1:7), which commented that where ein ha-yad sholetet (which we will define shortly), a keli sheni is halakhically no different from a keli rishon. The Radbaz appeared to have understood the term ein ha-yad sholetet as referring to the heat level of yad nikhveit, thus proving that at this level a keli rishon and keli sheni are equivalent. Generally, however, the term ein ha-yad sholetet refers to the level of yad soledet, where one's hand would recoil on contact, and not the heat of yad nikhveit. The Mahari Kurkus indeed explained the Yerushalmi as referring to yad soledet, but he understood the Rambam's ruling concerning the level of yad nikhveit as speaking of yad soledet. These readings are difficult to accept. In general, the Yerushami's remarks concerning the distinction between keli rishon and keli rishon appear to

relate to the sugyot in Masekhet Shabbat, and don't really belong in Masekhet Ma'aserot.

The Chazon Ish (O.C. 122:3) distinguished between a ladle placed in a keli rishon over the fire, which should be treated stringently, and a ladle used in a keli rishon off the fire, which may be treated as a keli sheni. Elsewhere (Y.D. 32) he wrote that one should treat ladles as a keli rishon under all circumstances.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 10: The Status of Pouring From a Keli Rishon

The term iruy in Halakha refers to pouring hot liquid from a keli rishon (the original pot in which it was cooked) onto food in a keli sheni.

We find no explicit discussion in the Talmud Bavli regarding the status of iruy with respect to bishul. Later, we will explain how the Rishonim tried to infer the status of iruy from various sources in the Bavli. The Yerushalmi, by contrast, addresses this issue explicitly, but the Rishonim disagree in identifying the sugya's conclusion. We will therefore begin with the discussions among the Rishonim, and then proceed to the Yerushalmi.

The Mishna in Masekhet Shabbat (42a) permits adding spices to food in a keli sheni, but forbids doing so in a keli rishon. The Rishonim noted that no conclusions can be reached on the basis of this Mishna with regard to the status of iruy. The halakha allowing adding spices in a keli sheni implies the iruy from a keli rishon is forbidden, but the halakha forbidding adding spices in a keli rishon would suggest that pouring from a keli rishon is permissible. Nevertheless, some Rishonim claimed that the Rashbam inferred from this Mishna that iruy from a keli rishon has the same status as a keli sheni, since the Mishna forbids only adding spices to a keli rishon, and not pouring from a keli rishon onto food.[1]

Another sugya relevant to this discussion appears in Masekhet Pesachim (76a):

It was stated: [Pouring] hot [food] into hot [food] – is forbidden according to all opinions. Cold into cold – is permissible according to all opinions. Hot into cold, or cold into hot: Rav says, the top [food] triumphs, and Shemuel says, the bottom [food] triumphs.

The Gemara here addresses a situation of a permissible food and forbidden food one of which falls into the other. Since the transfer of forbidden taste from one

piece to another can occur only through heat, the question arises as to whether it occurs if only one of the two pieces is hot. Rav and Shemuel disagree as to whether the piece on top determines the transfer of taste, such that if the top piece is cold there no transfer can occur, or if this is determined by the bottom piece. Halakha follows the view that the temperature of the bottom piece is the determining factor. At first glance, this halakha seems to accommodate the position equating iruy with a keli sheni, since the food in the keli sheni, into which liquid is poured from a keli rishon, is the determining factor. Thus, the Rishonim who afford iruy the status of a keli rishon must deal with this sugya's implication to the contrary.

A third sugya addressed by the Rishonim in this context is a Gemara in Masekhet Zevachim (95b), which deals with utensils used for cooking sacrificial meat, which require hag'ala (immersion in boiling water) to rid them of the absorbed taste of sacrificial meat. The Gemara explicitly establishes, based on an inference from a verse, that a utensil requires hag'ala even if sacrificial meat was not cooked in it, but was rather poured into it from its original utensil. This would appear to prove that iruy has the status of a keli rishon.

We might, however, dismiss this proof based on the continuation of the Gemara's discussion:

Rami Bar Chama asked: What if one suspended it in the airspace of an oven? Did the Torah require [hag'ala] only with regard to cooking and absorption [of taste], or [even] with regard to cooking without absorption [of taste]? Rava said: Let us hear [the answer from the following source]: "Whether he cooked in it or if he poured boiling [sacrificial meat] into it." [The Gemara responds:] We did not ask concerning absorption [of taste] without cooking; we asked about cooking without absorption [of taste].

The Gemara appears to classify iruy as a situation where taste is absorbed without the process of bishul. We might therefore conclude that iruy has the status of a keli rishon only with respect to the absorption of taste of forbidden food, but not for purposes of the prohibition of bishul on Shabbat. Thus, this sugya might actually prove that as far as bishul is concerned, we should treat iruy like a keli sheni, and so those who consider iruy equivalent to a keli rishon must address this sugya, as well.

As mentioned, the Rishonim disagree in explaining the relevant sugyot, and thus reach different conclusions regarding the status of iruy. Let us now present the main positions among the Rishonim.

1) The Rashbam rules that iruy has the status of a keli sheni, drawing support primarily from the aforementioned sugyot in Zevachim and Pesachim. And even though the Gemara in Pesachim qualifies the principle of "tata'a gavar" ("the bottom one triumphs") by claiming, "until the bottom [piece] cools [the top piece], it absorbs one layer's-worth," this applies only to the issue of absorbing taste, but not to the process of bishul. As far as the laws of Shabbat are concerned, therefore, iruy is equivalent to a keli sheni.

We find a similar position – at least in the direction of chumra – to yield a stringent ruling – in the comments of Rabbenu Yona:

It is a terrible mistake made by some people who cover a kettle of hot water [to retain its heat] so that they can place [the water] into a pot on Shabbat when the food begins to dry. At times one is not at the point of yad soledet bo and the other is at the point of yad soledet bo, and they cook together, such that cooking is done on Shabbat. And even if they are both at the point of yad soledet bo, there is a view in the Yerushalmi that poured [liquid] does not have the same status as [liquid in] a keli rishon. Thus, when one pours the water, the moment it leaves the utensil – even if it is still boiling – its level of boiling no longer has the capacity to cook, just like a keli sheni, which cannot cook, and it is therefore cooked inside the keli rishon. And water that has been cooked is [nevertheless] subject to bishul if it stopped boiling.

Rabbenu Yona does not definitively rule that iruy is equivalent to a keli sheni, but he insists on satisfying this view in situations where it would yield a chumra. His main point is that the halakha equating iruy with a keli rishon does not result from the principle of tata'a gavar, which would dictate that the poured liquid attains the status of the food on the bottom, in the keli sheni. Rather, in Rabbenu Yona's view, even when one pours liquid into a keli rishon it has the status of a keli sheni, because the liquid stops boiling immediately upon leaving the walls of the utensil, thus becoming like a keli sheni in terms of its ability to cook other foods.

2. Rabbenu Tam maintains that iruy must be treated as a keli rishon, and he must therefore deal with the sugyot in Pesachim and Zevachim. The Rishonim refute the proof from the halakha of tata'a gavar in several ways:

A) Many Rishonim distinguish between situations of a direct, unbroken flow from a keli rishon, in which case we would equate iruy with a keli rishon, and instances where the flow is interrupted, where we may consider the liquid equivalent to a keli sheni. The sugya in Masekhet Pesachim which establishes the rule of tata'a gavar would thus be referring to an interrupted flow of liquid. (See end of

Tosefot in Zevachim 95b, and Ramban and Ran towards the end of Masekhet Avoda Zara, among other sources.) On the basis of his view, Rabbenu Tam allowed performing hag'ala by pouring hot water on the utensil; see his comments in Tosefot, Avoda Zara 74b (s.v. darash Rava) and the aforementioned Rishonim, who disagree.

B) The Ra'avan (21) distinguished between pouring from a boiling hot keli rishon, which would have the status of a keli rishon, and pouring from a hot keli sheni, which we would treat as a keli sheni. His intention, I believe, is that only pouring from a pot whose contents are still boiling has the capacity to cook the food onto which it falls.[2] And when the Gemara in Zevachim describes a situation of iruy from a keli rishon as effectuating beli'a (absorption of taste) but not bishul, it means that the cooking process and heat occurred not by this utensil's independent force, but rather by force of another utensil. Even this Gemara would concede, however, that iruy has the capacity to effect bishul. (See Tosefot Ha-Rosh, Shabbat 42a s.v. ha-ilfas, and Tosefot, Zevachim 95b s.v. ira.)

C) A third distinction is suggested by Tosefot (in Zevachim), who wrote that liquid poured from a keli rishon has the status of a keli rishon, whereas when a solid food item is poured onto another solid food, we apply the principle of tata'a gavar, and cooking occurs only kedei kelipa (through one layer's-worth of the food).

3) Some Rishonim understood Rabbenu Tam as saying that iruy cooks only kedei kelipa. The sugya in Pesachim thus poses no difficulty, because it says explicitly that even if tata'a gavar, taste is absorbed in such a case only kedei kelipa, and we might apply this to the process of cooking, as well, which would occur under these circumstances only to the extent of kedei kelipa. (See Tosefot in Zevachim, and the Rosh in Masekhet Shabbat 3:16.)

The Sugya in the Yerushalmi

Let us now address the discussion in the Yerushalmi, Shabbat 3:5:

Is it permissible to place spices on the bottom and pour over them from the top? Rabbi Yona says, this is forbidden; iruy is equivalent to a keli rishon. Rabbi Yona's proof is from here: "Whether he cooked in it or if he poured boiling [sacrificial meat] into it." Rabbi Yossi said, there, an earthenware utensil absorbs [taste even through iruy]; but spices are not cooked [in this fashion, and it is therefore permissible]. Rabbi Yossi challenged [this view] in the house of Rabbi Bon: Does it not state, "This is true even in a copper utensil"? You must therefore say that a copper utensil absorbs [taste]. Is it permissible to pour from a continuous

flow? Rabbi Chananya the son of Rabbi Hillel said, [this is subject to the] dispute between Rabbi Yona and Rabbi Yossi. Rabbi Yitzchak Bar Gufta asked in the presence of Rabbi Mana: If one did this on Shabbat, is he liable for cooking [on Shabbat]? If he did this with meat and milk, is he liable for cooking [meat with milk]? He said to him: This is as Rabbi Ze'eira said: What is clearly chalut [wheat stirred in hot water which is subject to the obligation of chala] – anything under which fire burns. Here, too – what is clearly a cooked food – anything under which fire burns.

The Yerushalmi addresses two questions. The first concerns the status of pouring from a keli rishon onto spices in a keli sheni, which is the classic question of iruy. The Yerushalmi's second question, however, is far from clear.[3]

Rabbi Yona claims that iruy has the status of a keli rishon, and draws proof to his position from the sugya in Zevachim which requires hag'ala for utensils used for cooking sacrificial meat as well as utensils into which sacrificial meat was poured. Rabbi Yossi dismisses this proof, arguing that the issue there hinges on the absorption of taste in the utensil, not the occurrence of bishul. Rabbi Yona counters that earthenware utensils, which absorb taste very easily, can perhaps absorb taste even without the occurrence of bishul, but this cannot be said of copper utensils. We must therefore conclude that iruy effects bishul just like a keli rishon.

The Yerushalmi does not record Rabbi Yossi's response to Rabbi Yona's argument. According to Tosefot (Shabbat 42b s.v. aval), Rabbi Yossi's silence proves that the accepted position is that of Rabbi Yona, that iruy has the status of a keli rishon. By contrast, the Rashba (Shabbat 42b) and the Ran (Avoda Zara, 38b in the Rif) inferred from the closing comments to this sugya – "what is clearly a cooked food – anything under which fire burns" – that in conclusion the Yerushalmi considers iruy equivalent to a keli sheni, and it cannot accomplish bishul. Only with respect to absorption of forbidden taste does iruy function as a keli rishon.

This view, however, requires some explanation. The Yerushalmi said merely that the Torah prohibition of bishul applies only when the cooking occurs over fire; this does not preclude the possibility of a rabbinic enactment forbidding iruy from a keli rishon, just as cooking in a keli rishon itself constitutes – according to the Yerushalmi – a rabbinic violation.[4] We might explain that since Rabbi Yona drew proof from the verse which the Gemara understood as requiring hag'ala for a utensil used through iruy, and the Yerushalmi clearly denies the occurrence of Torah-level bishul through iruy, the prohibition indicated in the verse is necessarily rooted in beli'a (absorption of taste), rather

than bishul. Clearly, then, as far as bishul on Shabbat is concerned, iruy is not deemed capable of cooking.

The Ramban (end of Masekhet Avoda Zara) likewise inferred from the Yerushalmi's concluding remarks that the issue remains subject to the debate between Rabbi Yona and Rabbi Yossi. He even claimed that the Yerushalmi's second question was asked only within the view that iruy does not have the status of a keli rishon. This second question, which in the Ramban's text reads, "Is it permissible to pour with the flow," is as follows: Generally, the liquid poured from a keli rishon comes in contact with the spices or food into which it is poured in the keli sheni. The Yerushalmi's second question relates to a case where the poured liquid met the spices as it fell, before it landed in the keli sheni. Accordingly, the Ramban claimed that this question applies only within the view that permits standard iruy, and it asks whether this view would be stringent if the contact occurred as the liquid flowed from the keli rishon. But since the Yerushalmi applied the debate between Rabbi Yona and Rabbi Yossi even to this case, we have no indication of the Yerushalmi's conclusion.

The Final Halakha

The Shulchan Arukh (318:10) writes, "It is forbidden to place spices in a bowl and pour over them from a keli rishon." The Mishna Berura comments, "For although spices cannot be cooked in a keli sheni, nevertheless, we follow the view that pouring from a keli rishon cooks to the extent of a layer's-worth if one poured directly over them such that the flow was unbroken." The Acharonim establish that if the flow was disrupted before landing in the keli sheni, then its status is that of a keli sheni, and it does not accomplish bishul.

The Acharonim (see Taz 318:16) write that we accept the position equating iruy with a keli rishon only where it yields a stringent ruling, out of concern for this view. One may not, however, rely on this view to yield a lenient ruling, such as to permit hag'ala through pouring from a keli rishon. We might add that in light of the Mishna Berura's comment, that iruy has the capacity to cook only to the extent of kedei kelipa, it certainly would not suffice for hag'ala.

Rabbi Akiva Eiger (chiddushim, 318:10) writes that the prohibition against iruy applies only when one pours directly onto the given food item; if one pours onto a different side of the utensil and the liquid then comes in contact with the food, this resembles cooking in a keli sheni and is permissible.

The Mishna Berura writes that if, ex post facto, one did pour liquid onto food from a keli rishon, one must assume that a layer's-worth of the food was

cooked and is thus forbidden for consumption by virtue of the law of ma'aseh Shabbat (the prohibition against partaking of food cooked on Shabbat). This ruling appears difficult in light of the rule that when an issue is subject to a debate among the poskim, we do not forbid be-di'avad (after the fact), as we may rely on the lenient position. And here, the Rashbam permits pouring from a keli rishon, and one should therefore be allowed to partake of the food cooked in this fashion be-di'avad.[5] The answer, perhaps, is that the accepted view represents a middle position in between the two extreme views (that iruy cooks completely, like a keli rishon, and that it does not cook at all, like a keli sheni). Halakha accepts the view that iruy cooks a layer's-worth, and we therefore cannot act leniently against this position, even be-di'avad. Clearly, however, this matter requires further elucidation.

The Shevitat Ha-Shabbat (Mevashel section, Be'er Rechovot 58) writes that if one cooks through iruy inadvertently, or thought that it was permissible, one may partake of the food be-di'avad.

The Bei'ur Halakha comments that if one poured onto a baked or roasted item, he may partake of the food be-di'avad. He explains that even though we generally follow the Yerei'im's position forbidding cooking a previously baked item, and thus one should not pour water from a keli rishon onto a baked food, nevertheless, if one did pour, we may rely on the authorities who hold that a baked food item is no longer subject to bishul.

Pouring Onto a Thick Food Item

The Iglei Tal (Ha-ofeh, 14) writes:

One who pours from a keli rishon onto thin items, that are no thicker than a kedei kelipa, or onto spices that are made to extract flavor and enhance a food – is liable [for bishul]. But [if one pours onto] items that are thicker than a kedei kelipa – he is not liable even for the kedei kelipa that is cooked [through pouring]… because at the moment of pouring it is cooked only to the point of ma'akhal Ben Derusai [half or one-third cooked], and for anything that is cooked on only one side to the point of ma'akhal Ben Derusai – one is not liable.

The Iglei Tal's theory is based on the sugya in Masekhet Menachot (57b), which establishes that cooking one side of a food item only to the point of ma'akhal Ben Derusai does not constitute bishul. Bishul requires either that both sides (meaning, the entire depth of the cooked item) reach the point of ma'akhal Ben Derusai, or that at least one side is fully cooked. Iruy, the Iglei Tal claims, cooks only one layer's-worth, and only to the point of ma'akhal Ben Derusai, and thus

if the item is thicker than one layer, it would not constitute a Torah violation of bishul.

However, the Acharonim debate whether one may le-khatechila (initially) pour from a keli rishon onto thick food items, as the Iglei Tal concludes, "what more – one may do so even le-khatechila," or if this should be forbidden on the grounds of chatzi shiur (a "partial violation"), regarding which Halakha follows Rabbi Yochanan's position, the chatzi shiur is forbidden by Torah law. (See Shevitat Ha-Shabbat, ibid. 59).

The controversy surrounding this issue relates mainly to the nature of the prohibition of chatzi shiur and its application to bishul on Shabbat. The Shevitat Ha-Shabbat discusses his disagreement with a "scholar from Jerusalem" as to why cooking only one side of an item to the point of ma'akhal Ben Derusai does not constitute bishul. One possibility claims that this does not qualify as bishul at all because the food is simply not edible, as even Ben Derusai himself would not eat food in such a condition. Alternatively, one might explain that Chazal established a shiur (amount, or degree) of cooking for an act to qualify as a significant occurrence of cooking, and they therefore required that both sides be cooked to the point of ma'akhal Ben Derusai. According to the second approach, then since the cooked side is able to combine with the other side to comprise a complete shiur – thus satisfying the basic condition for applying the prohibition of chatzi shiur ("chazi le-itzterufi") – the rule of chatzi shiur takes effect, and forbids partaking of this food. Although in my opinion the first approach seems more compelling, one should nevertheless act stringently in this regard and follow the position of the Shevitat Ha-Shabbat.

Regarding very thin items, however, pouring from a keli rishon clearly entails a potential Torah violation, even if pouring cooks only to the point of ma'akhal Ben Derusai. One therefore may not pour from a keli rishon onto tea. In light of what we discussed in the previous shiur regarding kalei ha-bishul (items that cook more easily), one should refrain from placing tea leaves in a keli sheni, as well.[6]

A Repeated Iruy

Consider a case of one who poured from a keli rishon onto a food item before Shabbat. May he then pour onto that food on Shabbat?

This question in essence consists of two separate issues:

1) The initial iruy cooks only a layer's-worth, and thus the second pouring might cook a layer's-worth from the second side, which was unaffected by the initial iruy.
2) Since, as we mentioned above, iruy cooks only to the point of ma'akhal Ben Derusai, and we follow the position that one violates bishul even by cooking a food that had already been cooked to this point (so long as it has not been fully cooked), the second iruy might therefore violate bishul in that it cooks the food item even further.

The Peri Megadim (Mishbetzot Zahav 318:15) permits pouring hot water on tealeaves upon which one had already poured water before Shabbat. In Eishel Avraham (253:41), however, the Peri Megadim writes that one should refrain from doing so, out of concern that he might now pour on a different side, which had not been cooked as a result of the initial pouring. The Mishna Berura (318:39) writes that if one pours hot water on tealeaves before Shabbat and stirs them thoroughly as he pours, we may consider the leaves fully cooked on all sides, and thus permit pouring hot water on them on Shabbat.

The Sha'ar Ha-tziyon (318:63) raises the concern that the initial pouring perhaps did not fully cook the leaves, in which case we should forbid pouring water on them during Shabbat. He claims that we may rely on a sefeik-sefeika ("double doubt"): perhaps Halakha follows the Rambam's position, that soaking a previously soaked item does not constitute bishul, in which case here, too, repeating the action does not have the capacity to accomplish bishul, and perhaps Halakha follows the view that a food that had already reached the point of ma'akhal Ben Derusai is no longer subject to bishul. In my opinion, we should add yet another factor, namely, that tealeaves are very thin and are thus cooked in their entirety as a result of iruy, given that they are no thicker than kedei kelipa. Furthermore, as the Peri Megadim appears to suggest, tealeaves are fully cooked through the process of iruy. This issue, however, requires further clarification.

Notes:

1. See Tosefot Ha-Rosh, Shabbat 42a s.v. ha-ilfas, and the comments of other Rishonim to that sugya.
2. It is unclear whether this would relate to the position of the Ra'avya, a grandson of the Ra'avan, which we cited in a previous shiur, that a keli rishon off the fire can cook only while its contents are still boiling.
3. Some commentaries explained the two questions as relating to two types of iruy – iruy with a steady flow, and with an interrupted flow. Others claimed that the Yerushalmi questions whether a flow of liquid coming down a pot has the status of iruy. See Penei Moshe and Korban Ha-eida; their precise intent is not altogether clear. Later we will bring the Ramban's explanation.
4. See our shiur on the topic of cooking in a keli rishon. This difficulty is especially pronounced in the comments of the Rashba, who claimed that according to the Yerushalmi's conclusion iruy has the status of a keli sheni and is permissible on Shabbat. The Ramban (as we will soon discuss) deals only with the question of hag'ala through iruy; he thus needs only to demonstrate from the Yerushalmi that iruy does not constitute bishul on the level of Torah law, thereby proving that hag'ala in this manner is ineffective if the utensil had absorbed forbidden taste through cooking.
5. The rule allowing one to rely on a lenient position be-di'avad stems from the fact that the prohibition against making use of an item produced through melakha on Shabbat originates from Chazal, and is not a Torah prohibition (as we will discuss in a later shiur). Therefore, in situations subject to a dispute, we may rely on the lenient positions to permit benefiting from or eating the item ex post facto. The source of the halakha cited by the Mishna Berura is the Peri Megadim (Eishel Avraham, 318:10), and it appears that he himself held that the position permitting iruy from a keli rishon is dismissed entirely, and thus does not come under consideration at all. He therefore does not rely on it even be-di'avad. Indeed, in Yoreh Dei'a, the Peri Megadim (Mishbetzot Zahav 68:9, section 3) refused to accept a sefeik-sefeika that takes into account the possibility that Halakha follows the view equating iruy with a keli sheni. And he writes explicitly in Orach Chayim (Eishel Avraham 318:14) that we do not consider this issue subject to uncertainty at all.
6. In a future shiur we will discuss the preferred options for preparing tea on Shabbat.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 11: Pouring Water into Water

The previous shiur dealt with the issue of pouring liquid from a keli rishon (the initial utensil in which the liquid was cooked) onto solids on Shabbat. This time, we will address the question of pouring liquids onto other liquids, surveying the various situations of this kind that arise.

The Gemara (Shabbat 42a) cites the following Berayta:

A person may add hot water to cold water, but not cold water to hot water; this is the view of Beit Shammai. Beit Hillel said: Both hot water into cold water and cold water into hot water are permitted. When does this apply? In a cup; but in an ambati [to be defined later], [one may add] hot water to cold water, but not cold water to hot water. But Rabbi Shimon Ben Menasya forbids this.

Adding Hot Water to Cold Water

Within Beit Hillel's view, all agree that Beit Hillel allow even pouring water from a keli rishon into cold water.[1] Various opinions exist as to the reason for this halakha, and these different views yield significant ramifications.

1. Rashi explains this halakha based on the concept of tata'a gavar, which we discussed in the previous shiur. (Tata'a gavar means that when a hot food falls onto a cold food, or vice versa, the temperature of the bottom item determines whether or not beli'a – absorption of taste – occurs between the two foods. If the bottom food is hot, then taste is transferred from one food to the other.) Rashi writes, "He maintains that tata'a gavar ['the bottom triumphs'], and thus the hot water does not boil the cold water, but only makes it lukewarm." This is mentioned as well by the Tur (318).

The Rashba[2] questions Rashi's explanation, noting the Gemara's discussion in Masekhet Pesachim from which it emerges that although the

"bottom triumphs," such that cooking does not occur when hot liquid is poured onto cold food, the hot food nevertheless cooks a kedei kelipa (one level's-worth) of the cold food (as we discussed in the previous shiur). Tosefot (Pesachim 40b s.v. ha-ilfas) raise this question, as well:

And that which is said in the chapter Kira (Shabbat 42a), that it is permissible [to add] hot water to cold water, we can explain that given that it cooks only kedei kelipa, since the cold substance on the bottom is water, which is something that becomes mixed, it cannot be cooked because of the cold temperature of the water. Something that does not become mixed [i.e. solids], however, one may not [pour hot water onto it].

Meaning, the concept of kedei kelipa, that hot liquid poured onto a cold food cooks a layer's-worth of the food, applies only to pouring on solids; but when hot liquid is poured on another liquid, it does not cook the cold liquid at all.[3]

A different perspective on the concept of davar ha-mit'arev – a substance that becomes mixed – appears to emerge from the Gemara's discussion later in Masekhet Pesachim (76a). The sugya mentions that if a hot piece of meat falls into cold milk, one must remove a layer of the meat. Tosefot (s.v. tanya) record a debate between Rabbenu Tam and the Riva as to status of the milk in such a case. Rabbenu Tam permits drinking the milk, because "regarding something that cannot have a layer removed, such as milk, it is permissible," whereas the Riva allows drinking the milk only if it amounts to sixty times the estimated value of the kedei kelipa.

It seems that even according to Rabbenu Tam, a kedei kelipa of the milk is indeed cooked as a result of the hot piece of meat, and he allows drinking the milk only because the forbidden "layer" of milk immediately mixes with rest of the milk and thus undergoes bittul ("negation"). Perhaps, then, even Rabbenu Tam would forbid dropping a hot solid into a liquid on Shabbat, as this accomplishes some degree of cooking. He was lenient only regarding the issue of basar be-chalav (meat and milk), because he felt that the forbidden "layer" can be ignored, but he accepts the assumption that cooking does occur when the meat falls into the milk.

The Riva would clearly forbid this on Shabbat, unless we distinguish between the areas of beli'at issurim (the absorption of taste through contact with forbidden food) and bishul on Shabbat. One might argue that the sugya in Pesachim relates only to the question of whether taste is absorbed in this manner, but as regards bishul, a davar ha-mit'arev is not cooked in this way, even kedei kelipa.

The Acharonim indeed debate this point. The Magen Avraham (318:35) writes, "It seems to me that it is forbidden to place a piece of boiling meat into cold broth, for since it does not mix, it cooks a layer's-worth." According to the Magen Avraham, pouring liquid onto liquid does not accomplish bishul at all, and is therefore permissible, whereas pouring a solid into a liquid has the capacity to cook kedei kelipa, since the solid does not mix with the liquid. Other Acharonim take issue with this position, claiming that the Gemara's discussion in Pesachim deals only with the issue of beli'a, and has no bearing on the question of bishul. In their view, then, one is permitted to place hot meat into cold gravy on Shabbat.

The Chavat Da'at (Y.D. 91, Bei'urim 5) objects to the Magen Avraham's view and writes the following:

This is very difficult. After all, it is permissible even to place large quantities of water into a boiling kettle for it to be warmed, for the reason that the water is a substance that mixes, and it is impossible for only some of it to be cooked, and so long as all the water has not reached the point of yad soledet no bishul occurs at all.

The Chavat Da'at's argument runs consistent with the aforementioned comments of Tosefot in Pesachim 40b, that if the cold substance is a davar ha-mit'arev, it does not undergo bishul when a hot substance is poured into it.

In practice, however, one should follow the stringent ruling of the Magen Avraham, given that even the Chavat Da'at suggests that we should perhaps be concerned that some liquid will be absorbed into the meat and then cooked inside the boiling meat.

We might distinguish, however, between cold liquid that had never been cooked, and liquid that was previously cooked and subsequently cooled. In the case of previously cooked liquids, we can take into account the view that previously cooked liquid is not subject to subsequent bishul (ein bishul achar bishul be-davar lach). We may thus rely on those who argue with the Magen Avraham and permit placing hot meat into a cold liquid that had been previously cooked. This is reminiscent of Rav Moshe Feinstein's ruling (in Iggerot Moshe O.C. 4:74:5), which we cited in a previous shiur, that one may add ketchup (since it had been previously cooked) to hot meat in a keli sheni.

2. The Rashba suggests an entirely different reason why one may pour water from a keli rishon into other water: "Because it cools as it is poured and completely mixes with the cold water, such that it lacks the capacity to cook."

The basic principle underlying his view is that pouring has the status of a keli rishon only when one pours over spices and the like. When one pours water into other water, they mix together completely, and thus the poured water has the status of a keli sheni, which is incapable of accomplishing bishul. According to the Rashba, this situation does not involve at all the issue of ila'a gavar or tata'a gavar, because, practically speaking, this is not a case of "upper" and "lower" items. The two items mix together in the keli sheni, and therefore no bishul can occur.

3. Tosefot in our sugya advance a different approach. In their view, when discussing a davar ha-mit'arev we can speak of neither tata'a gavar nor of a keli sheni. Rather, this involves an entirely different issue; here, the criterion is quantity. If the hot water that is poured from the keli rishon is of a larger quantity than the water into which it is poured, then bishul occurs and this is forbidden. If, however, the amount of cold water exceeds that of the hot water, one may pour the hot water into the cold water. The Berayta which allowed pouring hot water into cold water speaks of the latter case, when the cold water constitutes the majority, as more often than not one pours the smaller quantity into the larger quantity, and not vice versa.

Pouring Cold Water into Hot Water

Both Beit Hillel and Beit Shammai agree that one may not pour cold water into hot water in a keli rishon. Beit Shammai appear to forbid pouring even into a keli sheni, as a safeguard against the possibility that one may pour into a keli rishon, whereas Beit Hillel permit pouring cold water into hot water in a keli sheni.

The reason for the prohibition against pouring water into a keli rishon seems fairly simple: a keli rishon has the capacity to cook, and thus one may not pour cold water into a keli rishon. However, according to Tosefot's theory, that when the two substances mix together the occurrence of bishul depends on which constitutes the majority, this prohibition should apply only when the hot water in the keli rishon is of a larger quantity than the cold water poured into it.

According to the other Rishonim, who did not draw Tosefot's distinction regarding quantity, the question arises whether we should forbid pouring large quantities of cold water into a very small amount of hot water. The halakha in such a case can be inferred from the Gemara's discussion concerning the Mishna's ambiguous comment (41a), "A kettle that was removed – one may not place in it cold water to be heated, but he may place in it or in a cup so that it will be warmed." The Gemara records two opinions in explaining this Mishna.

Rav Ada Bar Matna explained that the Mishna forbids placing small amounts of water to be heated in the empty kettle, but permits placing large amounts of water in the kettle, because the water will only be warmed, but not heated. Abayei, by contrast, explained that the Mishna refers to a full kettle that was taken off the fire. According to his explanation, the Mishna forbids adding a small amount of cold water to be heated in the kettle, but allows adding large amounts of water, which will only be warmed through contact with the water in the kettle. If the kettle is emptied, Abayei claims, one may not add water to it at all, because this solidifies the utensil, which constitutes a violation of Shabbat (gemar melakha). As the Gemara notes, Abayei's reading follows the position of Rabbi Yehuda, who forbids performing on Shabbat a davar she-eino mitkavein – an action that will, without the individual's intent, result in a forbidden activity. Halakha follows Rabbi Shimon's view, allowing a davar she-eino mitkavein on Shabbat, and therefore one may warm cold water by placing it in an empty kettle.

It emerges from this discussion that one may place cold water in an empty kettle, or in a kettle off the fire containing hot water, if the cold water is of a large enough quantity that it would only be warmed, but not heated to the point of yad soledet. One must ensure, however, to place the water in the kettle all at once, rather than gradually, so as to avoid the cooking of the first drops of water poured into the kettle.

Surprisingly, the Rambam rules differently: "A kettle was that was emptied of its water – one may place in it cold water to warm, and one may pour hot water into the cold water or cold water into the hot water, provided that it [the hot water] is not in a keli rishon, because this would heat it considerably."

It appears from the Rambam that one may place cold water in an empty kettle, but it is forbidden to place cold water in a kettle containing water, for he writes, "provided that it [the hot water] is not in a keli rishon, because this would heat it considerably."

The Kesef Mishneh suggests two approaches to reconcile the Rambam's ruling with the Gemara:

The Rambam in fact does allow placing cold water into a kettle containing hot water, so long as in the kettle it could only be warmed, and not heated. According to the Kesef Mishneh, the Rambam alludes to this ruling when he writes, "…because this would heat it considerably," suggesting that if this would only warm the water, it is permissible to place it in the kettle. However, the

Kesef Mishneh acknowledges the difficulty of this reading, as it assumes an ambiguous and misleading formulation on the Rambam's part.
The Rambam did not follow Abayei's reading of the Mishna, because it presumes the position of Rabbi Yehuda regarding davar she-eino mitkavein, which is not accepted as the final halakha. And according to Rabbi Ada Bar Matna, the Mishna permits placing water only in an empty kettle, but not in a kettle containing water, since one might place less than the amount necessary to ensure that bishul will not occur.

The Ran (on the Rif in Shabbat) distinguishes between a standard keli rishon, into which one may place large quantities of cold water to be warmed, and an ambati (see next section). Since the water in an ambati is exceptionally hot, one may not add even large amounts of cold water, since bishul might take place given the high temperature of the water in the ambati.

The Kesef Mishneh suggests that this may be the source for the Rambam's ruling, only the Rambam drew no distinction between a keli rishon and an ambati, and forbade adding water to a keli rishon under any circumstances.

The Status of an Ambati

The Berayta cited at the beginning of the shiur records a debate concerning the status of an ambati with regard to bishul. An ambati is a tub used for bathing, and in those days the water in the ambati was generally hotter than hot water used for drinking. The Tanna Kama (first recorded view) in the Mishna allows placing hot water into cold water in an ambati, whereas Rabbi Shimon Ben Menasya forbids doing so. The Gemara later brings a discussion concerning the precise position taken by Rabbi Shimon Ben Menasya, and the Rishonim likewise disagree in identifying the kind of ambati of which the Gemara speaks, and in determining the final halakha from the sugya. So as to spare the reader the intricacies of this sugya[4], we will discuss here only the issues that directly impact upon the final halakha.

1. Tosefot understood that the Gemara refers to a keli sheni, and treats it more stringently than a standard keli sheni because of its exceptionally high temperature, which might mislead people into thinking it is a keli rishon. According to the Tur (318), this stringency is not merely a safeguard against misunderstanding, but rather evolves from the bishul prohibition itself: although bishul generally cannot occur in a keli sheni, an ambati is nevertheless subject to bishul because of its particularly intense heat.

The Tur's position is followed by the Rashba, as well, who writes:

But in an ambati, which is intended for bathing purposes, one heats [the water] considerably, and therefore one may never add cold water into hot water [in an ambati], for it is impossible to reach the point of lukewarm; it will undoubtedly reach the point of bishul, even if one filled the ambati to capacity. And although it is a keli sheni, which generally cannot effectuate cooking, this case is different because they [tubs in the bathhouse] are generally heated excessively.

According to this view, even if the ambati is but a keli sheni, one may not pour cold water into hot water or hot water into cold water in the ambati, in accordance with Rabbi Shimon Ben Menasya's view.

2. The Rif and Rambam (Hilkhot Shabbat 22:5; see Kesef Mishneh) rule against the position of Rabbi Shimon Ben Menasya, and allow adding hot water into cold water in an ambati, but not cold water into hot water. They understood "ambati" as referring to a keli rishon, and thus one may add hot water to cold water, just as in any other keli rishon, as discussed earlier.

However, the Ramban and the Ran assert that there indeed exists a distinction between an ambati and a standard keli rishon even according to the view of the Tanna Kama. In a keli rishon, one may place large quantities of cold water to be warmed, whereas in an ambati this would be forbidden. The Ran writes (20a in the Rif):

Meaning, [it is forbidden] even to place a large amount of cold water, which would only make it lukewarm, for although the Mishna states regarding a kettle that one may place [water] into it to warm it, in an ambati they forbade even warming [water], because people are very insistent regarding its heat.

The Rambam, as mentioned, draws no distinction between an ambati and a standard keli rishon.[5]

The Final Halakha

The Shulchan Arukh writes (318:11-12):

An ambati (Rama: meaning, a tub used for bathing) of a bathhouse, which is filled with hot water, (Rama: even though it is a keli sheni) one may not add cold water to it because it is heated considerably. But one may place some hot water from one ambati into another ambati containing cold water. A kettle that was emptied of its hot water – one may place into it (Rama: a large quantity of) cold

water to be warmed; one may pour hot water into cold water or cold water into hot water, provided that he does not do so in a keli rishon, because this heats it considerably.

Rama: If there is so much water that it cannot be cooked, but it will only be thawed, this is permissible even in a keli rishon, so long as it is not over a fire.

In the interest of simplification, let us summarize the various halakhot as they emerge from the rulings of the Shulchan Arukh, the Rama, and later Acharonim.

1. The straightforward reading of the Shulchan Arukh suggests that he followed the Rambam's view. In light of his comments in the Beit Yosef, we may summarize his view as follows:

One may not pour a large quantity of water into hot water in a keli rishon, regardless of whether the water is intended for drinking or for bathing.

One may pour hot water into cold water under all circumstances, even from a keli rishon.

One may pour hot water from a keli sheni onto cold water or cold water into hot water in a keli sheni, even if the keli sheni is an ambati used for bathing.

One may pour a large quantity if cold water all at once into a kettle that had been emptied of its water, so long as the water will only be warmed, but not heated.

2. The Rama's view (his points of disagreement with the Shulchan Arukh):

The Rama forbids adding cold water to an ambati even if it is a keli sheni; the Mishna Berura explained based on the reasons given by the Tur and the Rashba (as cited earlier). One may add a large amount of cold water to an ambati that is a keli sheni, but not a keli rishon (out of concern for the Ran's position). This would be permissible in a keli rishon containing hot water for drinking (as opposed to bathing).

3. Halakhot discussed by later Poskim

A. The Mishna Berura rules in accordance with Tosefot's position, that one may pour hot water from a keli rishon into cold water only if the cold water is of a larger amount than the hot water. He adds, however, that be-di'avad, if one poured an amount of hot water that exceeded the cold water, one may drink the water, relying on the views of Rashi, the Rashba, the Tur and the Rambam, all of whom are lenient in this regard, despite the uncertainties surrounding their positions.

B. If one pours a large amount of hot water into liquid that had been previously cooked and then cooled, such as tea essence, we may take into account the view that previously cooked liquid is no longer subject to bishul. Therefore, even though one should preferably pour the water from the kettle into an empty utensil and then add the essence, one should not object to those who are lenient and pour the hot water directly onto the essence (Bei'ur Halakha, citing the Beit Meir).

Practically speaking, even those who generally follow the Shulchan Arukh's rulings should refrain from pouring large amounts of hot water into small amounts of cold water, in accordance with Tosefot's position. Be-di'avad, however, one may rely on the lenient views, and thus drink water that had been prepared in this fashion.

Preparing Tea

In this context we will briefly mention the preferred method for preparing tea on Shabbat, in light of the principles discussed in this shiur:

Preferably, one should prepare tea essence and keep it hot in a kettle. When preparing tea, one should pour some essence into a cup and then pour hot water from the kettle.
If the essence is not hot, one should pour hot water into a cup and then add the essence. There is no concern that one thereby colors the water, because strictly speaking, Halakha follows the view that ein tzevi'a be-okhelin – the prohibition against dyeing materials does not apply to foods.
If one did not prepare tea essence before Shabbat, he can prepare tea in a keli shelishi; we will discuss this further in the next shiur.

Miscellaneous Laws

In conclusion, we will make several additional points concerning the issues addressed in this shiur:

1. If one pours hot water from a kettle into a wet cup, the drops of cold water on the cup will be "cooked" by the hot water. Therefore, some poskim require drying the cup before pouring the hot water. Rav Moshe Feinstein (Iggerot Moshe, O.C. 1:93) writes:

We should forbid pouring boiling water from a keli rishon into a utensil that was rinsed with cold water that had not been cooked, and drops remain on it, because the drops are cooked. And even though one has no interest [in cooking

these drops], this should be forbidden, and one must dry it [before pouring the hot water]. However, since they do not comprise the prerequisite quantity for [Shabbat] violation, then even though it is forbidden from the Torah because chatzi shiur [a violation of less than the prerequisite amount] is forbidden by Torah law, one might perhaps be lenient if he rinsed with cold water that had been cooked and then cooled, since there are those who hold that even liquids that were cooked and then cooled are not subject to bishul, and this is also a situation of pesik reisha de-lo nicha lei [where one performs an action that automatically results in the occurrence of a melakha in which he has no interest]. But if the [water] had never been boiled, this is forbidden.

Some poskim, however, ruled leniently on this issue because it is a situation of pesik reisha de-lo nicha lei, and because the Rashba and others allow adding a large amount of hot water into a small amount of cold water. As far as practical Halakha is concerned, one should preferably dry the cup. If, however, the drops in the cup had been cooked and then cooled, there is more room to be lenient, taking into account the views that bishul does not apply to liquids that had been previously cooked, as we cited from the Iggerot Moshe.

2. Earlier, we allowed pouring a large amount of cold water into a small amount of hot water, but we noted that the water must be poured all at once, for if one pours gradually, the first drops will be cooked by the comparatively large amount of hot water. The Chayei Adam (20:3) indeed makes this point. Others, however, disagreed, and allowed pouring gradually. The Penei Yehoshua (Shabbat 41a) writes:

It would appear regarding this matter that whenever one pours the water continuously without any interruption, and he expresses his intention that he has no interest in heating [the water], but only in warming [the water] – it is therefore permissible, since no melakha of bishul can occur in this manner, and it thus does not resemble cooking at all.

One should preferably follow the stringent view and pour the water all together at the same time, rather than gradually.

3. The sugyot and poskim distinguished between hot water prepared for drinking and hot water intended for bathing, because water prepared for bathing is at a higher temperature. Apparently, the practice was to prepare hot water for drinking only to the point of yad soledet bo, whereas water for bathing was heated beyond this temperature. Indeed, the Rashba (Shabbat 42a s.v. notein) writes, "It is customary to add a lot of cold water to the cup and even to the kettle to be warmed, because they are prepared for drinking, and a person does

not drink very hot liquids, but rather lukewarm liquids." Accordingly, the question arises as to whether this principle would apply nowadays, when people generally prepare hot drinks by boiling the water, but bathe in water at a temperature of only 60-70 degrees Centigrade. Should we therefore apply to hot drinks all the stringencies mentioned by the poskim concerning bathing water, such as the Rama's ruling forbidding adding cold water to an ambati even if it is a keli sheni?

The Chayei Adam, who held that one should not cook in a keli sheni at the temperature of yad nikhveit bo (where one's hand would be burned on contact – see shiur entitled, "Cooking in a Keli Sheni"), draws proof to his position from our sugya, which forbids adding cold water to an ambati. He apparently saw a connection between this halakha regarding ambati and the status of an exceedingly hot keli sheni. It would therefore seem that according to the Rama, who rules stringently regarding an ambati that is a keli sheni, one should refrain from adding cold water to hot water prepared for drinking in a keli sheni, if it is at a temperature of yad nikhveit bo.

Notes:

1. Tosefot Yeshanim write that Beit Shammai perhaps allow adding hot water to cold water only from a keli sheni, but not from a keli rishon; within Beit Hillel's position, however, there is no question that they permit even from a keli rishon.
2. The ensuing discussion (until #2, when we introduce the Rashba's position), relates to an independent issue that arises within Rashi's view, and does not directly affect the question of mixing hot and cold liquids. This discussion involves the question of mixing liquid with a solid, and does not necessarily impact upon the subject under discussion, of mixing liquid with other liquid. Students may, if they wish, skip this section and then later study it as an independent unit.
3. We speak here only within the view that that iruy (pouring) has the capacity to cook only to the extent of kedei kelipa; according to this position, pouring onto a davar ha-mit'arev does not effect bishul at all. According, however, to those who hold that iruy cooks completely, such as the opinion recorded in the Gemara that ila'a gavar (the "upper food triumphs"), there is no rationale to say that pouring onto a davar ha-mit'arev would not cook at all. If we want to permit pouring hot water onto cold water according to this view, we must resort to Tosefot's approach that we will discuss later.
4. Readers interested in the intricacies of the sugya are advised to study the Gemara's discussion with the Rishonim.
5. We explained the Rambam in accordance with the Kesef Mishneh's understanding; the Magid Mishneh understood the Rambam differently.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 12: Cooking With Solar Heat, Fire, and Their Derivatives:
Different Types of Heat Sources Used for Cooking – Part 1

The Mishna states in Masekhet Shabbat (38b): "One may not place an egg alongside a kettle for it to cook, and one may not wrap it in garments [that had been heated]; Rabbi Yossi allows this. And one may not bury it in [hot] sand or dust from the roads to roast it."

The Talmud Bavli explains this Mishna as follows: The first clause – "One may not place an egg alongside a kettle" – refers to a kettle that had been heated over fire, and all opinions agree that cooking with a derivative of fire constitutes a Torah violation. The Mishna's second clause – "one may not wrap it in garments" – deals with garments that were warmed by the sun, and this issue, of cooking with toledot ha-chama – the heat of items that were warmed by the sun – is subject to a dispute between Rabbi Yossi and the Chakhamim. This is the sugya's conclusion on 39a:

Rav Nachman said: In the sun – all agree that [cooking] is permissible; in derivatives of fire – all agree that [cooking] is forbidden. When do they argue? With regard to [cooking] in derivatives of the heat of the sun: this one holds that we issue a decree regarding derivatives of the sun out of concern for [the possibility that one might cook with] derivatives of fire, and the other holds that we do not issue such a decree.

The Yerushalmi, by contrast, explains the Mishna differently, claiming that the Chakhamim and Rabbi Yossi argue with regard to cooking with the derivatives of fire, and they both agree that one may cook on Shabbat with derivatives of solar heat. In this shiur we will assess the principles underlying the different views taken by the Bavli and Yerushalmi.

Cooking with Fire

The primary mode of cooking proscribed by the Torah is cooking with fire. Strictly speaking, there is no difference in this regard between an open or covered flame, so long as it has the capacity to cook. The Tanna'im distinguished between open and covered fire only in the context of various rabbinic enactments, as we will iy"H discuss in future shiurim.

This category of cooking with fire includes as well cooking with electric appliances with heating elements that become very hot, because fiery hot metal has the status of fire, and heating it on Shabbat constitutes a violation of the melakha of mav'ir. This halakha emerges from the comments of the Rambam in Hilkhot Shabbat (12:1) and of the Maggid Mishneh. Some scholars do, however, interpret the Rambam to mean that mav'ir applies only when one heats the metal for the purpose of refining it. Rav Shlomo Zalman Auerbach zt"l addresses this issue at length in Minchat Shelomo (1:12). He concludes that one indeed violates the Torah prohibition of mav'ir by heating metal, and one violates bishul by cooking with electric appliances that operate with metal heating elements.

In this same responsum Rav Shlomo Zalman addresses the issue of heating water with an immersion heater:

I find it appropriate to mention that when I was once with our rabbi the Chazon Ish zt"l, I told him that if one boils water on Shabbat with an immersion heater, whose two edges are distant from one another, and the circuit is created only through the water, as a result of which the [water] becomes hot and boils, this is, in my view, only a rabbinic prohibition. For since an electric current is not fire, it turns out that this is like cooking with a derivative of solar heat, for which one does not bring a sin-offering. And I said that in my view, this matter should be publicized in hospitals and the like. But he responded unequivocally that just as one who cooks with hot water, which is a "derivative" of fire, is liable to bring a sin-offering, the same applies when one cooks with an electric current; since this is generally a process that creates fire, it is considered like the "gestation" of fire. And just as one is liable for the toleda [derivative; literally, the "offspring"], so [is one liable] for the gestation, since generally it ultimately becomes fire, even though practically it only heats water without any fire being created. I was amazed to hear such a thing… But even today I find this very difficult, especially since the current itself merely rubs against and heats the cord that opposes it until it becomes light and burns, and it is called "fire"; but it is not possible at all to say that the current itself is fire, neither at the beginning [of the process], nor at the end.

The Prohibition of Toledot Ha-or

It emerges from the Talmud Bavli that according to all views one may not cook on Shabbat with toledot ha-or, derivatives of fire – meaning, anything that received its heat from fire, such as blankets that were warmed through exposure to fire. The Gemara clearly refers to a Torah prohibition, as the Mishna holds one liable for a chatat (sin-offering) for cooking an egg alongside a kettle. According to many Rishonim, the sugya's primary chiddush is that even though this involves cooking not with fire itself, but rather with a derivative of fire, a Torah violation is nevertheless committed. Indeed, the Rambam writes, "One who cooks with a derivative of fire is the same as one who cooks with fire itself."[1]

The Yerushalmi (3:3), however, maintains that the status of cooking with toledot ha-or is subject to a dispute between Rabbi Yossi and the Chakhamim. According to the Yerushalmi, Rabbi Yossi allows cooking with derivatives of fire because "ein tavshilo tavshil barur" – it does not cook completely. The Yerushalmi gives no indication here as to whether the Chakhamim forbid cooking with toledot ha-or on the level of Torah law, or by force of rabbinic enactment.

The Yerushalmi in Masekhet Pesachim (7:2) comments, "Rabban Gamliel does not equate derivatives of fire with fire, and the Rabbis equated derivatives of fire with fire." The context of the Yerushalmi's discussion is the requirement that the paschal offering be roasted over fire. The Tanna'im argue as to whether one may roast the korban pesach over a derivative of fire, or if it must be roasted only over fire itself. This issue applies as well to the category of nega'im (skin infections) affecting areas on the body that had been "burned by fire" (mikhvat eish – Vayikra 13:24), where the question becomes whether the Torah refers also to burns caused by derivatives of fire.

The discussion there in the Yerushalmi perhaps relates to our issue, as well, as to whether one violates bishul by cooking with derivatives of fire. If so, then this issue is subject to a dispute among the Tanna'im. Alternatively, however, one might differentiate between the two contexts. Perhaps only with regard to the korban pesach, where the Torah specifically requires tzeli eish ("roasted by fire"), and nega'im, where the Torah speaks of mikhvat eish ("a burn by fire"), the Tanna'im dispute the status of fire derivatives.[2] When it comes to the prohibition of cooking on Shabbat, however, the discussion focuses on a different question; as the Yerushalmi in our sugya indicates, the question relates to whether or not cooking with derivatives fire can be considered bishul barur – complete cooking.

As for the final halakha, the accepted view is that cooking with derivatives of fire constitutes a Torah violation of bishul. The Shulchan Arukh (318:3) rules, "Just as it is forbidden to cook with fire, so is it forbidden to cook with a derivative of fire, such as placing an egg alongside a pot or roasting it by breaking it on a garment that was heated by fire." The Magen Avraham and Mishna Berura explain that the Shulchan Arukh here refers to a Torah prohibition.

The Implications of Allowing Bishul Through Solar Heat

As mentioned earlier, both Rabbi Yossi and the Chakhamim allow cooking in the sun. We will now turn our attention to the concepts underlying this halakha:

1) Rashi explains, "Because this is not the usual means of cooking." The Acharonim understood Rashi as referring to the notion of ke-le-achar yad (that a melakha is not violated if it is done in an unusual manner; see Iglei Tal, and Kovetz Shiurim, Ketubot 202). The Kovetz Shiurim explained that this principle applies to all laws in the Torah, and establishes that one violates Torah prohibitions only by performing the given act in its usual manner. The Iglei Tal, however, raised the question of why cooking through solar heat would not be forbidden mi-de-rabbanan (by force of rabbinic enactment), given that Chazal forbade performing melakha in a manner of ke-le-achar yad. We may suggest two answers:

A) Chazal forbade performing a melakha with a minor deviation from normal procedure; significant deviations, however, would be permissible. We find, for example, that the Gemara (Shabbat 141a) – as codified in the Shulchan Arukh (321:7) – allows crushing pepper in a bowl using the handle of a knife. Halakha permits crushing pepper in this manner because it involves two deviations – using the handle of a knife, and doing this in a bowl, rather than a mortar.[3] If one implements only one of these two deviations, the rabbinic prohibition would obtain. In our case, then, cooking with the heat of the sun is considered a drastic deviation from the norm and is therefore permitted.

B) The Iglei Tal distinguishes between two different types of deviation. In some cases, one deviates only in the mode of action, and that deviation has no impact upon the final result; this type of shinui (deviation) is proscribed by Chazal. Other deviations from standard procedure, however, cause a difference in the final product, and in these cases the act is permissible. In the view of the Iglei Tal, such is the case regarding cooking with solar heat: a food cooked in the sun will have a different taste than the same food cooked through fire. This approach is far from simple and requires further clarification.

2) We find amongst the Acharonim a different explanation for why bishul does not apply to cooking with the heat of the sun, namely, that no cooking of this sort occurred in the Mishkan. The Noda Bi-yehuda (Tanina, Y.D. 43) writes, "This is due to the fact that for Shabbat we derive [the categories of forbidden activity] from the work in the Mishkan, and we [therefore] require a derivative of fire." Rav Moshe Feinstein (Iggerot Moshe, O.C. 3:52) similarly writes:

Rather, they mean to say that although this cannot be considered [cooking], because it is not the standard procedure to cook in the sun, for [only] if one does not have wood and the item can be cooked in the sun he will then cook it in the sun, nevertheless, since one cooks in the sun only when he has no wood, this cannot be extracted from the cooking through fire that occurred in the Mishkan, to consider it a toleda [a derivative of bishul] because it does not resemble the cooking that occurred in the Mishkan.[4]

Rav Feinstein's approach is novel in that he believes that this factor alone – that cooking by the sun did not occur in the Mishkan – is insufficient. Had it been standard procedure to cook in the sun, one would liable for this kind of cooking on Shabbat despite the fact that cooking was not done this way in the Mishkan. It is only because people do not customarily cook with the sun that this kind of cooking does not resemble the cooking that occurred in the Mishkan. According to this view, if nowadays the practice has become to cook in this fashion, then this type of cooking would constitute a Torah violation despite the fact that it did not occur in the Mishkan. If, however, even nowadays people do not cook in this manner, then the fact that this was not done in the Mishkan would render it permissible.

3) The Noda Bi-yehuda, in the responsum referred to earlier, cites an additional consideration from the one who posed to him the question: "Because it is forbidden on Shabbat to heat or add heat only with the derivatives of fire, and all these [forms of cooking] are not derivatives of fire." Some pointed to a verse in Sefer Divrei Hayamim II (35:13), "Vayevashelu ha-pesach ba-esh" ("They cooked the paschal offering with fire") as a possible allusion to this theory, that the term "cooking" in the Torah, unless indicated otherwise, refers only to cooking with fire or a derivative thereof. Rav Kook zt"l elaborated upon this notion in Iggerot Ha-Re'iya (vol. 1, p. 183):

Everything in the Torah refers to the standard manner among the majority, and since most cooking is done with fire, then certainly the plain meaning of bashel in the context of Pesach means this. The same is true regarding Shabbat and the Mishkan itself, for we follow the manner of the majority of people.[5]

This easily explains why Halakha permits cooking with solar heat. And Chazal did not legislate against it because cooking with the sun will not be confused with cooking through fire.

4) The Meiri, in explaining the halakha permitting cooking in the sun, writes, "Because the sun does not have the status of cooking." His intent appears to be that the sun is a natural force, and it cannot be said that the human being harnessed it for his needs and cooked with it, given that the sun works as an independent force. If it cooks an item, we must attribute this cooking to the sun, and not to the human being, just as it is assumed that drying wet clothes in the sun entails neither bishul nor libun (laundering), because this is a natural process, whereas drying clothing through exposure to fire is forbidden. Only cooking through fire can be attributed to the individual, because it can then be said that he has harnessed the fire for his needs, as part of man's control over natural processes. The sun, by contrast, is not subject to human control, and its effects are those of nature, and cannot be considered the actions of a human being.

The Or Samei'ach (Shabbat 9:2) develops a similar idea in a slightly different context, regarding the halakha permitting cooking in a keli sheni, which he perceives as the ko'ach-kocho – the result of the result – of fire:

Just as ko'ach-kocho is not considered the original entity, the same is true regarding a derivative of fire: by virtue of the distance of its relationship to the [original] fire it loses the status of fire, and its heat is a natural heat that is not caused by fire, like the hot-springs of Tiberias.

It seems to me that this is also Rashi's intent when he wrote that people do not customarily cook with the sun; he refers not to the concept of shinui, deviating from the normal manner of performing melakha, but rather to the fact that human cooking does not occur through the means of solar heat.

With these concepts in mind, let us now discuss the status of cooking through various means that do not involve fire in the simplest sense, and determine whether or not they would violate the Torah prohibition of bishul on Shabbat:

A) Cooking with metal heating elements and immersion heaters was addressed above, in the first section.

B) Microwaves

Microwaves clearly do not involve fire, and therefore the question becomes whether the halakha permitting cooking with the sun applies to

microwaves, as well. Some of the reasons mentioned above would, indeed, apply equally to microwaves: "bishul" refers specifically to cooking through fire, and this type of cooking did not occur in the Mishkan. (According to the Iggerot Moshe, however, even though this method of cooking was not used in the Mishkan, it would still be forbidden since it is used as a primary means of cooking.) The other reasons, however, would not apply to this form of cooking: deviation from common practice, solar heat is a natural force that does not entail human ingenuity. This issue is therefore at least subject to debate and uncertainty, and thus one should treat cooking in a microwave on Shabbat as potentially a Torah violation. However, in situations where we would allow cooking on Shabbat to save a life, we might prefer using a microwave over fire, since according to some views it would not constitute a Torah prohibition.[6]

C) Cooking with chemical fire

Certain materials can emit heat as a result of various chemical reactions, such as in the case of peat made from olive peels. These materials are mentioned in the Mishna at the beginning of the fourth chapter of Masekhet Shabbat as items that increase the heat of foods embedded within them. From the Rambam's remarks in his commentary to the Mishna it emerges clearly that cooking with this heat does not entail a Torah violation, since this heat does not originate from fire. It would seem that those who explain the halakha of solar heat based on the fact that this method was not used in the Mishkan would similarly permit cooking with this chemically-generated heat. There is some question as to what the status of this type of cooking would be according to the reasons of deviation from standard practice and the fact that solar heat is a natural force. The straightforward implication of the Rishonim and poskim is that this does not constitute a Torah violation of bishul.[7] In the next shiur we will discuss whether this would fall under the category of toledot ha-chama (derivatives of solar heat), cooking with which is forbidden by force of rabbinic enactment.

D) Cooking with plaster

The Gemara (Shabbat 39a) cites a Berayta that records Rabban Shimon Ben Gamliel's comment, "One may cook on egg on a boiling hot roof, but one may not cook an egg on boiling hot plaster." Rashi explains that hot plaster is a derivative of fire, and thus cooking with its heat constitutes bishul. It appears that people would boil plaster in fire. The Meiri (39a s.v. ha-sid) likewise considers plaster a derivative of fire, and claims that it is therefore subject to the Torah prohibition of bishul. He then adds:

This "plaster" can be explained [as a reference to plaster] while it is still boiling as a result of fire. But if it cools and is then heated with the water that

extinguished it, some are lenient. But this is incorrect, because even after it has cooled it boils its location and the boiling that resulted from the fire has not left it; it rather intensifies after the moment of extinguishing.

The Meiri maintains that even when plaster cools, and water was poured on it and it regains its heat, this is not merely a chemical reaction, for the initial boiling that occurred as a result of the exposure to fire "has not left it." (It seems that the lenient position that he cites maintains that the initial boiling is indeed negated once the plaster cools.) In his view, there is a foundation of fire-generated heat that is strengthened by the water and the chemical process. Since the basis of the heat is caused by fire, the plaster retains its status as toledot ha-or.

The Shevitat Ha-Shabbat (Mevashel, 17) and Be'er Rechovot (44) cite the work Even Yekara (12) as equating plaster that was boiled in water with toledot ha-chama (derivatives of solar heat). According to the Shevitat Ha-Shabbat, this view is identical to the lenient position cited by the Meiri. The Shevitat Ha-Shabbat therefore wrote regarding the Meiri's comments, "I do not understand what he wrote, that they are lenient, for even if it will have a status of toledot ha-chama, it is likewise forbidden; there is no difference other than with regard to liability [meaning, whether one has violated a Torah prohibition]." It seems to me, however, that the view expressed by the Even Yakara differs from the position cited by the Meiri. The Even Yekara considers plaster a derivative of solar heat, cooking with which is forbidden mi-de-rabbanan, whereas the view cited by the Meiri perhaps considered plaster the same as solar heat itself, cooking with which is permissible.[8]

As for the issue of whether plaster that was boiled in water constitutes a derivative of fire, we might draw evidence from the Rambam's commentary to the Mishna (Shabbat, beginning of chapter 4). The Mishna introduces the prohibition of hatmana – burying a pot of food in a substance that will increase it heat, and it includes plaster in the list of substances that increase the heat of food embedded within them. The Rambam comments: "Logic dictates that hatmana with these items is permissible, even on Shabbat, because they forbade on Shabbat adding heat or heating initially only with derivatives of fire, and these are not derivatives of fire." The Rambam thus clearly did not consider plaster a derivative of fire, and presumably disagrees with the Meiri in this regard.[9] He indicates that Chazal forbade using plaster only for hatmana, out of the concern that "one might say that just as increasing heat through hatmana is permissible, so is it permissible [to cook] over fire, and he will thus come to heat [food] over fire on Shabbat." It seems that in his view, there is no prohibition against heating with these materials in a standard manner, since they are efficient in food

preparation only when used for hatmana; only in cases of hatmana, then, were Chazal concerned that people would be misled. All this requires further clarification.

The Shevitat Ha-Shabbat and Rav Avidan (Shabbat U-mo'ed Be-Tzahal, pp.117-119) appear to rule in accordance with the Meiri's position, which considers plaster a derivative of fire.[10]

E) Cooking with fire from a magnifying glass

The Halakhot Ketanot (1:189) writes:

There is no fire for which one is liable other than the natural, essential fire that is attached underneath by the element of air that is ignited; thus, fire that comes into being from a stone as a result of striking, which is the absorption of the air around it – this is essential fire, and one is liable for it and all its derivatives. But that which comes into being through glass, when a ray of the sun becomes round and is kindled – this is a derivative of the sun, as is the case regarding that which emerges from the glass lantern, such that one who cooks with it on Shabbat is exempt [from punishment].

This contention is very difficult to understand. The Shevitat Ha-Shabbat (ibid.) explains that once fire is kindled, there is no difference between fire that comes into being through the rubbing of stones, fire that results from striking a match, and fire that comes about from the sun's rays. True, if one does not light a fire, but rather concentrates the sun's rays and cooks through this concentrated heat, this would, indeed, constitute cooking with the sun, as it is the sun that heats the food. The Shevitat Ha-Shabbat deliberates as to whether this should qualify as a derivative of solar heat and thus be forbidden mi-de-rabbanan.

The explanation of these comments might arise from the perspective discussed earlier, which claims that cooking with the sun is permitted because it constitutes a purely natural force. In this instance, one manages to harness this natural force for his purposes, and this type of cooking should be deemed toledot ha-chama, rather than cooking directly in the sun. In my opinion, however, we should consider this cooking with the sun itself, such that it is permissible on Shabbat. For purposes of practical halakha, this issue requires further analysis. The Shevitat Ha-Shabbat himself concludes, "It would seem that one may be lenient [and allow this kind of cooking] through a gentile in situations of minor illness."

F. Heat generated as a result of rubbing pieces of wood or metal against each other has the status of a derivative of solar heat. This emerges from one of the explanations given to the Gemara's comment (39a) that one should not bury a pot of food in "the dust from the roads." According to one view, this refers to dust that was heated as a result of the carriages traveling on the road. (Shevitat Ha-Shabbat, ibid., and Be'er Rechovot, 45)

In the next shiur, we will bs"d discuss the prohibition against cooking with derivatives of solar heat and the status of solar boilers (dudei shemesh) in this respect.

Notes:

1. In an earlier shiur about the status of cooking in a keli rishon, we noted the difficulty in explaining the view that this constitutes merely a rabbinic prohibition given the sugya's conclusion that cooking with toledot ha-or is forbidden by Torah law. The reader is referred to our discussion there for further elaboration.
2. See the parallel discussion in the Bavli, Masekhet Pesachim 75a, as to whether items heated by fire qualify as "fire" for purposes of roasting the korban pesach.
3. The Beit Yosef there, citing the Shibolei Ha-leket, identifies the two deviations as deviating from a stone pestle to a wooden pestle, and then from a wooden pestle to the handle of a knife.
4. In his view, the factor of shinui, deviating from normal practice, would not apply; since one who does not have wood does cook in the sun, we cannot consider this form of cooking a deviation from normal practice.
5. The novelty in Rav Kook zt"l's comments is that the concept of "cooking" in the Torah is to be understood on the basis of the standard practice of most people, rather than the etymological meaning of the term.
6. It should be emphasized that using a microwave entails additional prohibitions related to the activation of the device, even before we even come to the cooking aspect, but we will not elaborate on these issues in this context.
7. The poskim discuss (as we will soon see) the issue of whether plaster that had been heated and then cooled is to be considered toledot ha-or; this discussion presumes that if we do not consider it toledot ha-or, then cooking with it would not entail a Torah prohibition.
8. In the next shiur we will address the precise definition of toledot ha-chama and what this category includes.
9. The question remains how the Rambam would understand the Berayta (39a) that forbids cooking an egg on boiling plaster. He might explain it as referring to plaster that had been boiled by fire, or understand the prohibition differently from Rashi, who wrote that this is forbidden because plaster is a derivative of fire.

10. They make no mention of the proofs we brought from the Rambam, but in any event one should be stringent in this regard.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 13: Cooking with Derivatives of Solar Heat
and Using a Solar-Heated Boiler – Part 2

The Prohibition of Toledot Ha-chama

In our last shiur we discussed the sugya in Masekhet Shabbat (39a) where the Chakhamim and Rabbi Yossi argue as to whether cooking with toledot ha-chama – derivatives of solar heat – is forbidden on Shabbat. The Yerushalmi held that one may cook with toledot ha-chama on Shabbat, and it writes:

There [in Babylonia] they say that [cooking in] the sun is permissible, [but cooking with] derivatives of the sun is forbidden. The Rabbis here [in Eretz Yisrael] say that both [cooking with] the sun and [cooking with] derivatives of the sun are permissible.

All views agree that cooking with toledot ha-chama does not constitute a Torah prohibition; the debate surrounds the question of whether this is forbidden by force of rabbinic enactment. We can more readily understand this principle according to the approach (see last week's shiur) that Torah law does not forbid cooking in the sun because this method of cooking did not occur in the Mishkan, or because the term bishul refers only to cooking with fire. According to these approaches, we can explain that toledot ha-chama is likewise excluded from the Torah prohibition because Chazal determined that this form of heat does not constitute "fire" and this mode of cooking was not used in the Mishkan. If, however, one explains that bishul does not include cooking in the sun because of shinui (deviation from the standard method of cooking), it is difficult to understand why toledot ha-chama would not constitute a Torah violation, whereas toledot ha-or – derivatives of fire – would violate bishul. Cooking a food with a garment that was heated in the sun seems to entail no more of a deviation from normal procedure than cooking with a garment that was heated by exposure to fire.

On the basis of this argument, Rav Shlomo Zalman Auerbach zt"l (Minchat Shelomo, 1:12) dismissed this understanding, and contended that the reason why bishul excludes cooking in the sun has nothing to do with the factor of shinui:

Although Rashi wrote in Shabbat (39a) – regarding the fact that according to all views cooking in the sun is permissible – that this is because "this is not the standard method of cooking," it nevertheless would seem that even in a manner which is commonly used for cooking with the sun, such as a dud shemesh [solar-heated boiler] and the like, one would likewise be exempt [from punishment], as we see from the hot springs of Tiberias, that if we say that [the waters are heated by] passing by the entrance to Gehinnom, it would constitute a derivative of fire and [one] would be liable [for cooking with it]; otherwise, it would be a derivative of the sun, and [one] would be exempt [from punishment if he cooks with it]. Additionally, this distinction between fire and the sun is mentioned also with regard to the paschal offering, matza and challa, etc. and there it makes no difference whether it is customary or not. Necessarily, then, Rashi meant in his remarks that this is not called bishul.[1]

The explanation we mentioned that cooking in the sun is "natural" – rather than "human" – cooking is the most difficult to sustain in light of the exclusion of toledot ha-chama. This theory can stand so long as we deal with cooking in the sun itself. But when one cooks with a garment that was heated by the sun, this cooking is clearly not a natural process; to the contrary, the individual harnesses the solar heat for his needs, precisely as in the case of a garment heated by exposure to fire.

I would therefore suggest that we explain this issue in the following manner. The prohibition of bishul requires a heat source, and this includes only the actual source of the heat. Toledot (derivatives) earn significance only insofar as they store within them the heat of the original source. Hence, the moment Halakha established that fire is the sole heat source with which one violates the prohibition of bishul, all its derivatives likewise become included, as they contain the heat of fire. But since the sun is not deemed a heat source with respect to the bishul prohibition – for the various reasons mentioned in our last shiur – its derivatives similarly do not qualify for bishul, since they received all their heat from the sun, and we cannot afford them a higher status than their source – the sun itself.

The Yerushalmi, as stated, permits cooking with toledot ha-chama. In the Bavli, however, the majority view – of the Chakhamim – forbids cooking with a derivative of solar heat because it might be confused with a derivative of fire.

We may suggest two approaches in understanding this gezeira (rabbinic enactment):

1) Observers might mistakenly think that the cooking is done with a fire derivative and thus suspect the individual of violating Shabbat (mistaken identity of the item currently being used);
2) People might mistakenly conclude that cooking is permissible with fire derivatives, as well (a mistaken halakhic conclusion).

The practical difference between these two explanations will arise in a case of a derivative of solar heat that cannot be erroneously misidentified as a derivative of fire, such as cooking on a hot rooftop, which quite obviously received its heat from the sun, and not from fire. According to the first approach, we would allow cooking on a hot rooftop, since nobody would suspect the individual of cooking with fire; according to the second understanding, however, we would forbid this form of cooking, as people may mistakenly allow cooking with derivatives of fire, as well.

Rashi, commenting on this sugya, writes, "An observer will think that it is a derivative of fire," clearly following the first explanation mentioned above, and we should thus, according to Rashi, permit cooking on a hot rooftop. One might, however, respond that the Sages drew no distinctions between the various forms of toledot ha-chama and forbade using it for cooking in all instances, even where the reason for the basic prohibition does not obtain ("lo pelug rabbanan").

The Rambam explicitly applies this prohibition to all instances of toledot ha-chama, without distinguishing between its various forms (Hilkhot Shabbat 9:3):

If one breaks an egg in a hot garment, or in sand or dust from the roads, which had become hot from the sun, even if it is roasted, he is exempt [from punishment] because derivatives of solar heat differ from derivatives of fire, but [the Sages nevertheless] forbade them out of concern for derivatives of fire.

The Rambam forbids cooking even with sand or dust that was heated by the sun, which obviously cannot be confused with a derivative of fire. This indicates that he either subscribed to the second approach mentioned above[2], or felt that Chazal drew no distinctions and extended the prohibition even to situations where the reason does not apply.

The Gemara records a Berayta in which Rabban Shimon Ben Gamliel allowed roasting an egg on a hot rooftop. The question arises, did Rabban

Shimon Ben Gamliel follow the view of Rabbi Yossi, who permitted cooking with toledot ha-chama, or did he follow the majority view, forbidding toledot ha-chama, and nevertheless allowed cooking on a rooftop? Most Sephardic Rishonim explain in our sugya that Rabban Shimon Ben Gamliel followed Rabbi Yossi's position, but Halakha accepts the Chakhamim's position, and thus all toledot ha-chama – including rooftops – are forbidden. The Ramban writes:

And that which the Berayta states, "Rabban Shimon Ben Gamliel says, one may roast an egg on a hot rooftop…" – Halakha does not follow this view, for he follows Rabbi Yossi. But the Rabbis, who forbid [cooking an egg] with [heated] garments, would likewise forbid [cooking] on a hot rooftop, since both constitute derivatives of the sun.

The Yerushalmi similarly indicates that roasting an egg on a rooftop would not be permitted according to the view of "the Rabbis there" (in Babylonia), who forbid cooking with toledot ha-chama:

The Berayta disagrees with the Rabbis there, for the Berayta states: "Rabban Shimon Ben Gamliel says, one may roast an egg on a roof of boiling hot plaster, but one may not roast an egg on hot earth." What would the Rabbis there do with this? They would answer that they disagree with Rabban Shimon Ben Gamliel."

The Yerushalmi thus explicitly asserts that Rabban Shimon Ben Gamliel disagrees with the Chakhamim. The Meiri, however, appears to maintain that Rabban Shimon Gamliel stated his halakha even in accordance with the Chakhamim, as he writes, "But [an egg] may be roasted on a hot rooftop, that was heated by the sun."[3]

The Maharshal (Teshuvot, 61) elaborates on this topic and concludes that we should forbid only those forms of toledot ha-chama that could be mistaken for derivatives of fire. He maintains that Rabban Shimon Ben Gamliel stated his view in accordance with the Chakhamim, and they, too, would agree that one may cook on a rooftop.

However, as far as the final halakha is concerned, since, as we have seen, most Rishonim understood the Chakhamim as forbidding all types of toledot ha-chama, we should follow this stringent position. Indeed, the Acharonim forbid cooking with any toledot ha-chama; see Shulchan Arukh (318:3) and Mishna Berura (318:20). In situations of dire need however, we may take into account the Maharshal's view; we will return to this point later, in our discussion of solar-heated boilers.

Cooking an Item that Had Been Cooked by the Sun or Derivatives of Solar Heat

The Peri Megadim (Mishbetzot Zahav, 318:6) raises the question concerning a food that had been cooked before Shabbat by the sun or a derivative of solar heat – which does not constitute bishul on Shabbat – whether one violates Shabbat if he cooks this food on Shabbat over fire or with a fire derivative. He concludes, "It would seem that he is exempt, because it has already been impacted [= prepared for consumption]; it might possibly be altogether permissible." The Peri Megadim's ambivalence touches upon the question of whether cooking in the sun or a derivative of solar heat is deemed "cooking" but nevertheless does not render one liable on Shabbat, or is not classified as "cooking" at all. According to the second possibility, we should perhaps equate an item that had been cooked by solar heat with foods that can be eaten raw, to which the prohibition of bishul applies.

We might also explain that the Peri Megadim here inquires as to the meaning of the principle of ein bishul achar bishul (bishul does not apply to previously cooked foods). Is this a practical rule, that once a food has been prepared for consumption an additional act of cooking does not qualify as food preparation? If so, then we would apply ein bishul achar bishul even to foods that had been cooked through solar heat, even if this type of cooking does not qualify as "bishul" at all. Alternatively, one might explain the principle of ein bishul achar bishul as relating to an item's formal status as "mevushal" ("cooked")[5], in which case an item cooked in the sun – if we assume that it does not obtain the status of mevushal – would not be subject to bishul. The Peri Megadim concludes that the food has the status of cooked food, and we therefore apply the principle of ein bishul achar bishul.[6]

The Iglei Tal (Ofeh, 44) held that cooking in the sun does not qualify as "cooking" at all, even for purposes of cooking the korban pesach,. He contended that if one boiled a korban pesach in toledot ha-chama and then proceeded to roast it, it is considered roasted and hence permitted for consumption. (Recall that a korban pesach must be eaten roasted, and not boiled.) Since Halakha does not classify cooking with solar heat as bishul, the meat is considered only roasted.[7] He writes (Ofeh, 15:9), "Since cooking with the hot water springs of Tiberias is not considered bishul with respect to the prohibition against [eating the korban pesach] boiled, by the same token, if it is boiled [with this water] and then roasted, it is permissible."

He linked this discussion to the issue of bishul on Shabbat on the basis of the Yerushalmi (Shabbat 7:2), which records a debate if one may cook on Shabbat with the hot water springs of Tiberias, and then applied this debate to

the situation of a korban pesach that was boiled in this water and then roasted. The Iglei Tal thus clearly felt that the status of cooking with solar heat on Shabbat, and its status regarding the korban pesach, are dependent upon one another. In his view, then, if one would cook over fire on Shabbat an item that had previously been cooked with solar heat, he would violate bishul. The rule of ein bishul achar bishul would not apply in such a case, because this food had not previously undergone formal bishul.

The Iglei Tal's proofs are not compelling and may be refuted. Practically speaking, it would appear that one may rely on the Peri Megadim's position, that one may cook over fire food that had been cooked with solar heat. I found that the Minchat Chinukh (mitzva 7) likewise addressed this question:

Would we say that it was, after all, cooked, only a gezeirat ha-Katuv [ordinance of the Torah] dictates that one is not liable for [cooking with] toledot ha-chama, but nevertheless in this respect it is considered "cooked" in that a subsequent cooking would not be considered anything, and one would be exempt? Or, since it does not constitute cooking for purposes of Shabbat, it is thus not bishul, and one would be liable [for cooking] afterwards.

He ultimately leans towards relying on the aforementioned ruling of the Peri Megadim, both with respect to Shabbat and regarding korban pesach.

Using a Dud Shemesh on Shabbat

As we approach the issue of using hot water from a dud shemesh (solar-heated boiler) on Shabbat, we must first clarify the technical facts and then address two questions: Does the problem with a dud shemesh involve cooking in the sun, or cooking with a derivative of solar heat, and do we consider the entry of cold water into the dud shemesh the individual's direct act, or merely gerama – an indirect result of his actions?

The dud shemesh consists of a boiler into which cold water enters from the household faucet (the entrance is located on the bottom side of the boiler), from which it passes into black, glass-covered pipes called koltim. The hot water then enters the household's faucets from the upper part of the boiler, where the water is hotter. Generally, the departure of hot water from the boiler causes other, cold water to enter in its place, which is heated in its initial encounter with the water already in the dud, or when it is passed into the koltim.

Halakhic questions concerning a dud shemesh:

1) If the cold water entering the boiler is heated inside the boiler from the heat of the hot water already there, then this clearly constitutes cooking with toledot ha-chama, which is forbidden mi-de-rabbanan.
2) If the water is heated only when it passes into the pipes, it would seem that this, too, involves cooking with toledot ha-chama. We cannot consider this process as cooking with the heat of the sun directly, which is permissible, because the primary heating results from the heat of the pipes, which became hot already before this water entered. Even if the sun would be concealed, the pipes themselves would heat the water.
3) We discussed in an earlier shiur that pipes through which hot water passes from a keli rishon have the status of a keli rishon. This would likewise apply in the case of a dud shemesh. Even though the heating process occurs in the pipes, the entire system, including the pipes and the boiler, constitutes a keli rishon and thus has the capacity to effectuate bishul. Recall, however, that we deal with toledot ha-chama, so the bishul here is forbidden only mi-de-rabbanan.
4) We must also take into account the consideration that when one turns on a faucet he does not intend for cold water to enter the boiler and be heated; his objective is strictly to release hot water from the faucet.

In my opinion, none of these claims suffices to definitively allow using hot water from a dud shemesh on Shabbat. As far as the cold water entering the system is concerned, it would seem that at least the initial flow of water would qualify as a direct act of the individual, since by removing the obstruction one allows water to enter the system. This situation would resemble a case discussed in Masekhet Sanhedrin 77b:

Rav Papa said: One who bound his fellow and directed the freshet towards him – this is his "arrows," and he is liable [for murder]. This applies only in [situations of] ko'ach rishon [a direct result of his action]; in [situations of] ko'ach sheni [a result of a result of his actions], this is merely gerama.

Rashi explains, "He turned the flow of water upon him; these are his arrows, and he is considered as if he had shot an arrow at him." The same principle would seemingly apply in our context. The initial rush of water into the boiler would constitute ko'ach rishon, the direct result of the opening of the faucet, and the individual would thus be considered as having actually placed water into the system.

In truth, however, this conclusion is far from simple. Many Acharonim held that since opening the faucet merely removes an obstruction, this cannot

be deemed a direct action, and rather constitutes gerama. In the case in Sanhedrin, the killer actively channeled the flow of water towards the bound victim, whereas here, one merely removes the valve which allows the water to flow. This might entail ko'ach sheni, rather than ko'ach rishon.

And although Rav Ovadya Yosef (Yabi'a Omer, 4:34) writes that one must be stringent in this matter with regard to Torah prohibitions, in this case, perhaps, where we deal with the rabbinic prohibition of cooking with toledot ha-chama, we might allow relying on the lenient positions, which consider this a situation of gerama. This issue requires further clarification.

As far as the person's intent is concerned, the fact that he does not intend to heat the new water is of no consequence; since the water will invariably enter the system and be heated – a case known as pesik reisha – the act would be forbidden regardless of his indifference towards the heating of the water.

Nevertheless, Rav Ovadya Yosef (ibid.) discusses this issue at length and permits using hot water from a dud shemesh, based primarily on two contentions:

A. We deal with toledot ha-chama, with which cooking is forbidden mi-de-rabbanan; therefore, those who follow the rulings of the Shulchan Arukh may rely on his ruling that in instances of a rabbinic prohibition, one may perform a pesik reisha – an act that will incidentally but invariably result in a melakha. The Shulchan Arukh issues this ruling concerning a case of a knife that was thrust into a barrel before Shabbat, where he permits removing and returning the knife, even though this results in the expansion of the hole, thereby creating an opening to the barrel (314:1). The Rama, however, disagrees, and writes, "[This applies] only if he also removed it once before Shabbat; but if he had not removed it before Shabbat, it is forbidden because it is a pesik reisha, as he creates a hole and opening for the barrel." The Acharonim understood this debate as revolving around the issue of whether we permit a pesik reisha where the violation that results from the given action is only of rabbinic origin. The Mishna Berura writes:

It [the knife] is thrust tightly, such that as a result of its removal and placement it is certain that the hole will expand. Nevertheless, since the actual prohibition is only of rabbinic origin, he [the Shulchan Arukh] holds that it is permissible, since [the individual] does not intend for this [to occur]. The Rama here intends to disagree with him, [claiming] that [this is allowed] only if he had removed it once before Shabbat, such that it thereby expanded somewhat [already before Shabbat], and it is therefore not certain [that it will expand when he removes

the knife on Shabbat]. Otherwise, this is forbidden, because it will certainly occur; for although this is an opening that is not made for removing and bringing in [items through it], which is forbidden only mi-de-rabbanan, as mentioned above, he [the Rama] maintains that a pesik reisha is forbidden even with regard to a rabbinic prohibition.

B. Even if we wish to abide by the view that forbids pesik reisha in cases of a rabbinic prohibition, here we have more reason to rule leniently because this is a situation of lo nicha lei – the individual has no interest in the resultant melakha. In such situations, many authorities rule leniently when dealing with a rabbinic prohibition. (See, for example, Tosefot, Shabbat 103a.[8]) However, some Acharonim rule stringently even in such cases, and permitted a pesik reisha de-lo nicha lei only when what is at stake is two rabbinic prohibitions; this is the position of the Mishna Berura (337).

The reason why the case of a dud shemesh involves a situation of pesik reisha de-lo nicha lei is, seemingly, because the boiler is generally large enough to provide enough hot water for one's essential needs on Shabbat: washing one's hands and face, washing infants and washing dishes. (Bathing one's entire body in hot water is forbidden on Shabbat for other reasons.) Therefore, one has no need for additional water to come into the boiler on Shabbat. On the other hand, one might contend that a person has interest in additional water entering the system so he has hot water ready immediately after Shabbat. This question would thus touch upon the more fundamental issue regarding the definition of nicha lei, namely, the status of an action in which a person has interest, but not interest that concerns a Shabbat prohibition. This issue clearly requires more thorough elaboration in a separate context.[9]

Furthermore, one might argue that if the water is heated not immediately upon entering the boiler (because the water on the bottom is not hot enough to heat the incoming water), but only when it reaches the pipes, the heating of the water occurs not through ko'ach rishon – the direct result of the individual's action – but rather through ko'ach sheni – an indirect result. We would then classify this case as gerama, and when dealing with a situation of a pesik reisha resulting in a rabbinic violation through gerama, it stands to reason that this should be allowed.

We might add yet another consideration for allowing use of a dud shemesh, namely, the aforementioned position of the Maharshal, who held that one may cook on Shabbat with a type of toledot ha-chama that cannot be confused with fire or a derivative thereof.[10] Of course, it is far from clear that use of a dud shemesh cannot be mistaken for use of fire-generated heat, since

at times – especially during the winter – a person adds electric backing to the heating process of the dud shemesh.

In summary, it would appear that the matter remains subject to dispute, and we therefore conclude upon the following practical guidelines:

1) One should preferably refrain from using hot water on Shabbat from a dud shemesh.
2) Those who do use hot water from a dud shemesh on Shabbat have authorities upon whom to rely, particularly given that we deal with a rabbinic prohibition.
3) Water from a dud shemesh may be used on Shabbat for the purpose of bathing infants or for washing hands or dishes if a person's hands are particularly sensitive to cold.
4) This entire discussion applies only if there is no electric backing to the boiler. If electricity is involved, then we deal with a possible Torah violation, even if the electricity is currently turned off.
5) Notwithstanding what we just mentioned, if the boiler works only on electricity which is currently turned off, and it is not attached to a central heating system, and one can be certain that the water in the boiler is not hot enough to heat the new water that comes in, one may turn on the hot water. As mentioned, use of an electric boiler entails a possible Torah violation, so one may employ this leniency only when he can ascertain beyond reasonable doubt that the new water will not be heated.
6) Some recent water heating systems are equipped with a mechanism that prevents new water from entering the system. Most systems do not feature such a mechanism, but one who knows for certain that he has such a system may use the hot water without any concern, since no new water will enter the system and be heated.

Notes:

* This shiur is a continuation from last week's shiur, and should be studied in conjunction with it.

1) It is not altogether clear from the Minchat Shelomo why cooking in the sun is not considered "cooking." He perhaps held like the view we cited from the Rambam and others that the Torah prohibition of bishul pertains only to fire and its derivatives.

2) The Maharshal (siman 61) adopted this understanding of the Rambam's position:

But one who sees that toledot chama are permissible will then say that a derivative of fire is likewise permissible, for with respect to derivatives the onlooker will think that no distinction is drawn between them, because in the end they are both heated through another item and it constitutes a subcategory of bishul.

3) One might contend that the Meiri considered cooking on a hot rooftop equivalent to cooking in the sun directly, rather than toledot ha-chama, but this does not seem reasonable at all. The Rif in this sugya brings several views among the Amora'im in interpreting Rabban Shimon Ben Gamliel; now if Rabban Shimon Ben Gamliel was following the view of Rabbi Yossi, which Halakha does not accept, the Rif would have no reason to record in his work the Talmud's discussions concerning Rabban Shimon's position. The Ramban explained, "…even though he [the Rif] wrote the reasons [given by] Rabba and Rav Yosef for Rabbi Yossi in order to explain our Mishna, with which Rabbi Yossi agrees." His answer is difficult to understand. See also below, in our discussion of the Maharshal's view.

4) We discussed this subject in an earlier shiur which dealt with the issue of cooking raw fruits. According to the Peri Megadim's conclusion, we would explain that here one merely increases the food's temperature, whereas the taste of a fruit undergoes a significant change through the process of boiling.

5) Compare this rationale with the formulation of the Tosefta (Shabbat, end of chapter 15), "One may bake that which was already baked, and cook that which was already cooked."

6) In his closing remarks, the Peri Megadim refers us to the next se'if, where he addresses the topic of boiling an item that had been previously baked. His intention, perhaps, is to compare cooking with fire an item that had been cooked in the sun to the case of boiling an item that had been previously baked. Clearly, however, there is no comparison between the two cases: when one boils a previously baked item, the food's taste changes as a result of the second mode of cooking from the taste of a baked item to that of a boiled item.

7) Whereas we generally maintain that one violates a Torah prohibition if he eats meat from a korban pesach that was boiled and then roasted, the Iglei Tal contends that if one boiled it with the hot springs of Tiberias and then roasted it, it may be eaten, since bishul does not occur with derivatives of solar heat.

8) The Yabi'a Omer there discusses this issue at length.

9) See Yabi'a Omer, ibid.

10) Although most Acharonim, as mentioned earlier, rule against the Maharshal's view, we may nevertheless include his position as one of several factors to allow using a dud shemesh.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 14: Stirring Food in a Pot on Shabbat (Part 1)

This week's shiur will discuss the halakha of meigis – stirring hot food in a pot on Shabbat.

The Fundamental Basis of the Halakha

The Berayta states (in Beitza 34a): "If one person brings the fire, another brings the wood, another places the pot, another brings the water, another places spices in it, and another stirs – they are all liable." Rashi explains:

They are all liable: The one who brings the fire – because he kindles the coal, since as he carries it, it is kindled from the wind of his walking; the one who brings the wood for the fire – because he kindles [the wood]. The one who places the pot – later it will explain what he did [that constitutes a violation of Shabbat]. The ones who add water and spices, and the one who stirred – because of mevashel, which is also a primary category of forbidden activity.[1]

The Gemara does not clarify the precise nature of the liability for stirring on Shabbat; a number of Rishonim held that stirring constitutes bishul in that it accelerates the cooking process.

In Masekhet Avoda Zara (38a), amidst the discussion of bishulei akum (the prohibition against eating food cooked by gentiles), the Gemara states:

Rav Yehuda said in the name of Shemuel: If a Jew placed meat on coals and then a gentile came and turned it over, it is permissible. What is the case? If we say that it would have cooked even had he not turned it over, then this is obvious. Rather, [the case must have been] that had he not turned it over it would not have cooked; [then] why is it permissible – this is food cooked by a gentile! No, it is dealing with a case that had he not turned it over it would have cooked in

two hours, and now it cooks in one hour. One would have thought that accelerating cooking is of significance [and constitutes cooking]; he [Rav Yehuda in the name of Shemuel] therefore teaches [that this is not the case].

The Gemara here indicates that expediting the cooking process does not amount to halakhic bishul, and it thus calls into question the explanation mentioned earlier concerning stirring food on Shabbat. An additional problem arises from the sugya in Masekhet Shavuot (17b) which discusses the case of a non-kohen who turns over the sacrificial meat on the altar:

Rav Huna said: A non-kohen who turned over [the sacrifices] with the pitchfork is liable to death. What is the case? If we say that they would not have been consumed had he not turned them over, then this is obvious. And if they would have been consumed even had he not turned them over, then what has he done? No, it is dealing with a case where had he not turned them over they would have been consumed in two hours, and now they are consumed in one hour. This is what he [Rav Huna] comes to teach: that anything that accelerates avoda [the sacrificial service in the Temple] constitutes avoda [and thus a non-kohen who accelerates avoda violates the prohibition against non-kohanim performing the avoda].

We thus have two sugyot – one in Beitza and one in Shavuot – indicating that expediting a process is considered equivalent to the process itself, whereas in Avoda Zara, the Gemara does not consider expediting the cooking process tantamount to cooking with respect to bishulei akum.

The Ritva (in Masekhet Avoda Zara) writes:

What is correct is the following explanation: One would have thought that accelerating cooking is of significance as we say generally, "accelerating avoda is avoda." He [Rav Yehuda in the name of Shemuel] therefore comes to teach that even though it is of significance, here, with regard to food cooked by gentiles, they [the Sages] were lenient and followed the beginning of the process. And now it becomes clear what it said a bit later, "If it was completed in the hands of a gentile, it is permissible" – because they were lenient and said that accelerating cooking is not of significance; but if it was completed in the hands of a Jew then it is certainly permissible, because according to the actual law accelerating cooking is [equivalent to] cooking.

In his chiddushim to Shavuot, the Ritva adds:

And the same applies as well with respect to cooking on Shabbat, that it is possible that he is liable. But there, regarding food cooked by a gentile, the

Rabbis were lenient even in such a case, for there is no concern of [marriage with] their daughters [as a result of excessive social contact], since part of it came about through a Jew.

The Ritva maintained that fundamentally, expediting the cooking process constitutes avoda when dealing with the sacrifices on the altar, and with respect to the prohibition of bishul on Shabbat. A unique, lenient provision applies regarding bishul akum, since the entire prohibition was enacted as a safeguard against intermarriage, and if a Jew was somehow involved the cooking process, this concern does not arise.

The difficulty in the Ritva's comments arises from the word "efshar" ("it is possible") that he inserts in his discussion in Shavuot. The sugya in Beitza states explicitly that one who stirs cooking food on Shabbat is liable, and it is therefore unclear why the Ritva would express ambivalence in this regard. We might answer that although the sugya holds one liable for stirring, this does not necessarily stem from the fact that he accelerates the cooking process; one could attribute this halakha to the enhancement of the food's taste through the even distribution of the spices and other ingredients that results from stirring.

The Ritva himself alludes to this understanding of the prohibition against stirring, in his commentary to Masekhet Shabbat (18b): "We might answer that only the initial stirring constitutes mevashel with respect to the pot because he mixes everything together, and this constitutes the acceleration of cooking." Stirring involves mainly enabling quality cooking by mixing the ingredients. It would appear that even when the Ritva here adds the term "keruvei bishula" ("acceleration of the cooking"), he refers not to the quantitative acceleration of the time required for cooking, but rather to the qualitative enhancement.[2] For this reason, we might suggest, the Ritva, in his comments in Masekhet Shavuot, adds the term "efshar" in the context of stirring on Shabbat, because it is possible that on Shabbat the prohibition relates to not the quantitative acceleration, as in the contexts of bishul akum and avoda, but rather the qualitative issue, which perhaps forms the basis of this prohibition.

Furthermore, we might draw proof from the Gemara that accelerating a melakha such that it will occur more rapidly, in a situation where it would have occurred without the person's involvement only at a slower rate, does not render him liable for violating Shabbat. The Gemara (Shabbat 19a) addresses the question of on which guiding principle Beit Shammai arrived at their view regarding the activities forbidden on Erev Shabbat:

What is the difference between all those [activities on Erev Shabbat] regarding which Beit Shammai enacted [a prohibition], and the beams of the olive press and the weights of the wine press, regarding which they did not enact [a prohibition against loading them before Shabbat to allow the pressing to occur on Shabbat]? Those [activities] that were they to be done on Shabbat one would be liable to a sin-offering – Beit Shammai enacted [a prohibition against doing them] before dark on Erev Shabbat; the beams of the olive press and the weights of the wine press, that were they to be done on Shabbat one would not be liable to a sin-offering, they did not enact [a prohibition].

The sugya clearly presumes that Torah law does not forbid loading a press on Shabbat. Rashi[3] explains this assumption as follows:

They [Beit Hillel and Beit Shammai] agree that one may load them while it is still daytime [on Erev Shabbat] such that the liquid will continue to flow throughout Shabbat. The Gemara asks what the difference is, that Beit Shammai does not disagree [with Beit Hillel] regarding these, and it explains that even if one does this on Shabbat, there is no liability to bring a sin-offering. For when do we say that pressing olives and grapes constitutes an av melakha [primary category of melakha] – only regarding olives and grapes that had not been crushed while it was still daytime, for it would then involve extricating something from its encasement in which it grew, which constitutes a toleda of [the melakha of] dash (threshing). But here, one does not place a beam over olives until they are first ground in the mill, and grapes, too, are first treaded upon by foot. Thus, even without the beam liquid naturally flows, only it does not flow as well as it does now [in the press], and [therefore] it does not resemble dash.

This proves that accelerating the process of the oil or wine's extraction does not violate the Torah prohibition of dash because this would occur even without loading the beam. This is indeed the Gemara's ruling later in the sugya:

Who is the Tanna [that is of the opinion] that anything that would come in any event – it is permissible [to accelerate the process]? Rabbi Yossi Bar Chanina said, it is Rabbi Yishmael, as it says in a Mishna: "Garlic, half-ripe grapes, and parched ears that were crushed while it was still daytime [before Shabbat] – Rabbi Yishmael says, one may finish after dark, and Rabbi Akiva says, one may not finish." And Rabbi Elazar [Ben Pedat] said, it is Rabbi Elazar [Ben Shamua], as it says in a Mishna: "Honeycombs that were crushed before Shabbat and began flowing independently – it is forbidden [to eat the honey on Shabbat], and Rabbi Elazar allows [eating it on Shabbat]."[4]

In light of this, it would seem that the Ritva was understandingly ambivalent as regards the issue of whether stirring on Shabbat constitutes a violation because of the acceleration of the cooking process; after all, Torah law does not forbid accelerating the process of extracting oil from olives. If we wish to distinguish between bishul and pressing olives, we might claim that the prohibition of bishul differs fundamentally from pressing, in that a person does not actually cook an item through active involvement; he merely places the food over the fire and the process occurs independently. The Torah prohibition of bishul forbids setting the process into motion, and therefore specifically in this context one might bear liability for merely accelerating the process. With regard to pressing olives, by contrast, there is, on the fundamental level, a concept of actively pressing, and hence accelerating the process would not be of significance in terms of violating this prohibition.

The Shevitat Ha-Shabbat (introduction to Dash) likewise addresses this problem: "Regarding all melakhot one bears liability even for accelerating [the process], as we find with regard to bishul, that if it would have cooked without his actions in two hours, and now it will cook in one hour, he bears liability." He answers, "The main rationale is as they said in the Yerushalmi (Shabbat 1:9) that every drop was [already] released [from its original location in the olive] while it was still daytime, and the concept of 'threshing' is not initiated through his actions." In his view, accelerating the process indeed does, fundamentally, render one liable, but the melakha of threshing differs in that the process is completed already at the first moment. The melakha's definition, the Shevitat Ha-Shabbat claims, is releasing the drops from their initial location, and this occurs at the very first moment of pressing. According to our approach, accelerating a melakha process fundamentally does not render liability, and bishul marks an exception for the reason we discussed.

Conditions and Limitations on the Prohibition

The Gemara in Masekhet Shabbat (18b) questions why Beit Hillel allowed placing wool in a pot (for dyeing) before Shabbat, and were not concerned (as they are in other instances) that one may stir the coals to accelerate the process. Shemuel responds that Beit Hillel allow placing wool before Shabbat only in a pot that is off the fire. The Gemara then asks, "Let us be concerned that he might stir it?" to which it responds that Beit Hillel deal with a case of a pot that is off the fire and sealed shut, such that a person will not mistakenly open the lid and stir the dyes. It thus emerges that we are, in fact, concerned that one may stir the contents of a pot even off the fire. The Gemara here deals with the process of dyeing, rather than cooking, and the Rishonim disagree in explaining the sugya and as to its impact upon bishul.

Rashi (s.v. meigis) comments, "He stirs it, and regarding [the melakha of] mevashel[5], it constitutes bishul." It appears that Rashi accepts the equation between the laws of bishul and those of tzovei'a (dyeing); the Gemara's discussion relates to the issue of tzovei'a, but under the same conditions in the context of food one would be liable for bishul.[6]

The Rosh (Shabbat 1:34) explained Rashi to mean that "it constitutes mevashel; even though it is off the fire, one who stirs it while it is boiling 'cooks'." According to the Rosh's understanding, stirring wool in a pot violates the melakha of mevashel. The only difference between the two explanations involves this case – whether one violates tzovei'a or mevashel. When dealing with food, however, both would certainly concur that one violates mevashel even if the pot is off the fire.

To which kind of food would this apply: only a food that has yet to be completely cooked, or even a fully-cooked item?

The Rosh writes elsewhere (Shabbat 3:11):

It stands to reason that so long as [the food] has not reached [the point of] ma'akhal Ben Derusai [where it can be eaten under extenuating circumstances], one who accelerates its cooking is liable. And after it reaches ma'akhal Ben Derusai, if it cooled and one boiled it, he is liable… And that which the Gemara asks in the first chapter, "Does he not stir?" even with regard to a boiling pot – we might say that dyes used for coloring always require cooking; or, it does not ask on the basis of bishul, but rather on the basis of tzovei'a: when one stirs, he brings the dyes into the wool.

The Rosh here raises the question of why the Gemara holds one liable for stirring a boiling pot of wool in dyes off the fire, at which point it has presumably already passed the point of ma'akhal Ben Derusai, seemingly warranting the application of the rule of ein bishul achar bishul (items that have already been cooked are no longer subject to bishul). He suggests two answers:

1) The process of dyeing wool always requires more cooking; this corresponds to the Rosh's position we saw earlier, that the Gemara there refers to the prohibition of mevashel.
2) The violation in this case involves not the melakha of mevashel, but rather tzovei'a, because stirring does not violate bishul if the item has already passed the point of ma'akhal Ben Derusai.[7]

According to the approach we suggested earlier in explaining Rashi, no difference exists in this regard between tzovei'a and bishul, and stirring

constitutes a violation even when dealing with a cooked food that is off the fire. It stands to reason that this would apply even if the food is fully cooked, since one does not normally take a pot off the fire before its contents have fully cooked. The difficulty inherent in such a view notwithstanding, we find it explicitly cited in Darkhei Moshe (318) in the name of Mahari Weil, and the Rama even brings it as the final halakha: "Optimally, one must be careful even regarding a pot, under any circumstances." Meaning, one must refrain from stirring even a pot of fully-cooked food that was already removed from the fire.[8]

This position also emerges – and in even sharper fashion – from a question raised by the Rashba in our sugya:

From that which is said [here in the sugya] regarding a pot that is off the fire and sealed shut, it seems that [the prohibition of] stirring applies even with a pot off the fire, because stirring a keli rishon is tantamount to bishul. I find it difficult: If this is so, how do we remove with a spoon [liquid] from a kettle or pot that was taken off [the fire] while it was boiling – this is stirring!

The Rashba's question is predicated on the assumption that stirring is forbidden even with fully-cooked food that has been removed from the fire, as we understood within Rashi's view. In addition, the Rashba works off the even more stringent assumption that merely removing the contents of a pot with a utensil amounts to stirring, such that we cannot allow removing food from a pot on Shabbat.

The Rashba did not accept these two assumptions as the final halakha, as he presents two answers to his question, which reflect different understandings of the prohibition of stirring. His first answer is as follows:

Only the initial stirring constitutes mevashel with respect to the pot because he mixes everything together, and this constitutes the acceleration of cooking. But this is not the case with the subsequent stirrings, because after the first one mevashel does not apply to a pot.

The distinction between the initial stirring and subsequent stirrings lies in the fact that only the initial stirring results in the qualitative enhancement of the food through the equal distribution of the spices' flavor throughout the entire pot. The Ramban answers similarly, but I believe there is a significant difference between the two formulations. The Ramban writes: "It would appear that one is liable only for the initial stirring, because it cooks quickly only through this stirring, such that this, too, turns out to be cooking." According to the Ramban,

the initial stirring differs in that only it yields the effect of accelerating the cooking process, whereas the Rashba focuses not on the quantitative acceleration, but rather the qualitative acceleration, which, in his view, occurs only during the initial stirring.

The Rashba then presents a second approach:

I can also answer that anything that is cooked to the point of ma'akhal Ben Derusai is not subject to [the prohibition of] stirring, for stirring renders liability only because [it amounts to] cooking, and once it reaches ma'akhal Ben Derusai, it is no longer subject to mevashel.

This answer hinges the prohibition of stirring on that of bishul, and is more clearly understood according to the view which sees stirring as the acceleration of the cooking process: the moment the food is already cooked, we can no longer speak of further cooking, not to mention that we can no longer speak of accelerating the cooking process, which has already been completed.

The Rambam's View

The Rambam writes (Hilkhot Shabbat 3:11), "It is forbidden to insert a ladle into a pot on Shabbat while it is on the fire to remove [food] from it, because he stirs with it, which is among the necessities of cooking, and it would thus turn out that he cooks on Shabbat."

Several important points emerge from this passage:

A. Stirring is forbidden only while the pot is over the fire. The Kesef Mishneh, however, explains, "It seems to me that what our Rabbi wrote – 'while it is on the fire' – is not [intended] to be precise; rather, anything that was taken off while it was boiling is referred to as 'on the fire'." This reading, however, is far from simple; the Kolbo (31), for example, accepted the straightforward reading of the Rambam's comments: "And even though it is forbidden to cook or to stir a pot while it is still on the fire because this is a toleda of mevashel… and it is forbidden to insert a ladle into a pot to remove meat from it while it is on the fire because one [thereby] stirs it."

Later in Hilkhot Shabbat (21:13), the Rambam rules, "Therefore, it is permissible to complete the pounding of the grits with the wooden ladle inside the pot on Shabbat after it is removed from the fire."

The Rambam clarified his ruling in a responsum (305, cited in Beit Yosef, end of O.C. 321):

A pot of porridge that is left on the stove on Shabbat – the next day, when the pot is taken off the stove, one inserts the wooden ladle and stirs it excessively, mixing it and striking it with the wooden ladle against the sides of the pot or inside the pot until the meat, the grits and the water are mixed and become dense, and they all become a single entity. Sometimes one would remove water from its surface and then mix it, and sometimes one would add hot water, according to what it needs. Are all these things forbidden or permissible?
Answer: All of this is undoubtedly permissible… This is a fortiori: If it is permissible to complete the pounding of parched ears, which have not been completely pounded on Shabbat, then certainly [this would apply to] the grits, which have already been pounded and fully cooked and require only mixing… And pouring water into the pot is permissible. Therefore, one is permitted to do all these things after removing the pot from the stove, for this involves only pounding."

Regarding these comments, too, we encounter a debate between the Beit Yosef and the Kolbo. The Beit Yosef gives the following explanation for the Rambam's restriction of this halakha to when the pot is no longer on the fire: "And even according to what I wrote in siman 318, that so long as the pot is boiling [stirring] is forbidden because stirring is tantamount to cooking, here, immediately upon its removal from the fire one may stir it, since it has already been fully cooked." According to the Beit Yosef, the prohibition of stirring applies even after the pot's removal from the fire, because stirring has the status of actual bishul, which applies even in a keli rishon off the fire. Therefore, he must explain that when the Rambam allows stirring only when the pot is off the fire, he refers only to fully-cooked food, to which bishul does not apply, and thus stirring is permissible.[9]

The Kolbo, however, writes (ibid.), "It is permissible to pound gourds or onions with the wooden ladle inside the pot after it is removed from the fire." Later in this chapter, the Kolbo writes:

They must ensure not to add that water while the pot is over the fire, because they mix and stir in the pot in order to mix it thoroughly, and we maintain that stirring renders one liable for mevashel even in a previously-cooked pot[10], so long as it is on the fire. But a pot off the fire is not subject to [the prohibition of] stirring. And that which [the Gemara] asks in the first chapter of Shabbat regarding a pot off the fire, "But does he not stir with it" – it says this not in

reference to mevashel, but rather in reference to tzovei'a; and this is how they z"l and the Rambam explained.

The Lechem Mishneh likewise understood the Rambam to mean that the prohibition against stirring applies only to food over the fire.

B. It also emerges from the Rambam's comments that the prohibition against stirring applies even to fully-cooked food. He mentions this halakha in the context of the laws of hachazara – returning a pot to the fire[11], and the Rambam certainly held that one may not return to the fire a pot of food that has yet to be fully cooked, since bishul applies until the food is completely cooked. Nevertheless, the Maggid Mishneh understood the Rambam to mean that only if the food has yet to be fully cooked stirring is forbidden, and the Kesef Mishneh understood this way, as well. The Kolbo, however, explained that the prohibition applies even to a pot of fully-cooked food.

In summary, we have seen three main views concerning the scope of the prohibition of stirring:

1. The prohibition has the same parameters as standard bishul; it applies even in a keli rishon off the fire, and only to food that is still subject to bishul. According to the view that bishul does not apply to food that has already reached the point of ma'akhal Ben Derusai, stirring would likewise be permitted; and if bishul remains applicable until the food is completely cooked, so does the prohibition of stirring (conclusion of the Rashba and Ramban; Maggid Mishneh and Kesef Mishneh in interpreting the Rambam).
2. Stirring is forbidden even with fully-cooked food, and even off the fire (our understanding of Rashi; Mahari Weil, cited by the Rama in Darkhei Moshe and his glosses to the Shulchan Arukh).
3. The prohibition of stirring applies even to fully-cooked food, but only over the fire (Rambam as understood by the Kolbo).[12]

In conclusion, let us briefly explain the rationale underlying the various positions. If stirring is forbidden due to the quantitative acceleration of the cooking process, it should be restricted to the parameters of actual bishul (first view). If we speak in terms of the qualitative enhancement of the food as discussed earlier, then we could perhaps apply the prohibition even to fully-cooked food, and even off the fire (second view).

We might explain the Rambam's view in light of his own description of stirring as "mi-tzorkhei ha-bishul" – "among the necessities of cooking." The Rambam employs similar terminology in two other contexts: he describes

wringing a wet garment as "among the necessities of laundering," and stretching a stitching thread as "among the necessities of stitching." These three instances share the common denominator of an action that only indirectly impacts upon the cooking, laundering of the garment, or stitching a torn garment, but that nevertheless comprises an integral part of the general process of the given melakha: stirring is part of cooking, wringing a garment is part of the laundering process, and stretching the threat is an integral component of sewing.

The concept underlying the stirring prohibition, then, is its comprising an inseparable part of the cooking process, irrespective of its precise role. It can function either to mix the tastes or to regulate the cooking of all parts of the food, or serve any other purpose. But the liability for stirring stems from its being part of the process. Hence, one would violate this prohibition so long as the cooking process is taking place, meaning, so long as the pot is on the fire. Once the food is removed from the fire, the cooking process has ended and one can no longer be held liable for stirring.

In the next shiur we will iy"H continue our discussion of this subject.

Notes:

1. It appears from context that Rashi classifies stirring as a toleda (derivative) of mevashel, and that mevashel, too, is a primary category of melakha. This emphasis regarding the status of mevashel is perhaps intended to inform us that although the Mishna that lists the thirty-nine melakhot mentions ofeh, baking, rather than mevashel (cooking), nevertheless, mevashel, too, constitutes an av melakha (primary category of melakha) even though it did not earn explicit mention in the Mishna's listing. Furthermore, Rashi perhaps meant that had mevashel been but a toleda of ofeh, one would not be liable for stirring as a toleda of mevashel, since toledot do not themselves have toledot. It should be noted that Rabbenu Chananel (Shabbat 73b) was of the opinion that toledot can, in fact, have their own toledot.
2. Later we will discuss other aspects of these comments of the Ritva.
3. In his commentary to the Mishna, 18a.
4. The Ritva (chiddushim to Shabbat 19) elaborates on the dispute between Rabbi Yishmael and Rabbi Akiva; iy"H we will discuss his comments in a future shiur on the subject of dash.
5. This is the correct text, whereas in prevalent editions the word reads, "u-ve-mevushal."
6. I believe this is how the Maharshal, in Chokhmat Shelomo, understood Rashi's position; see Maharsha. See also Bach, beginning of O.C. 252.

7. Tosefot write that the violation here is that of tzovei'a, perhaps following the second explanation of the Rosh; see Maharsha's discussion of Tosefot's comments.

8. In next week's shiur we will address the basis for such a position and the poskim's reaction to it.

9. The food may not be stirred before its removal from the fire, despite the fact that it has already fully cooked, because Chazal forbade cooking of any sort on the fire on Shabbat, as the Rambam writes earlier in Hilkhot Shabbat (9:3), "One who cooks over the fire an item that is fully cooked or an item that does not need cooking at all is exempt [from punishment, indicating that it is forbidden mi-de-rabbanan]."

10. See below, paragraph B.

11. Later in this halakha, the Rambam writes, "It is permissible to return [a pot] from one stove to another stove…"; this is the general context of this chapter. In the next shiur we will address the Rambam's inclusion of this halakha specifically in chapter 3, and we will suggest several other approaches in understanding the Rambam's view.

12. As mentioned in the previous note, other approaches, as well, have been taken in understanding the Rambam's position.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 15: Stirring Food in a Pot on Shabbat (Part 2)

The previous shiur dealt with the fundamental basis of the prohibition against stirring food over a fire on Shabbat, and analyzed the debate among the Rishonim regarding the limits of its application. This week we will complete this topic by addressing the specific laws of stirring on Shabbat and the practical halakhic conclusions.

Inserting a Ladle into the Pot

When one wants to remove food from a pot, he inserts a spoon or ladle. Does this constitute stirring with respect to the prohibition against stirring over a fire on Shabbat?

1. The Rambam writes (Hilkhot Shabbat 3:11): "It is forbidden to insert a ladle into a pot on Shabbat while it is on the fire to remove [food] from it, because he stirs with it." This appears to mean that inserting a ladle constitutes stirring because it is practically impossible to insert it without stirring slightly. The Maggid Mishneh, however, explained that inserting a ladle does not constitute "stirring," but the Rabbis forbade doing so out of concern that one might then proceed to stir. On this basis, the Maggid Mishneh concluded that inserting a ladle is forbidden only in cases where actual stirring would violate a Torah prohibition. He understood the Rambam as referring to food that had not been fully cooked[1], the stirring of which clearly violates the Torah prohibition of bishul, and for this reason the Rambam forbade inserting a ladle. Furthermore, this explains why the Rambam introduces this halakha here, in chapter 3, which deals with issurim de-rabbanan (prohibitions enacted by Chazal), rather than the Torah prohibitions of bishul.

The obvious difficulty with the Maggid Mishneh's interpretation is the straightforward reading of this passage, which clearly suggests that inserting the ladle itself constitutes stirring. The Maggid Mishneh seems to have understood

the words "mipenei she-meigis ba" ("because he stirs with it") to mean "because he might then stir with it"); in any event, his reading is difficult to sustain. (See also Lechem Mishneh.)

We might suggest a different explanation of the Rambam's comments. Inserting a ladle indeed constitutes stirring, but the Rambam deals here with fully-cooked food, as implied by the context of the halakhot in this chapter[2]. Now according to the Maggid Mishneh, the Torah prohibition of stirring does not apply to fully-cooked food. Hence, we might suggest that the Rambam speaks here of a rabbinically ordained prohibition against stirring fully-cooked food over the fire, corresponding to the rabbinic prohibition against returning cooked food to the fire, which they forbade because it gives the appearance of cooking.[3] According to this approach, there is no halakhic difference at all between stirring and inserting a ladle.

We must recall, however, that according to the Kolbo (as we discussed in the previous shiur), the Rambam forbids on the level of Torah law stirring even fully-cooked food over the fire. If we wish to explain that inserting a ladle does not amount to stirring, then we would claim that for this reason the Rambam presents this halakha as an issur de-rabbanan – because in this case one does not actually stir. But if we understand the Rambam to mean that inserting the ladle indeed constitutes stirring, we must approach this halakha as a Torah prohibition. We might then explain that the Rambam included it in this context because this chapter deals with the laws of hachazara – removing a pot from the fire and then returning it, and given the restrictions that apply in this regard, one might remove food from the pot with a ladle while it is on the fire. The Rambam therefore included this halakha within the context of hachazara as a warning to avoid stirring food on the fire.

The Rambam's primary treatment of the laws of stirring appears in chapter 9 of Hilkhot Shabbat, where he explicitly classifies stirring as a Torah prohibition:

If one person placed the fire, another placed the wood, another placed the pot, another placed the water, another placed the meat, another placed the spices, and another came along and stirred – they are all liable for bishul, because anyone who performs an act that is among the necessities of cooking is considered cooking.

2. Regarding the position of the Rosh, too, considerable controversy exists among later scholars. The Rosh writes (Shabbat 1:34), "One who stirs it – he cooks, not to mention that it is forbidden to insert a ladle into a pot while it is on

the stove." The Korban Netanel (ibid. 2) explained that the Rosh draws no distinction between stirring and inserting a ladle. When the Rosh writes, "not to mention," he means that if stirring is forbidden off the fire, then certainly one may not stir in a pot that still sits on the stove. He infers that if the Rosh makes this fortiori argument from stirring to inserting a ladle, then clearly he drew no distinction between them. By contrast, the Tiferet Shemuel, in his commentary to the Rosh (3:11:16), writes:

And that which he wrote above…that it is forbidden to insert a ladle into a pot while it is still on the fire, implying that [inserting is forbidden] even without stirring, but simply taking and removing from the pot – it does not seem correct to me at all that such a thing would constitute bishul; nevertheless, it is forbidden mi-de-rabbanan, lest he mix it and stir and thereby be liable to sekila (stoning).[4]

It is not clear whether he challenges the Rosh because he understood that the Rosh equated inserting a ladle with actual stirring, and he disagrees with this equation, or if he assumes that even the Rosh distinguished between the two, and he feels that one may insert a ladle into a pot off the fire, because inserting a ladle is forbidden only as a safeguard and should therefore be allowed off the fire.[5]

3. As opposed to the comments of the Rambam and Rosh, surrounding which a good deal of ambiguity exists, the positions of two other Rishonim are perfectly clear and unequivocal. The Rashba writes, "How can one remove [food] from them with a ladle – this is stirring!" We find this formulation in the Meiri, as well. By contrast, the Ra'avad writes in his hasagot to Mishneh Torah (Shabbat 3:11), "He exaggerated by forbidding even removing from a pot with a ladle."

Thus, the Rishonim debate the issue of whether inserting a ladle into a pot is forbidden by Torah law, or only mi-de-rabbanan. In the next section, we discuss the conclusions of the poskim on this issue.

The Final Halakha

The Shulchan Arukh (318:18) rules:

A kettle or pot that one removed from the fire while it was boiling – if [the food] was not fully cooked, one may not remove from it with a ladle, as he will turn out to be stirring, which violates mevashel. If it was fully cooked, it is permissible; but wool in a pot [for the purpose of dyeing] – even though the coloring was absorbed, it is forbidden to stir it (meaning, to move it with a spoon).

It emerges from the Shulchan Arukh that stirring is equivalent to cooking and subject to the same restrictions that apply to cooking, in accordance with his understanding (in Kesef Mishneh), as well as that of the Maggid Mishneh, of the Rambam. Thus, we may conclude the following points:

1) Stirring is forbidden so long as the food has yet to be fully cooked.
2) The prohibition applies even off the fire.
3) Even if the food is fully cooked, a rabbinic prohibition forbids stirring it over the fire, as this gives the appearance of cooking.
4) It also appears from the Shulchan Arukh's comments that inserting a ladle itself constitutes stirring, and therefore one may not remove food from a pot with a ladle until after removing the pot from the fire. However, from his comments in the Beit Yosef, where he cites the position of the Maggid Mishneh – that inserting the ladle is forbidden merely as a safeguard against actual stirring – without mentioning that others disagree, it appears that he accepts this opinion of the Maggid Mishneh. We would therefore conclude that if the food has been fully cooked, one may remove food from it even over the fire; since stirring fully-cooked food is itself forbidding only mi-de- rabbanan, one may insert a ladle, even over the fire. Indeed, this is how the Mishna Berura understood the Shulchan Arukh: "If [the food] is fully cooked, even if it sits on the fire, one may remove with a ladle; such is the implication of the Beit Yosef."

The Eliya Rabba, however, disagrees: "However, when it is on the fire, certainly we must forbid removing [food from it]." In his view, we should concern ourselves with the view of the Kolbo[6], in interpreting the Rambam, that the stirring prohibition applies – on the level of Torah law – even to fully-cooked food over the fire, and thus one should not remove food if the pot is still on the fire.

The Rama rules, based on the Mahari Weil, "Optimally, one must refrain [from removing food with a ladle] in every case, even regarding a pot." According to his view, one may not remove food with a ladle even if the food has completely cooked and is no longer on the fire. One must therefore first softly pour the food directly from the pot into a bowl, without using a spoon or ladle.

However, the Magen Avraham writes, "Everyone is accustomed to allow this with types of legumes, removing them with a spoon, since there is no other option, and they have authorities on whom to rely." Meaning, it is very difficult to pour legumes into bowls without using a spoon because they stick to the bottom of the utensil. This comment requires further clarification, but in any event, the Mishna Berura brings Acharonim who observe that common practice does not follow this stringent ruling of the Rama. He adds in Bei'ur Halakha: "The Magen Avraham implies that regarding other types [of food], besides legumes,

which can be easily poured from a pot to a bowl, one should optimally pour and not remove with a spoon; but common practice is not to do so."

According to the Mishna Berura, it is entirely permissible to remove from a pot with a ladle, and even stirring is permissible according to the strict Halakha, since the food is fully cooked and off the fire. Nevertheless, he writes that one who wishes may be stringent with regard to stirring. The Taz and Eliya Rabba likewise maintain that one should refrain from stirring in this situation – when the food is fully cooked and off the fire – but need not refrain from removing food with a ladle.

I then saw the actual comments of the Mahari Weil (in siman 30), the source of the Rama's ruling, and it appears that even he ruled stringently only with regard to actual stirring, while allowing one to remove food with a ladle. He writes:

When one places[7] a pot from the fire to remove food from it, he should not stir it with a spoon, for this constitutes cooking, as stated in the first chapter of Shabbat, regarding a pot that is sealed and off the fire, that one may not stir it; and this is indeed what I observed in the home of Mahari z"l.

He appears to forbid only actual stirring, and not removing with a ladle. In fact, he seems to warn that when one wishes to remove food from the pot, he should not stir the food with the ladle, while allowing removing the food with the ladle. It is possible that when the Rama forbade this "in every case," he referred specifically to actual stirring, and not to simply removing food.[8]

If one uses a large, heavy pot that cannot easily be removed from the fire, such as in large institutions, where small amounts of food must be removed from a large pot on the fire, Rav Moshe Feinstein nevertheless requires that the pot first be removed from the fire:

If the pot is heavy, then if it is over the fire, such that an issur de-rabbanan applies, it is forbidden even to remove with a ladle…for when it is on the fire there is in any event a reason to forbid, as the Tiferet Shemuel wrote, and there is also the view of the Kolbo that this is forbidden according to Torah law, even if this is difficult to understand… It is therefore a stringent [prohibition] and we should forbid even regarding a heavy pot. But when one removed it from the fire one need not be stringent regarding a heavy pot, as in [the case discussed by] the Magen Avraham.

The Chazon Ish addressed a case of a pot over an open flame, such that if one would remove it from the fire, it would be forbidden to return it to the fire (due to the prohibition of hachazara). He rules, "It seems that if one wishes to leave the pot over an uncovered stove, because if he would remove he would be unable to return it, and he has no option other than removing [food] with a ladle, one may be lenient."

It stands to reason, in my humble opinion, that the Chazon Ish would apply this ruling even in the case of a heavy pot which is difficult to remove from the stove, and would allow removing food from it even over the fire.

Stirring Water

The Avnei Neizer (59) cites Rav Yehoshua of Kutna as asserting that the prohibition against stirring does not apply to water. The reason, it would seem, is that stirring water does not disseminate spices throughout the pot or accelerate the cooking process, since the pot contains just a single, homogeneous liquid. Rav Moshe Feinstein (Iggerot Moshe, O.C. 4:74) follows this opinion, on the basis of the aforementioned comments of the Tiferet Shemuel:

Both according to what I wrote regarding the Kolbo, that [stirring is forbidden] because there are small pieces that have not been cooked, and according to the reason of the Tiferet Shemuel, that one may be mistaken [and think the food is fully cooked], this does not apply to water if it has already been completely boiled. If [the water reached] only the level of yad soledet, one may certainly be mistaken; but if it boiled, there is no longer the possibility of a mistake.

In his view, then, one may stir water only if it has already boiled.

Regarding, soup and the like, however, it would seem that the prohibition against stirring would apply, since stirring mixes the contents that have sunken to the lower part of the pot and mixes them so that the flavor spreads equally throughout the pot. Therefore, according to the Rama, one should refrain from removing soup with a ladle from a pot over the fire. According to the Shulchan Arukh, however, as mentioned earlier, one may remove food from a pot if it has been fully cooked. If the soup is entirely liquid, one may be lenient even according to the view of the Rama.

If a pot contains only solid pieces of food, one may remove pieces from it even over the fire, since this does not involve stirring at all.

Covering a Pot

The Shulchan Arukh (254:4) writes:

Fruits that can be eaten raw – one may place them around [the bottom of] a pot [on Erev Shabbat] even though it is impossible for them to roast while it is still daytime [before the onset of Shabbat]. However, one must ensure not to return the cover if it became uncovered after dark, and not to add to it [the covering] before they are roasted, because this accelerates their cooking on Shabbat.

From this passage it appears that on Shabbat one may not place a covering over an exposed pot containing food that has not been fully cooked, since this contributes to the cooking process. Covering a pot is considered equivalent to mixing and stirring the food in the pot, and therefore one may not cover a pot containing food subject to the prohibition against stirring. This equation between covering and stirring emerges from a sugya in Chulin (108b), which states that when a drop of milk falls into a pot, just as mixing the pot spreads the drop throughout the food, so does covering the pot yield this effect of mixing together all the pot's contents as a result of the steam inside the pot. Accordingly, the Shevitat Ha-Shabbat rules (in Be'er Rechovot, Ofeh, 81), "Therefore, it is forbidden to cover a utensil on Shabbat even if [the food] was fully cooked, just as it is forbidden to stir."

Nevertheless, it seems clear that if a pot of fully-cooked food was covered, and one removed the cover to assess the status of the food or to remove food when doing so is permissible, as discussed above, he may return the cover afterwards. Returning the cover in such cases differs from stirring, and more closely resembles returning a pot to the fire, which Halakha permits under certain conditions.[9] It is permissible to add further coverings to a pot that is already covered if the food has fully cooked, as this does not have the effect of mixing the contents of the pot. If, however, the food has yet to finish cooking, adding further coverings accelerates the cooking process and is therefore forbidden.[10] This distinction, between covering an exposed pot and adding onto the existing covering of a pot, emerges from a responsum of Rav Moshe Feinstein (Iggerot Moshe, O.C. 4:74:10):

Is it permissible to cover on Shabbat a pot that has fully cooked? For it appears from the Shulkhan Arukh Ha'Graz (254:4) that this is allowed, but the Acharonim are divided on the issue.
Response: Placing a cover on a pot, which the Meiri (Shabbat 73) writes [renders one] liable, refers to a covering over a pot that is totally open on top. And the covering mentioned in the Shulkhan Arukh Ha'Graz 254:4 is a covering on top of

a pot's cover, in the manner of hatmana [smothering food to keep it warm], regarding which there is clearly no liability, for it is unclear whether it can cook in this fashion. He nevertheless forbids [adding more coverings] if [the food] has not been fully cooked… One must therefore explain that this is because of the fruits which have not been fully cooked, as one had placed them near a hot pot covered with garments, and with respect to them this is like a pot placed over coals. This still requires further explanation, but in any event, this is dealing with an additional covering. As far as the final halakha is concerned, since it is fully cooked, there is no prohibition of bishul, and it stands to reason that the Kolbo renders one liable only if he stirs, for the reason that I have written, because of the small pieces [in the pot that may not have been fully cooked], and this does not apply with regard to placing a covering, even on a completely open pot. Also, according to the final Halakha, stirring over the fire is, after all, only mi-de-rabbanan, and we should thus permit [placing a cover]. But according to the Tiferet Shemuel's reason, that they were stringent regarding stirring over the fire because one might be mistaken [and think the food is cooked], here, too, we should forbid covering an open pot.[11]

Summary

1. One may not stir a pot over the fire, even if the food has been fully cooked, either by force of rabbinic enactment, or out of concern for those who maintain that this involves a Torah prohibition.
2. One may remove food from a pot of fully-cooked food off the fire.
3. One may not stir a pot containing food that has yet to finish cooking, or remove some food from such a pot, even off the fire.
4. According to the Shulchan Arukh, one may remove food with a ladle from a pot of fully-cooked food over the fire; according to the Mishna Berura, this is permissible only off the fire, but when the need arises, such as over an open flame, the Chazon Ish permitted removing food even without taking the pot off the fire.
5. The prohibition against stirring does not apply to water; the authorities debate the issue of whether it applies to soup, so one should preferably refrain from stirring soup in the situations mentioned above.
6. One may not cover an open pot over the fire, even if the food inside it has fully cooked. If a pot over the fire contains fully-cooked food, one may add to an existing cover (such as by placing a towel over the cover); if the food is not fully cooked, one should not add to the covering.

This shiur was the last in our series discussing the Torah prohibition of bishul; starting next week, we turn our attention to the various gezeirot (safeguards) enacted by Chazal regarding warming foods before and during Shabbat.

Notes:

1. See our discussion in the previous shiur regarding the Rambam's comments in this passage.
2. See note 1; the Rambam in this context deals with the laws of hachazara – returning cooked food to the fire.
3. Later in this series we will iy"H explain the laws of returning cooked food to the fire at greater length.
4. Rav Moshe Feinstein (Iggerot Moshe 6:74) writes the following based on the comments of the Tiferet Shemuel:

But while it is still on the fire there is a rabbinic prohibition, for the reason explained by the Tiferet Shemuel…that one might mistakenly figure that the food is fully cooked and will incur liability to sekila. It seems that one might make this mistake while it is on the fire, and there is thus some degree of uncertainty. When he writes mi-de-rabbanan, he means that according to Torah law, we might follow the statistical majority of people who do not make such a mistake. He therefore wrote that they forbade mi-de-rabbanan even inserting the ladle, out of concern for stirring. This is not a gezeira le-gezeira [a rabbinic enactment to safeguard another rabbinic enactment, which Chazal generally do not impose], since there is, after all, a degree of uncertainty. But once it is removed from the fire, it appears that one will not make such a mistake, and therefore even actual stirring is not forbidden. Nevertheless, it would appear that it is laudable to refrain from stirring even once it is removed from the fire. This is what the Mishna Berura meant when he wrote (17), "One who wishes to be stringent should refrain from actual stirring," meaning, this does not involve arrogance. But one should not be stringent at all with regard to removing [food] with a ladle [off the fire] – meaning, this is not a laudable stringency at all.

5. I am more inclined towards the first reading.
6. See se'if katan 39-40.
7. "Ke-she-mesimin." This is most likely a misprint, and should read "Ke-she-mesirin" – "When one removes…"
8. See also the comments of the Iggerot Moshe, cited above, note 4.
9. One must ensure, however, to dry the cover so that no drops of liquid remain on it. These drops cool off very rapidly, and since we follow the view that a cooked liquid that has cooled is subject to bishul, reheating them would violate bishul. There is room to discuss whether one may be lenient in this regard since this involves a pesik reisha de-lo nicha lei (meaning, one has no interest in the result of the cooking of these drops), factoring in as well the view among the Rishonim that bishul does not apply to previously-cooked liquids.
10. One should avoid covering a pot with blankets, due to the prohibition of hatmana – a subject that we hope to address in a later shiur.
11. See also Shemirat Shabbat Ke-hilkhata, 1:35 and notes.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 16: Review and Supplementary Details

In this shiur we will complete several issues relevant to the topics discussed in earlier shiurim: 1) The status of a keli shelishi; 2) Pouring from a keli sheni; 3) Whether pipes carrying hot water are considered a keli rishon; 4) Warming food in an area where it can reach the point of yad soledet bo.

Keli Shelishi

In our discussion regarding the status of a keli sheni, we mentioned a debate between the poskim as to whether bishul can occur when placing certain easily-cooked foods – called kalei ha-bishul ("easily cooked") – in a keli sheni. In this shiur, we will examine the possibility of this concern arising even when dealing with a keli shelishi.

The Yerei'im writes (274; p. 134a):

Bishul depends neither on a keli rishon nor on a keli sheni, but rather on the item being cooked. Sometimes it is a soft item and cooks even in a keli sheni, and there can be a hard item that even in a keli rishon cannot be cooked… A person must therefore ensure not to place any item on Shabbat in a keli sheni and even into a keli shelishi at the point of yad soledet, for we are not proficient in soft and hard items, which cooks in a keli sheni and which does not cook.

However, from the comments of Tosefot (Shabbat 39a s.v. kol she-ba), it appears that one is allowed to cook in a keli shelishi. They address the halakha in the Mishna permitting one to pour hot water onto food before Shabbat even according to the view that equates iruy (pouring) with a keli rishon. Clearly, the Mishna allows pouring onto the food only from a keli sheni, thus proving the bishul does not occur in a keli sheni. But Tosefot conclude that the primary intent of the Mishna is to instruct that iruy from a keli sheni is forbidden with easily-cooked foods such as kulias ha-ispenin (a type of salty fish). They write,

"It [the Mishna] speaks of 'rinsing' [pouring from a keli sheni] to instruct that even rinsing constitutes the final preparation of maliach ha-yashan and kulias ha-ispenin."

At first glance, we would infer from Tosefot that specifically pouring from a keli sheni is forbidden when dealing with kalei ha-bishul, but not placing in a keli shelishi. Alternatively, one might insist that Tosefot intend merely to establish the prohibition of pouring from a keli sheni, not necessarily to permit placing an easily-cooked food in a keli shelishi. Shemirat Shabbat Ke-hilkhata (siman 1, note 148; notes in se'if 57) addresses this question and appears to conclude that one may not place a kulias ha-ispenin even in a keli shelishi.

The Beit Yosef and Bach, in their respective discussions of the Tur's position, seem to disagree with regard to this issue. The Tur (318) writes:

A basin with hot water for bathing, even if it is a keli sheni – it is forbidden to put cold water in it; for since it is meant for bathing, it is presumably very hot and the cold water mixed with it will be cooked. But it is permissible to pour from it into cold water, because "the bottom triumphs" [the bottom liquid determines the nature of the process, and since the bottom liquid is cold, bishul does not occur].

The Beit Yosef and Bach note that the Tur's comment appears, at first glance, to contradict the straightforward reading of the Gemara (Shabbat 42a), which seems to permit cooking in a basin of hot water.[1] The Beit Yosef, in one of his answers, writes, "Our rabbi [the Tur] held that since the tub mentioned in the Berayta is a keli sheni, the basin, which the Gemara allows, is a keli shelishi."[2]

The Bach dismisses the Beit Yosef's explanation:

This is certainly incorrect, for if so, why does the Gemara ask, "But on Shabbat, there is no bathing in hot water!" Why is this a question? We can say that there is bathing in a keli revi'i. Necessarily, then, there is no distinction between a keli sheni, keli shelishi or [keli] revi'i; they all have the status of a keli sheni.

Accordingly, the Peri Megadim (Eishel Avraham 318:35) writes that the issue of cooking in a keli shelishi hinges on the debate between the Beit Yosef and Bach.[3] The Peri Megadim himself is inclined to rule leniently, as the Mishna Berura cites in his name (318:47).

The Peri Megadim there allows placing even tealeaves in a keli shelishi, but the Mishna Berura mentions his lenient position only with regard to cooking

in water an item that had previously been baked. The Yerei'im forbids this even in a keli sheni, and the Mishna Berura here rules that this is permissible in a keli shelishi, perhaps taking into account the Ravya's position that a baked item is not subject to bishul. If so, then the Mishna Berura would not permit tealeaves, which have not undergone any process of cooking, even in a keli shelishi. Rav Moshe Feinstein, by contrast, in Iggerot Moshe (O.C. 4:74:15), permits cooking in a keli shelishi altogether:

In my humble opinion, it does not seem correct at all to say that there are items which cook in a keli shelishi, for we find only that in a keli sheni there are foods that cook, and therefore since we do not know [which foods these are], we must forbid all items [in a keli sheni]. But in a keli shelishi we don't find [the possibility of bishul].

The Chazon Ish (Shabbat 52:19) writes the following regarding the status of a keli shelishi:

We find no basis for distinguishing between a [keli] sheni and [keli] shelishi, and if items can be cooked in a [keli] sheni, they can be cooked in a [keli] shelishi; this depends only on the heat of the water, that the water is [at the point of] yad soledet bo… However, since this is but a stringency [and not forbidden according to strict Halakha], that which people have a practice of doing – this is their practice, and a keli shelishi is generally not yad soledet bo, and for this reason people were lenient.

It appears from the Chazon Ish's comments that fundamentally, he maintains that no distinction exists between a keli sheni and keli shelishi, and we must therefore forbid both. Nevertheless, he happens to hold that even the prohibition against cooking in a keli sheni constitutes only a chumra (a stringent measure) that is binding only by force of minhag (common practice), and therefore one need not be stringent regarding a keli shelishi once the custom has developed to be lenient. It is unclear whether he permitted cooking in a keli shelishi even at the level of yad soledet. Rav Shlomo Zalman Auerbach zt"l reportedly held that one should refrain from preparing tea even in a keli shelishi and subsequent utensils.

Practically speaking, one who wishes to rely on the Peri Megadim and Mishna Berura's explicit ruling allowing heating other items in a keli shelishi may do so. When it comes, however, to tealeaves, which the Mishna Berura did not explicitly allow in a keli shelishi, and to the contrary, makes no mention of it when presenting the various options for preparing tea on Shabbat (in se'if katan 39), one should preferably be stringent and prepare tea essence before

Shabbat.[4] If one forgot to prepare the essence, it would seem that he may rely on the Peri Megadim and Iggerot Moshe who explicitly permitted preparing tea from tealeaves, and in my opinion even the Chazon Ish forbade doing so only by force of minhag. In any event, it is preferable to be stringent in this regard.

We should add that some poskim maintain that regarding tealeaves we do not apply the principle of ein bishul achar bishul – that a food is not subject to cooking once it has already been cooked. According to these authorities, tealeaves resemble the herbs used in dyes, which, as established in the Gemara (Shabbat 18b), remain subject to bishul regardless of the extent to which they have been cooked. Therefore, as the Chatam Sofer writes (74) in the name of the Ginat Veradim, one should not pour hot water over tealeaves even if they had been cooked before Shabbat. The Chatam Sofer disagrees with this ruling with respect to coffee, since coffee can be eaten roasted. But when it comes to tealeaves, which are cooked only through the emission of their flavor into water, bishul would apply so long as they impart their flavor.[5] This requires further analysis as far as the final halakha is concerned.

Pouring From a Keli Sheni

The Peri Megadim brings the following ruling of the Magen Avraham (447:9): "It seems to me that if [the contents] of a keli sheni spilled onto cold food, one need not be stringent at all." In other words, one may pour from a keli sheni onto cold food. By contrast, it appears from Tosefot (Shabbat 39a) that pouring from a keli sheni is forbidden. Furthermore, it would seem that once we've determined that pouring from a keli rishon is halakhically equivalent to cooking in a keli rishon, we should likewise equate pouring from a keli sheni with a keli sheni itself, and thus pouring from a keli sheni would be forbidden. Alternatively, however, one might contend that we have more reason to rule leniently regarding pouring from a keli sheni because even pouring from a keli rishon is not identical to a keli rishon itself, in that pouring effectuates bishul only to the extent of kedei kelipa (a layer's worth). This requires further analysis.

The Mishna Berura (318:35) allowed pouring from a keli sheni onto a food that had not been cooked before Shabbat, and adds, "Similarly, it is permissible to pour from a keli sheni onto a cold, liquid food, as this is like mere rinsing." This comment seems difficult to understand in light of the Mishna Berura's discussion later (318:39) concerning pouring from a keli sheni onto tealeaves, which he explicitly forbids:

…not to mention that according to what is explained in this paragraph, that there are some items that are easily cooked, that are cooked even through rinsing from

a keli sheni, there might possibly be the concern of a Torah prohibition regarding the leaves, even in such a manner.

We might suggest two approaches to resolve these conflicting rulings:

In the earlier passage he allowed only items that are not considered kalei ha-bishul, which may, strictly speaking, be cooked in a keli sheni. He spoke only of pouring, rather than cooking in a keli sheni itself, perhaps out of concern for Tosefot's position forbidding cooking in a keli sheni on the grounds of mechazei ke-mevashel (it resembles cooking).
He perhaps distinguishes between regular food items, which are subject to bishul only in a keli sheni, and not through pouring from a keli sheni, and tealeaves, which he likened to easily-cooked foods such as kulias ha-ispenin and thus forbade even pouring on them from a keli sheni. This perhaps applies even with regard to a keli shelishi; see our discussion above. See also Eishel Avraham 318:16.

Pipes Carrying Hot Water

The Gemara (Shabbat 40b) states: "Rabbi Yitzchak Bar Avdimi said: I once followed Rebbi into the bathhouse and I offered to place a jug of oil for him in the bathub, and he said to me, 'Take [water] in a keli sheni and place [the jug in the water]." Rashi (s.v. be-keli sheni) explains:

…for them to cool somewhat, because a keli sheni does not cook, and then place the jug into that keli sheni, for this bathtub into which the hot water passes from the fountain [the hot-springs of Tiberias] is considered like a keli rishon in which it had been boiled, for even though it has been removed from the fire, it can cook, as the Mishna states later (Shabbat 42a), "A kettle or pot that was removed [from the fire] as it was boiling – one may not add spices to it."

The Terumat Ha-deshen elaborated further and established that this applies even to water that had been heated by fire and flowed along the ground into a pool or bath; such water, too, has the status of hot water in a keli rishon. He writes (in siman 181), "We thus see that even though he sought to explain it as referring to water heated by fire that had flowed along the ground, it is considered like boiling water in a keli rishon, from the fact that he [Rebbi] said, 'Take in a keli sheni,' as we explained."[6]

The Peri Megadim (Eishel Avraham, 33) understood Rashi to mean that even if the flow of water was disrupted on its way from the heat source to the pipes, it nevertheless has the status of a keli rishon. He writes:

An ambati is a crevice in the ground [into which water] is drawn from a fountain. An ambati is a keli rishon even though it is then disrupted [along the way] from the fountain; since at the time of its drawing it came from the fountain, the ambati has the status of a keli rishon that was then removed from the fire.

Shemirat Shabbat Ke-hilkhata (1:41, and note 122) writes that the pipes that bring water do not have the status of a keli rishon after the fire is extinguished. He apparently understood from Rashi that the pipes are considered a keli rishon only by virtue of their connection to the boiler, which is a keli rishon. But once the pipe loses its connection to the fire, then although the boiler itself remains a keli rishon, the pipes attain the status of a keli sheni.

We should emphasize that one must refrain from opening the hot water faucet on Shabbat even if the boiler is not connected to the electricity, because as soon as hot water leaves the boiler, cold water enters and becomes heated inside the boiler, a keli rishon. On Shabbat morning, if one reckons that the boiler no longer contains hot water capable of heating the new cold water, he may open the hot water faucet.[7]

Warming Food in an Area Where it Can Reach Yad Soledet Bo

The Berayta (Shabbat 40b) states, "One may bring a jug of water and place it opposite the fire, not so that it is heated, but for its cold to escape." Rashi there explains that one may place the water near the fire even at a distance where it can reach the point of yad soledet bo, so long as he ensures to remove it before it cooks. The Rashba, however, disagrees: "It is correct for us to say that they allowed warming only in an area that is not yad soledet bo; but in a place that is yad soledet bo, it is forbidden even to warm, as a safeguard lest one leave it there until it cooks." Tosefot (48a) similarly hold that warming is not permitted in an area where the water can reach the point of bishul:

It seems to the Rashba[8] that when we allow placing a jug of water opposite a fire, this is only at a distance from the fire, such that it can never reach the point of bishul, but [placing it] close by is forbidden, even [if one places it only] to warm it [and not to cook it], lest he forget and come to leave it there until it cooks.

The Rosh, however, writes (3:10):

This is what is said in the Yerushalmi: "It is permissible to warm [water] in an area where the hand retains control [meaning, will not be scalded], but it is forbidden to warm [water] in an area where the hand does not retain control. To what extent? Rabbi Shimon Ben Pazi said in the name of Rabbi Yossi Bar Chanina: to

the point where one's hand would be scalded if he placed it inside it." And that which is said in our Gemara, "Not that it is heated" – if we seek to have [it] correspond to the Gemara of Israel [the Yerushalmi], we can explain "not that it is heated" to mean in a place suitable for it to be heated, and "but for its cold to escape" [to mean] only in a place suitable for its cold to escape, but not to cook, even if remains there all day. And that which Rabbi Yehuda said in the name of Shemuel, "[At the point of] yad soledet bo is forbidden; not [at the point of] yad soledet bo is permissible – this is what he means: [heating to the point of] yad soledet bo constitutes bishul, and therefore it is forbidden to place it in a place where it could possibly be heated to the point of yad soledet bo, [whereas] it is permissible to place it in a place where it will be warmed but not [to the point of] yad soledet bo.

Rav Moshe Feinstein (Iggerot Moshe, O.C. 1:93) explains the Rosh as referring not to merely a concern lest the individual forget to remove it, as Tosefot understood, but rather to a more fundamental issue:

They forbade where it would be cooked if it would remain there all day, even if she intends to remove it beforehand, because the act itself is an act of bishul, since this is what people do when they wish to cook. Therefore, at this point the significance of the activity is not undermined by her actions due to her intention; [it is undermined] only after she actually removes [the pot]. It is therefore forbidden from the outset to do this on the basis of her intention.

In his view, the intention to remove the pot before the food cooks does not suffice to permit placing it there to begin with, because this is precisely how one cooks: he places a pot in a location where the food can cook. And even though no Torah prohibition is violated in such a case, where the individual removed the pot before the food cooked, because in the end bishul did not occur, nevertheless, the act that he performed constitutes an act of bishul, only without meeting the condition of the end result. Chazal therefore forbade this due to the act of bishul that one performs, and not merely as a safeguard.

The Sefer Ha-teruma (231) distinguishes between one who places the liquid near the fire for it to warm, which is forbidden if it can reach the point of bishul at that location, and one who places it only for its cold to escape. In this latter case, it is far less likely that one would leave the liquid there until it cooks, and Chazal therefore allowed placing it even in a location where it could be fully cooked. Of course, this distinction accommodates only the explanation of Tosefot, and not Rav Feinstein's understanding of the Rosh.

The Shulchan Arukh follows the stringent position:

It is permissible to place a jug of water or other liquids opposite the fire for their cold to escape, provided that he places them far from the fire such that it cannot be heated at that location to the point of yad soledet bo. But it is forbidden to bring it near the fire to a place where it can be heated to the point of yad soledet bo; it is forbidden even to place it for a brief moment for its cold to escape, since it can be cooked there.

The Shulchan Arukh's formulation resembles the Rosh's comments, but the Mishna Berura explained this halakha as following the view of Tosefot and the Rashba, approaching this prohibition as a safeguard against the possibility that one will forget to remove the liquid before it cooks. Likewise, these Rishonim did not draw the distinction raised by the Sefer Ha-teruma, and forbade placing the liquid near the fire even for the purpose of merely allowing its cold to escape.

The Chayei Adam (20:13) allowed, in situations when the need arises, warming cold liquid in a place where it could reach the point of yad soledet bo if it had been previously cooked. In such a case, we may take into account the view that even liquids are no longer subject to bishul once they have been cooked. The Chayei Adam adds that the Rashba, who forbids warming liquids in a location where they may reach the point of yad soledet, maintains that cooked liquids are not subject to bishul even after they cool. And Rashi, who forbids reheating previously-cooked liquids, allows warming liquids even in a location where they could reach yad soledet. It should be noted, however, that the Rosh and Tur apply bishul to previously-cooked liquids and yet forbid warming liquids in a location where they could reach yad soledet. Nevertheless, it appears that in situations where a need arises, such as in treating ill patients and the like, one may rely on this ruling of the Chayei Adam.

In my opinion, one may warm a bottle or food intended for an infant even at a spot where it could reach yad soledet, because the needs of small children are treated in Halakha as the needs of an ill patient, for whom we may suspend rabbinic prohibitions.[9] Furthermore, it seems that in such a case we have no concern that one will forget to remove the bottle or food, given that he specifically does not want it to reach the point of yad soledet, because it would then be unsuitable for the infant. This case would thus resemble the ruling of the Magen Avraham and Mishna Berura in siman 91:

In any event, it is permissible to place a cloth or lead utensil near the fire to warm it [meaning, the utensil contains food that has not cooled, and the individual would like to heat it] even close enough that the utensil could melt or the cloth

could burn, because since he has no interest in this, it constitutes a davar she-eino mitkavein [result that the person had not intended], and also, he presumably will not forget, and will be very careful to take it from there before it melts or is burned.

From here we may deduce a similar conclusion regarding our situation, that there is no concern that one will forget the bottle near the fire.

This lenient ruling is more clear-cut in a case of liquids that have been cooked and then cooled, in light of the comments of the Chayei Adam. Nevertheless, I believe that one may be lenient even if the liquid has never been cooked due to the reasons discussed above. This would require further analysis before reaching practical conclusions, and where it is possible one should certainly warm the bottle in a location where it would be allowed according to all views.

Notes:

We dealt with this sugya in our shiur on the topic of mixing water with other water (#11).
The Beit Yosef continues:

Rav Yosef initially thought to issue a ban on [cooking in] a keli shelishi as a safeguard against [cooking in] a keli sheni, and Abayei changed his mind on the basis of that which Rabbi Chiya taught. And once our rabbi specified and wrote "even if it is a keli sheni," there is no longer any possibility of misunderstanding his use of the term "basin," because he obviously forbids only in a keli sheni, and not in a [keli] shelishi. He therefore was not precise [in his terminology] and mentioned "basin" instead of "tub."

One might, at first glance, suggest that the Beit Yosef permits a keli shelishi only in the case of a basin intended for bathing, since there is no reason to forbid it as a safeguard against the possibility of cooking in a keli rishon. We would thus have no proof that the Beit Yosef forbids cooking in a keli shelishi generally. In truth, however, since the Beit Yosef here seeks to explain the position of the Tur, and the Tur understands the prohibition against cooking in a tub as strict halakha, rather than an additional stringency, we may, indeed, prove from the fact that he permits cooking in a basin that bishul does not occur in any keli shelishi.
Recall that we mentioned this in shiur 11, in our discussion of the various options for the preparation of tea on Shabbat.
This is indeed the ruling of the Maharam Shick, in his responsa (O.C. 132).

The Terumat Ha-deshen discusses there the situation where a bowl of milk over the fire overflowed and some milk flowed to a piece of meat nearby, and he addresses the question of whether the contact is considered to have occurred in a keli rishon. He concludes, "Nevertheless, I am inclined to say in such a case that if it seems to us that the milk was yad soledet at the point where it touched the meat, since the stream flowed continuously from the boiling bowl near the fire, each and every final drop does not leave the one before it such that it could cool."

See also our discussion concerning using a solar-heated boiler on Shabbat (shiur 13).

The "Rashba" cited in Tosefot is the Tosafist Rabbenu Shimshon Ben Avraham, whereas the more familiar "Rashba" is Rabbenu Shlomo Ben Aderet, one of the leading rabbis in late 13th-century Spain.

See the Shulchan Arukh's rulings concerning a choleh she-ein bo sakana (patient suffering from an illness that poses no risk to life), and Halakha equates the needs of young children with those of a choleh she-ein bo sakana. True, not all opinions allow a Jew to violate rabbinic prohibitions for the purpose of an ill patient, and on the level of le-khatechila one should certainly avoid doing so. But in our case, regarding which Rashi permits violating rabbinic prohibitions altogether (as is the straightforward implication of the Rambam, Hilkhot Shabbat 22:4), there is greater room for leniency. This is especially true in light of the additional consideration that we have no concern that one will leave the bottle there until it becomes hot, or at least the concern in our case is significantly lower than in standard cases.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 17: Shehiya, Part 1

General Introduction

In the coming shiurim we will address the prohibitions enacted by Chazal pertaining to warming food before and during Shabbat. We hope to discuss the following topics:

1. Shehiya – leaving pots and foods over a fire before Shabbat in preparation for Shabbat.
2. Hachazara – returning pots to the fire on Shabbat for additional use.
3. Taking cooked food from the refrigerator on Shabbat to warm them.
4. Hatmana – covering pots with various kinds of coverings.

In discussing each topic, we will address the various situations that arise and reach halakhic conclusions relevant to the modern kitchen.

The Prohibition of Shehiya

The Tanna'im debate the basic definition of the prohibition of shehiya. The opening Mishna of the third chapter of Masekhet Shabbat (36b) states:

A stove that was kindled with straw and rakings – one may place food on it; with peat or wood – one may not place until he clears [the coals from the stove], or until he places ashes [over it for the coals to cool]. Beit Shammai say: [This applies] to hot water, but not food; Beit Hillel say: both hot water and food. Beit Shammai say: One may remove [the water from the stove], but he may not return it [to the fire afterward]; Beit Hillel say: One may even return it.

It thus emerges from the Mishna that one may place food before Shabbat on a stove lit with straw or rakings, which do not become coal and hence do not lend themselves to the concern that one may stir the coals to kindle them. But if the

stove is fueled with materials such as peat and wood, which produce coal, the coals must be either removed or covered with ashes before one may place food on the stove.[1]

The Gemara raises the question of what the Mishna means when it forbids "placing" food over a stove whose coals have been neither cleared nor covered. The first explanation suggested by the Gemara claims that the Mishna forbids only returning food to such a stove on Shabbat, but permits leaving food there before Shabbat. If so, then the Mishna would follow the view of Chananya, recorded in a Berayta, who allows leaving food on such a stove before Shabbat provided that the food has already reached the point of ma'akhal Ben Derusai (either one-half or one-third cooked). According to Chananya, once a food has reached the point of ma'akhal Ben Derusai, we are not concerned that the individual will stir the coals to hasten the cooking process. Thus, according to this explanation, the Mishna requires clearing or covering the coals only for the purpose of hachazara – returning food to the stove on Shabbat.[2] Alternatively, the Gemara comments, the Mishna perhaps follows the view of the Chakhamim, who are concerned that one may stir the coals even if the food has already reached the point of ma'akhal Ben Derusai. They thus forbid leaving food over a stove before Shabbat unless the coals are removed or covered. According to this reading, the Mishna requires removing or covering the coals even for shehiya, when leaving food on the fire before Shabbat, not to mention for hachazara.

The Gemara resolves its question from the two disagreements between Beit Shammai and Beit Hillel recorded in the latter part of the Mishna: "Beit Shammai say: [This applies] to hot water, but not food; Beit Hillel say: both hot water and food. Beit Shammai say: One may remove [the water from the stove], but he may not return it [to the fire afterward]; Beit Hillel say: One may even return it." The fact that Beit Shammai and Beit Hillel argue separately with regard to the issue of hachazara indicates that their first disagreement, in interpreting what the Mishna allows leaving food on the stove, relates to shehiya. Thus, the Mishna here discusses shehiya, and not hachazara, in accordance with second explanation proposed by the Gemara.

Before attempting to explain the underlying basis of the debate between Chananya and the Chakhamim, it must first be emphasized that even Chananya does not allow leaving on an uncovered stove food that has not yet been cooked to the point of ma'akhal Ben Derusai. The debate between Chananya and the Chakhamim pertains only to food that has already reached this stage of cooking, which Chananya allows one to place on an uncovered stove before Shabbat, while the Chakhamim forbid doing so.

The Rishonim debate the question of whether one may place food that has not reached ma'akhal Ben Derusai on a covered stove. Most Rishonim rule leniently, since if the stove is covered there is no concern that one may stir, and there is thus no reason to forbid leaving the food on the stove. Some Rishonim, however, felt that beyond the concern for stirring, a second concern is involved that one cannot overcome by covering or removing the coals, namely, meichazi ke-mevashel – giving the appearance of cooking. According to these Rishonim, leaving raw food over fire on Erev Shabbat[3] (meaning, before Shabbat begins) resembles cooking and should therefore be forbidden.

Let us explain this point further. Generally speaking, we follow Beit Hillel's position, that one may perform actions on Erev Shabbat that then continue automatically, without human involvement, on Shabbat itself, since the Shabbat laws does not require shevitat keilim – that one's property desist from melakha. This is in opposition to Beit Shammai's position, as discussed in the Mishnayot towards the end of the first chapter of Masekhet Shabbat. According to the view mentioned above, however, the melakha of bishul differs in this respect from other categories of forbidden activity. Cooking is generally performed by placing a pot over the fire and allowing the cooking process to proceed independently, and the end result is then attributed to the individual who placed the pot over the fire. Therefore, these Rishonim claim, if a food has not reached the point of ma'akhal Ben Derusai, one may not place it on the fire before Shabbat, because since it will become cooked only on Shabbat, and we will attribute this result to the individual's actions, it would then appear as if he cooked on Shabbat itself. According to this view, even if the coals have been removed or covered, one may not leave uncooked food on it before Shabbat if the food has not reached the point of ma'akhal Ben Derusai.

The Rashba writes in our sugya:

The food of which our Mishna speaks – in my opinion, according to the view that the Mishna refers to leaving [food on the fire before Shabbat, as opposed to returning food to the stove during Shabbat], if one kindled it [the stove] with straw or rakings and even if it is not cleared [of its coals], or with peat and wood and it is cleared or covered, one may leave on it [food before Shabbat] even if it has not reached ma'akhal Ben Derusai. For the reason [for the prohibition] is the concern that one might stir, and in a case of straw or rakings, or of peat and wood when one removed or covered [it], there is no [concern] for stirring in [such a] stove, all the more so if it is ma'akhal Ben Derusai and all the more so if continued cooking is beneficial for it [the food]. But according to the view that the Mishna speaks of returning [food to the fire], but leaving [on the fire before Shabbat] is permitted even if [the stove] is not cleared or covered, the food

mentioned in the Mishna refers only to [food] that has reached ma'akhal Ben Derusai, as Chananya explicitly stated, "Anything that has reached ma'akhal Ben Derusai may be left on a stove that is neither cleared nor covered." But a food that is only partially cooked, that has not reached in its cooking the point of ma'akhal Ben Derusai – no.[4]

The majority of the poskim appear to concur with the Rashba's lenient position. This must be the view of any posek who applies the Torah prohibition of bishul so long as the food has not been fully cooked, even after it reaches the point of ma'akhal Ben Derusai: once we allow leaving food at the point of ma'akhal Ben Derusai over a covered stove, we must also permit leaving food that has not reached that point. Since in any event we deal within the range of Torah-proscribed cooking, it should make no difference whether or not the food has reached the point of ma'akhal Ben Derusai.

We do, however, find two Rishonim who disagree, and hold that one may not leave food even over a covered stove if it has yet to reach the point of ma'akhal Ben Derusai:

1) Rabbenu Yona (cited by the Rosh, Shabbat 3:1):

Rabbenu Yona z"l wrote that there is no difficulty here whatsoever, for this explanation is necessary even according to the Rabbis [the Chakhamim], and even according to Rav, who forbade [leaving on the fire food] for which continued cooking is beneficial. It informs us that since it was roasted during the day [before Shabbat] to the point of ma'akhal Ben Derusai, one may leave it on a cleared or covered [stove]. But certainly one may not roast it unless it will be roasted during the day, even according to the view that one clears or covers the coals [and may then leave food on the stove].

2) The Chiddushim Ha-meyuchasim La-Ran (38a s.v. ibaya): "But if it is only partially cooked and has not reached ma'akhal Ben Derusai, both shehiya and hachazara are forbidden, even though [the stove] is cleared, because it resembles cooking on Shabbat."

Rabbenu Yona does not explain the reason for this prohibition, but the Chiddushim Ha-meyuchasim la-Ran explains that this gives the appearance of cooking, as we discussed above. One might question this view in light of a sugya towards the end of the first chapter of Masekhet Shabbat (18b):

Now that it has been said that this is a decree lest one stir the coals, it is permissible to place a pot of raw food[5] in an oven just before dark on Erev

Shabbat. Why? Since it is not suitable for the nighttime, one does not have his mind on it and he will not come to stir the coals.

It is thus permissible to place a pot of raw food in an oven or on a stove that has been neither cleared nor covered. This halakha becomes difficult to understand in light of the position of the Chiddushim Ha-meyuchasim La-Ran, since the food certainly cooks on Shabbat. And although there is no concern that one might stir the coals in such a case, we should still forbid placing the food before Shabbat because it gives the appearance of cooking, just as we forbid placing over even a covered fire food that has begun cooking but has yet to reach ma'akhal Ben Derusai.

For this reason, perhaps, the Rashba understood Rabbenu Yona's position as based upon the concern that one might stir:

One might disagree and claim that anything that has not reached ma'akhal Ben Derusai may not be left [on the stove before Shabbat], even on a cleared or covered [stove] and [even] if one lit it with straw and rakings, because since it has cooked somewhat and not yet reached ma'akhal Ben Derusai, one has his mind upon it and might stir. This is similar to what was said regarding pounded wheat and lupines, that since they require an extended period of cooking, one's mind is on it and he might stir; even with straw and rakings [the concern of] stirring is applicable in such a case.

Logically, however, it is difficult to understand how the concern of stirring applies even if the stove is cleared of its coals. Indeed, the Rashba himself rejects this notion: "However, the first [explanation] seems correct[6], because at least in a cleared [stove] there is no reason for concern and for any decree."

In any event, it behooves us to explain the view of the Chiddushim Ha-meyuchasim La-Ran[7], which applied to this case the concern that leaving the pot on a stove gives the appearance of cooking. The explanation seems to be as follows. If a pot had begun cooking and the individual anticipates the completion of its cooking within a relatively short period, he accompanies the process and gives the appearance of taking part in its execution. Chazal were therefore concerned that he will give the appearance of cooking on Shabbat, even though he placed the food on the fire before Shabbat, since he accompanies the process on Shabbat. But in a case of raw food, which a person places on the fire and then pays no attention to it, he does not accompany the cooking process and thus does not give the impression of cooking on Shabbat. Neither is there any concern of stirring, and Chazal therefore allowed placing a pot of raw food on even an uncovered stove before Shabbat.

The Shulchan Arukh rules that one may leave a food before Shabbat on a covered stove even if the food has not reached the point of ma'akhal Ben Derusai, in accordance with the majority view among the Rishonim. The Bei'ur Halakha, however, writes, "See the chiddushim of Rabbi Akiva Eiger, who wrote that this law is not clear, for some poskim maintain that even a cleared or covered [stove] does not suffice for this." He appears to require le-khatechila following the stringent position.

Returning to the Gemara's discussion, in light of what we have seen we may offer two explanations for the debate among the Tanna'im:

1) Chananya and the Chakhamim perhaps agree that fundamentally, shehiya should be forbidden out of concern that one might stir the coals, but they disagree with regard to the limits of this concern. According to Chananya, we have no reason for concern once the food has reached the point of ma'akhal Ben Derusai, whereas the Chakhamim felt that even once the food has reached this stage we must still be concerned that the individual will stir the coals.
2) Alternatively, Chananya and the Chakhamim perhaps argue on the fundamental question of whether we have reason to be concerned about the possibility of stirring at all. Chazal forbade placing on the fire food that has yet to reach ma'akhal Ben Derusai for an entirely different reason, namely, that it gives the impression of cooking. This explanation of Chananya's position becomes clearer if we accept the view that forbids shehiya even on a covered stove if the food has yet to reach ma'akhal Ben Derusai. Nevertheless, it could accommodate even the view that permits shehiya on a covered stove, as one might claim that the covering overcomes even the concern of the appearance of cooking.[8] After the point of ma'akhal Ben Derusai, however, this concern does not arise according to Chananya, and he therefore permits shehiya.[9]

The Chakhamim might hold that until the point of ma'akhal Ben Derusai, there is both the issue of meichazei ke-mevashel (giving the appearance of cooking) and the concern of stirring, but maintain that after the point of ma'akhal Ben Derusai, the problem of meichazei ke-mevashel no longer obtains, and we are concerned only for the possibility of stirring. Alternatively, they perhaps acknowledge only the concern that one might stir the coals, and this factor underlies the shehiya prohibition at all stages of the cooking process.[10]

Explaining Chananya's Position

The Gemara in Masekhet Shabbat (37b) records a debate among the Amora'im concerning a fully-cooked food that is mitztameik ve-yafeh lo (literally, "it dries and this is beneficial for it) – meaning, continued cooking is beneficial

for its taste. Rav Shemuel Bar Yehuda cites Rabbi Yochanan as allowing leaving food of this kind on an uncovered stove, whereas Rav and Shemuel forbid doing so. The simplest explanation of this debate is that it works within the position of the Chakhamim, for according to Chananya, once the food reaches the point of ma'akhal Ben Derusai, one may already leave it on an uncovered stove; this should apply all the more so to a fully-cooked food.

The Ba'al Ha-ma'or, however, who rules in accordance with Chananya and proceeds to address the Gemara's discussion concerning mitztamek ve-yafeh lo, presents the following approach:

Our opinion leans towards the view of Rabbenu Hai [Gaon], that we do not distinguish between different cases of shehiya… Rather, they are all permissible with any food that is at the point of ma'akhal Ben Derusai. But this applies only if continued cooking is detrimental; but if continued cooking is beneficial, then according to the scholars of the east, who were close to Rav and Shemuel, one may not leave it on a stove that is not cleared or covered, even though it has been fully cooked.

According to the Ba'al Ha-ma'or, the discussion regarding mitztameik ve-yafeh lo is relevant even according to Chananya.

The Ramban, in the Milchamot, responds:

Behold, the Ba'al Ha-ma'or z"l added for us another surprise in his comments, as he asserted that anything at the point of ma'akhal Ben Derusai may not be left on a stove that is not cleared or covered if continued cooking is beneficial, according to all views. The rule according to his view is that anything that is mitztameik ve-yafeh lo is forbidden[11] if it was fully cooked, whereas if continued cooking is detrimental [shehiya] is permissible once it has been cooked to the point of ma'akhal Ben Derusai. These are words of nonsense, for any food at ma'akhal Ben Derusai cooks and continued cooking is beneficial for it until it is fully cooked to the point where general people would eat it, and it requires stirring of the coals until it is cooked…

It would appear that this debate between the Ba'al Ha-ma'or and the Ramban in explaining Chananya's position hinges on how one explains the halakha allowing shehiya after ma'akhal Ben Derusai. The Ramban understood that the moment the food reaches the point of ma'akhal Ben Derusai, there is no longer, in Chananya's view, any concern of stirring. For since the food is edible – albeit barely so – one will not stir the coals to hasten the cooking process. Indeed, the Mishna Berura (253:37) writes, "For since it has been cooked to the point where

it is edible under dire circumstances, there is no longer any concern that one might stir, for since it is edible, why would he stir for no reason?" Clearly, then, no concern arises in a situation of mitztameik ve-yafeh lo, and all the more so, since the food has already become suitable for normal consumption.

The Ba'al Ha-ma'or, however, held that Chananya perceived the concern of stirring from a dual perspective, as a combination of two parameters: the motivation to stir, and, in contrast, the chances and risks that stirring entails. So long as the food has yet to reach the point of ma'akhal Ben Derusai, the motivation for stirring is high, while the risk of burning the food is low. But once the food reaches ma'akhal Ben Derusai, the motivation decreases, and the individual will therefore more likely take into account the risks. Hence, if ongoing cooking is detrimental to the food, we can permit shehiya once the food has reached the point of ma'akhal Ben Derusai, given the risk of burning as a result of stirring and the fact that the food will likely fully cook even without stirring.[12] But if continued cooking is beneficial for the food's taste, then we should forbid shehiya despite the fact that the food has been fully cooked, because there is no risk of burning while there is a good chance of beneficial cooking as the process is advanced. The Amora'im indeed debate this point, because despite this high likelihood, the motivation for stirring is still quite low.

I believe that Tosefot accepted the Ba'al Ha-ma'or's understanding of Chananya's position. In seeking to prove that Rav disagreed with Chananya, they write (37a s.v. i omrat bi-shlama):

Rav does not follow Chananya, for Chananya allows [shehiya in a case of] mitztameik ve-yafeh lo, for the Mishna's comment, "One may not roast meat or an egg unless they can be roasted during the day [before the onset of Shabbat]" follows Chananya's position, and we say later that for an egg continued cooking is beneficial, and Rav later forbids [shehiya in a case of] mitztameik ve-yafeh lo.

Tosefot prove that Chananya allows shehiya in case where ongoing cooking is beneficial for the food's taste from the fact that he allows leaving an egg to roast on Erev Shabbat if it reaches the point of ma'akhal Ben Derusai before Shabbat[13], even though continued cooking is beneficial for eggs. Apparently, the fact that Chananya allowed shehiya for a food that has reached ma'akhal Ben Derusai does not suffice as evidence that he would permit shehiya in a case of mitztameik ve-yafeh lo, as the Ramban contended. Tosefot appear to work off the assumption of the Ba'al Ha-ma'or, that allowing shehiya for food at ma'akhal Ben Derusai does not necessarily result in allowing shehiya in a case of mitztameik ve-yafeh lo.

Rav Hai Gaon, as cited in the Rashba in our sugya, advances a similar approach to that of the Ba'al Ha-ma'or:

Halakha follows the view that the Mishna speaks of returning [food to the stove, rather than shehiya], which was supported by the explanation stated by Rav Sheshet in the name of Rabbi Yochanan, "A stove that was kindled with peat and wood – one may leave on it hot water that has not been fully heated, and food that has not been fully cooked... "And Rava further drew support for it from the two clauses in the Mishna, etc. And also Rav Shemuel Ben Rav Yehuda said like this in the name of Rabbi Yochanan regarding hot water that had been fully heated and food that had been fully cooked, even if continued cooking is beneficial… It turns out that it is permissible in two cases: if it was warmed but never cooked at all, and if it was cooked to ma'akhal Ben Derusai, even if it was fully cooked.

The Rashba comments:

From the fact that he said "even if it was fully cooked" it appears that he z"l held that Rav Shemuel Ben Rav Yehuda, in the name of Rabbi Yochanan, introduces the novel concept that even if it was fully cooked and ongoing cooking is beneficial, [shehiya] is permissible, even though there is reason to decree [against shehiya in such a case], in that since only a little stirring suffices to have it dry further, one might have his mind on it and stir it… We see that a fully-cooked [food] that needs to dry further, and this is beneficial, is more likely to be forbidden than [a food] that is not fully cooked, regardless of whether continued cooking is beneficial or detrimental.

According to this view, Chananya allows shehiya with any food that has been cooked to the point of ma'akhal Ben Derusai. However, once it is fully cooked, we must distinguish between foods for which continued cooking is detrimental, in which case shehiya is certainly permitted, and mitztameik ve-yafeh lo, where there is reason to forbid shehiya, for since it is fully cooked and just a slight stirring is beneficial for the food, one might stir it. On the other hand, when dealing with fully-cooked food, one has little motivation to stir the coals, and therefore the Amora'im in the sugya on 37b debate the status of such food with regard to shehiya. According to this explanation, this debate surrounds the question of whether the focal point of the concern relates to the chances for enhancing the food by stirring, or to the urgency of the stirring.

The Ramban was aware of this explanation and rejected it out of hand. In his view, Chananya allows shehiya in all cases after the point of ma'akhal Ben Derusai, and the entire discussion concerning mitztameik ve-yafeh lo works only

within the view of the Chakhamim. The Ramban writes (chiddushim, Shabbat 37a s.v. mahu li-smokh):

If someone says to you: Perhaps it is permissible to leave [on the fire food at] ma'akhal Ben Derusai because he does not have in mind to eat it until the following day, and the following day it is already cooked and dried, but when it is fully cooked and it requires only further drying which is beneficial for it, it is forbidden, because he eats it at night and will come to stir… these are words of nonsense, for at ma'akhal Ben Derusai one wants it for the night and he does not take his mind off it at all. And Chananya stated a general principle that anything that is ma'akhal Ben Derusai or further, whether it dries or cooks, [may be left on the fire before Shabbat].

Summary

It is unclear whether Chananya allows leaving a food that has not even reached the point of ma'akhal Ben Derusai on a covered stove; this question arises also within the view of the Chakhamim.

Regarding food that has reached the point of ma'akhal Ben Derusai, the question arises within Chananya's view whether he allows shehiya in all cases once the food has reached this point, as the Ramban contends, or if he would forbid shehiya if continued cooking is beneficial for the food. Yet a third possibility is that from the point of ma'akhal Ben Derusai Chananya permits shehiya in all cases, unless the food has already been fully cooked, in which he would forbid shehiya if ongoing cooking enhances the food.

We will continue this topic in next week's shiur.

Notes:

1. In this shiur we will not discuss Rashi's unique approach to the prohibition of shehiya and its relationship to hatmana, which the other Rishonim dealt with at length and raised numerous questions against. We addressed Rashi's view within the broader framework of the general topic of warming foods before and during Shabbat in an article in the yeshiva's journal Alon Shevut, vol. 146, entitled, "Be-gidrei Shehiya Ve-hatmana Be-shitat Rashi."
2. In a later shiur on the topic of hachazara we will explain the reason why clearing the coals would be required to allow returning the food to the stove.
3. We will take this opportunity to clarify a point that, while obvious, many people tend to misunderstand: in Halakha, the term Erev Shabbat refers to

Friday until the onset of Shabbat, and leil Shabbat ("Shabbat eve") denotes the period from the moment Shabbat begins until Shabbat morning.

4. Meaning, if the stove is not cleared or covered; otherwise, even the Chakahmim allow leaving food on the stove.

5. Later in our discussion we will explain the details of this halakha.

6. He refers here to his first approach, permitting placing any food on a stove that has been cleared of it coals.

7. One might have suggested a different explanation, that the halakha allowing placing raw food in the oven was said only within the position of the Chakhamim, who held that the prohibition of shehiya stems solely from the concern of stirring. But according to the view that the prohibition involves the outward appearance of cooking, then even raw food may not be placed on the fire just prior to Shabbat. One might infer this approach from the Gemara's formulation, "Now that it has been said that this is a decree lest one stir the coals…" However, we cannot attribute this approach to the Chiddushim Ha-meyuchasim La-Ran, which on the one hand allows placing a pot of raw food in the oven before Shabbat, while also forbidding leaving a food that has not reached ma'akhal Ben Derusai on a covered stove.

8. In a later shiur on the subject of hachazara, we will discuss the views among the Rishonim who explain the need to cover the stove before returning food as intended to overcome the concern of meichazi ke-mevashel.

9. This approach, that views the prohibition of shehiya before the point of ma'akhal Ben Derusai as based on the concern of meichazi ke-mevashel, is particularly compelling according to the view among the Rishonim that bishul applies only until the point of ma'akhal Ben Derusai. This assumption quite possibly underlies Chananya's position. This also emerges from the straightforward reading of the sugya, which mentions the point of ma'akhal Ben Derusai both with regard to shehiya and concerning the prohibition bishul akum (eating foods prepared by gentiles). We should also note Rashi's formulation: "This food, which is at the point of ma'akhal Ben Derusai – we are not concerned if it continues cooking on Shabbat." This seems to imply that until ma'akhal Ben Derusai the problem involves the continuation of the cooking process on Shabbat, rather than the concern that one may stir the coals.

10. It seems to me that this is Rashi's view; we will discuss this point later.

11. I believe the Ramban means to say that in a case of mitztameik ve-yafeh lo, it is forbidden to leave the food on a fire even if it is fully cooked.

12. See Tosefot, Shabbat 36b end of s.v. chamin: "For [even] without stirring they will be fully heated."

13. See Mishna, 19b and Gemara, 20a.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 18: Shehiya, Part 2

The Various Views Among the Rishonim

In the previous shiur, we discussed the Gemara's question as to whether the Mishna (Shabbat 36b), which forbade leaving food on an uncovered stove, refers to leaving food on the stove before Shabbat to continue cooking on Shabbat, or to returning cooked food to the fire on Shabbat itself. According to the first possibility, the Mishna follows the majority view of the Chakhamim, who require covering the stove or removing its coals before leaving food on it before Shabbat to continue cooking on Shabbat. The second reading, by contrast, understands the Mishna as referring only to returning food to the fire, such that it permits leaving uncooked food on an uncovered stove before Shabbat, in accordance with the minority view of Chananya.

Although the straightforward reading suggests that it indeed speaks of placing food on the stove before Shabbat, some Rishonim nevertheless accepted as Halakha the lenient position of Chananya. Tosefot even asserted that for this very reason the Gemara went to such great lengths to try and explain the Mishna in accordance with Chananya's view.[1] We will not elaborate here on the different claims advanced by the Rishonim in determining whether to follow the view of Chananya or of the Chakhamim.[2] We will, however, discuss some of the views among the Rishonim, before proceeding to the rulings of the poskim and contemporary practice.

1) Rashi

Rashi writes (37b s.v. ve-Rav Sheshet):

And we, who leave pots on a stove that is not cleared [from its coals] rely on Chananya, since the plain Mishna follows his view, as it says, "We may infer that

if it [the dough] forms a crust [before Shabbat] – it is permissible [to place it in the oven to finish baking on Shabbat]," even though it is not fully cooked.[3]

Rashi here uncharacteristically takes a clear halakhic position, in favor of Chananya's view, but elsewhere in his commentary a more complex picture emerges. Commenting on the Gemara's discussion of kedeira chayeta, where it allows leaving on the fire before Shabbat a pot of raw food (18b), Rashi writes (s.v. u-vashil), "A fully-cooked [food] may be placed, for it does not require stirring [and there is thus no concern that one might stir the coals to expedite the cooking process]." Rashi here explains the Gemara differently than Tosefot, who interpreted the word "cooked" in the Gemara as referring to the point of ma'akhal Ben Derusai, in order to have this sugya accommodate Chananya's position, which Tosefot accept later in the Masekhet (37b s.v. amar). Indeed, Rashi's comments there, which indicate that only fully-cooked food may be placed on the fire before Shabbat, appear to contradict his position taken in our sugya, where he accepts Chananya's lenient view.

We might suggest two approaches to reconcile Rashi's seemingly contradictory comments.

First, Rashi perhaps rules leniently only with regard to a stove. In an oven, however, all agree that one may place before Shabbat only fully-cooked food. Since ovens had narrow openings which allowed them to retain their heat very well, even minimal stirring would be effective in hastening the cooking process. The concern therefore arises that one might stir, even if the food has already reached the point of ma'akhal Ben Derusai. The Ba'al Ha-ma'or advances this theory explicitly (10a in the Rif):

I had thought that "cooked but not cooked" means the point of ma'akhal Ben Derusai, and according to all views this is forbidden in an oven, for we find that it is more stringent than a stove… It is therefore forbidden to leave a pot in the oven [before Shabbat] unless it is fully cooked.[4]

The Ba'al Ha-ma'or accepts the Chakhamim's position, because the straightforward reading of the Mishna supports their view, and in his comments to 37b he seeks to explain the widespread practice to rely on Chananya's view.[5]

Alternatively, Rashi perhaps accepts Chananya's view in all cases, and the earlier sugya (18b) can be explained only in accordance with the position of the Chakhamim. The Gemara there delineates three categories: raw food, partially cooked food, and cooked food. It would be difficult to accept this categorization within Chananya's view; it is far simpler to explain these levels according to the

Chakhamim, as follows: "raw" means until the point of ma'akhal Ben Derusai; "partially cooked" refers to the period until the food is fully cooked; and "cooked food" of course means food that has completed the cooking process. Should one wish to explain this sugya in accordance with Chananya's view, he would be forced to explain – as Tosefot do – that "raw" refers to food that has not been cooked at all, "partially cooked" means that it had begun cooking but has yet to reach the point of ma'akhal Ben Derusai, and "fully cooked" means that the food has reached ma'akhal Ben Derusai. Given the difficulty in establishing a precise definition of the first category, of food that has not been cooked at all, it is far simpler to understand the sugya as following the Chakhamim's view.

Thus, Rashi personally sides with the position of Chananya, but the halakha of kedeira chayeta was said within the Chakhamim's view.

I then discovered that the Sefat Emet explains the sugya of kedeira chayeta along similar lines:

"It is permissible to place a pot of raw food [in the oven] just before dark on Erev Shabbat." At first glance, we must explain that only just before dark this is allowed, but slightly earlier is forbidden, because once bein ha-shemashot [the period between sunset and nightfall] sets in it will no longer be raw. However, it is somewhat far-fetched to explain the Gemara's discussion as referring specifically to somebody involved in his work actually until bein ha-shemashot. And if we say that once he placed it in the oven when it was raw his mind was distracted from it, and even if some cooking occurred once bein ha-shemashot set in it is still permissible, then we encounter difficulty with what is said in the chapter Kira, that is forbidden to leave on a stove [before Shabbat] anything that has not been cooked to the point of ma'akhal Ben Derusai. However, according to those who rule against Chananya, and hold that so long as continued cooking is beneficial [for the food] it is forbidden [to leave it on the fire before Shabbat], here [the sugya of kedeira chayeta] becomes understandable. For we may explain that anything that is not at the point of ma'akhal Ben Derusai is called "raw," and "partially cooked" means specifically if it reached ma'akhal Ben Derusai. And it seems to me that this was the Bach's view, cited by the Taz (253:1); you will see that the Taz found it difficult. But in my view, there is no difficulty whatsoever, for indeed, those who follow Chananya did not accept this rule of kedeira chayeta, which is said according to the Chakhamim, who argue with Chananya[6]. The Tur and Shulchan Arukh, who bring this rule, follow the view of those who side with the Chakhamim; this is what I believe to be the Bach's view. However, the Magen Avraham there (253:2) rules that it must be actually raw before dark.[7]

2) Rabbenu Chananel

Rabbenu Chananel writes (37a):

The conclusion [of the sugya] is that the Mishna refers to returning [food to the fire on Shabbat, rather than leaving food on the fire before Shabbat]. Now there is somebody who says that since it was not explicitly concluded that [the Mishna refers to] returning, we do not rely on the [Gemara's] responses and [we must explain] the Mishna [as referring to] leaving [on the fire before Shabbat]. And there is somebody [else] who says that the halakha is that the Mishna refers to returning… We deduce from here that Rabbi Yochanan held that the Mishna refers specifically to returning.

On the basis of these comments, it appears, the Rosh wrote (3:1):

And Rabbenu Chananel z"l did not conclude the halakha in accordance with anybody – neither like the Chananya nor like the Rabbis, with regard to a food that had not been fully cooked. But regarding a fully-cooked food, he determined the halakha… that [even] if continued cooking is beneficial, it is permissible [to leave the food on the fire before Shabbat].[8]

Tosefot, however, wrote that Rabbenu Chananel followed Chananya's position, as other Rishonim likewise write in his name. It indeed appears even from the aforementioned citation that Rabbenu Chananel leans toward this conclusion. In fact, he writes explicitly later (39b):

It turns out that it is forbidden in two instances: [if the food is] cold, and has not been warmed at all, and a food that has begun to cook but did not reach ma'akhal Ben Derusai. And it is permissible in two instances: hot food that was heated but not cooked at all, and that was cooked to ma'akhal Ben Derusai, even (if it was not[9]) fully cooked – it is permissible.

Tosefot likely relied on these comments in determining Rabbenu Chananel's final conclusion.

3) The Rosh

After citing the debate among other Rishonim as to which view is accepted as Halakha, the Rosh writes, "Since many views exist regarding this ruling, and the Jewish people are fervent in the mitzva of oneg Shabbat and will not obey a stringent ruling, let them continue the practice that they have observed in accordance with those who side with Chananya."

His son, the Tur, wrote (253), "But Rashi and the Ri ruled that anything that has reached ma'akhal Ben Derusai may be left on the stove [before Shabbat], even if it was kindled with peat and wood, and even if it is not cleared or covered… My mentor and father [= the Rosh] z"l concurred." The Derisha (253:8), however, objected: "I see no indication in the Rosh's comments that he concurred; for he wrote, 'Since many views exist…let them continue the practice…'" The Bei'ur Halakha (s.v. ve-nahagu) seems to have shared the Derisha's understanding of the Rosh:

He cited the comments of the Rosh, who wrote that since the Jewish people are fervent in the mitzva of oneg Shabbat, and they will certainly pay no attention to us, they should therefore be allowed to continue; see his comments there. It appears from this that only for this reason he did not wish to object.

One might claim that the Rosh actually concluded upon Chananya's view because this had become the accepted practice, as the Tur understood. True, had this not been the widespread practice he would have perhaps considered a different approach, but in the face of the common custom he felt we may rely on this practice. But it still remains unclear whether he felt that one should preferably follow the stringent view. I then discovered the following comments of the Chazon Ish (37:3):

It would appear, however, that the Rosh did not mean that, "It is preferable that they [transgress] inadvertently" [and only for this reason advocated allowing people to rely on Chananya]. Rather, he z"l meant that since those who rule stringently are great sages…it would have been appropriate to be stringent so as to avoid the dispute. But since this would often result in the loss of oneg Shabbat, people would not obey the stringent ruling; rather, so long as one can strictly speaking be lenient, they would want to be lenient. And strictly speaking, those who are lenient may do so because they are the descendants of those who acted leniently on the basis of their rabbis' instruction, and also because this [prohibition] was enacted by the Sages [and is not forbidden by the Torah]. Therefore, we allow them to rely on their rabbis who ruled leniently, and perhaps one need not be stringent once the great sages were not stringent for themselves.

The Shulchan Arukh, Rama, and Acharonim

The Shulchan Arukh (253:1) brings two views on the issue. The first follows the position of the Rif and Rambam, who accepted the Chakhamim's position, and forbids leaving food on a stove before Shabbat, even if it has been fully cooked, if continued cooking is beneficial for it, unless the stove is cleared

of its coals. The Shulchan Arukh then cites a second opinion – the "yeish omerim" ("Some who say") – following Chananya's view. A commonly accepted principle dictates that when the Shulchan Arukh cites one view anonymously and then a second opinion in the name of "yeish omerim," he prefers the first view. It thus appears that he accepted the stringent position of the Chakhamim.

Many Acharonim, however, noted that other rulings of the Shulchan Arukh appear to contradict this implication. For example, he writes in 254:2:

One may not roast onions, eggs or meat over coals [before Shabbat] unless it can be roasted on both sides while still daytime [before the onset of Shabbat] to the point of ma'akhal Ben Derusai, which is the point of half-cooked… But once it is roasted to ma'akhal Ben Derusai, we are no longer concerned that one might come to stir.

This ruling appears to correspond to Chananya's position, that allows shehiya with food that has reached the point of ma'akhal Ben Derusai. This indeed emerges from the sugya (on 20a) that cites Chananya's ruling in the context of the halakha stated in the Mishna, which is the halakha codified here in the Shulchan Arukh. In fact, the Amora'im (37b) relied on this very halakha in ruling in favor of Chananya.

The work Minchat Kohen – Mishmeret Shabbat (2:5) wrote that the Shulchan Arukh followed Chananya's position, in light of his comments in 254 that prove that he adopted the second view he documented in 253. Many others, however, refuted these proofs, and in fact the Rishonim already raised a possible distinction between roasting and cooking on a stove. Specifically regarding a stove, perhaps, Chazal were concerned that one might stir even if the food had reached ma'akhal Ben Derusai, whereas during roasting, where the meat is directly exposed to the fire, no such concern arises once the food reaches ma'akhal Ben Derusai, since by stirring one runs the risk of burning the food. The Ran (6b in the Rif) writes:

There [in the case of roasting], they themselves are placed on the fire, and thus once it reaches ma'akhal Ben Derusai if one stirs the coals he will burn them…even though he ruled in the chapter Kira that it is forbidden to leave [food before Shabbat] on a stove that has been neither cleared nor covered so long as continued cooking is beneficial, against [the ruling of] Chananya.

Yet another explanation emerges from the Rambam's comments (Hilkhot Shabbat 3:16):

One may not roast meat, onions or eggs on the fire, unless they can be roasted while still daytime and be suitable for consumption.[10] If they are then left on the fire on Shabbat to be fully roasted, this is allowed, because they are considered mitztameik ve-ra lo [foods for which continued cooking is detrimental], such that if one stirs he will burn them, given that they are over the actual fire.

According to the Rambam, roasting resembles cooking on a stove in situations of mitztameik ve-ra lo, which all views allow leaving over an uncovered stove before Shabbat.

The Shulchan Arukh further writes (254:4), "Fruits that can be eaten raw – one may place them around the [bottom of a] pot, even if they cannot be roasted before dark." This ruling originates from the comments of Tosefot (Shabbat 48a):

Rabbenu Shemuel says that one may place apples near the fire just before dark, even though they cannot be roasted while still daytime, for they are more commonly eaten raw than foods cooked to the point of ma'akhal Ben Derusai, which is allowed [to be placed on a stove before Shabbat]. And although the Mishna (19b) states, "One may not roast meat, onions or eggs unless they can be roasted while still daytime," despite the fact that people occasionally eat raw onions, nevertheless it [an onion] is not suitable for consumption raw like apples, and one wishes to diminish their sharpness and sweeten them by cooking it.

Tosefot base this halakha on the comparison between apples and foods cooked to the point of ma'akhal Ben Derusai, and thus they would permit leaving the apples near the fire only within Chananya's view. The Bei'ur Ha-Gra (254:16) therefore writes that this halakha applies only according to the view of Tosefot, who rule like Chananya. And although Tosefot write that apples are more commonly eaten than foods at the point of ma'akhal Ben Derusai, nevertheless, since continued cooking is beneficial for the apples, and the Chakhamim forbid shehiya even in such a case, the Shulchan Arukh's ruling seems difficult to explain.

This difficulty becomes even more acute in light of the Shulchan Arukh's own comments in the Beit Yosef (253):

Rabbenu Yerucham wrote that fruits that can be eaten raw have the status of a food cooked to the point of ma'akhal Ben Derusai and for which continued cooking is beneficial, and one may not leave it on a stove that has not been cleared or covered. This is in accordance with the view of the Rif and his

followers; but according to Rashi and his followers, this is permissible, as is the case with a food that has been cooked to ma'akhal Ben Derusai, which, as explained earlier, is permitted [according to Rashi].

The Minchat Kohen, in the aforementioned passage, draws further evidence from here that the Shulchan Arukh adopts Chananya's position. The Sha'ar Ha-tziyon (254:22) writes that the Shulchan Arukh allowed placing the fruits only directly over the actual fire, which has the status of roasting, which he permits, as discussed earlier. But if one places the fruits around the pot such that they are cooked by the heat of the pot, rather than directly by the fire, only Chananya would permit doing so. The Vilna Gaon likewise understood the Shulchan Arukh in this vein.

In my humble opinion, however, one could claim that the Beit Yosef sought to explain that even Rabbenu Yerucham, who forbade leaving the apples near the fire, did so only within the view of the Rif and Rambam, whereas according to Rashi this would be allowed. But the Beit Yosef himself, however, perhaps held that even the Rif and Rambam would allow leaving the fruits near the pot, since they are edible even without cooking and hence there is little concern that one might stir the coals. The Shulchan Arukh therefore allowed leaving them near the pot even if they would not fully roast before Shabbat, given the low degree of motivation to stir. This approach would require further analysis.

Another point worthy of attention regarding the Shulchan Arukh's rulings involves his understanding of Chananya's position. In the previous shiur, we encountered different views in interpreting Chananya, and it behooves us to determine to which approach the Shulchan Arukh refers in documenting the second position. He writes (253:1):

Some say that anything that was cooked to the point of ma'akhal Ben Derusai, or that was fully cooked and would benefit from continued cooking, may be left on the stove [before Shabbat]…even if it is not cleared or covered. [The requirement] of clearing and covering applies…only when it began cooking but did not reach the point of ma'akhal Ben Derusai.

The Hagahot Rabbi Akiva Eiger and Peri Megadim (Mishbetzot Zahav, 1) detected an inherent contradiction within this passage. The Shulchan Arukh first writes that shehiya is allowed if the food has been cooked to the point of ma'akhal Ben Derusai, or has completed cooking and it would benefit from continued cooking. This implies that if the food has not been fully cooked, and has reached only the point of ma'akhal Ben Derusai, then if it would benefit from continued cooking

shehiya would be forbidden – in accordance with the view of the Ba'al Ha-ma'or discussed in the previous shiur. At the end of the passage, however, he writes that one must clear the stove to allow shehiya only if the food has not even reached ma'akhal Ben Derusai, indicating that if the food has reached ma'akhal Ben Derusai, shehiya is permitted under any circumstances. Rabbi Akiva Eiger and the Peri Megadim offered no solution for this difficulty. The Peri Megadim concludes that in any event common practice allows shehiya the moment the food has reached the point of ma'akhal Ben Derusai, and he accepted this practice as the halakha.

In my humble opinion, however, the Shulchan Arukh never intended at all to express the view of the Ba'al Ha-ma'or, and refers to the position of Rav Hai Gaon mentioned in the previous shiur. Rav Hai Gaon understood that shehiya is allowed with food that has reached ma'akhal Ben Derusai regardless of whether continued cooking would be beneficial or detrimental to its taste. However, some Amora'im forbade shehiya if the food has been completely cooked and continued cooking would be beneficial. (See previous shiur for explanation.) The Shulchan Arukh therefore makes the point that in his understanding, shehiya is permitted even in such a case, in accordance with those Amora'im who ruled leniently on this issue, and as Rav Hai Gaon himself ruled. Practically, then, the Shulchan Arukh understood Chananya as permitting shehiya under all circumstances if the food has reached the point of ma'akhal Ben Derusai.

The Rama writes that common practice follows the lenient position of Chananya. The Bei'ur Halakha, however, makes the following comment:

Since the Rosh wrote that "because the Jewish people are fervent in the mitzva of oneg Shabbat they will certainly not listen to us, and therefore let them continue" – this implies that only for this reason he did not wish to object. Likewise, the Beit Yosef himself, from the fact that he cited the first view anonymously and the second view in the name of "yeish omerim," seems to also be inclined to rule stringently. But nevertheless, we do not have the wherewithal to object to those who act leniently, for the people already have the practice of following the yeish omerim, as the Rama wrote. Thus, according to this, it is certainly preferable to optimally ensure that the food is fully cooked before dark and remove it from the fire. If, however, it happened that the matter was delayed, such as if guests arrived before sundown and one had to cook some food for them, he may place it on the tripod to cook; even if it will cook only halfway by sundown, this suffices. He should let it stand on the tripod until it finishes cooking, and one may remove it from it at night.

In his view, one should preferably follow the stringent ruling of the Chakhamim, and rely on the lenient position only in situations where a particularly pressing need arises. By contrast, we cited earlier the comments of the Chazon Ish, who held that one need not act stringently in opposition to the widespread practice to be lenient.

As for the final halakha, it would seem that Ashkenazim may follow Chananya's view even le-khatechila (optimally), whereas Sefaradim should preferably act in accordance with the stringent view of the Chakhamim, as this is likely the position of the Shulchan Arukh. Yet, the Acharonim have reported that even among Sefardic communities the practice has developed to act in accordance with Chananya's view, and therefore Sefaradim who have adopted the lenient practice have on whom to rely. But those who le-khatechila act stringently – tavo aleihem berakha (they are deserving of blessing).

Kedeira Chayeta – Placing Raw Food on the Fire Just Prior to Shabbat

Earlier we mentioned the Gemara's discussion (18b) concerning kedeira chayeta, a pot of raw food, which one may place before Shabbat on a stove that is not covered or cleared, and we addressed the question of whether this applies even according to Chananya. As for the final halakha, it has clearly been accepted that the leniency of kedeira chayeta applies according to all views.[11]

This rule is limited to situations where the food has not undergone any cooking at all before Shabbat, and therefore one must place the pot on the fire immediately prior to sundown. If one placed the pot on the fire earlier and it will manage only to get warm before sundown, it is still permissible (Mishna Berura 253:12, based on Rav Hai Gaon and the Rashba). One may not, however, leave it on the fire if it will begin cooking before Shabbat, unless the fire is covered.

One might raise the possibility of allowing leaving raw food on the fire even earlier, in light of the Sefat Emet's contention (in the passage cited earlier) that according to the Chakhamim, we consider the food "raw" so long as it has not reached the point of ma'akhal Ben Derusai. In truth, however, one should not rely on this theory, given that the straightforward reading of the Rishonim's comments indicate that the food must be actually "raw." This is certainly the implication of the Shulchan Arukh. Furthermore, since the widespread practice has become to follow Chananya's lenient position, we cannot "take the rope at both ends" by allowing shehiya once the food has reached ma'akhal Ben Derusai in accordance with Chananya, and also before it reaches ma'akhal Ben Derusai in accordance with the Chakhamim. In practice, then, one may rely on the law of kedeira chayeta only if the food will not be cooked at all before Shabbat.

The Gemara explains the reason for this halakha as follows: "Since it is not suitable for the nighttime, one does not have his mind on it and he will not come to stir the coals." The question arises whether the focus here is on the fact that the food will in any event be ready only the next day, or on the individual's mental distraction from the food. This question will yield practical ramifications in two situations:

1. If a person leaves regular food (as opposed to completely raw food) on the fire before Shabbat for it to be ready the following day. According to the first reason, this would be forbidden, whereas according to the second reason we would allow it. The Shibalei Ha-leket (57) and Mordekhai (Shabbat, beginning of the 3rd chapter) allow shehiya with food intended only for the following day, whereas most Rishonim rule stringently. This also appears to be the implication of the other authorities, who make no reference to such a distinction. The Beit Yosef (end of 253) indeed writes that most Rishonim disagree, and Halakha follows this majority view.
2. If the food could be ready in time for the nighttime meal, but the individual's mind is distracted from it, then according to the first reason we would forbid shehiya, while the second reason would warrant permitting it. The Gemara comments that even if the pot is not entirely raw, but one placed in it a single piece of raw food, shehiya is allowed. Rashi explains that by adding the raw piece, the individual has expressed his intention not to partake of the pot's contents that night; this suggests that Rashi subscribed to the second reason for this halakha, that it hinges on the person's mind's distraction from the food. This also appears to emerge from the formulation of the Rambam and the Shulchan Arukh. The Tur, by contrast, suggests otherwise, as he writes that since the individual needs the food only the following day, and it can easily cook without stirring by the next day, there is no concern that he might stir the coals.

Practically speaking, one should not leave food on the fire for the following day unless it cannot be ready for consumption until the next day. And although the Shulchan Arukh's formulation suggests that this halakha depends on whether the person's mind is on the food, it is likely that we do not accept the view among the Rishonim that any shehiya performed for the next day necessarily entails the distraction of one's mind from the food. It must be objectively established that one has no thoughts of the food before the next day. One therefore should leave food on the fire for the next day only if he performs a demonstrative act, such as adding a raw piece of food, to express his disinterest in the food for the nighttime meal.

The Bei'ur Halakha writes that if the oven is exceedingly hot, and the food will be ready in the late hours of the night, after the meal, one may nevertheless

leave it in the oven before Shabbat, because his mind is certainly distracted from the food. It appears from the Bei'ur Halakha that shehiya is forbidden for any raw food that one plans to eat during the night, since one has his mind on the food. The Chazon Ish (37:22), by contrast, held that the law of kedeira chayeta applies even if one plans to eat the food at night, because "generally speaking one leaves a pot of raw food [on the fire before Shabbat] only for the following day."

In the next shiur, we will deal with the practical definitions of garuf ve-katum (a "cleared" or "covered" stove) and the practical applications of the laws of shehiya in modern times.

Notes:

1. See Tosefot, Shabbat 37a s.v. le-olam. The student is advised to carefully review the Gemara's discussion in Masekhet Shabbat 36b-37a and take note of the difficulty inherent in this reading of the Mishna.
2. See the discussions of – among others – the Rif, Ba'al Ha-ma'or and Ramban.
3. Tosefot there conclude upon this position, as well.
4. This approach, however, is far from simple. It emerges from the Gemara (38b) that an oven has a more stringent status than a stove only in situations that demand that the stove be cleared of its coals; the halakha would be stringent in these cases even in ovens that have been cleared. But when Halakha is lenient regarding a stove that has not been cleared, it treats ovens the same way. Accordingly, Chananya, who permits leaving food at the point of ma'akhal Ben Derusai in a stove that has not been cleared of its coals, would likewise permit doing so in an oven that has not been cleared. The Ba'al Ha-ma'or's approach thus requires further explanation.
5. In his comments to 34b (s.v. gezeira), too, he appears to follow the Chakhamim's position.
6. Emphasis added.
7. This follows Tosefot's view.
8. The Korban Netanel (7) understood as a given assumption that Rabbenu Chananel held that shehiya would be permitted only if the food has been fully cooked, in accordance with Rabbi Yochanan's view. And he understood that Rabbi Yochanan voiced a middle position, in between Chananya, who permitted shehiya once the food reached ma'akhal Ben Derusai, and the Chakhamim, who forbade shehiya even if the food was fully cooked. Later, however, we will see that Rabbenu Chananya sided squarely with Chananya.
9. It would seem that whether or not the text should read "that is not" hinges on the view of Rav Hai Gaon, which we mentioned in the previous shiur,

concerning the issue of whether Chananya allows shehiya even after the food has been fully cooked.

10. It is clear from context that he refers to the point of ma'akhal Ben Derusai.
11. Review the comments of the Sefat Emet, cited earlier.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 19: Shehiya, Part 3 (The Definition of Garuf Ve-katum, and Contemporary Application)

Defining Garuf

The Yerushalmi (Shabbat 3:1) states: "One who clears [away the coals from a stove] must clear entirely, since it is taught: 'One who clears must remove with his hand[1]'; thus it emerges that he must clear entirely." The Rishonim deduce from the Yerushalmi that all the coals must be removed for the stove to be considered garuf to allow shehiya. However, as we will see later, the Rishonim who define garuf differently explain the Yerushalmi in accordance with their view.

The Mishnayot distinguish between shehiya over a stove, which is wide and has space for two pots, and shehiya in an oven, which has a narrow opening and retains its heat more effectively. Many Rishonim maintain that shehiya is forbidden in an oven even after it has been cleared of its coals. But this ruling seems difficult to understand; if the coals are removed, we obviously have no reason for concern that one might stir the coals, and shehiya should therefore be permissible.

Due to this question, the Ba'al Ha-ma'or, in the beginning of this chapter, explains that garuf means sweeping all the coals to one side of the stove or oven. It is regarding such a case that the Gemara distinguishes between a stove and an oven, forbidding shehiya in an oven. But if one removes the coals entirely, then shehiya is allowed even in an oven. The Ba'al Ha-ma'or writes:

Similarly, if one cleared all the coals and took them away, then regarding both ovens and stoves it is permissible to leave [before Shabbat] and return [on Shabbat] any item, for there is no concern for stirring the coals. And that which is stated in the Mishna, "until he clears," it refers to clearing the coals to one side, in which case the decree [regarding the concern that] one might come to

stir is diminished, for he has demonstrated his intention that he is not interested in them… There is concern for them in an oven. But if one cleared everything from an oven and moved it away, and nothing remains, what remains for us to be concerned of?

Most Rishonim, however, did not follow this interpretation, and accepted the straightforward implication that "clearing" means moving away all the coals. They therefore had to devise other ways of explaining why shehiya is forbidden in an oven that has been cleared.

The Rambam explained (Hilkhot Shabbat 3:6):

Why did they [the Sages] forbid leaving [food before Shabbat] in an oven, even if it had been cleared [of its coals]? Because one who clears [the coals] clears only the majority of the fire and its essence, and it is impossible to clear all the fire such that not even a single spark remains[2], and since its air is hot, one might stir in order to kindle the remaining sparks in the oven.

The Rashba, however, explained differently:

It is correct to say that we require that actually be cleared[3], but in an oven, since it has abundant and hot air, it does not appear cleared, but rather like coals are there, and one may come to leave [food before Shabbat] or return [food on Shabbat] on a stove that is not cleared, and he will come to stir. Alternatively, he might come to leave [food before Shabbat] or return [food on Shabbat] on an actual oven that is not cleared.

The obvious difficulty with the Rashba's approach is that we have a rabbinic decree forbidding shehiya in an oven as a safeguard against shehiya in a stove, which is itself forbidden only as a safeguard against stirring the coals.[4]

According to most Rishonim, then, one must actually remove all the coals from the stove, whereas the Ba'al Ha-ma'or held that it suffices to move them to the side, such that they are not underneath the pot. The majority view felt that shehiya is permitted once there is no longer any possibility of stirring; according to the Ba'al Ha-ma'or, shehiya is allowed when the individual demonstratively expresses the fact that he has no need for the coals by moving them to the side. Once he expresses his disinterest in the coals, it is unlikely that he will come to stir them, and Chazal therefore did not forbid shehiya in such a case.[5]

Defining Katum

The Yerushalmi, in the aforementioned passage, states, "And one who covers [the stove] must cover it entirely; but from what is taught: 'He has hatchelled flax blaze over it,' it emerges that even if one did not cover it entirely [it suffices]." The Yerushalmi thus concludes that one need not cover the stove entirely. This is also the implication of the Bavli (37a): "Coals that have faded, upon which one placed thin hatchelled flax – this is considered covered."

The question naturally arises why Chazal were more stringent regarding garuf, and required that the coals be cleared away entirely, than with regard to katum, where they allowed even a partial covering. The Ran (to the Rif 15b s.v. ad) explained, "Because when it comes to clearing, if one cleared part of the coals and left a few of them, there is no indication in those that remain; but once one places ashes over all the coals, he has made an indication in all of them." This explanation works well for the view of the Ran, who follows the Ba'al Ha-ma'or's understanding of the requirement of garuf, as serving as a heker – a visible indication that the coals may not be stirred. But according to the majority view among the Rishonim, that garuf means clearing away all the coals, we must explain that the halakha allowing shehiya after clearing the coals differs fundamentally from that which allows shehiya after covering the coals. We find among the Rishonim different approaches in explaining the concept of katum. The Ramban writes:

The reason is that one who completely mixes ashes and fire diverts his thoughts away from stirring the fire; he has already ruined it and diverted his thoughts from it. But one who clears [the coals] – if even a small coal remains there, since it is glowing, it can light and kindle an entire stove.

In the Ramban's view, diverting one's thoughts from stirring suffices only if one ruins the fire; performing a demonstrative act to the fire is not enough. Therefore, one must clear away all the coals. When it comes to covering, one need not cover the entire stove; it suffices to mix ashes with fire in order to ruin it, which constitutes a meaningful expression of the diversion of his thoughts from stirring. From the Rashba, however, it appears that he views hesech ha-da'at (diversion of one's thoughts) as requiring an outward demonstration of the fact that the individual no longer has any interest in raising the fire: "For since he dimmed it and did not bother to kindle them, it is evidently clear that he does not care to stir it."

The Rambam also speaks of hesech ha-da'at, but he focuses on the person's thoughts of the food, rather than of the fire, as we saw in the Ramban

and Rashba, each in his own direction. The Rambam writes (Hilkhot Shabbat 3:4):

Therefore, if one cleared away the fire or covered the fire of the stove with ashes or thin, hatchelled flax, or if the coals faded, in which case they are like covered with ashes, or if one kindled it [the stove] with straw, rakings or the dung of small cattle, such that there are no burning coals, it is permissible to leave [food] on it [before Shabbat], since he diverted his attention from this food and they [the Sages] did not decree lest he stir the fire.

He seems to mean that the individual has despaired from eating the food in its optimum form, and has resigned himself to eating it in its present state.[6] This despair results from the condition of the fire, which has no burning coals, either because they have been cleared away or because they naturally began to die; therefore, the individual loses hope of furthering the cooking of this food.

As mentioned above, the Ran held that the central point is the heker – the external indication a person makes on the coals so that should he approach the coals to stir them, he will see the fire, remember that it is Shabbat, and refrain from stirring. The Ramakh takes a similar approach, as cited by the Kesef Mishneh.

According to the Ran's view, that to allow for shehiya we require a reminder to the individual so that he will not stir the coals, it is clear why he allows merely moving the coals to the side away from the pot, as one thereby creates a reminder for himself. But according to the other Rishonim, who require hesech ha-da'at, one must remove all the coals from the stove. Their dispute as to whether the concern arises in an oven perhaps hinges on this point, as well.

According to the Rambam, shehiya is permitted if one diverts his thoughts from the food, and therefore it is forbidden in an oven, because the heat is intense and one's mind thus remains on the food. But according to the Ramban, that the individual's thoughts must be diverted from the fire, this is accomplished even in an oven through clearing or covering the coals. Chazal forbade shehiya in an oven for an entirely different reason, namely, that one may then leave food in a stove that has not been cleared or covered, as we cited earlier from the Rashba. It is also possible, however, that all agree that in an oven one's mind is distracted from neither the fire nor the food, and the Rishonim disagree with regard to the factual question of whether there is what to stir after the coals have been cleared.

Shehiya Nowadays

Rav Moshe Feinstein (Iggerot Moshe, O.C. 93) addresses the possibility that the entire prohibition of shehiya might be inapplicable in modern times:

Now there is good reason to claim that the enactment [of shehiya] does not apply at all in our gas ovens [= stoves], for we see that they enacted [this prohibition] only out of concern that one might stir, and not out of concern that one might bring more wood when the fire extinguishes...perhaps because they enacted only [out of concern] that one will stir with his mouth [by blowing], which people look upon lightly and do not consider an action as they look upon doing it by hand. If so, then regarding gas ovens, given that stirring does not apply to the gas, for it is already there, only if one wishes to raise the fire he must add more gas, which he does by further turning the holes of the pipe from which the gas comes, it is thus like bringing other wood for which they did not decree, for they were not concerned that one will perform an action with his hands. And even if we say that the reason why they did not decree lest one bring wood and straw is because generally it is not situated near the stove, and thus in gas ovens, where it is a simple matter to open further the holes of the pipe to bring more gas, there is reason to decree, nevertheless, since in any event they did not enact even with regard to wood and straw situated near the stove, therefore, even regarding gas, it is not included under the decree despite the fact that now it is done in such a way that it is always nearby…and we cannot introduce new prohibitions.

In spite of this argument, Rav Moshe did not rely on it to permit shehiya altogether. It seems to me that Chazal enacted a prohibition against leaving a pot over the fire in such a way that one might increase the strength of the fire either due to forgetfulness, or out of a momentary decision (resulting from human weakness). They therefore were not concerned that one might bring wood from elsewhere. Our gas stoves, then, would, indeed, be included under the initial prohibition.

One might, however, question the decree's applicability for a different reason. Chazal perhaps forbade shehiya only over an unstable fire, such as coals, which at times burns very well and at others begins to fade and thus requires reinforcement. The fire in gas or electric stoves, however, is steady and stable, and a person can set the desired strength of the flame from the outset, and hence there is no concern for stirring. The Bei'ur Halakha (253, s.v. afilu) raises a similar notion:

There is room to ask: The Talmud and authorities employ the formulation, "he kindled it with straw and rakings," which implies that this occurred after the kindling. For this reason it is forbidden with [a stove kindled with] wood, because they leave behind coals and there is the concern that one might stir, whereas straw and rakings do not leave behind coals. Accordingly, it is possible that if one places a lot of straw, that burns for an extended period of time, it might be forbidden to leave [food on the fire before Shabbat] at least while it burns. Or, perhaps the Talmud simply employed conventional terminology, for it was their practice to place the pot [on the stove] after kindling [the stove], but this would apply as well to the time when it burns – this would also be permitted. And the reason would be that at the time when it burns there is in any event no concern for stirring, for why would one stir if it still burns? There is no reason to burn except once it extinguished. It informs us that with straw, once it is extinguished, stirring it is of no avail for the coal has also been consumed, whereas with peat or wood this is always forbidden, since one might come to stir the coals after the fire is extinguished. This requires further study.

In practice, however, it would seem that one cannot rely on this consideration, either, with regard to modern gas stoves, because Chazal's decree included any instance where there is concern for stirring due to a momentary lapse. And since today people very commonly change the strength of the flame during the cooking process, this concern applies even nowadays. To the contrary, one might argue that nowadays we must be concerned for not only raising the flame, but also for lowering the flame; this would require further study. In this regard Rav Moshe Feinstein was asked the following question (Iggerot Moshe, O.C. 4:74:25): "In our gas ovens [= stoves], when the gas tap is completely open, and it is impossible to raise the fire any further, does one require a blech [covering over the stove] for shehiya, for it is clear that there is no concern lest he extinguish…"

Rav Moshe responds:

We should require a blech even if the gas is completely open. Firstly, even if there is no concern, one requires [a blech] for the reason of lo pelug [the Sages' decrees apply even in cases when the reason does not obtain]. Furthermore, even if they did not decree with regard to extinguishing fire sustained by wood, for which water is required, when it comes to extinguishing fire sustained by gas, which is very simple, there is concern. And even if we say that kibuy [the prohibition against extinguishing on Shabbat] does not apply at all to gas, nevertheless we should be concerned lest he lower the gas and then stir, and therefore we should require a blech in all cases.

I had thought that one would require a blech because the basic concern relates to any action that one could perform out of forgetfulness or without paying attention; this is perhaps what Rav Moshe meant when he wrote that there is concern because turning the gas knob is "very simple."

"Clearing" and "Covering" the Stove Nowadays

Let us now discuss the question of how a contemporary stove is made garuf or katum.

Clearing the coals does not apply nowadays, because it requires turning off the fire altogether. True, according to the Ba'al Ha-ma'or and Ran, who held that it suffices to move the coals away from the pot, one might claim that if there is any kind of surface over the gas stove, and one places the pot next to the flame but not directly over it[7], the stove would be considered garuf. Halakha, however, follows the view that the coals must be removed entirely.

With regard to making a stove katum, several issues must be addressed.

Rav Moshe Feinstein (Iggerot Moshe O.C. 1:93) discusses whether the covering must be over the fire, or over the area where stirring occurs – meaning, the area of the gas knobs. He writes:

According to this, we could perhaps permit even covering only the fire itself – even without a covering also over the knobs with which one lowers or raises [the fire], for covering only the fire also constitutes a significant indication that he does not intend to "stir" and raise the fire any more, as many are accustomed to doing. But it is preferable for the metal covering to cover also the knobs so that the indication will be also in the place of stirring, just like the kitum [covering of stoves in Talmudic times], since we should perhaps be concerned that he will [otherwise] not take note of the covering and stir. And although this is unlikely, nevertheless, since we find that [shehiya] is permitted by making an indication in the area of stirring, it is perhaps allowed specifically in this manner. But certainly covering only the knobs and not the fire is of no avail, because the main thing is to demonstrate that he intends to lessen [the cooking], which is more apparent through the covering of the fire. But since then there were two advantageous measures, that one lessens the heat and it was at the place of stirring, it perhaps must be this way. One should therefore be stringent and cover the knobs, as well. But since it seems more reasonable that it is considered a significant indication even without covering the knobs, one may be lenient in dire situations, and one should not object to those who have the lenient practice of covering only the fire.

In his view, what matters is the heker one makes on the fire, which expresses his intention to lessen the fire's force, and thereby to forego on any further stirring. Therefore, one needs to place the blech only over the fire. Optimally, however, he demands that one cover the knobs, as well, since he may not take note of the covering over the fire and come to stir; after all, in Talmudic times the kitum was done in the place of the fire, which was also where stirring occurred. Be-di'avad (ex post facto), however, it suffices to cover the fire even without covering the knobs, though Rav Moshe is not prepared to forego on the covering of the fire.

In light of our discussion over the course of this shiur, it would appear that according to the Ba'al Ha-ma'or and Ran, that the primary concern is that one makes a reminder for himself so that he will not mistakenly stir the coals, covering the knobs alone should suffice, since this is as effective a reminder as any. If, however, the idea here is that one diverts his attention away from the fire, then we should perhaps demand an action that diminishes from the force of the fire, as the Iggerot Moshe requires.

According to the Rambam, who speaks of diverting one's attention from the food, there is room to question whether we can make our stoves katum at all. On the one hand, the objective reality is such that one does not despair from any further enhancement of the food, whereas on the other hand, it perhaps suffices that one resign himself to not enhance the food any further, in which case covering the knobs would suffice.

It also seems to me that if one makes a point of not merely making some indication on the knobs as a reminder, but rather removing them entirely, or if he covers them in a way that does not allow for turning them, then according to all views this would suffice, as it resembles the case (mentioned in the Gemara) of smearing the stove with plaster.

As for the practical halakha, it would appear that one should preferably follow the ruling of the Iggerot Moshe, and be-di'avad, it suffices if one either covered the fire or made an indication on the knobs. And removing the knobs entirely would be acceptable even le-khatechila (at the optimal level).

One might question whether covering the stove suffices to render it katum, in light of the following comments of the Chazon Ish (37:11):

If one lays a sheet of metal and places the pot inside the sheet, nevertheless, this is not the same as placing an empty pot[8] on the stove to make an interruption [between the pot and the fire], for here it is similar to merely covering the stove

with its covering and then placing the pot on the covering, which is considered [the same as being directly] on it.

The Chazon Ish's stance stems from Rashi's comment (Shabbat 37a s.v. gaba) that when one places a pot on the covering that is placed over the hollow space of the stove, he is considered as placing the pot directly on the stove, and this does not have the status of katum. But I believe that this applies only to a covering that is normally on the stove. In contemporary gas stoves, however, the metal sheet is not part of the stove and can thus be treated as a covering. The Iggerot Moshe proposed an additional distinction:

We must therefore claim that since this is often the standard method of cooking, that if the fire is large and one fears that it will burn [the food], for with wood it is difficult to regulate [the level of the fire], and also very often a small fire cannot be lit and one must make a large fire – one places a covering over it and bakes or cooks there, for he can cook even over the thickness of its rim, since the stove itself has [abundant] heat for cooking. [Cooking] on it is thus no worse, and is [equivalent to cooking] on the fire, and therefore it is not a reminder. And if so, then in a gas [stove], where there is nobody who cooks with a metal sheet [covering the stove] since he can lower the fire and raise it precisely as he needs, there is no greater reminder than this, and it is [therefore] permissible.

Everything we mentioned about the need to clear or cover the fire applies in situations where it is forbidden to leave food over an open flame, meaning, when dealing with a food that has not reached the point of ma'akhal Ben Derusai, according to all views, or, according to the Rambam and Rif, even with other foods, if continued cooking is beneficial for them (mitztameik ve-yafeh lo). As mentioned in earlier shiurim, the Rama rules leniently, and this is indeed the common practice among most Ashkenazim. Even among Sepharadim many follow the lenient position, and although preferably one should endeavor to follow the position of the Shulchan Arukh, who appears to favor the stringent ruling, one should not object to those who are lenient.

Those who leave food on a "plata" (electric hot plate) before Shabbat may do so even according to the stringent position, because there is no possibility of "stirring," and it is considered garuf ve-katum.

Those who are accustomed to leaving food before Shabbat in an electric oven and wish to render it katum should remove the knobs or cover them such that the temperature cannot be raised; be-di'avad, it suffices if one placed some indication on the knobs that he should not turn them. In any event, when one

removes the food from the oven, he must ensure to comply with certain conditions, as will be explained.

Most ovens have a thermostat that regulates its heat. If the oven is not running at a given moment because of the thermostat, opening the oven at that moment will allow relatively cold air to enter the oven and restart its operation. One should therefore ensure to open the oven only while it is running, so that at most opening the oven will only prolong the current period of operation, rather than begin a new period of operation. Alternatively, one can connect a timer to the oven and set it to turn off before he will want to take out the food.

Some ovens come with a special Shabbat setting, whereby it runs on a fixed temperature, rather than a thermostat, in which case there is no need for concern in this regard.[9]

Notes:

1. "le-chatet be-yad." The term chitut generally refers to the complete extraction of something. Some Rishonim had a text of the Yerushalmi that read, "tzarikh le-tate ba-yad," which would presumably mean that one must sweep all the coals away with his hand. However, the Ba'al Ha-ma'or and Milchamot explain the Yerushalmi to mean that one must move all the coals away from the area beneath the pot.
2. The Ritva explained, "It appears that not actually 'all the coals,' but even if he left there only coals that are fading or embers…" His comments resemble the basic principle that emerges from the Rambam's explanation.
3. The Ramban explained similarly, based on the aforementioned comments of the Yerushalmi.
4. The Ran (in his commentary to the Rif) raised this question against this approach, and for this reason he adopted the Ba'al Ha-ma'or's view. Some Rishonim in fact permitted shehiya in an oven that has been cleared or covered, because of, among other reasons, this argument that there can be no concern for stirring if the coals are cleared; see Sefer Ha-hashlama. See also the view of the Ramakh, cited in Kesef Mishneh, Hilkhot Shabbat 3:5.
5. In an oven, however, given the intense heat, one might stir despite the diversion of his thoughts from the coals, because moving the coals to the sides does not render stirring virtually purposeless.
6. This explanation of the Rambam's comments resolves the difficulty raised by the Ramakh, as cited by the Kesef Mishneh.
7. Later we will discuss whether this would suffice to render the stove katum.

8. This halakha mentioned by the Chazon Ish originates from the Hagahot Mordekhai (3rd chapter of Shabbat) and is codified in the Shulchan Arukh (253:3): "One who arises early in the morning and sees that his food has burned, and fears that it will burn further, may remove [the pot] and place an old, empty pot on the stove and then place the pot containing the food on the empty pot." The empty pot then renders the stove katum. We will discuss this halakha in future shiurim.

9. Some ovens have a Shabbat setting with a thermostat that operates on a low but fluctuating temperature; one should therefore ensure to carefully determine how his oven operates.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 20: Hachazara – Returning Food to the Fire on Shabbat – Part 1

The term hachazara refers to the situation of a pot that had been on the fire on Shabbat and then removed from the fire, which one now wishes to place on the fire again.[1] In this shiur we will assess the various conditions under which a pot may be returned to the fire on Shabbat.

Fundamentally, three conditions are required for allowing hachazara:

1. It must not involve a violation of the Torah prohibition of bishul;
2. The food must be returned only to a fire that is garuf or katum (cleared of its coals or covered);
3. One must ascertain that this qualifies as "returning," and not a new act of cooking.

The first condition is not mentioned explicitly anywhere in the Mishna or Gemara, because it is clear and obvious and requires no explicit mention.[2] The second condition appears in the first Mishna of the third chapter of Masekhet Shabbat, and the third arises in the Gemara's discussion in Shabbat 38b. The Gemara earlier (37a) mentions an additional condition, that one may return only to the top of the stove, and not inside the stove; it is unclear whether this condition belongs to the second or third conditions listed above. We will address this issue later in the shiur; first we will discuss each of the three basic conditions in greater detail.

Avoiding the Torah Violation of Bishul

One may not return a pot to the fire if doing so will entail a violation of the Torah prohibition of bishul. Meaning, the food must have reached the point of ma'akhal Ben Derusai – according to the view that bishul cannot occur after this point – or fully cooked, according to the position that bishul remains applicable even beyond ma'akhal Ben Derusai. And when dealing with a liquid,

one must ensure that the liquid is still hot, in accordance with the various views on the matter.[3] The Meiri, at the beginning of the third chapter of Masekhet Shabbat, allows hachazara with a food that had reached the point of ma'akhal Ben Derusai. He writes:

You should not interpret it as referring to [food] that was not cooked even to the point of ma'akhal Ben Derusai…for in this case, how could Beit Hillel allow even hachazara? Certainly, therefore, [it refers to food] that had been cooked to the point of ma'akhal Ben Derusai.

His remarks seem very difficult to understand, in light of the fact that the Meiri himself maintains that the Torah prohibition of bishul applies even to food that has reached ma'akhal Ben Derusai, so long as it is not fully cooked (see his commentary to the Mishna 145b). He indeed raises this question, and offers the following explanation:

And since it was cooked, we are not concerned about its continued cooking once he covered [the flame], for there is no bishul on a covered [fire] with food that has [already] been cooked; it rather maintains [the food's heat]. And even though we see that it dries, this occurs even with sustaining heat and given the extended period of time, and not as a result of cooking.

His primary claim seems to be that a covered stove does not have the capacity to further the cooking process, and can only maintain the food's heat. And even though we see with our own eyes that the food dries over the covered stove, this results not from additional cooking, but rather due to the preservation of its heat. This point requires further analysis, but in any event, according to our understanding of the Meiri, it turns out that covering the stove suffices to avoid the Torah violation of bishul because of the diminished strength of the fire.

The question arises according to the Rishonim[4] who maintain – or at least consider the possibility – that bishul applies even to fully-cooked foods, how hachazara is ever permitted. At first glance, according to this position, hachazara would always entail a Torah violation of bishul. Of course, we could explain their view in the same manner as we explained the Meiri's position. Alternatively, we might explain that in their view, the Torah prohibition applies only to cooking over fire, whereas soaking cooked food in hot water is allowed, since this does not occur over a fire.[5] We could then extend this notion further and claim that even if one places the pot on a stove that is garuf or katum, this does not constitute bishul insofar as it deviates from the normal procedure of cooking. But we cannot suggest this approach to explain the Or Zarua, who writes explicitly that soaking cooked food in hot water on Shabbat is permissible

only in a keli sheni, and not in a keli rishon. Certainly, then, it would be forbidden to place such food over a covered stove. According to his view, then, we would have to follow the Meiri's approach discussed earlier.

It would seem that even the Tosefot Yeshanim acknowledge a rabbinic prohibition of hachazara, only in their view, this decree applies only where bishul could possibly occur; but where bishul cannot occur at all, there is no prohibition of hachazara. According to this view, one avoids the Torah prohibition by covering the fire – either due to the Meiri's reasoning or because of the theory we proposed that fully-cooked food can be subject to bishul only on an open fire, and returning food to a covered fire is permissible if the various conditions of hachazara are met.[6]

In any event, we must remember that the more widespread view is to permit hachazara only if the food is fully cooked and dry, or, when dealing with liquid food, if the food is still hot at the level of yad soledet bo, according to the Shulchan Arukh, or somewhat hot, according to the Rama's view.

Garuf or Katum

The Rishonim debate the question of why the stove must be either cleared of its coals (garuf) or covered (katum) to allow hachazara, even according to the view of Chananya, who allows leaving partially-cooked food on a fire before Shabbat even if it is not garuf ve-katum.

Rashi, commenting on the Mishna (36b), writes that returning cooked food to a stove that is not garuf ve-katum resembles cooking[7]. The Ritva similarly wrote, "Meaning, they [the Sages] were more stringent with regard to returning [food to the fire] because it is like cooking on Shabbat, for there is no concern that one will stir." Likewise, the Rashba (40b) explained:

And even though they forbade returning [food] to a stove that is not cleared [of its coals] and to place for the first time even if it is cleared or covered, even an item that is hot and fully cooked – there the reason is because it looks like cooking, since this is the usual manner of cooking.

By contrast, the Sefer Ha-yashar of Rabbenu Tam explained that the need for removing or covering the coals stems from the concern that one may stir them. He then proceeds to explain why Chazal were more stringent regarding hachazara then they were concerning shehiya (Sefer Ha-yashar 237; see also 235):

Hachazara is forbidden because since he needs it [the food] now, he might stir the coals, and since he is returning it [to the fire], it is clear that it has cooled… For shehiya implies that he leaves the pot in the place where it cooks and does not move it from there, and in this case he will certainly not come to stir[8], for it is certainly boiling, given that it had not been removed from the stove.

The Chiddushim Ha-meychasim La-Ran (Shabbat 36b s.v. ibaya) similarly wrote, "There we require [that the stove be] cleared or covered because since he removed it from the fire and it cooled as a result of its removal, there is concern that he might stir when he returns it."

We might suggest a practical difference between these two approaches in understanding the need for garuf ve-katum for hachazara. The Yeshu'ot Yaakov wrote that for purposes of hachazara, we do not require that one remove all the coals from the stove; it suffices to simply sweep them to the side. It would seem that this view accommodates the position that garuf ve-katum serves to overcome the problem of the resemblance to cooking. According to this position, Chazal forbade placing a pot over the fire on Shabbat as one does when cooking during the week, and thus once a person deviates from standard procedure by moving the coals to the side, he may place the pot on the stove. But if the issue regarding hachazara is the concern that one may stir the coals, we should apply the standard definition of garuf; and so just as regarding shehiya we maintain that one must remove the coals entirely (in contrast to the lenient ruling of the Ba'al Ha-ma'or), the same should be true regarding hachazara.

Another issue worth considering is whether to forbid returning food to an open flame in a case of mitztameik ve-ra lo, where ongoing cooking is detrimental to the food's taste. The Rambam's formulation suggests that in this case, too, we require a stove that is garuf or katum: "Anything that one may leave on the fire [before Shabbat] may not be returned to its place once it is removed on Shabbat, and one may never return [food to a stove on Shabbat], except to a stove that is cleared or covered" (Hilkhot Shabbat 3:10). At first glance, if the concern regarding hachazara is that one might stir the coals, then we should permit returning food to an open flame in cases of mitztameik ve-ra lo. If, however, we require garuf ve-katum to avoid giving the appearance of cooking, then we would not distinguish between mitztameik ve-ra lo and other cases, and hachazara to an open fire will be forbidden in all instances. In truth, however, even those who explain the concern of hachazara in terms of the possibility of stirring the coals might extend the prohibition to cases of mitztameik ve-ra lo, because the fear of stirring in cases of hachazara differs from the parallel concern in situations of shehiya. Here, the issue is the individual's

desire not to cook the food, but rather to simply reheat it after it had cooled as a result of its removal from the fire.

The Shulchan Arukh rules that returning food to an open fire is forbidden under all circumstances. The Iglei Tal (Ofeh, 24) comments, "Some say that a food for which ongoing cooking is detrimental, and is [still] boiling, may be returned even to a stove that is not cleared or covered." He explains (ibid. 25) that this is the implication of the Tosefot Yeshanim (Shabbat 37b), and that the issue hinges on the debate between the Chakhamim and Chananya. Since we follow Chananya's position, he writes, we should allow hachazara to an open fire in cases of mitztameik ve-ra lo.[9] Most authorities, however, ruled that hachazara is forbidden under all circumstances unless the stove if garuf ve-katum.

On Top and Inside the Stove

The Gemara states (37a): "Beit Hillel say: One may even return [food to the stove]. And Rabbi Chelbo said in the name of Rav Chama Bar Gurya in the name of Rav: This applies only to the top of the stove, but inside it – [returning food] is forbidden." Chazal allowed returning food onto the stove, but not inside it (meaning, the area where the fire burns). We find three general approaches among the Rishonim in explaining this restriction:

1) The Ramban writes, "In the Gemara they found it reasonable that inside it [the stove] would be more stringent with regard to returning [food], because its heat is considerable and it gives the appearance of cooking on Shabbat, even if it is garuf ve-katum." The immense heat inside the stove creates a situation where placing food there would give the appearance of cooking.

The Yerushalmi comments (3:1):

This applies only on it [a stove], but not inside it. Until where [may one place the food]? Ula said, until three [handbreadths]. Rabbi Mana said, until the point where he makes a furrow. Rabbi Yossi said in the house of Rabbi Bon: because he can withstand [the heat] – at a place where the hand can withstand [the heat]. This follows the view of Mar Rabbi Ze'ira in the name of Rabbi Yehuda: "One may warm [food] in a place where the hand can withstand [the heat], but one may not warm [food] in a place where the hand cannot withstand [the heat]."

The Ramban explains this passage in accordance with his position:

Meaning, Ula held that [the area] until three handbreadths deep into the stove is considered "on it" [as opposed to "inside it"] and is permissible, whereas Rabbi Mana allowed until the point of the furrow that one makes in the stove. Rabbi Yossi explained Rav's reason to be that one may not place his pot on Shabbat at a place where one's hand cannot withstand the intense heat.

The Ritva explained similarly:

"Inside it" means near the holes which the fire is underneath. And in the Yerushalmi they explained "inside it" to mean within three handbreadths of the fire… For regarding returning [food], without the reason of [the possibility that one might] stir, there is the reason that it resembles cooking, and therefore, we should forbid [returning food] inside it even though one cleared or covered [the stove]. But regarding shehiya, the concern is only that one may stir the coals, and once he cleared or covered [the stove], this concern does not exist.

2) The Meiri writes:

We have already explained in the Mishna that they allowed returning [food] only on top of the stove, but not inside it, even if it is covered, because he is [thus] invariably concealing it in embers and will turn out to be stirring. And even if it is cleared [of its coals], we have already explained that it is impossible for a cleared stove to have no coals [at all].

Meaning, if one returns the food inside the stove, such that it comes in direct contact with the coals[10], he will end up stirring the coals as he places the pot on them. The Meiri then asks:

Why is returning [food] forbidden [inside the stove]? The stirring constitutes a davar she-eino mitkavein [unintentional result of an otherwise permissible action]. They went so far as to explain that this constitutes a pesik reishei [the unintentional result is inevitable, and this is therefore forbidden], but if you look in Masekhet Keritut you will find that this notion is contradicted…and it is not included under the law of pesik reishei. Why, then, did they forbid [this]?

He answers in the name of the "scholars of the generations" (and this answer appears as well in the Sefer Ha-hashlama), "Perhaps as he places it he will intend to stir." According to this view, then, Chazal forbade returning food inside the stove because of the direct contact with the coals, which results in the stirring of the coals, in violation of the prohibition of mav'ir (kindling).

3) The Meiri mentions another approach, as well:

But there is no need for this, because in any event he moves coals as he places [the pot], as opposed to when he removes it, as we have written. And this does not constitute tiltul min ha-tzad [indirect handling] because contact through another object is [the same as actual] contact, because even during the week this is what is done.

According to this approach, the prohibition stems from the movement of the coals, which are muktzeh. But stirring the coals does not pose a problem, insofar as it occurs unintentionally.

These last two approaches share the assumption that the prohibition against placing the pot inside the stove relates specifically to the direct contact with the coals. According to the first of the three approaches, by contrast, the prohibition would apply regardless of whether the pot directly touches the coals, because placing the pot inside the stove resembles cooking.

From Rashi's comments to this sugya it appears that he understood this prohibition as referring to shehiya and not to hachazara, at least according to the view that the Mishna speaks of returning food on Shabbat, as Rashi himself concludes. The Ramban challenges Rashi's interpretation; in any event, according to the final Halakha it is clearly forbidden to return cooked food inside the stove.

The Beit Yosef (253) expresses his ambivalence in defining "on top of the stove":

The straightforward reading suggests that when the bottom of the pot is placed on the walls of the stove and fills the cavity, this is considered "on top of it," and when the entire pot is inside the cavity of the stove and sits on the bottom of the stove, it is considered "inside it." This is indeed what Rashi writes at the beginning of our chapter. But from the comments of our rabbi [the Tur], who wrote, "But only on top of it, such as on its edge or over the cover that is over its cavity," it appears that he does not explain this way. Rather, [he understood] "on top of it" to mean that the bottom of the pot stands on the wall of the stove, and not [directly] over the cavity, or that one places a covering over the stove and has the pot sit on that covering. But whenever the bottom of the pot fills the cavity of the stove, this is called "inside it."

In the Shulchan Arukh (253:2), he writes simply that one may not return the pot "inside it," without explaining this term any further. The Magen Avraham and Mishna Berura there explain:

Even if he suspended the pot in the airspace of the stove, and some of its walls protrude from up top, like a pot which is narrow on bottom and wide on the top, this is also included in "on top"; it is considered "inside it" only if the pot sits on the bottom of the stove.

The Shiltei Ha-giborim writes citing the Riaz:

It appears to me that they forbade returning [food] inside it [a stove] only in the case of a stove that has an interior and a cavity, similar to an oven. But our stoves, which are flat and have no interior or cavity – "inside" and "on top" are one and the same, and one may return [food] to it.

The Riaz clearly understood that the prohibition has nothing at all to do with the stirring or handling of the coals, for if this were the case, his ruling cannot be sustained. He understood that the prohibition against returning a pot inside a stove has to do with the intense heat inside the oven, as a result of which placing the pot there resembles actual cooking. He therefore established that Chazal sought not to forbid hachazara, but rather that one deviate from normal procedure when possible. Therefore, when there is no other option, returning a pot to the stove is entirely permissible. Following this view, the Arukh Ha-shulchan (253:17) writes, "In our ovens…there is no 'top' and one always has [the pot] stand inside them; there is no distinction in this regard, and 'inside it' is the same as 'on top of it'."[11]

The Riaz spoke of stoves that have no interior, whereas the Arukh Ha-shulchan discusses ovens that have an interior but no exterior, and he allows hachazara even in such ovens. His view is rooted in the point discussed earlier, that the distinction between the top and inside of the stove applies only when both possibilities exist; where only one of these is relevant, hachazara is permissible. It seems, however, that other Acharonim ruled more stringently on this matter (see Shemirat Shabbat Ke-hilkhata), as they forbade returning cooked food to modern-day baking ovens due to the Gemara's prohibition against returning food inside a stove, even though our ovens have no exterior. One should preferably refrain from using modern ovens for hachazara, though those who are lenient in this regard have a basis for their practice, especially in light of the fact that the Rambam makes no explicit mention of this halakha.[12]

Continuing the Initial Shehiya, Rather Than Beginning a New Shehiya

The Gemara states (Shabbat 38b):

Rabbi Zerika said in the name of Rabbi Abba, in the name of Rabbi Tadai: This applies only so long as they [the foods removed from the fire] are still in his hand; but if he placed them on the ground – it is forbidden [to return them to the fire]. Rav Ami said: Rabbi Tadai did this only for his own reasons; but this is what Rabbi Chiya said in the name of Rabbi Yochanan: even if he placed it on the ground – it is permissible [to return it to the fire]. Rav Dimi and Rav Shemuel Bar Yehuda argue on this point, and both state [their opinion] in the name of Rabbi Elazar. One says: if they are still in his hand, it is permissible; on the ground – it is forbidden. And the other says: if he placed them on the ground – it is also permissible. Chizkiya said in the name of Abayei: That which you said "If they are still in his hand, it is permissible" – this applies only if he had in mind to return [the food to the fire], but if he did not have in mind to return, it is forbidden [to return the food]. This implies that [if he placed it] on the ground, then even if he had in mind to return, it is forbidden. Others say that Chizkiya said in the name of Abayei: That which you said "On the ground, it is forbidden" – this applies only if he did not have in mind to return [the food to the fire], but if he had in mind to return, it is permissible. This implies that if they are still in his hand, then even if he did not have in mind to return, it is permissible.

The underlying premise of this entire discussion is the demand that the action be seen as a continuation of the initial shehiya (meaning, its initial period spent on the fire). The Amora'im debate only the question of how this continuity is practically expressed – through intent to return the pot to the fire, by ensuring not to put it down on the ground, or by a combination of these two requirements.

The Rishonim disagree in deciding upon which position to follow. The Geonim followed the stringent position, requiring both conditions to create continuity between the pot's original shehiya and its current shehiya. The Rif adopts this ruling:

Rabbi Tadai said: This applies only so long as they [the foods removed from the fire] are still in his hand; but if he placed them on the ground – it is forbidden [to return them to the fire]. Rabbi Chizkiya said in the name of Abayei: That which we said "If they are still in his hand, it is permissible" – this applies only if he had in mind to return [the food to the fire], but if he did not have in mind to return, it is forbidden [to return the food]. This implies that [if he placed it] on the ground, then even if he had in mind to return, it is forbidden.

The Rosh added (4:2), "Rabbenu Chananel explained that due to the stringent nature of Shabbat, we consider this equivalent to Torah law and follow the stringent position."

The Rashba commented:

Rabbenu Hai Gaon ruled stringently, in accordance with the first version [recorded in the Gemara], and this is what he wrote: "And that which you said that if they are still in his hand it is permissible to return [them to the fire], only if he had in mind to return is it permissible, but if he did not have in mind to return [them], he has taken his mind off them. And if he placed them on the ground, even if he had in mind to return [them] it is forbidden. Since there are two versions [of this halakha in the Gemara], with regard to a Torah law we act stringently…" They do not refer to an actual Torah law[13], for these are only rabbinic, for the Mishna refers to [food] that had reached the point of ma'akhal Ben Derusai, since otherwise, even if he had in mind to return [the foods to the fire] and even if it is still in his hand, it is forbidden to return them, because this is cooking. Undoubtedly, then, it speaks of when it has been cooked and there is only a rabbinic prohibition. But the view of the Geonim z"l is that since they [the Sages] forbade this because it gives the appearance of cooking, and it will likely bring one to a Torah violation, it is similar to a Torah law, and they therefore treated it stringently as a Torah law.

Other Rishonim, however, ruled leniently, allowing even one of the conditions mentioned in the Gemara. Tosefot write (Shabbat 48a s.v. de-zeitim), "Perhaps we [should] hold like this version…whereby Chizkiya allows in the name of Abayei if he placed it on the ground, so long as he had in mind to return [it to the fire]." The Rosh (4:2) writes this, as well, to justify the practice to act leniently in this regard.[14]

In the next shiur, we will deal with the Rambam's position on this issue, the final halakhic ruling, and the other issues that arise concerning hachazara.

Notes:

[1] Later, we will see that this definition is not entirely precise.
[2] Many Rishonim indeed make this point explicitly; see the comments of the Meiri and others cited later.
[3] We discussed the details relevant to this topic in our shiurim regarding the limitations on the bishul prohibition for solid and liquid foods.
[4] In our shiur on the topic of bishul achar bishul with dry foods, we cited the comments of the Tosefot Yeshanim (Shabbat 37b) and Or Zarua (62). It emerges clearly from the Or Zarua that he views this as a Torah violation, whereas the

Tosefot Yeshanim are less explicit, and they perhaps refer only to a rabbinic enactment. But this seems to me a bit far-fetched, and it appears more likely that they, too, view this as a Torah prohibition. The Iglei Tal (Ofeh, 48:7-9) explained the Tosefot Yeshanim as referring to a rabbinic prohibition, and claimed that for this reason they allowed soaking cooked food in a keli rishon: since it is not over the fire, this is not the standard manner cooking, and Chazal therefore imposed no prohibition in this regard. Later (53), the Iglei Tal understood the Tosefot Yeshanim as forbidding cooking previously-cooked food only if continued cooking is beneficial (mitztameik ve-yafeh lo). If additional cooking would be detrimental (mitztameik ve-ra lo), then one may return the food even to an open fire. As stated, however, the straightforward reading of the Tosefot Yeshanim suggests that they refer to a Torah prohibition, and the Or Zarua certainly saw this as potentially a Torah violation.

[5] The underlying logic of such a theory relates to the notion that since the food has been fully cooked, the prohibition of bishul at the moment pertains not to the transformation of the food's taste, but rather to the occurrence of the cooking process over the fire. We proposed a similar idea to explain the view of the Rambam and Kolbo regarding stirring. Possibly, therefore, if this takes place over a covered fire or in a keli rishon, which differs from the normal procedure of cooking, it would not constitute bishul. This would require further study and analysis.

[6] The work Noam Ha-Shabbat (10) explained this entire issue differently; I wrote here why I believe to be correct.

[7] It is possible that Rashi made this comment only within the position of Beit Shammai, but not according to Beit Hillel.

[8] The Rishonim disagree correspondingly in interpreting the Gemara's question later (38b) concerning a case of hot water that was transferred from one kettle to another. The Rishonim debate whether the issue involves the concern that one might stir, or the appearance of cooking. We will address this question in a later shiur.

[9] See our earlier discussion of the Tosefot Yeshanim.

[10] Bear in mind that direct contact with coals is deemed outright hatmana and is, according to many views, forbidden. The Meiri here maintains that this does not constitute hatmana, and he therefore addresses only the problem of the stirring that results from the contact with the coals. We will deal with the details of this issue at length when we discuss hatmana.

[11] He claims that this is what the Shiltei Ha-giborim had in mind.

[12] Although the Beit Yosef reasonably claims that the Rambam relied on his comment that "one may never return [food to a stove on Shabbat], except to a stove that is cleared or covered," see Arukh Ha-shulchan (253:16), who explains differently.

[13] This seems somewhat difficult, because the term de-orayta used by Rav Hai Gaon indeed suggests that he refers to a Torah prohibition.
[14] He himself, however, appears to follow the stringent ruling of Rabbenu Chananel and the Rif.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 21: Hachazara – Returning Food to the Fire on Shabbat – Part 2

In the previous shiur, we presented the debate among the Rishonim as to whether we demand two conditions to allow returning cooked food to the fire – that one had not placed it on the ground, and that he had in mind all along to return it to the fire – or if even one of these conditions suffices. The Gemara cites two traditions on this matter, and the Rishonim disagree in arriving at a halakhic conclusion.

A unique view among the Rishonim is that of the Rambam, who appears to follow neither of the two positions recorded in the Gemara. He writes (Hilkhot Shabbat 3:10), "One may never return [cooked food to the fire], except to a stove that is cleared [of its coals] or covered…and only if he did not place the pot on the ground; but once he placed it on the ground, it may not be returned." According to the Rambam, the possibility of hachazara depends solely on the factor of whether the pot had been placed on the ground in the interim; he makes no mention of the second factor, whether the individual had in mind all along to return the food to the fire. The Ramakh (cited by the Kesef Mishneh) indeed asked:

Why did he [the Rambam] rule in accordance with the first version [cited in the Talmud, which requires that the pot had not been placed on the ground]? And he did not even rule in accordance with the first version, for [according to the first version] it is forbidden even if he did not place it on the ground, if he did not have intention to return it!

The Kesef Mishneh explains that the requirement that one does not place it on the ground is accepted by most Amora'im, whereas the demand that he have the intention to return the food is mentioned only by Abayei, and the Rambam therefore did not require it. This seems difficult to accept; far more likely is the approach taken by the Vilna Gaon, that the Rambam here follows the view of the Yerushalmi, in our chapter, which cites Rabbi Simon's comment, "If he placed

it on the ground, it is forbidden to move it." The Yerushalmi makes no mention of the second condition, that the individual have in mind to return the pot to the fire, and thus this is perhaps the source of the Rambam's view.

The Gemara later raises several questions with regard to this halakha: "Rabbi Yirmiya asked: What if one hung them on a pole? What if he placed them on a bed? Rav Ashi asked: What if he moved them from one kettle to another?" The Gemara leaves these questions unresolved. The Yerushalmi, however, comments:

If it is hung on a peg or placed on a bench, we will say that if it is hot, it is permissible [to then return the food to the fire], otherwise, it is forbidden. Rabbi Yochanan the son of Rabbi Marei said – only if he did not remove his hand from it; but if he removed his hand from it, it is forbidden.

Placing the pot on the ground constitutes the completion of the previous shehiya (period of time that the pot spent on the fire), since it is there where pots are placed after cooking. The Gemara raises questions concerning the status of placing the pot on a bed or bench, or hanging it on a peg. The fundamental question seems to be whether only complete detachment from the pot – by placing it on the floor – constitutes a disruption of the initial shehiya, or if releasing the pot from one's hand already signifies a disruption. The Bavli leaves this as an open question, and the Rishonim disagree as to whether we should rule stringently (see Rosh, siman 2) or leniently (Riaz, Meiri and others). The Rambam makes no mention of these situations, and he clearly held that hachazara is permitted in these cases, given that he forbade hachazara only if one had placed the pot on the ground.

The Yerushalmi, by contrast, did not leave this as an open question, and concluded that so long as the food is still hot, and one has not released his hand from the pot, it may be returned to the fire. Given that the Yerushalmi requires that one not let go of the pot to allow hachazara, it is difficult to understand the Vilna Gaon's claim that the Rambam rules entirely in accordance with the Yerushalmi. It seems more likely that the Rambam followed the Yerushalmi in terms of the basic demand that the pot not be placed on the ground, but regarding the questionable situations addressed in the Gemara, he ruled leniently, on the basis of the rule of sefeika de-rabbanan (that we may rule leniently in situations of doubt concerning a rabbinic decree). Still, the Rambam's view requires further clarification.

The Bavli also addresses the case of hot water transferred from one kettle to another. The Rishonim disagree in explaining the Gemara's question, each

following his own approach to the basic law of hachazara. Tosefot (38b s.v. pina) explained that since the second kettle is cooler than the first, one might stir the coals. Other Rishonim, however, explained that since the second kettle had not been on the fire, the transfer of the water into it should perhaps constitute a new shehiya, and it thus gives the appearance of cooking.

As for the final halakha, the Shulchan Arukh writes (253:2), "A stove that is cleared [of its coals] or covered, and one removed the pot from it, even on Shabbat – one may return it, so long as it is boiling and he did not place it on the ground." The Shulchan Arukh thus follows the Rambam's view. The Rama, however, adds that the pot must have remained all throughout in the individual's hand, and that he had in mind to return it. He appears to advocate the stringent position, in accordance with the Rosh's ruling, requiring both conditions – that the pot is not placed on the ground, and that the individual had in mind to return it to the fire. And it seems that also with regard to the questionable situations addressed by the Gemara he rules stringently, and for this reason required that the pot remain in one's hand, rather than placed on a bench or bed.[1] The Mishna Berura rules that although one should optimally follow the stringent position of the Rama, be-di'avad one may be lenient so long as he satisfies even one of the conditions. Namely, if he had in mind to return the pot even if he placed it on a bench[2], or if he kept it in his hand even if he did not have in mind to return it to the fire, he may nevertheless return it, provided that he did not place it on the ground, in which case both the Rambam and the Shulchan Arukh would forbid returning it.

"One May Return it Even on Shabbat"

The Gemara (Shabbat 37a) records Rav Sheshet's comment, "According to the view that one may return [a pot to the fire], one may return it even on Shabbat."

The Rishonim debate the intent of Rav Sheshet's remark. Rashi explains that one may return the pot to the fire even if he had removed it from the fire on Shabbat day, and not only if he had removed it on Shabbat eve. One who removes the fire at night returns it to the fire for the following day's meal, and for this reason, one might have assumed, the pot's return constitutes a continuation of the initial shehiya. But one who removes the pot on Shabbat day would not normally return it to the fire, since there is no other meal for which he will need the food. We might have therefore forbidden hachazara on Shabbat day, since the pot's return to the fire would be seen as a new shehiya, rather than a continuation of the previous shehiya. Rav Sheshet therefore established that hachazara is permitted even on Shabbat day, since at times a person needs

to return the pot to the fire even then, and it is thus considered a continuation of the previous shehiya.

Tosefot and the Rosh explain that from Rav Sheshet's comment it emerges that the primary case of hachazara is when one returns the food to the fire before Shabbat, and Rav Sheshet extends this halakha to returning food to the fire on Shabbat. This approach yields the stringent conclusion that when one returns cooked food to the fire before Shabbat he must comply with all the conditions of hachazara.

Rabbenu Tam, in Sefer Ha-yashar (235), inferred this point from the Mishna's formulation, "he may not place [the pot on the stove] until he sweeps [the coals]," which suggests that it refers to placing the pot at a time when it is permitted to sweep the coals.[3] The Ran, commenting on the Rif (15b in the Rif's pagination), agrees with this approach, but claims that this holds true only according to Beit Shammai, who require that a melakha must have gotten underway to some extent before Shabbat for it to be allowed to continue into Shabbat. Since the pot will not have time to boil before the onset of Shabbat, Beit Shammai forbid returning the food before Shabbat. Beit Hillel, however, disagree with the concept of shevitat keilim – that one may not allow melakha to occur with his property on Shabbat – and therefore they permit performing any action before sundown, even if the entire melakha will take place on Shabbat. According to Tosefot, as mentioned, this prohibition applies even within Beit Hillel's position.

We find a distinction between Rabbenu Tam's comments and those of the Rosh in explaining the basis of the prohibition of hachazara before Shabbat. Rabbenu Tam writes:

That which we say in [the chapter] Kira, "he may not return until he sweeps" – this means even during the day [of Erev Shabbat], for since he places them upon it or inside it, he expresses his view that it requires warming, and there is thus the concern that he might stir [the coals]. Hence, he must make a reminder [for himself] by clearing or covering [the coals].

According to Rabbenu Tam, the Sages were concerned that one might stir the coals after the onset of Shabbat in order to warm the food. It thus stands to reason that he would apply this prohibition only to a cold pot that will not boil before the onset of Shabbat, as he writes later (237) in explaining the provision of kedeira chayeta (allowing one to place a pot of raw food on the fire just prior to Shabbat): "because it is impossible for it to be eaten at night as a result of its

stirring during twilight." This corresponds to Tosefot's comments (36b s.v. u-veit Hillel):

Should you ask: What duration [of time] does he give for the prohibition on Erev Shabbat? For when he removed it early in the morning, clearly it is permissible to return [it to the fire later]! The Ri says that from the moment that it can no longer be brought to a boil by the end of the day it is forbidden to return [it to the fire].

Tosefot here make no mention of the concern that one may stir the coals, and it therefore occurred to me that they perhaps understood this prohibition differently. When a pot is placed on the fire, the food begins to actually cook only after the water boils. Hence, one might argue that when a pot is placed on the fire on Erev Shabbat and the water will boil only after the onset of Shabbat, we consider the pot as having been placed on Shabbat, which is forbidden for the reason of meichazi ke-mevashel (it gives the appearance of cooking). If so, then we can understand as well why Tosefot there extend this prohibition to a boiling pot placed on the fire at a point where had it been cold it could not have begun to boil before the onset of Shabbat.[4]

The Rosh understood the prohibition of hachazara on Erev Shabbat much differently. He writes (3:2):

It appears to me that the prohibition against returning [food to the fire] during the day according to Beit Shammai even [if the stove is] cleared or covered – it means that during the day is the same as after dark: just as after dark, meaning, once it was cooked, one places it on a stove to leave it there, similarly, during the day it is forbidden to return it – meaning, after it has completed cooking and one leaves it standing on the stove until the evening to retain its heat. If one then removes it from the stove, it is forbidden to return it, as a safeguard [against returning to the fire] on Shabbat. And this is all a single decree, for since it will not cook any further on the stove, it is similar to the beginning of shehiya, and if we permit returning it during the day, one may also return it after dark. But so long as it has not fully cooked, one can remove and return it all day long.

According to the Rosh, the prohibition against returning a pot of cooked food to the fire on Erev Shabbat stems from the similarity of a pot at that moment to a pot sitting on the fire on Shabbat. Concerned that one might mistakenly permit hachazara on Shabbat itself, Chazal forbade hachazara before Shabbat.

According to this view, that the hachazara prohibition begins already on Erev Shabbat, the question arises as to whether we require all the conditions for

allowing hachazara, or if it suffices to clear or cover the stove. Instinctively, we might hinge this issue on the debate between the Rosh and Rabbenu Tam. According to Rabbenu Tam, who explained that hachazara is forbidden before Shabbat out of concern that one might stir the coals on Shabbat, it stands to reason that clearing away or covering the coals should suffice. The Rosh, however, explained the prohibition as a safeguard against violations of hachazara on Shabbat, and therefore he would presumably require meeting all the conditions that apply to hachazara on Shabbat, even when returning a pot before Shabbat.

In truth, however, neither conclusion – regarding Rabbenu Tam's view or the Rosh's view – is simple. Tosefot write (48a s.v. de-zeitim):

The practice to remove the pot from the stove and place it on the ground while the stove is being cleared [of its coals] – we perhaps follow the version [recorded] in the beginning of [the chapter] Kira (Shabbat 38b) that Chizkiya, in the name of Abayei, permitted placing [cooked food] on the ground [and then returning it to the fire] if he has in mind [all throughout] to return it [to the fire afterward].

Tosefot thus clearly held that in principle, all the conditions required to allow hachazara on Shabbat apply to hachazara before Shabbat, as well. The Rosh similarly writes (4:2):

But this is somewhat of a problem for their practice to clear [the coals from the stove] and remove the pot without paying attention to where they place it. And according to one version of Rav Chizkiya in the name of Abayei, we infer from it [his statement] – above, in the chapter Kira (38b) – that if one places [the pot] on the ground, it is forbidden [to then return it to the fire] even if he had in mind [all throughout] to return it. And even on Erev Shabbat it is forbidden to return, as I explained above. Perhaps they follow the other version, which allows placing [the pot] on the ground if one had in mind to return it.

However, this ruling of the Rosh appears to contradict his own comments, in the third chapter of Masekhet Shabbat (siman 2):

Rabbi Chelbo said in the name of Rav Chama Bar Guriya, in the name of Rav: This applies only on it [the stove]; but inside it, it is forbidden to return [a pot]. Rav Zerika said in the name of Rabbi Ami, in the name of Rabbi Tadai: This applies only if they are still in his hand; but if he placed them on the ground, it is forbidden. Chizkiya said in the name of Abayei: That which he said, "If there are still in his hand, it is permissible" – this applies only if he had in mind to return

[the pot]; but if he did not have in mind to return [the pot], it is forbidden." This refers to Rav Sheshet, who spoke of returning [a pot to the fire] even on Shabbat; but during the day, one may return [a pot to the fire] in any manner.

Here he claims that the entire discussion concerning a pot that had been placed on the ground, or that one did not have in mind to return to the fire, relates only to returning a pot on Shabbat itself. On Friday, however, hachazara is permitted, in direct opposition to the Rosh's own ruling in the fourth chapter. The Korban Netanel there advances a far-fetched reading of the Rosh's comments to reconcile the conflicting the passages. He explains that when the Rosh allowed hachazara during the day even without meeting the normal conditions of hachazara, he refers only to the period where hachazara is permitted, meaning, before the point at which the pot could not reach a boil by the onset of Shabbat.

The Vilna Gaon held that the Rosh requires only that the stove be covered or cleared of its coals to allow hachazara before Shabbat. In chapter 4, the Rosh works within the position of Tosefot, which he does not follow. Besides the obvious difficulty in this speculation, it results in Tosefot requiring all the normal conditions for hachazara even on Erev Shabbat, with the Rosh requiring only covering the stove – in direct contrast to the straightforward rationale we advanced earlier. Perhaps the Rosh held that although the hachazara prohibition before Shabbat serves to safeguard against violations of hachazara on Shabbat, the laws of hachazara before and after Shabbat need not necessarily correspond to one another. Clearing or covering the stove provides enough of a discernible indication to prevent against possible confusion, and therefore the other conditions of hachazara are not necessary.[5]

As for Tosefot, they perhaps held – as we explained their view earlier – that the need to clear or cover the stove to permit hachazara stems from the concern of meichazi ke-mevashel, to avoid giving the appearance of cooking on Shabbat. They therefore require meeting all the conditions of hachazara even before Shabbat. According to Rabbenu Tam, however, it stands to reason that clearing or covering the stove would suffice.

As for the final halakha, the Shulchan Arukh follows the view of the majority of Rishonim, in opposition to Tosefot, that the prohibition of hachazara does not apply at all before Shabbat. But the Rama rules:

Some say that just before dark, or just before "Borchu" which for us amounts to the acceptance of Shabbat – if it is so close [to Shabbat] that if the pot had cooled it would be impossible to bring it to a boil by the end of the day, it has the same status as Shabbat itself [with respect to hachazara]. Some are lenient in this

regard. The practice is to be lenient, but it is proper to be stringent where there is no great need [to act stringently].

The Mishna Berura follows the view of the Vilna Gaon, that even the stringent position requires only that the stove be covered to allow hachazara before Shabbat, and does not demand that one meet all the conditions of hachazara.

Removing a Pot During the Day and Returning it at Night

The Yerushalmi states in the third chapter of Masekhet Shabbat:

If one removed it during the day [of Erev Shabbat], he may return it during the day; if he removed it after dark, he may return it after dark; if he removed it during the day and Shabbat set in – Rabbi Simon… said in the name of Rabbi Hoshaya, if he placed it on the ground, it may not be moved.

The Ramban comments on this passage:

This proves that the meaning of "even on Shabbat" is as follows: Even if one removed [the pot from the fire] on Erev Shabbat and Shabbat set in, he is allowed to return [the pot], for it will then turn out that only the returning occurred on Shabbat. For the Mishna refers to removing and returning on Shabbat, and they therefore forbade [returning if] one placed it on the ground because it resembles an initial placing and cooking, since he had removed it on Erev Shabbat. It would seem according to this Yerushalmi that if one removed [a pot from the fire] on Shabbat he is allowed to return it, even if he had placed it on the ground.

The Ran, in his comments to the Rif, likewise explains the Yerushalmi in this manner. They appear to have understood that the Yerushalmi imposes the condition that the pot had not been placed on the ground only if one removed the pot before Shabbat and wishes to return it to the fire on Shabbat. But if one removes the pot from the fire after Shabbat had begun, he may return it to the fire on Shabbat even if he had placed it on the ground in the interim. The reason is that when one removes the pot from the fire on Shabbat, he does not then begin a new shehiya on Shabbat, whereas if he removed the pot before Shabbat, he must ensure continuity between the shehiya before Shabbat and the new shehiya, and he must therefore not let go of the pot in the interim.

The Beit Yosef (253) cites and dismisses this position:

It is clear that this is not the view of Tosefot (36b s.v. u-veit Hillel), the Rosh (3:2) and those in their group, for they forbid returning [a pot to the fire] even during

the day shortly before dark, and certainly [they would forbid returning] if one removed it after dark. The Rambam, too, writes explicitly the opposite of this Yerushalmi, for he writes in chapter 3 (halakha 10), "Anything that may be left on the fire, when it is removed on Shabbat one may not return it to its place…unless he did not place the pot on the ground."

The Shulchan Arukh makes no mention of this position, but the Rama writes:

Some say that all this is forbidden only when one removed it from the stove during the day [of Erev Shabbat] and did not return it until dark; but if he took it from there after dark, even if he [then] placed it on the ground it is permissible [to return it to the fire afterward]. And indeed the practice is to be lenient regarding our ovens which have the status of a kira [stove in Talmudic times], and they rely on the lenient position; but it is preferable to be stringent.

It must be noted that the poskim disagree concerning the scope of this halakha. Some authorities held that this provision absolves one only from the conditions that he have in mind to return the pot to the fire and that he had not put it down; but we still require that the stove be garuf ve-katum and that one places the pot over the stove, and not inside it. The Beit Yosef writes:

As for the practice in some locations to return a food inside an oven on Shabbat, on the basis of the Yerushalmi, as the Ran wrote, "This implies that the Talmud forbade [hachazara] only when one removed it during the day [of Erev Shabbat] and wishes to return it after dark; but when one removes it on Shabbat, he may return it, even if he had placed it on the ground," even though this refers only to returning to a stove that is cleared or covered, as the Mishna explicitly states, but to a stove that is neither cleared nor covered…there is no disagreement that one may not return, for this is stated in the Mishna – it is possible to say that our ovens resemble a kira, as Rabbenu Chananel commented. And since at the time one returns [the pot] to them its coals have dimmed, it is considered garuf ve-katum, as stated in the Gemara. Nevertheless, it appears that this is forbidden, for the Gemara (37a) permits returning only on a stove, but not inside it… Furthermore, we do not follow this Yerushalmi according to the poskim, as I wrote earlier.

The Rama, however, claimed that those who practice this leniency do so on the basis of the Yerushalmi; in his view, then, this halakha allows even returning a pot to the inside of a stove. He writes (253:5), "Some allow placing [a pot] inside an oven in which they had baked during the day [of Erev Shabbat], for since they did not enclose anything in it, and merely baked in it during the day, only a small

amount of heat remains and there is concern for cooking." The Mishna Berura, however, qualifies this ruling of the Rama:

For although we maintain that it is forbidden to return [a pot] to the inside of an oven and stove even if it is garuf ve-katum, for it is permissible only on it [but not inside], here, since no hot food has been enclosed within the oven for Shabbat, and one merely baked in it during the day, it retains only a small amount of heat for the following day, and in this manner it does not give the appearance of cooking. This implies that if hot food had been enclosed within the oven from the evening, in which case the oven's heat is considerable, it would be forbidden to place previously-cooked food in it in the morning to be warmed.

He then adds, "But from the Darkhei Moshe, and also from the Rama above, in his note to se'if 2, it is clear that people had the practice to allow returning to the inside of the oven under all circumstances, though he concludes there that one should preferably be stringent."

We find yet a third view on this subject, foregoing even on the requirement of garuf ve-katum if one wishes to return a pot that he had removed only after Shabbat had set in. The Tashbetz (responsa, 2:130) writes, "But according to the Yerushalmi… Accordingly, if one removed it after dark, it is permissible under any circumstance to return it, and some are lenient on the basis of the Yerushalmi even if it is neither cleared nor covered."

Some poskim justified the practice followed in certain communities to be lenient in this regard. Nevertheless, as far as the final halakha is concerned, Sefaradim should not rely on this view at all, and even Ashkenazim should rely on this leniency only with respect to placing the pot on the ground in the interim; they should still ensure to place the food only over the stove, and that the stove is covered.

It should also be noted that the reading of the Yerushalmi advanced by these Rishonim is far from simple. In my humble opinion, the Yerushalmi's intent is precisely to the contrary, that the conditions required for hachazara suffice only if one removed the pot on Shabbat, whereas if one removed the pot before Shabbat, we do not allow hachazara at all, since returning the pot would constitute a new shehiya. Before we present this reading of the Yerushalmi, let us emphasize that several Rishonim explicitly state this position. Rabbenu Tam, in Sefer Ha-yashar (237), and the Tosefot Rid, in our sugya, write:

However, even though we allow hachazara on Shabbat, this is only if one removed it on Shabbat and it had been placed [on the fire] since the daytime [of

Erev Shabbat], such that the returning is associated with the removal on Shabbat. But if one had not placed it [on the fire] during the day [of Erev Shabbat], and he wishes to place it during bein ha-shemashot [after sundown], this is not called returning, but rather the beginning of a [new] action, and this is certainly forbidden. For only shehiya was allowed; initiating the placement [of a pot over a fire] on Shabbat was not allowed.

It seems that we should explain the Yerushalmi's comments as follows:

"If one removed it during the day [of Erev Shabbat], he may return it during the day.
If he removed it after dark, he may return it after dark.
If he removed it during the day and Shabbat set in?"

This question remains unanswered, as occurs very often in the Yerushalmi. In fact, we find an identical discussion in the Yerushalmi concerning hatmana, and there it is perfectly clear that the Yerushalmi leaves unresolved the question of whether one may perform hatmana on food after Shabbat if he had removed it from its hatmana before Shabbat. In that instance, the poskim concur that one should not perform a new hatmana, as we will discuss when we come to that topic.

The subsequent passage in the Yerushalmi, which discusses the condition that the pot had not been placed on the ground, refers to the aforementioned halakha allowing hachazara if one removed the pot from the fire after dark, and qualifies that ruling. This is, I believe, the correct interpretation of the Yerushalmi.

Nevertheless, those who follow the Rama's ruling and rely on the Ramban and Ran's reading of the Yerushalmi may continue their practice, given the considerable weight carried by an established minhag.

Notes:

1. This is the straightforward reading of the Rama. There is room to discuss, however, whether he perhaps had in mind the Yerushalmi's ruling, allowing hachazara if one placed the pot on a bench so long as he did not release his hand.
2. The Chazon Ish was lenient even in a case where one placed the pot on a bench, even if he did not have in mind to return it to the fire.
3. Others explain the Mishna to mean that one may not return a pot on Shabbat unless he had swept away the coals before Shabbat.

4. This approach bears resemblance to the Ran's explanation of Beit Shammai's view. We advance this theory within the view of Beit Hillel. It emerges from this approach that Beit Hillel understand this prohibition on the basis of meichazi ke-mevashel, whereas Beit Shammai attribute it to the requirement of shevitat keilim (to ensure that one's possessions do not perform melakha on Shabbat).

5. The reason, perhaps, is that when dealing with an uncovered stove, one runs the risk of a Torah violation, whereas the other conditions are necessary to avoid the problem of meichazi ke-mevashel, and therefore they do not obtain before Shabbat. Still, this would require further analysis.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 22: Acceptable Ways to Warm Food on Shabbat

In the previous shiurim* we dealt with the issue of leaving food on the fire before Shabbat and returning food to the fire on Shabbat, discussing the basic rules of what is forbidden and what is permissible in this regard. In this shiur we will focus our attention on the question of when and how foods kept in the refrigerator may be heated on Shabbat.

Warming Near a Fire

The Gemara establishes in Masekhet Shabbat (40b), "A person may bring a jug of water and place it opposite a fire, not so that it is heated, but to remove its chill." In an earlier shiur we mentioned the debate among the Rishonim as to whether one must ensure merely that the water does not reach the point of actual bishul, or that it is not even placed close enough to the fire that it could potentially reach that point. Irrespective of this debate, the Rashba writes:

In any event, it stands to reason that [placing water] opposite a fire or in a keli rishon is forbidden only for cold [water] that has not been cooked - a decree [forbidding] thawing to safeguard against cooking. But cold [water] that had been cooked may [be placed] even in a keli rishon or opposite a fire, and even at a place where the hand would immediately recoil, so long as one does not place it on the fire or actually on the stove. And you should know that it states in the Mishna, "Anything that had been in hot water before Shabbat may be soaked in hot water on Shabbat" – meaning, even in a keli rishon, and even though a derivative of fire is like fire and one who cooks with it is liable to a sin-offering as if he actually cooked on fire. And although they forbade returning [food] to a stove that is not cleared [of its coals] and placing initially even on a [stove that is] cleared or covered – even an item that is hot and fully cooked – there the reason is that it appears like cooking, since this is the normal manner of cooking. But [placing food] opposite a fire or in a keli rishon, which is not the manner in which people cook most of the time, it does not appear like cooking, but rather

as removing the chill. Therefore, whenever there is reason to decree concerning that very item [to safeguard] against cooking, such as water or oil that had not been cooked, and the like, it is forbidden [to place opposite a fire or in a keli rishon], as a decree lest one leave it [there] and will thus cook. But regarding that which has been cooked we do not decree lest one will come to cook generally.

It emerges from the Rashba's comments that it is permissible to warm food that is not subject to bishul (because it had already been fully cooked) by placing it opposite a fire. The Rosh struggled to explain this leniency:

It is very difficult: Why is this different, that we permit placing a jug of water near a fire to remove its chill, and if not for the prohibition of cooking on Shabbat, it would be permitted even [where it could reach the point of] yad soledet bo? And oil, according to the view that it is not subject to bishul, is permissible [to place it] even [at a place where it could reach] yad soledet bo. But earlier, we forbid placing [food] on a stove even if it had been cleared or covered, and even though the food had been cooked already on Erev Shabbat, and [in that case] there is no [concern for the Torah prohibition of] bishul, as we said earlier (39a), "Anything that had been in hot water before Shabbat may be soaked in hot water on Shabbat."

The Rosh answers:

We may distinguish between placing on a stove [and placing near] a fire, for [placing] a pot on a stove is forbidden, but near a fire is permissible because it is similar to someikh [having food lean against a stove]. However, it does not entirely resemble someikh, for there the walls of the stove interrupt [between the source of the heat and the food], whereas here, when it is near the fire, we must be concerned lest he stir [the coals]. We might say that since the Sages required distancing [the food] from the fire, as implied from the fact that it said, "ke-neged ha-medura" ["opposite the fire"], rather than "eitzel ha-medura" ["next to the fire"], there is a reminder and one will not come to stir.

The Rosh limits this halakha to placing the food at some distance from the fire, to serve as a reminder not to stir the coals. From the Rashba's comments, by contrast, it appears that one may place the food even in close proximity to the fire, provided that he does not place it on the fire itself.

Warming Food on Top of a Pot

The Rashba further writes:

From this discussion it emerges that one may place on top of a pot on Shabbat a food that was fully cooked on Erev Shabbat, such as pandish and the like, in order to warm it, even if it will become [hot to the point of] yad soledet bo, and even if the pot is placed over the fire, for this is not the manner of cooking, and it is merely like placing it next to a kettle or opposite a fire, and after all, there is no concern for bishul here.

The Ran cites the Rashba's comments and adds the following:

It is also possible that something which is not normally baked on the stove, such as pandish and the like, may be warmed on a stove…on Shabbat, so long as ongoing cooking is detrimental for it, since it is clear that this is done only for it to be warmed [and not for the purpose of cooking].

The Rashba applies this halakha specifically to placing food on a pot, since this resembles placing food opposite a fire. Only the lower pot sits on the fire, and the pandish placed on top of the pot is situated not directly over the fire, but adjacent to it. The Ran, however, permits this on the grounds that it differs from the normal manner of cooking, such that it is clear that he intends merely to warm the food, and thus it does not give the appearance of cooking. Therefore, if a food is not generally baked on a stove at all, one may place it on Shabbat even on the stove directly.

The Beit Yosef cites both views, and he rules in accordance with the Rashba's position, because the Ran himself expressed ambivalence on the matter, as he wrote, "it is possible" to allow placing such a food even on the fire. Accordingly, he rules in Shulchan Arukh (253:5), "It is permissible to place on top of pots of hot food on Shabbat foods that had been fully cooked on Erev Shabbat, such as a pandish and the like, to warm them, since this is not the normal manner of cooking." This ruling, however, appears to directly contradict an earlier comment of the Shulchan Arukh (253:3):

One who arises in the morning [on Shabbat] and sees that his food has burned, and fears that it may burn even more, may remove [the pot] and place an old, empty pot on the stove and then place the pot containing the food on top of the empty pot. He must ensure not to place his pot on the ground, and that it is [still] boiling.

This ruling indicates that placing food on top of a pot is not always permitted. Placing a pot on top of another pot is merely equivalent to placing it on a stove that is garuf ve-katum, and it is therefore subject to the standard guidelines of hachazara, which require that the food not be placed on the ground in the interim. In se'if 5, however, the Shulchan Arukh allows placing food on top of a pot even without complying with the conditions of hachazara.

We find among the Acharonim three main approaches to reconcile the two rulings:

1) The Dagul Mei-revava (318) distinguished between foods that are customarily cooked on a stove, and foods like the pandish, which are not generally cooked over a stove. In se'if 3, the Shulchan Arukh refers to foods normally cooked on a stove, regarding which the lower pot serves only to render the stove garuf va-katum, and thus one must abide by the standard conditions of hachazara. In se'if 5, the Shulchan Arukh deals with foods that one does not normally cook on a stove; these may be placed on another pot over a stove in all cases, and are not subject to the rules of hachazara. But this approach seems somewhat far-fetched given that it was the Ran who explained this halakha on the basis of the fact that one does not normally cook in this fashion, and he therefore permitted placing the food directly on the fire. The Rashba permitted placing food on top of a pot only because it resembles placing food opposite a fire, and it should therefore be permissible even when dealing with an item normally cooked on a stove. The Dagul Mei-revava perhaps understood that even the Rashba based this halakha on the fact that one does not normally cook in this fashion, only he did not wish to permit even on the fire and therefore required the additional factor of the bottom pot, which, under these circumstances, may be seen as the equivalent as opposite a fire. In any event, the Dagul Mei-revava's approach requires further analysis.

2) The Magen Avraham (318:26) suggests distinguishing between liquid and solid food:

We might explain that specifically roasted food may be placed initially on a stove that is garuf, whereas a boiled food [which contains liquid] may not be placed on a stove, even if it is [still] hot such that it is not subject to bishul, because we decree [this prohibition] out of concern lest he place [the food] on it when it is cold, and only returning is allowed [in accordance with the laws of hachazara]… Nevertheless, one may be lenient, for it seems from the Maggid Mishneh that since the pot interrupts [between the pot of food and the stove], it is better than a stove that is garuf, and one may place hot food upon it.

According to the Magen Avraham, one may place dry food, such as a pandish, on top of a pot under all circumstances. When it comes to liquid food, however, had we permitted placing it on top of a pot people may place it even after it had cooled, which would constitute a Torah violation of bishul. Chazal therefore allowed placing liquid food on top of a pot only in accordance with the conditions of hachazara.

3) The Peri Megadim (Eishel Avraham 318:26) distinguished between placing food over a full pot, and over an empty pot. A pot containing food is considered over the fire, such that food placed on top of it is seen as located adjacent to the fire. By contrast, an empty pot sitting on the stove serves only as a covering over the fire, for this is precisely its intended purpose: to diminish the heat of the stove so that the food will not burn. We must therefore consider the upper pot as placed on a stove that is garuf ve-katum, and hence we demand compliance with the conditions of hachazara.

The Bei'ur Halakha (253 s.v. ve-yizaher) writes that the Peri Megadim's answer is "a proper answer with compelling rationale." Indeed, this answer appears to be the generally accepted approach among the poskim. Nevertheless, as we will see later, some poskim allowed relying on the Magen Avraham's approach, as we explained it above.

Warming Food on a "Plata" (Electric Hot-Plate) on Shabbat

In Yechaveh Da'at (2:45), Rav Ovadya Yosef allowed placing a fully-cooked solid food directly on the surface of an electric hot-plate on Shabbat, for two main reasons:

1) The surface of the "plata" is considered an empty pot placed on the heating element, and one may therefore place solid food on it on Shabbat according to the Magen Avraham, who distinguished between solids and liquids. Rav Ovadya Yosef writes:

Seemingly, it is likewise permissible to place a fully-cooked, solid food on an electric plata, because there is an obstruction between the fire and the pot of food, just as if one places it on a pot of hot food. However, according to this, we face a difficulty, for our master the Shulchan Arukh himself allowed placing on Shabbat a food that was fully cooked on top of a pot of hot food or on top of a kettle. And the work Tosefet Shabbat already addressed the fact that the Shulchan Arukh's comments appear to contradict one another. He answered that with an empty pot this is forbidden because it resembles the normal manner of initial cooking, but on a full pot it is permissible because it does not appear

like cooking. The Peri Megadim writes this, as well, and the Mishna Berura concurred, in Bei'ur Halacha, s.v. ve-yizaher… According to this, placing [cooked food] on an electric plata resembles placing on an empty pot, and it should be forbidden. However, the Magen Avraham (318:26) distinguishes in this regard between boiling liquid food, which is forbidden to place on Shabbat even on a pot of hot food because we are concerned lest one will place it while it is cold – and cooked liquid food is subject to subsequent bishul – and solid food, which even while cold may be placed on Shabbat on top of a pot (even an empty pot), because cooked solid food is not subject to subsequent bishul.

2) He then advances a second reason to permit placing food on a hot-plate, namely, that one does not customarily cook on a hot-plate since it is intended only for warming cooked foods, and it therefore does not give the appearance of cooking. He writes[1]:

I came to the realization that regarding this one may be lenient, because an electric plata is from the outset made for use on Shabbat, and it is called a "Shabbat plata," and therefore it has an indication to all people that today is Shabbat and one will not come to use it for forbidden purposes, such as to return to it food that had not been fully cooked, or cold, liquid food and the like. And since the fire is not visible and there is no concern for stirring, people are therefore accustomed to allow it. To the contrary, a plata is preferable to a metal covering over the stove, for there it is possible that one might unwittingly remove the metal from the stove, which is not the case regarding a plata, for it is not possible in any way to remove the covering from over the electrical cords. And since it is made for this purpose, there is no greater indication and reminder than this with which to remember the day of Shabbat.

One may, however, challenge both points he mentions:

1) It is hard to view the surface of the plata as an empty pot, since this is the natural surface intended as the area for placing pots and there is no possibility of placing pots on the actual heating element. We must therefore consider the placement of a pot on the surface as placing it on the fire. Furthermore, it is hard to rely on the Magen Avraham's explanation of the Shulchan Arukh, since, as we have seen, most poskim accept the Peri Megadim's approach.
2) While it is true that the plata is designated for Shabbat use and everybody knows that it is intended only to reheat cooked food, nevertheless, it seems to me that the Rashba and Ran debate this very point. The Ran allowed placing the pandish on the fire since people do not normally cook it in that manner, whereas the Rashba ruled more stringently, forbidding placing it directly on the stove despite the fact that this is not the usual manner of cooking this food. He allowed

placing the pandish only on top of a pot. One might respond that we should treat a plata more leniently than a stove in this regard, since it is not used for cooking at all, and it thus differs from the case discussed by the Rashba, where one places a pandish on a stove, which, of course, is generally used for cooking. Still, I believe that since even the plata is occasionally used for cooking, such as in the case of cholent and the like which people leave on a plata to cook over the course of Shabbat, one should not place food directly on a plata. Rav Moshe Feinstein (Iggerot Moshe 4:74) permits placing cooked food directly on a plata on Shabbat, but he speaks there of the American hot-plate which is intended only for warming food and is not capable of cooking given its relatively low temperature. The platas used in Israel, however, work on a higher temperature and are capable of cooking; as mentioned, some people cook cholent on a plata.

It therefore seems that one should not place food directly on a plata, but rather on top of pots of food already situated there. As for placing food on an empty pot on the plata, according to the Peri Megadim this should be forbidden. Nevertheless, we may permit doing so for a number of reasons:

1) The Maharam Shick (responsa, O.C. 117) draws a different distinction to reconcile the two rulings of the Shulchan Arukh discussed earlier, one which does not undermine the basic principle established by the Peri Megadim. The crux of the Maharam Shick's approach is that when one wishes to retain the heat of a hot food, placing it on an empty pot does not provide much of a reminder not to stir the coals, since he perhaps placed it in this fashion simply because he does not want to expose it to a high level of heat. But when dealing with a pot containing cold, solid food, placing it over another pot indeed suffices as an indication that he has no interest in bringing it to a boil for it to cook, since it is now cold. This indication suffices to eliminate the concern that one might stir the coals.[2]

We might apply his reasoning to modern-day platas, as well. Since it can never reach a high level of heat, placing food on an empty pot clearly serves not as a means of diminishing the heat, but rather as an indication of one's desire to place the food adjacent to the fire, rather than directly on it. Therefore, even the Peri Megadim might allow placing food on an empty pot on our hot-plates, since it serves the same function as a pot containing food for the purpose of the Peri Megadim's distinction.

2) We might allow placing food on top of an empty pot on a plata for an additional reason, as well, based on Rav Shlomo Zalman Auerbach's understanding of the Peri Megadim's distinction. If the stove is neither cleared of its coals nor covered, then the empty pot serves as a covering, and thus the

pot of food placed on top of it is seen as placed on a covered stove. If, however, the stove is already covered, such as in the case of a plata, the empty pot is situated on a covered fire and thus the pot on top of it is seen as adjacent to the fire, and not directly over it.[3]

It would seem that one may rely on this rationale and place cooked food on top of an empty pot on a plata. As for the definition of an "empty pot," we may include anything that makes an interruption between the plata and the pot of food, but not a sheet of aluminum foil, which does not "interrupt" between them at all.

Warming Food in an Oven or on a Hot-Plate Set on a Timer

The Terumat Ha-deshen writes (66):

Some people do not have a separate oven for baking and enclosing hot food, and so they enclose [their food] in the same furnace used in the "winter room," and the next day, on Shabbat, the maid comes and removes all the hot food from the furnace and places it on top of the furnace inside the "winter room." She then kindles the fire inside the furnace in order to heat the "winter room," and the hot food on top of the furnace is thereby boiled. Is it permissible to do this or not?

Answer: …It would seem that in this case we may allow [this] even if they [the foods] had completely cooled. For if the servant or maid intends to warm the food, then when it has completely cooled, it is forbidden. But here the primary intention of the maid is for something permissible, to warm the "winter room," regarding which the Rabbis allowed instructing a gentile [to perform melakha] since everybody is considered "sick" with respect to cold. And although the food will inevitably be boiled as a natural result, and she puts it on the furnace with this in mind, nevertheless, at the time she puts it on the furnace there is no fire at all in the furnace, and the kindling that she performs afterwards is intended primarily for the "winter room." And even though this is a pesik reishei [a melakha that results inevitably] with respect to the food, nevertheless, when it comes to rabbinic prohibitions on Shabbat there is a distinction between clear intent and [an action that results] without intent as a pesik reishei… However, it would seem that one should not allow at all a Jew or Jewess to place some of the food on top of the furnace and the maid to then kindle the furnace, for this would resemble [a case of] one person placing the pot and another kindling the fire, in which case the first is exempt [from punishment] but [it] is [nevertheless] forbidden. This is implied by the comments of the Rambam, who wrote as follows: "If one person places the pot, another places the water, another kindles

the fire and another stirs it, only the final two are liable for cooking." The fact that he found it necessary to inform us that the first ones are not liable might imply that it is nevertheless forbidden to do this… And therefore, in our case, since one knows that the maid will kindle the furnace, he is certainly akin to placing [the food] in order for it to be cooked, and it constitutes a primary category of melakha like carrying. She must therefore let the maid place the food on the furnace before she kindles it, and in this manner there are grounds to allow this, as we explained.

Two conclusions emerge from the Terumat Ha-deshen's discussion:

1) It is permissible to allow a gentile to place the food on the furnace when it is turned off if what is involved is only a pesik reishei, because a pesik reishei where a melakha inevitably results from an action of a gentile is permissible.[4]
2) A Jew may not place food in an oven that is currently turned off and that a gentile will later turn on.

The Rama codifies this ruling of the Terumat Ha-deshen (end of 253).[5] This prohibition certainly applies to food that is still subject to bishul, such as if it has yet to be fully cooked, or a liquid food that had been cooked and subsequently cooled. And even when dealing with a solid, fully-cooked food, or a liquid that is still hot or has yet to cool, it would be forbidden to place it in the oven because it is not garuf ve-katum. The Bei'ur Halakha (end of 253), citing the Peri Megadim, rules that in this case one may allow a gentile to place the pot in the oven, since we deal with the rabbinic prohibition of hachazara which one may perform through a gentile where this is necessary le-tzorekh Shabbat (for the needs of Shabbat). Therefore, one who is lenient in this regard should not be criticized for doing so.

This entire discussion deals with a situation where a gentile later comes to kindle the oven. Nowadays, a different question arises: may a person place food on a stove or plata, or in an oven, that is currently turned off but set on a Shabbat clock that will turn it on later?

Rav Tzvi Pesach Frank writes in Har Tzevi (O.C. 136):

But there is room to say that placing the pot on the electric stove on Shabbat, since it will inevitably turn on afterward by itself, without requiring any action, should resemble placing a pot on Shabbat in a place where fire will ultimately reach. And I have already written elsewhere that placing a pot on Shabbat in a place where fire will ultimately reach constitutes a Torah prohibition, in light of what Tosefot wrote in Sanhedrin (77a) regarding damages and capital offenses,

that if one bound him [the victim] inside and brought him to a place where the sun will ultimately reach [and the victim died of sun exposure], he is liable according to the view that eisho mishum chitzav [one bears accountability for damages incurred by his fire since it is considered an extension of himself]. And it is stated clearly in Bava Kama (60) regarding [a case where] both he and the wind fanned [the fire], and his [the person's] fanning was [independently] insufficient to fan it – he is exempt [from responsibility for the damages incurred]. And the Gemara asked, "How is this different from one who winnows [on Shabbat] with the help of the wind, who is liable [for violating Shabbat]?" And Rav Ashi answers, "The Torah forbade [on Shabbat] melekhet machashevet [intentional forbidden activity], whereas here, this [the damage] is merely an indirect cause [of his actions]." Thus, even that for which one is exempt with respect to damages is considered a melakha with respect to Shabbat, and all the more so, then, when one brings the item to the fire, in which case he would liable with respect to damages – certainly, then, [he is liable] with respect to Shabbat. And this does not resemble the case of the Terumat Ha-deshen, where an additional action is needed for the fire to be kindled.

From the comments of the Chazon Ish (38:2-3), however, it appears that this does not entail a Torah violation, but merely a gerama (indirect melakha, which is forbidden by force of rabbinic enactment).

As for a food that has already been cooked, which involves only the problem of hachazara on Shabbat, rather than the Torah prohibition of bishul, the Chazon Ish rules that this is nevertheless forbidden:

When one has an oven that is kindled by electricity, and he prepared a timer on Erev Shabbat to activate the electricity at a certain time, it is forbidden to place the pot on the oven before the electricity is activated, because of the law [forbidding] leaving [food] on a stove and oven on Shabbat. For they forbade even returning [food to the fire] if it is not cleared [of its coals], and even if it is cleared they allowed only hachazara…but an initial shehiya [placing food on the fire] is forbidden.

The same ruling appears in Har Tzevi (in the Tal Harim section, mevashel 3), who also discusses the question of whether this should be forbidden even before Shabbat, as a precaution lest somebody do this on Shabbat; he concludes, however, that before Shabbat this is permissible.

Notes:

1. Rav Ovadya Yosef cites these comments from the work Yaskil Avdi.
2. The Maharam Shick's reference to the concern that one might stir seems somewhat difficult, given that the problem of placing cooked food on the fire stems not from this concern, but rather because it gives the appearance of cooking. In any event, his basic distinction seems to be correct, as we explained inside.
3. However, the work Orchot Shabbat (2:66) cites both the Chazon Ish z"l and Rav Elyashiv shlit"a as ruling stringently on this issue; later he brings the position of Rav Shlomo Zalman.
4. We have explained the Terumat Ha-deshen in accordance with the reading of the Magen Avraham 253:40; see also the comments of the Taz.
5. The Sha'arei Teshuva cites a responsum of the Beit Efrayim who refutes the proof advanced by the Terumat Ha-deshen from the case of one person who places the pot and another who kindles the fire, since in the Terumat Ha-deshen's case we deal with a gentile, who is not included under the prohibitions of Shabbat.

The Laws of Cooking Part 1

By Rabbi Yosef Ben David

Shiur 23: The Basic Principles of Hatmana – Part 1

Hatmana means covering a pot with various materials in order for it to retain its heat.[1] There are two kinds of materials used for hatmana: those that merely maintain the current temperature of the pot, but do not increase its heat (davar she-eino mosif hevel), and those that cause the current temperature of the pot to rise (davar ha-mosif hevel). Chazal forbade certain kinds of hatmana on Shabbat, and in the first section of this shiur we will examine the reason behind this enactment.

Materials That Do Not Increase the Heat of the Pot

The Mishna states at the end of the second chapter of Masekhet Shabbat (34a), "When it is questionable whether or not night has fallen… one may tithe demai, prepare an eruv and cover hot food." Rashi comments, "He may place them [hot foods] in a pile of cloths for their heat to be retained in them. But when night has certainly fallen, one may not cover [hot foods] in them." The Gemara then records the following exchange:

Rava said: Why did they say, "One may not cover [food] with something that does not increase heat once night falls" – as a decree lest he boil it. Abayei said to him: If so, then let us decree [this prohibition] even bein ha-shemashot [the period when it is uncertain whether or not night has fallen]! He said to him: Pots are generally boiling.

Rashi explains, "As a decree lest one find that his pot had cooled when he wants to cover it, and he will first boil it, and he will thus have cooked on Shabbat."

Some other Rishonim, however, explained that the concern here is not that one might cook on Shabbat; after all, ein bishul achar bishul – one does not violate bishul by cooking food that had already been cooked. Rather, the prohibition of hatmana stems from the concern that one may stir the coals.[2]

According to this understanding, Chazal allowed hatmana during bein ha-shemashot with materials that do not increase the pot's heat because at this point pots are generally already boiling, and it is thus unlikely that one will find that his food had cooled. The Shulchan Arukh rules accordingly (257:1): "One may not cover [food with material] on Shabbat, even with a material that does not increase its heat; but during the period when it is uncertain whether night has fallen, one may cover with it [a material that does not increase the pot's heat]."

Many Rishonim had a different text of the Gemara, which states explicitly that Chazal forbade hatmana with materials that do not increase heat out of the concern that one may cover a pot with embers with a kindled coal, and he might then stir them. See Rif, and Rambam (Hilkhot Shabbat 4:3).

Both these approaches give rise to some difficulty. The Ramban challenges Rashi's understanding by claiming that Chazal would not be concerned that one who finds that his pot has cooled will kindle a fire and boil it; Jews would not be suspected of negligence to such an extent. The difficulty with the Rif's understanding is that it results in a prohibition against hatmana with even materials that do not increase the pot's heat, out of concern that one might do hatmana with embers – a material that does increase the pot's heat. For this reason, many Rishonim accepted Rashi's text of the Gemara.[3]

Materials That Increase the Heat of the Pot

According to Rashi's text of the Gemara, the prohibition in this case stems from the concern that one may cover a pot with embers that have coal, and one might then stir the coals, in violation of Shabbat. According to this version of the text, the prohibition is clear and straightforward. However, according to the text of the Rif and Rambam, the issue becomes more complex. Their text of the Gemara reads as follows:

One may not cover with them [materials that increase heat] during the daytime [of Erev Shabbat] – a decree lest one boil [the pot]. Abayei said to him: If so, then during bein ha-shemashot, too, let us decree [this prohibition]! He said to him: During bein ha-shemashot pots are generally boiling.

We will explain this version of the text in accordance with the Rambam's understanding, without delving into other possible interpretations of this text.[4] The Rambam writes (Hilkhot Shabbat 4:2):

Strictly speaking, it would be permissible to cover [a pot] while still daytime [on Erev Shabbat] with something that increases [the pot's] heat and let the food remain covered on Shabbat, for one may leave [a pot of food even] on the fire on Shabbat. But the Sages forbade covering [a pot of food] while still daytime with something that increases heat, as a decree lest the pot will boil on Shabbat and one will have to expose it until the boiling stops, and he will then cover it again on Shabbat; he will thus have covered [a pot of food] with something that increases heat on Shabbat, which is forbidden. Therefore, it is permissible to cover [a pot of food] during bein ha-shemashot with something that increases heat, because most pots during bein ha-shemashot have already boiled and stopped bubbling, and once they stopped they will no longer boil.

According to this view, the concern is that the pot may reach a boil on Shabbat, such that one will have to uncover it to let the boiling subside. Then, when he comes to cover it once again, he will be covering a pot on Shabbat with something that increases heat.

The Rambam does not clarify the reason for the prohibition against covering a pot on Shabbat with a davar ha-mosif hevel (material that increases the heat). The Ramban raised this question and explained that when one covers a pot with a davar ha-mosif, then even though he simply replaces the covering that had been there before Shabbat, it nevertheless resembles an initial hatmana, regarding which there is concern that one might stir the coals, since he has expressed interest in additional heat. However, the Rambam himself, in his Peirush Ha-Mishnayot (Shabbat, chapter 4), gives a different explanation. In his view, one may not cover a pot on Shabbat with a davar ha-mosif hevel because onlookers will mistakenly conclude that it is likewise permissible to heat food with fire and its derivatives. They will not realize the distinction drawn by Halakha between fire and its derivatives, with which one may not heat food on Shabbat, and heat that results from chemical reactions.

The Rambam wrote that although covering a pot of food with a davar ha-mosif is forbidden both before and during Shabbat, it is permitted during bein ha-shemashot, because at that point most pots have already boiled and their bubbling has subsided. The logical difficulty in permitting this hatmana during bein ha-shemashot while forbidding it during the day of Erev Shabbat led the Ra'avad and others to reject this ruling. In their view, even during bein ha-shemashot one may not cover a pot with a davar ha-mosif hevel. The Ra'avad writes:

Never have such upside-down things been seen or heard: during the day it is forbidden, whereas during bein ha-shemashot it is permissible… This is the

explanation according to this version of the text: They decreed [a prohibition of hatmana] with something that increases heat, even during the day [of Erev Shabbat], as a decree lest he bring it to a boil. Meaning, since he covered [the pot] with something that increases [its heat], he expresses his desire that it be boiling at night. And sometimes its boil will cease because of the long duration of time, and he will boil it after nightfall. [Abayei then asked,] if so, then during bein ha-shemashot also let us forbid [hatmana] with something that does not increase heat. For since he delayed covering [the pot until this point], it appears that he wants it to be boiling at night. He [Rava] said to him [Abayei]: Most pots covered during bein ha-shemashot boil at night and their boil will not cease.

According to this explanation, the Gemara sought to forbid hatmana during the period of bein ha-shemashot even with materials that do not increase the pot's heat. The Gemara concludes that since most pots are already boiling at this point, there is no longer any concern. But covering with a davar ha-mosif hevel is certainly forbidden during bein ha-shemashot – for this is forbidden even during the day of Erev Shabbat.

The Scope of the Hatmana Prohibition

Tosefot write in the beginning of the fourth chapter of Masekhet Shabbat (47b s.v. ba-meh tomnin):

Rabbi Yosef explained in the name of Rabbenu Shemuel that it [the Mishna] refers to [food] that been cooked but not fully cooked. But a pot of raw food, and completely cooked food – we allow [even leaving it on the fire before Shabbat] in the first chapter (18b). But this does not appear correct to Rabbenu Tam, for we should have then explained our Mishna as referring to regular pots, which are already cooked at bein ha-shamashot. Furthermore, the Mishna presumably refers to the same case as the Mishna [in the third chapter,] Kira, which deals with food cooked [only] to the point of ma'akhal Ben Derusai. It seems to Rabbenu Tam that we should distinguish between leaving food on the fire and hatmana. For leaving on the fire is certainly permissible if it is [already at the point of] ma'akhal Ben Derusai, because a little stirring will have no effect on it, since it is exposed and the air takes hold of it. But hatmana, which is done for the following day, and it [the food] is covered – there is concern that one might stir, since a little stirring will have an effect on it given that its heat is trapped. And they decreed against covering with anything that increases heat, as a decree lest one cover with embers and then stir [them].

The Tosafists are in disagreement as to whether the laws of hatmana correspond to the laws of the shehiya. Rabbenu Yosef, citing Rabbenu Shemuel, held that

just as one may leave over an open flame[5] before Shabbat a pot of raw food or food that has already reached ma'akhal Ben Derusai, the same applies to hatmana. According to this view, hatmana is forbidden only with a food that has begun cooking but has not reached the point of ma'akhal Ben Derusai.

Rabbenu Tam, by contrast, forbade hatmana for all foods, because even a small amount of stirring has a significant effect on covered food. Therefore, there is reason for concern that one might stir even in situations where this concern does not arise regarding shehiya. And although in Rabbenu Tam's comments cited by Tosefot he speaks of this concern regarding foods that have reached the point of ma'akhal Ben Derusai, which might suggest that there is no concern once the food is fully cooked, it seems more likely that he forbids hatmana even with fully-cooked foods. He writes this explicitly in Sefer Ha-yashar (235): "Regarding hatmana, Chananya concedes that one may not cover [a pot of food] with something that increases heat, even if one covers a pot that has fully cooked – a decree lest he cover [a pot] with embers…"[6]

The Beit Yosef writes (siman 257) that Tosefot mentions the point of ma'akhal Ben Derusai only for the purpose of disputing Rabbenu Shemuel's position, permitting hatmana if the food has reached that point, but in truth Rabbenu Tam refers even to fully-cooked food. However, it appears from the Beit Yosef that he allows hatmana when dealing with fully-cooked food for which ongoing cooking would be detrimental, since in such a case we have no reason for concern that the individual will stir the coals. One might claim, however, that hatmana should be forbidden even in such a case, in light of a fundamental distinction between shehiya and hatmana. Regarding shehiya, the concern is that one might stir the coals in this very instance, whereas in situations of hatmana, the concern is for the possibility of stirring one some future occasion. Chazal feared that if they would allow hatmana with materials that increase heat, people might cover pots with embers and then stir the coals. If so, then we should perhaps forbid hatmana in all cases with materials that increase heat, to safeguard against the possibility that one will cover with embers and stir the coals. This approach indeed emerges from Tosefot's comments elsewhere (39b s.v. mi-ma'aseh):

Should you ask: Why must we derive [the prohibition of hatmana with a davar ha-mosif hevel] from the incident of the people of Tiberias? The Mishna in the chapter Ba-meh Tomnin [already] states that one may not cover [a pot of food] with something that increases heat… Rabbi Shemuel of Vardin explains "From the incident of the people of Tiberias, [the permissibility of] hatmana is eliminated" to mean that it is "eliminated" even with regard to a pot of raw food. And this is why it says, "eliminated," which implies completely, with anything.

Tosefot thus clearly held that hatmana with materials that increase heat is altogether forbidden. This appears explicitly also in the Rashba's comments towards the beginning of the fourth chapter:

They should have distinguished here just as they distinguished there between a fully-cooked food for which continued cooking is detrimental, and a food that has not been fully cooked and for which continued cooking is beneficial, but regarding hatmana there are no distinctions whatsoever.

Thus, even if ongoing cooking would be detrimental, hatmana is forbidden.

As for the final halakha, the Shulchan Arukh writes (257:7), "Whenever we forbid hatmana, we forbid even for a pot [of food that is] fully cooked, and even if ongoing cooking would be detrimental." The Rama concurs with this ruling, and comments, "Ve-khein ikar" ("This is the correct ruling"). However, the Rama then proceeds to cite a different view:

Some are lenient, claiming that hatmana is permissible for anything that is completely raw or fully cooked, just like leaving [on the fire before Shabbat], as explained above, in siman 253. One should not object to people in places accustomed to acting leniently on the basis of this view, but one should not follow this practice in other places.

The Rama refers here to the position of Rabbenu Shemuel, as cited by Tosefot. One might ask, however, why the Rama cites this position as permitting hatmana only if the food is fully cooked. Rabbenu Shemuel equates hatmana with shehiya, and regarding shehiya the Rama rules (253:1) in accordance with Chananya's view, allowing leaving on an open fire even foods that have only reached the point of ma'akhal Ben Derusai. Indeed, the Magen Avraham (257:17) added that according to those who follow Chananya's view, hatmana is permissible even for foods that have only reached ma'akhal Ben Derusai. Others, however, argued with the Magen Avraham[7] and held that the Rama did not want to allow a "double leniency," that is, the equation between shehiya and hatmana, and the lenient view regarding shehiya. He therefore ruled that even those who allow hatmana should do so only for fully-cooked food. This is the approach taken by the Bei'ur Halakha:

In the end even he concludes that the Rama intentionally spoke [only] of fully-cooked [food], to indicate to us that [regarding food cooked to a point] less than this, even in places where people are accustomed to act leniently one should object, since even with regard to shehiya different opinions exist on the matter.

In summary, the Shulchan Arukh rules that we do not allow hatmana with materials that increase heat, under any circumstances. The Rama likewise forbids hatmana under any circumstances, but adds that one need not object to those who allow hatmana for fully-cooked foods; one should object, however, to those who allow hatmana for foods that have not been fully cooked, even if they had reached ma'akhal Ben Derusai.

Covering Foods in Preparation for Shabbat Day

The Mordekhai writes (beginning of the third chapter):

The same applies to raw eggs and water [which one may wish to cover] so that they will be warm for the following day – it is permissible to cover them for the following day. But for the needs of the nighttime [meal] it seems that this is forbidden, lest one stir the coals to accelerate their cooking.

This view flows directly from our previous discussion, concerning the possibility of equating hatmana with shehiya. The Mordekhai holds that one may leave food on the fire before Shabbat to be eaten on Shabbat day, since we are not concerned that he will stir the coals[8], given that he gives the food no thought until the following the day, at which point it will be ready for consumption without the need for stirring. This view therefore allows any shehiya or hatmana done specifically for the purposes of the following day, and these prohibitions were issued only regarding food intended for the nighttime meal, since the individual needs the food soon and might therefore stir the coals.

The Beit Yosef, however, dismisses this view, and writes (254): "This is not the implication of the commentaries that I discussed in the beginning of this siman[9]; rather, since it is suitable for consumption at nighttime, one might come to stir, even if he roasts it only for the following day." According to the Beit Yosef, any food suitable for consumption at night is subject to the prohibition of hatmana, even if the individual needs it only for Shabbat day. However, his definitive attitude in this siman is softened somewhat towards the end of the previous siman, where he seeks to explain the widespread practice to leave food before Shabbat on an uncovered stove:

Alternatively, [people allow this] because the Gemara perhaps refers only to leaving [food on the stove] for the purposes of the nighttime, whereas leaving [food on the stove] for the following day is permissible, even over a stove that is neither cleared [of its coals] nor covered, or in an oven, because since it is for the next day, one does not have his mind on it and he will not come to stir. Nevertheless, to avoid all uncertainty, it is proper to instruct [people] to place a

peace of raw meat in the pot just before dark, for in this manner according to all views it is permissible without any question.

It appears that the Beit Yosef was prepared to rely on this view as a possible justification for those who act leniently, while suggesting a solution that would satisfy all views (at least with regard to shehiya).

As for the final halakha, the Shulchan Arukh does not distinguish between food intended for the night and food intended for Shabbat day, and forbids hatmana in all cases. The Rama, however, comments:

Some say that all this is forbidden only when one does [this] for the purposes of the nighttime; but when one covers [a pot of food] for the purposes of the following day, it is permissible to cover [it] during the daytime [of Erev Shabbat] with something that increases the heat. One may rely on this [position] after the fact, provided that one does not accustom himself to doing so.

The Mishna Berura adds (254:12), "This implies that if one is accustomed [to relying on this view], then even after the fact [the food] is forbidden, the reason being that strictly speaking this view is not accepted, as the Vilna Gaon and other authorities wrote." The reason for the stringent view is that one might change his mind and decide to eat the food with the nighttime meal, in which case he might come to stir the coals. Moreover, it emerges from the Mishna Berura and Vilna Gaon that this view, which equates the laws of hatmana with those of shehiya, is not an accepted view, as Halakha follows the position forbidding hatmana in all cases, as we have seen.

In this context, we will mention another attempt that was made to limit the hatmana prohibition, which the Rama brings (257:8) in the name of the Or Zarua: "The hatmana done in these regions, whereby one conceals [the pot] inside an oven and smears the opening of the oven with clay, is permissible according to all views." The Mishna Berura (257:47), however, comments, "Nevertheless, some say that one must ensure not to embed the pot in the oven inside the coals, [surrounded by coals] on all sides, for this is considered hatmana with something that increases heat because of the coals themselves." The Mishna Berura refers to the view of the Maharshal, in his responsa (60), where he writes:

One should not say that once it [the oven] is sealed, in which case the concern for stirring does not apply, it is permissible. This is incorrect, for is this any better than peat, regarding which stirring is entirely inapplicable, and yet they forbade covering [a pot of food] with it because of the decree? …Nevertheless, it would

seem that we permit in such a case only with respect to a stove and the like, in which case we say when one moves the coals far away that we do not issue a decree out of concern that he might stir. But, with regard to hatmana in an oven which is closed and sealed from the outside, the oven and everything inside is therefore like a single entity and thus one is indeed covering [the food] with something that increases heat.

It emerges from the Maharshal's comments that only regarding shehiya do we permit leaving food in an oven that is sealed from the outside (thereby blocking access to the pot). When it comes to hatmana, however, the concern does not pertain to the current situation, but rather to the possibility that one might stir in a different instance, and it is therefore forbidden even in such a case.

The Mishna Berura concludes, "Some are lenient even in this regard, since it is sealed with clay and he will not come to stir; this is likewise the implication of the Or Zarua. It is proper to be stringent le-khatechila." He adds, however, in the Sha'ar Ha-tziyun, "This appears explicitly in the Or Zarua; I find it likely that had those who are stringent seen the comments of the Or Zarua, they would not have ruled stringently."

I believe, however, that the basis of all these discussions concerning the scope of the hatmana prohibition involves a single, fundamental question that splits into two points: whether we should compare the prohibitions of shehiya and hatmana, given the efficacy of the stirring in shehiya as opposed to hatmana, and that the concern regarding hatmana is for the possibility of stirring on some other occasion. The Or Zarua perhaps fundamentally subscribed to the view that equates hatmana with shehiya, in which case one may certainly dispute his ruling, as we already saw earlier regarding the issues of ma'akhal Ben Derusai and hatmana for the purposes of the daytime meal.

On the other hand, one might distinguish between the question of the efficacy of stirring and the concern that one may stir, regarding which hatmana cannot be equated with shehiya, and the case of hatmana in a sealed oven. This issue perhaps hinges on the question of to what extent we are concerned for mistakes on future occasions. The Or Zarua perhaps held that although Chazal forbade hatmana out of concern that one may do hatmana in a forbidden manner on a different occasion, nevertheless, in the unique circumstances of the sealed oven, we are not concerned that somebody will mistakenly follow this example in a different instance. And since it is unlikely that hatmana in this case will lead to a mistake, we may allow it, just as we do with regard to shehiya. This may be what the Sha'ar Ha-tziyun meant when he wrote that had the authorities seen the Or Zarua's comments they would have ruled leniently.

Notes:

1. The next shiur will deal with the precise definition of the term hatmana and some practical laws relevant to this topic.
2. See Rosh, chapter 2, end of siman 30.
3. See Rashba, Meiri, Ran and others.
4. See Ramban, Milchamot, end of chapter 2, and in his Chiddushim.
5. Tosefot here follow their own position that Halakha accepts the view of Chananya; see our shiurim on the subject of shehiya.
6. Compare these comments of Rabbenu Tam with those of the Ramban (38b s.v. u-le-inyan hatmana): "With regard to hatmana, there is no doubt that it is forbidden to cover even [a food that has reached] ma'akhal Ben Derusai, and it is possibly forbidden even when dealing with a cleared or covered [stove]." It seems to me that the Ramban, too, forbids hatmana even if the food has been fully cooked, and he mentions the point of ma'akhal Ben Derusai only for the purpose of disputing those who permit hatmana in such a case. Furthermore, the Ramban draws no distinction with regard to shehiya between fully-cooked food and food that has reached ma'akhal Ben Derusai; he maintains that the lenient position allows shehiya even from the point of ma'akhal Ben Derusai, and the stringent view forbids shehiya even for fully-cooked foods.
7. The Tosefet Shabbat claims that even the Magen Avraham did not intend to argue with the Rama, and meant simply that Rabbenu Shemuel permitted hatmana with foods cooked to the point of ma'akhal Ben Derusai, but we rely on this position in a limited fashion.
8. This is how the Acharonim understood this position. The Mishna Berura writes:

The reason is that they forbade covering [a pot of food] with something that increases hot primarily because one may come to cover with embers and will stir the coals; therefore, since [in this case] he covers for the purposes of the following day, this opinion holds that this decree does not apply. For even if the food will not reach ma'akhal Ben Derusai [before Shabbat], it will cook on its own all night, and one will not come to stir. This opinion will likewise hold that one may cover [a pot of food] if it was fully cooked, since [here] too one will not come to stir; in this case, therefore, it is permissible even if one covers for the purposes of the nighttime. This follows the view of those who are lenient, cited in the glosses [of the Rama] later, in s'eif 7.

He refers here to the view of Rabbenu Shemuel that we discussed in the previous section.

9. At the beginning of this siman the Beit Yosef wrote, "Tosefot, the Rosh and the Ran write in the name of the Behag (Hilkhot Shabbat, 17) that it refers

to roasted food, as implied by the Gemara; therefore, meat of a large ram in an oven that is not sealed shut is forbidden, even if it is raw, because since we deal with roasted meat, which cooks rapidly, it is suitable for consumption at night and one might come to stir."

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 24: Hatmana – Part 2

In our last shiur, we discussed the reason behind the prohibition of hatmana (covering food on Shabbat with materials such as cloths to retain its heat), and its scope. This shiur will address the precise definition of hatmana and the laws pertaining to different situations relevant to this topic.

Partial Hatmana

Rabbenu Chananel writes in the beginning of the third chapter of Masekhet Shabbat (37a):

Leaving [food on the fire before Shabbat] in this manner is not hatmana; it is rather a situation such as an iron seat upon which the pot sits, as it is suspended [over the coals] with stones or the like. But hatmana [directly] over coals is forbidden according to all views, for we maintain that hatmana with something that increases [the food's temperature] is forbidden, even if [one covers the food] while it is still daytime [before the onset of Shabbat].[1]

According to Rabbenu Chananel, even placing a pot on coals – such that the coals touch the bottom of the pot – constitutes hatmana. In his view, even partial hatmana – whereby the pot is not entirely concealed – is included in the hatmana prohibition. The Rashba writes (47b s.v. kupa):

After all, so long as the bottom surface of the pot is connected to something that increases its heat, this is hatmana, as we wrote in the beginning of the chapter Kira in the name of our Rabbi [the Ramban], Rabbenu Chananel and the Geonim z"l, that partial hatmana constitutes hatmana, and the issue does not depend upon the concealment of the entire pot.

This position, which the Rashba assumed as self-evident, does not appear to have been so obvious to the Ramban. Let us first present the background to the

Ramban's discussion of this issue. The Gemara, in the beginning of the fourth chapter of Masekhet Shabbat, cites the following comment of Rabbi Zeira: "A box [kupa] in which one concealed [food] may not be placed upon olive peat." The Rishonim disagree in explaining the precise case to which the Gemara refers.[2] The Ramban, in discussing this question, writes:

That which is said, "A box in which one concealed [food] may not be placed upon olive peat" refers to where it [the box] does not have a bottom, or where the box is turned on its opening so that the pot is concealed inside it, and it is placed on the peat such that the pot actually touches it [the olive peat]. Therefore, the heat coming from a single direction is like hatmana, since it is connected to the box in which the hatmana is done, for it is all a concealed pot, and its one side is concealed within something that increases [heat], and it generates heat for all of it inside the box… It is possible that even if it has a bottom, then since it [the box's bottom] actually touches the peat it is called hatmana. For if one covered [the food] with something that does not increase [heat] and covered all of that with something that does increase [heat], this, too, is forbidden. And [hatmana] from one side is forbidden, provided that it is done with something that increases heat. But leaving [food on a stove, which is permissible] – this is on a seat of iron, as Rabbenu Chananel z"l explained, such that it does not touch the coals at all.

The Ramban here suggests two interpretations of the Gemara. According to the first reading, the pot is surrounded on all sides by material that does not increase the pot's heat, and its bottom directly touches material that does increase its heat. We consider this arrangement hatmana in a davar ha-mosif hevel (something that increases the food's heat). According to the second interpretation, the bottom material suffices independently to render this arrangement hatmana, as the Ramban writes, "and [hatmana] from one side is forbidden, provided that it is done with something that increases heat."

We may suggest two approaches in identifying the precise point of disagreement between these two views:

A. The Ramban here questions whether or not to adopt the Geonim's position regarding partial hatmana. His first reading follows the view that partial hatmana does not constitute hatmana, whereas his second interpretation maintains that it is, indeed, hatmana.

B. Perhaps the Ramban assumes that partial hatmana indeed constitutes hatmana, as the Geonim hold, and therefore if the bottom of the pot directly touches the coals, we consider this arrangement hatmana. In the case addressed by the Ramban, however, the pot is placed not on coals, but on olive peat. The

Ramban may have considered the possibility that when dealing with materials other than coals, we require that the pot be completely covered on all sides. His question is thus whether this is indeed the case, or whether partial hatmana always constitutes hatmana, regardless of whether it involves coal or peat.

In any event, the Ramban certainly did not assume as self-evident the premise that partial hatmana constitutes hatmana, at least when dealing with peat, if not even in cases involving coal. It seems more likely that his uncertainty applies only with regard to hatmana with olive peat, given that all the Sephardic Rishonim cite the Geonim as forbidding partial hatmana with coals. The reason, perhaps, is that Chazal treated coals more stringently due to their particularly intense heat, and forbade even partial hatmana, whereas regarding other materials it is unclear whether the Sages prohibited even partial hatmana.

By contrast, the Or Zarua disagrees with this entire approach, and maintains that mere contact with coals does not suffice to qualify as hatmana, as hatmana requires embedding the pot within the coals. He writes as follows (Hilkhot Erev Shabbat, 8):

"Leaving [food on the fire before Shabbat] in this manner is not hatmana; it is rather a situation such as an iron seat upon which the pot sits, as it is suspended with stones or the like. But hatmana over coals is forbidden according to all views, for we maintain that hatmana with something that increases [the food's temperature] is forbidden, even if [one covers the food] while it is still daytime [before the onset of Shabbat]." This is the interpretation of Rabbenu Chananel z"l. His formulation implies that leaving [a pot of food] on the actual coals is forbidden. But from the formulation of Rashi, who explained, "And we, who leave [food before Shabbat] on a stove that is not cleared [of its coals]…," it appears that one may leave [a pot of food] even [directly] on the coals. And his view seems more reasonable, for the Mishna states, "One may not roast [on Erev Shabbat] meat, onions or eggs unless they can be roasted while it is still daytime." And Rav Elai in the name of Rav explains this to mean that they can be roasted [before the onset of Shabbat] to the point of ma'akhal Ben Derusai – meaning, in accordance with Chananya's view. And Rav Ashi explained it as referring to [roasting] meat over coals. This demonstrates that Chananya, whose view is followed by Halakha, holds that anything at the point of ma'akhal Ben Derusai [when Shabbat begins] may be left directly on the coals… Certainly, however, when it comes to concealing it within the coals for the next day, it stands to reason that this is forbidden, as Rabbenu Chananel explained, for we maintain that one may not cover [a pot of food] with something that increases heat, as a safeguard lest one cover with embers and then stir [them]. The Riva

zt"l and Rabbenu Tam zt"l likewise forbade concealing [a pot] in coals; we find this as well in Rabbenu Tam's Sefer Ha-yashar, siman 235.

As for the final halakha, the Shulchan Arukh (253:1) rules in accordance with the view of Rabbenu Chananel and the Sephardic Rishonim, forbidding hatmana even if only the bottom of the pot touches the coals. The Rama, however, comments:

But some say that even if the pot stands directly on the fire, so long as it is exposed on top, it is not considered hatmana, and is permissible. This is indeed the practice, only people make a point of detaching it somewhat from the fire before Shabbat so that a Jew can remove it from there. If one did not detach it from the fire, and it turned out to be on the fire on Shabbat, it should be removed only through a gentile.

Two practical issues arise in this regard – one concerning the Shulchan Arukh's position, the other relevant to the Rama's view.

According to the Shulchan Arukh, the question arises as to whether simply placing a pot of food on any davar ha-mosif hevel constitutes hatmana, or if it must be partially covered, or at least the material can be said to cover part of the pot. From the comments of the Beit Meir (253), it appears that hatmana requires that the coals surround the pot to some extent. This is, in my opinion, a logical assumption, for we deal here with hatmana, which essentially means "covering," and this halakha is simply extended to include even partial covering. It thus stands to reason that we require a partial covering, something in which the pot is partially embedded, for a situation to qualify as hatmana. This assumption will have ramifications concerning the well-known ruling of Rav Mordechai Eliyahu shlit"a that Sepharadim should not place a pot on a plata (electric hotplate) before Shabbat, because the plata increases the heat of the pot and therefore leaving a pot on a plata constitutes hatmana according to the Shulchan Arukh. In my opinion, however, this does not involve hatmana, for two reasons:

A. The surface of the plata should not be seen as coals, but rather as something resembling the "iron seat" suspended over the stove, on which the Geonim allowed leaving a pot of food before Shabbat. They forbade placing it only directly on the coals. Here, the coals are the hot electric coils inside the plata, not the actual surface of the plata.

B. Even if we do not accept this premise, that the surface of the plata does not have the status of coals, nevertheless, we cannot consider the pot even partially

covered by the plata. It merely sits on the surface, and the plata does not cover it at all; this is therefore ordinary shehiya, and not hatmana.

I then discovered that the Shemirat Shabbat Ke-hilkhata (chapter 1, end of note 195) cites a certain scholar who permits leaving a pot on a gas flame before Shabbat, even according to the view of the Shulchan Arukh, since one cannot speak of hatmana when dealing with a flame. The Shulchan Arukh ruled stringently only with regard to coals, which can be said to partially cover a pot; this corresponds with our understanding of the Shulchan Arukh's position, as discussed. And even the Chazon Ish (37:19), who ruled stringently with regard to partial hatmana, wrote that leaving a pot on a plata or blech covering the fire does not qualify as hatmana. He explained that the stringent ruling applies only to coals, which were commonly used for covering pots and therefore had the status of hatmana even if they are only on the bottom of a pot. But hatmana cannot apply to a plata or blech, which are always used as simply a hot "floor" and never to envelop the pot.

The Rama's position, which restricts the prohibition of hatmana to cases where the pot is entirely enveloped, requires clarification. How much exposure do we require to avoid the prohibition of hatmana? How precisely do we distinguish between a "complete" covering and a "partial" covering?

Rav Moshe Feinstein zt"l was indeed asked this very question: does one avoid the prohibition of hatmana by ensuring to leave just a minuscule portion of the pot uncovered? He answered (Iggerot Moshe, vol. 4, 74:4):

It is considered hatmana when it [the pot] is covered on top and from the sides. But it stands to reason that if there is no food near the exposed part of the pot – if this place is only a small part that was not covered, it is indeed considered "concealed." And this is the case of the duct made by the people of Tiberias (Shabbat 38b), where all the area of the water was concealed within the hot springs of Tiberias.

According to Rav Moshe, we consider a covering over a pot hatmana if it covers all areas opposite the areas in the pot where there is food. If the areas in the pot where there is no food are exposed, we nevertheless consider the covering hatmana. By contrast, Shemirat Shabbat Ke-hilkhata (chapter 1, note 195) cites Rav Shlomo Zalman Auerbach zt"l as holding that if part of the pot's height is exposed along the majority of its perimeter, we do not consider this encasement hatmana, so long as the exposed portion is easily discernible, and not confined to one, small area. Since it is not entirely covered, the heat can escape and this therefore does not amount to hatmana.

It should be noted that the Rashba held that partial hatmana constitutes hatmana even when dealing with a material that does not increase the pot's temperature. His main proof to his position, that partial hatmana constitutes hatmana, is drawn from a source that addresses a situation of hatmana with a material that does not increase the pot's heat. He writes:

Partial hatmana constitutes hatmana, and the matter does not depend upon the covering of the entire pot. The proof is from that which the Mishna (Shabbat 49a) states, "How does one do it [remove a pot that had been concealed in materials that are muktzeh]? He removes the covering and they [the materials] fall off." We see that the pot's cover was exposed, and nevertheless they allowed [hatmana] only with something that does not increase [heat], whereas with something that does increase heat, it is forbidden. And if you claim that this applies specifically when it is entirely covered except for its opening, then the rule would vary according to circumstances [rather than being uniform, and therefore this cannot be the case].

The Rashba attempts to draw proof from the case of materials that do not increase heat, with which one may cover a pot before Shabbat, and with regard to which Chazal deem even a partial covering hatmana. This is also the implication of the Beit Meir (253). The Rishonim, however, refuted the Rashba's proof. The Ran writes:

This proof that he brought is certainly no proof at all, for the Mishna may be explained as referring to a case such as where the pot is completely covered, together with its covering, but on the covering there is a handle, just as people make nowadays, and that handle is not covered, and one takes hold of the handle, removes the cover, and they [the materials used for encasing the pot] fall off.

This indeed appears to be the majority view among the authorities, that hatmana with materials that do not increase the pot's heat is forbidden only if the pot is concealed in its entirety.

Covering a Pot with Cloths on the Plata or Stove

The Gemara comments towards the beginning of the fourth chapter of Masekhet Shabbat (47b), "For Rabbi Zeira said in the name of somebody in the academy of Rabbi Yanai: "A box [kupa] in which one concealed [food] may not be placed upon olive peat." We find among the Rishonim two basic approaches taken in explaining this ruling. The Sephardic Rishonim discussed this sugya and in light of their conclusions they established the principles of when Halakha

permits and forbids hatmana. The Tosafists, by contrast, used as their point of departure the established practices in their communities, and attempted to explain the sugya in a manner that would reconcile it with these practices.

We will begin with the various approaches taken by the Sephardic Rishonim in explaining this sugya.

1) The Ramban

As we cited earlier, the Ramban presents two possible explanations. According to the first reading, the Gemara refers to a pot in a box that has no bottom, such that the bottom of the pot directly touches the peat. We thus deal with a pot surrounded on all sides with something that does not increase its heat, placed on top of material that does increase heat, which renders this arrangement a situation of hatmana that increases the pot's heat, and is therefore forbidden. Accordingly, if the bottom of the pot does not touch the peat, then this situation will be seen as involving both hatmana that does not increase the pot's heat, and shehiya – a pot placed on something that does increase heat. Each of these two components is independently permissible, and thus the combination of the two is likewise permissible.

According to the Ramban's second approach, partial hatmana constitutes hatmana, and therefore even if the pot is entirely enclosed by a box and placed directly on the peat, we consider this a case of hatmana with material that increases heat. It would thus be forbidden to place a pot on something that increases its heat even if it is entirely enclosed – including on the bottom – in something that does not increase its heat. This is permissible only if one leaves some space between the bottom of the pot and the fire or plata. If one leaves some space, then we can view the pot's encasement separately from its placement over the plata or fire. The encasement is permissible because it does not increase the pot's heat, and the placement over the plata or fire is permissible as a valid form of shehiya; therefore, this arrangement is permissible.

2) The Rashba

In presenting his primary approach, the Rashba makes the following claim:

Rather, it would appear that when they forbid here only if one encased [the pot] in a box, this applies even if the bottom of the pot and the box do not directly touch the surface of the peat, and are rather suspended over it, because it

produces heat and boils what is over it to some extent. And whenever he encloses [the pot], he demonstrates his intent that he specifically wants the heat to be retained, and thus he might come to stir. But so long as he does not place it right above it, and he likewise does not make a point of enclosing it, he has already demonstrated his intent that he has despaired from it and does not care if his food is not warm, and he will therefore not come to stir.

According to the Rashba, one may not place a pot enclosed in something that does not increase heat on top of something that does increase heat, even if he leaves a space between the pot and the davar ha-mosif hevel. The Rashba explains that since the individual has made a point of encasing the pot, he has demonstrated his desire that the food's high temperature be retained, and we must therefore be concerned that he may come to stir the coals. The Shulchan Arukh, however, appears to have given a different reason for this ruling. According to his explanation, the heat underneath the pot (generated by the peat) forces us to view this as a situation of hatmana with a davar ha-mosif hevel, which is forbidden. The Shulchan Arukh writes (257:8):

Even though it is permissible to leave a pot [before Shabbat] on a stove with coals in the manner explained in siman 253, if it is covered with garments, then even though the garments do not increase its heat independently, nevertheless, due to the fire underneath them this does increase [the pot's] heat, and this is forbidden.

3) Tosefot

Tosefot, as mentioned, took an entirely different approach, addressing the common practice in their communities and attempting to reconcile it with the sugya. Tosefot write (48a s.v. de-zeitim):

From here [it seems] that we should forbid placing coals underneath a pot; even if one places ashes over them, he should not embed a pot on them, for the coals generate heat upwards, just like olive peat. We must therefore ask, how do we embed [pots of food] on our stoves, the ones that are called astra? Even if it is cleared [of its coals], it increases [the pot's] heat just like olive peat! The Ri said that we might give a reason to justify the practice, that regarding peat we are concerned that one might cover it [the pot] in it [the peat] entirely, whereas in our stoves there is no room for such a concern. Additionally, some people make a large trench and make in it a brick structure around on all sides, and they heat it very well, clear it [of coals] and conceal the pot within it. This does not resemble concealing food in something that increases its heat, because they [Chazal] forbade only when one conceals it and attaches [the material] around

the pot, similar to [the case of hatmana with] embers. But in an oven or trench, in which there is space between the walls and the pot, we need not forbid more than for normal shehiya, even though the entire pot is inside the oven. And Rabbenu Baruch explained that we may distinguish between the increase in heat caused by peat and the increase in heat caused by our stoves, because the stoves' heat results only from the fire, which always gets cooler, whereas the peat increases heat by itself.

Tosefot here raise three possible approaches to resolve their communities' practice:

1. The prohibition mentioned in the sugya, against covering a pot with something that does not increase heat and then placing it on something that does increase heat, is not an intrinsic prohibition, but rather stems from the concern that one might come to conceal it entirely in a davar ha-mosif hevel. Therefore, this prohibition does not apply in situations where there is no such concern.
2. Hatmana is forbidden only when the material is attached to the walls of the pot without any space in between the material and the walls of the pot. It should be emphasized that many other authorities agree to this principle, as well, as we discussed in the first section, but the Sephardic Rishonim ruled stringently with regard to partial hatmana with a davar ha-mosif hevel.
3. We consider hatmana to increase the heat of the pot only when the material increases the heat independently, but not when the material increases heat due to its having been previously heated, but now it becomes progressively cooler.

The Rosh (4:2) adds yet another basis for justifying this practice:

We might give a reason for their practice – for that case [spoken of in the Gemara] is unique in that the pot was placed in the box for the purpose of hatmana and it is also suitable for being concealed within the peat. Therefore, we must be concerned that one might say, "What difference does it make whether I place peat underneath the pot or if I conceal it [the pot] within it [the peat]?" But in a place where the pot had been cooked all day, the initial placement of the pot there was not for the purpose of hatmana, nor is it suitable to be concealed beneath the ground; therefore, there is no room for concern.

According to the Rosh, we have here a pot covered with something that does not increase heat, placed on something that does increase heat, and the essential question is which we perceive as the critical component. If the covering is the primary measure taken, then placing the pot on a davar ha-mosif hevel transforms the hatmana into a case of davar ha-mosif, and it is therefore

forbidden. But if we see the shehiya as the primary component, with the hatmana intended merely to maintain the heat more effectively, then we can view this arrangement as a case of permissible shehiya involving a pot covered with a material that does not increase its heat, and there is no reason to forbid such an arrangement.[3]

As for the final halakha, the Shulchan Arukh follows the stringent view of the Rashba and Rabbenu Yona, forbidding covering a pot with a material that does not increase the heat and placing it on something that does increase the heat – even if he leaves some space between the bottom of the pot and the davar ha-mosif. The Shulchan Arukh then presents the following suggestion, based on the Ran:

If one placed on the pot a wide utensil that does not touch the sides of the pot, and he placed garments on that wide utensil – this is permissible, for since the garments are placed only on that wide utensil, which does not touch the sides of the pot, this does not entail hatmana.

It therefore seems to me that if one places pots on a plata and covers them with towels and the like, then if there are several pots and one covers all of them, such that there is no tight covering around any single pot, this is permissible. And if there is but a single pot, then one must ensure not to cover it completely, as discussed earlier. Rav Ovadya Yosef, however, allowed relying on the Ramban's position in such a case, claiming that since there is space separating between the heating element inside the plata and the pot, one may cover the pot with towels, as we may view the shehiya and the hatmana separately. Preferably one should follow our conclusion above, but when the need arises one may rely on the Ramban's view. The Mishna Berura writes:

Now all this applies when there is fire on the stove. But if there is no fire on the stove at all, then according to some views it is not forbidden to place the pot upon it and cover it with garments. Even if the heat of the stove under it is very intense and increases the heat [of the pot], it is nevertheless permissible, for they forbade only [placing such a pot] on peat and the like, because it is suitable for having [a pot] concealed within it, and they therefore issued a decree out of concern that one might cover it with embers. But here, it is not suitable to be concealed within the floor of the stove, and there is therefore no reason for any concern. For another reason, too, one might claim that this does not resemble peat: peat increases heat independently, whereas a stove's heat is only because of the fire, and it consistently continues to cool. But some side with the stringent view in this regard, unless one places a utensil or wide plank over the top of the pot and then covers it with garments, as the Shulchan Arukh wrote.

Nevertheless, one should not object to those who are lenient. You should know that according to this, the practice of leaving coffee or food while still daytime on Erev Shabbat on top of the oven and covering them with garments – even though they do no act properly according to the authorities who rule stringently, given that the oven's heat increases the heat [of the coffee or food], unless one places some wide plank over the pot – nevertheless, one should not object to what they do, for they have on what to rely, as discussed.

Thus, one should not object to those who have the practice of acting leniently in this regard, so long as there is no concern that one might cover the pot with a davar ha-mosif; accordingly, we would permit covering a pot with garments on an electric plata. The second reason he mentioned, however, that the heat of the stove progressively decreases, does not apply to an electric plata, and therefore according to this reason it would be forbidden to cover a pot with garments on a plata.[4]

Notes:

1. Many of the Rishonim on this sugya, particularly the Ba'al Ha-ma'or and the Sephardic Rishonim, cite these comments of Rabbenu Chananel.
2. In the next section we will deal with this issue directly.
3. The Rosh here introduces an additional reason for permitting the practice, which corresponds with the first reason mentioned by Tosefot. The precise relationship between these two reasons is unclear. The Mordekhai mentions a reason resembling the Rosh's explanation, only from there it appears that the issue at hand is not the person's intent, but rather the sequence of his activities, whether he first places the pot over the davar ha-mosif and then covers it, or he first covers it and then places it on the davar ha-mosif. This distinction requires further clarification.
4. It is unclear whether he rules leniently only due to the combination of the two arguments, of if each reason independently suffices as a basis for those who act leniently.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 25: Hatmana – Part 3

Hatmana with Cold Food

The Gemara states (51a):

Rav Yehuda said in the name of Shemuel: It is permissible to conceal cold food [on Shabbat]. Rav Yosef said: what has he come to teach us – this is explicit in a Mishna: "A person may fill a jug and place it underneath a pillow or underneath a cushion"! Abayei said to him: He has come to teach us a great deal, for were it only for the Mishna, one might have thought that this applies only to something which is not normally concealed; but something that is normally concealed, [one may] not [conceal it on Shabbat]. He therefore comes to teach us [that hatmana is permissible with all cold foods on Shabbat]. Rav Huna said in the name of Rebbi: It is forbidden to conceal cold food. But does it not state in a Berayta, "Rebbi allowed concealing cold food"? This is not a difficulty – one [source] refers to before he heard it from Rabbi Yishmael the son of Rabbi Yossi, and the other refers to after he heard it from Rabbi Yishmael the son of Rabbi Yossi, as [it has been told] that Rebbi sat and said, "It is forbidden to conceal cold food." Rabbi Yishmael the son of Rabbi Yossi said to him, "My father allowed concealing cold food." He said, "The elder has already issued his ruling!"

The Rishonim present different approaches in explaining this halakha, allowing hatmana with cold food:

1. Rashi explains the Gemara as referring to one who conceals cold food from the sun, so that it will not become warm. This halakha teaches that Chazal did not forbid this kind of hatmana as a safeguard against the standard hatmana, where one conceals warm food to retain its heat.
2. The Rambam, by contrast, explained that the hatmana of cold food is intended to remove its chill. He writes (Hilkhot Shabbat 4:4), "It is permissible to conceal a cold item on Shabbat with something that does not increase [the

food's heat] in order for it not to become exceedingly cold, or to remove its chill." Most Rishonim follow this approach.

Later in the sugya, the Gemara comments, "Similarly, Rabban Shimon Ben Gamliel would say: They forbade [hatmana] only [if the food or water is] in the same kettle; but if one transferred [the water] from one kettle to another, it is permissible: once he is cooling it, will he then bring it to a boil?" Meaning, even though Chazal forbade concealing a kettle on Shabbat, even in material that does not increase its heat, once the contents are transferred to a different kettle, hatmana is permissible.

Here, too, the Rishonim disagree in explaining the rationale behind this halakha. Rashi writes:

They did not forbid concealing [food] after dark except in the kettle in which it had been heated, for there we have reason to issue a decree, lest one bring it to a boil.[1] "But one may transfer from one kettle to another kettle and conceal it" – this is the text in the Tosefta, and this is also what is meant by, "if one transferred from one kettle to another, it is permissible," for in this case there is no need to issue a decree lest one bring it to a boil, for once he intentionally cooled it [by transferring it to a different kettle], will he then bring it to a boil?

According to Rashi, transferring a kettle's contents to another kettle is intended to cool the food, and we therefore have no reason for concern that the individual might then bring it to a boil. But the Ran, who follows the majority view among the Rishonim in explaining the halakha of hatmana with cold food, suggests a different explanation for this halakha allowing hatmana after transferring food from one utensil to the next:

The reason is because they forbade hatmana on Shabbat only for hot food that is in a keli rishon in which it had been cooked. But if one transferred it, [hatmana] is permissible, just as they allowed hatmana for cold food. But Rashi z"l…was compelled to explain that one transferred it for the purpose of cooling it.

According to Rashi, we allow hatmana with cold food only if the objective is cooling the food, and likewise we allow hatmana for food that had been transferred only if this was done for the food to cool. According to the other Rishonim, however, Halakha allows hatmana for cold food even for the purpose of retaining its heat, and therefore hatmana is allowed after a food is transferred to a different utensil, even for the purpose of retaining its heat. In their view, the prohibition of hatmana was initially applied only to food in a keli rishon.

It would appear that these Rishonim did not see a direct connection between hatmana with cold food and hatmana with hot food in a keli sheni. These two halakhot are not identical, and merely resemble one another in that they both involve situations where we have no reason for concern that one will bring the food to a boil as a result of the hatmana.

The Rambam, however, presented these two laws in conjunction with one another (Hilkhot Shabbat 4:4-5):

It is permissible to conceal a cold item on Shabbat with something that does not increase [the food's heat] in order for it not to become exceedingly cold, or to remove its chill… If one transferred the food or hot water from its utensil to a different utensil, he may conceal that other utensil on Shabbat in something that does not increase [the heat], just as [one may conceal] a cold item, for they forbade concealing on Shabbat only a hot item in the original utensil in which it had been cooked; but if he transferred it, this is permissible.

The Shulchan Arukh, by contrast, first presents the law regarding food that had been transferred, before the halakha of hatmana with cold food, suggesting that he did not see these as a basic principle and then a derivative of that general rule. According to the Shulchan Arukh, the halakha permitting hatmana after a food had been transferred stems from the fact that the person shows no interest in heating the food, and we therefore have no reason for concern that he might bring it to a boil. Hatmana with cold food is permitted despite the fact that the individual seeks to reduce its chill, simply because Chazal never forbade hatmana of this nature.

In short, the Rambam understood that the law permitting hatmana after a food had been transferred results from the halakha allowing hatmana with cold food. Food in a keli sheni has the status of "cold food," and hatmana is thus naturally permitted. According to the Shulchan Arukh, however, it would appear that this halakha hinges on the person's demonstration if disinterest in heating the food.

This distinction between the two approaches perhaps forms the basis of a dispute among the Tosafists concerning the possible comparison between hatmana and hachazara with regard to food that had been transferred from its original utensil. The Gemara (Shabbat 38b) raised the question of whether one may return food to the fire if in the interim it was transferred from its initial utensil. Tosefot (38b) explain the distinction between hatmana and hachazara in this regard as follows:

Rabbenu Tam said that here [in the Gemara's discussion of hachazara], regarding one who left [food] on the stove in the same kettle, which is hot, he will not come to stir [the coals], but in a different kettle, which is cold, he might come to stir. But regarding hatmana we are more lenient if it is cold, because a little stirring will be of no avail.

The Tosefot Yeshanim (51a) explain differently: "There, he wants [the food] to be warmed, and therefore we forbid [hachazara] if it is cold. But here, regarding hatmana, so long as it is cold, we are more inclined to permit it, as stated earlier, that Rebbi allowed concealing cold food."

Tosefot on 38b appear to maintain that the halakha allowing hatmana for food that had been transferred from its original utensil stems from the person's demonstration of the fact that he has no interest in the food becoming hot. We therefore have no reason for concern that he might stir the coals. Tosefot Yeshanim, however, viewed this halakha as deriving naturally from the fact that the hatmana prohibition does not apply to cold food, and any food in a keli sheni has the status of "cold food" with respect to this halakha.

The Magen Avraham and Mishna Berura added that hatmana is permissible after a food's transfer from its initial utensil even if it was then returned to that utensil, either because the food attains the status of "cold food" the moment it is transferred from the original utensil, or because the individual demonstrated his disinterest in heating the food. These authorities also consider allowing hatmana of a keli rishon if its contents are no longer at the point of yad soledet bo. This ruling is more straightforward according to the Rambam, who allows hatmana of a keli sheni because of its status as "cold"; this would apply all the more so to a utensil that has dropped below the level of yad soledet bo. According to the Shulchan Arukh, however, who explained this halakha on the basis of the person's demonstration of disinterest in heating the food, this ruling is far from simple. For this reason, perhaps, the Magen Avraham and Mishna Berura did not state this conclusion decisively.

This discussion perhaps affects the issue of transferring hot water on Shabbat from a keli rishon to a thermos. Seemingly, we should consider the water in the thermos as tamun, concealed, given that the thermos has an outer utensil that envelops the inner utensil. If we approach the halakha permitting hatmana after the food has been transferred as a general rule that hatmana applies only to a keli rishon, then we would allow transferring water into the thermos, which is a keli sheni. But if this rule is built upon the individual's demonstration of his disinterest in heating the food, it would not apply in this case, since clearly one who pours into a thermos does so with the intent of

retaining the water's heat. One might nevertheless argue that even according to these Rishonim, we focus not on the individual's actual intent but rather on the objective reality that the food cools as a result of its transfer to a new utensil, and for this reason hatmana is permissible. In any event, Rashi's view would certainly warrant forbidding transferring hot water to a thermos, since the objective here is specifically to keep the water warm, and not to have it cool.

In practice, however, it would seem that this is permissible according to all views, but for an entirely different reason, namely, that pouring into a thermos does not constitute hatmana at all. A thermos in truth is but a single utensil with thick insulation, and hatmana requires surrounding a utensil with a separate entity. See Chazon Ish, end of siman 37.[2]

Hatmana is permitted with cold food only with material she-eino mosif hevel – that merely retains the food's heat, and does not increase it. One may not conceal cold food with material that will increase it heat, even before Shabbat. This is the predominant view among the Rishonim, though the Meiri disagrees:

You should know that the prohibition of hatmana – even in something that increases heat – applies only to concealing hot [food] items. Cold items, however, may be concealed even in something that increases heat, because materials that increase heat do not generate heat for something where there is no heat currently present at all. They add [heat] only to something that has some amount of heat, as they said, "Rebbi allowed me to conceal cold food…" Therefore, it is permissible to conceal a cold egg or any other cold item even in something that increases heat, and even on Shabbat.[3]

In any event, Halakha follows the majority view that hatmana with material that increases heat is forbidden even for cold food, and even before Shabbat.[4]

We will now focus our attention on some specific issues concerning the prohibition of hatmana.

Concealing a Food Item Inside a Utensil

The Mishna Berura writes (258:2):

The Acharonim wrote that it is forbidden to take a utensil containing cold liquid and thrust it on Shabbat into a utensil filled with hot water for it [the cold water] to be warmed inside it, even if it will not be able to reach the point of yad soledet

bo, since this is an actual means of hatmana[5], given that it is entirely concealed inside it.

The Mishna Berura refers here to the position of the Taz, who held that the prohibition of hatmana applies even to concealing food within a pot, and not merely to covering foods with cloths and the like. The Sha'ar Ha-tziyun (258:6) adds that if the pot would increase, rather than simply retain, the water's heat, then this is forbidden even before Shabbat. The Chazon Ish (36:32), however, disagreed with the Taz, and held that the prohibition of hatmana does not apply to concealing food within hot water in a utensil: "The prohibition of hatmana does not apply here, for it is permissible to place a cup of hot water inside a pot of hot water." He proves his position from the Gemara's discussion on 40b, where it tells that Rabbi Yitzchak Bar Avdimi wanted to place a jug of oil into the bath for it to warm, which seemingly proves that the prohibition of hatmana does not forbid placing food within utensils.[6] Most Acharonim advocated following the Taz's view, that placing food within utensils indeed constitutes hatmana.[7] It must be emphasized that this applies even to concealing food within water in a keli sheni. Before Shabbat, however, this is permissible, since the utensil cools over the course of time and is therefore considered a davar she-eino mosif hevel, in which hatmana is permitted before Shabbat.

Warming Schnitzel or Other Foods Wrapped in Aluminum Foil on an Electric Hot Plate

Rav Moshe Feinstein writes (Iggerot Moshe, 4:74:3):

Question: Is it permissible to wrap on Shabbat a cold, solid, cooked food in aluminum foil and warm it with a pot interrupting [between the food and the fire]?
Answer: It is permissible to conceal a cold [food] item, both so that it will not be warmed and so that it will not be cooled any further. It is permissible even for the purpose of removing its chill somewhat. But with [materials that] increase heat this is forbidden, as mentioned explicitly in [the Shulchan Arukh] 257:6. And even with a pot interrupting [between the fire and the food] it increases the heat, and hatmana is therefore forbidden; and wrapping them [foods] with aluminum also constitutes hatmana.

Others, however, disagree, and hold that even those who forbid hatmana inside a pot, as discussed in the previous section, would rule leniently in this case, because the aluminum foil serves as the "pot" of the schnitzels, and this is not a standard means of hatmana. According to some authorities, this would be forbidden if one wraps the schnitzel in two layers of aluminum, since the inner

layer would then be considered the "pot" and wrapping in the outer layer would then constitute hatmana; one should exercise care in this regard. (See Piskei Teshuvot, 253:17 and note 78.)

Placing Food Inside a Cholent Pot on Erev Shabbat

Some have the practice of placing kugel wrapped in aluminum foil inside a cholent pot, such that it is entirely covered by the cholent. Similarly, some people place rice or other legumes in separate bags inside the cholent pot. The question arises whether this would be considered hatmana with a material that increases the food's heat, which is forbidden even if one does so before Shabbat. Some authorities have indeed ruled against this practice, in light of the view of the Taz, who, as discussed earlier, applied the hatmana prohibition to placing food inside pots. It would seem, however, that this is done for the purpose of cooking, and one does it in this manner solely to ensure separation between the different foods in the pot. Furthermore, since it is wrapped in aluminum foil or a cooking bag, which are not actual pots, we might contend that the foil or bag is negated by the pot, such that the food is seen as placed directly in the pot. This would not, therefore, constitute hatmana, and it should be permitted even according to the view of the Taz.[8] It would indeed seem that one may be lenient in this regard, though is it advisable to make a small hole in the foil or bag so that the food inside can be perceived as mixed together with the other food in the pot.

Slow-Cookers ("Crock-pots")

We will first explain the properties of this appliance, and then proceed to discuss the various halakhic questions that arise concerning its use on Shabbat.

The slow-cooker consists of two pots: an outer pot that is attached to the electricity, which heats the food, and an inner pot made (generally) from earthenware, into which the food is placed. The outer pot surrounds the entire perimeter of the interior pot and is placed very close to its walls, with only a slight space separating between the two. Some slow-cookers allow the option of setting the heat to different levels.

Several halakhic problems arise when using this pot for Shabbat:

1) Shehiya: If the food in the pot is not cooked at least to the point of ma'akhal Ben Derusai, according to Chananya's view, or, according to the Chakhamim, it is not fully cooked and considered mitztameik ve-ra lo (a food for which ongoing cooking would be detrimental), one may not place the food in the pot. Since the pot's temperature is adjustable, it has the status of a stove that is not garuf ve-

katum (neither cleared of its coals nor covered). In order to overcome this problem, one must ensure that the food has reached the point of ma'akhal Ben Derusai before Shabbat, in which case he may then rely on Chananya's view. Or, he should at least cover the dials used for adjusting the heat, so that we may consider the pot katum. An additional option for rendering the pot katum is to place something like a small rock or brick in between the inner and outer pots to make a separation between them.

2) Hachazara: So long as the food is not fully cooked, one may not return the inner pot once he had removed it. And even if the food has been fully cooked, one may return it only if he rendered the pot katum, as described above. However, even then the issue of hachazara is not a simple one. As we discussed in our shiurim on the topic of hachazara, it is permitted to return a pot to the top of the stove, but not inside it. With regard to this matter, see Iggerot Moshe, 4:74:27.

3) Hatmana: For many years, communities in the United States have had the practice to use a slow-cooker for Shabbat, on the assumption that the slight space between the inner and outer pots eliminates the problem of hatmana, and because the upper part of the pot is exposed. (On top of a slow-cooker there is only the covering of the inner pot.) This was the view of Rav Shmuel Wosner[9], that according to the Rama's definition of hatmana as a complete covering, the exposed area on top of the slow-cooker suffices to render its use permissible. He added that although one might wish to act stringently in light of Rabbenu Tam's position in Sefer Ha-yashar (235), that even the concealment of the majority of a pot constitutes hatmana, and the Chazon Ish was inclined to forbid even partial hatmana, nevertheless, one should not object to those who follow the Rama's lenient ruling in this regard.

Rav Shlomo Zalman Auerbach zt"l, by contrast, ruled that one may not use this appliance on Shabbat because it constitutes hatmana with a davar ha-mosif hevel; in his view, the small space between the two parts of the appliance is of no avail. He advised making some interruption in between the internal and external pots with a simple tin utensil. As we wrote earlier, one may also place inside even a small brick to raise the inner pot slightly to expand the space separating between the pots, and then he may certainly use the slow-cooker.[10] It should be noted that Sefaradim, who follow the Shulchan Arukh's ruling that even partial hatmana constitutes hatmana, should certainly refrain from using a slow-cooker without making some sort of interruption, as we explained.

[Rav Shlomo Zalman Auerbach zt"l, pointed out in his response that if the crock-pot has heating coils both on the bottom AND sides of the sleeves it is problem.

However, if either the bottom OR sides of the sleeve do not have heating coils there is no problem. (Rav Mordechai Friedman ed.).

Notes:

1. This is the reason given for the prohibition against hatmana with material that does not increase the food's heat; see the first shiur of our series on hatmana.
2. See also Iggerot Moshe, O.C. 1:95.
3. See the continuation of the Meiri's discussion there, as well.
4. The Shulchan Arukh codifies this ruling explicitly in 257:6.
5. We cannot permit this kind of hatmana on the basis of the fact that the water is cold, and the hatmana prohibition does not apply to cold foods, since here the intent is to actually heat the water, and not merely to remove its chill.
6. It should be noted, however, that Rashi explains the Gemara to mean that Rav Yitzchak intended merely to remove the chill from the oil. If so, then this provides no proof for the Chazon Ish's position, because hatmana does not apply in any event to cold foods, as discussed earlier. One could also contend that the Gemara does not refer to the complete immersion of the jug of oil in the bath, and thus this would not qualify as hatmana.
6. See Shemirat Shabbat Ke-hilkhata, 42:63.
7. See also Piskei Teshuvot, 258:1 and note 6. See as well Shemirat Shabbat Ke-hilkhata (42:63), who allowed this practice because the individual's primary intent is not to heat the food in the foil or bag from the heat of the food in which it is embedded, but rather to place it directly on the fire. And although one food completely envelops the other, this does not amount to hatmana, and should be seen instead as two items placed together over the fire.
8. His comments are cited towards the end of the work Orchot Shabbat, beirurim section, chapter 2.
9. For more details on using a slow-cooker, see Orchot Shabbat, pp. 112-113, note 149, where solutions are suggested in the name of Rav Shlomo Zalman Auerbach zt"l and yblch"a Rav Yosef Shalom Elyashiv shlit"a.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 26: Generating Heat in a Cold Food – Defining the Prohibition

The Gemara (Shabbat 48a) tells that Rabba reprimanded a servant who placed a container of water over a kettle on Shabbat. Rabbi Zeira observed this incident and questioned Rabba's response in light of a Berayta later in the chapter, which explicitly permits placing a pot of water on top of another pot of water. Rabba replied, "There, it merely maintains [the water's heat], whereas here, it generates [heat]."

Rashi explains that the servant placed a utensil containing cold water over a kettle of hot water. The Berayta, which permits placing a pot of water on top of another, refers to two pots of hot water, and the individual wishes to sustain the heat of the pot placed on top. Here, however, where the servant places a container of cold water over a kettle of hot water, the intent is to generate heat in the container, which is forbidden.

We derive from this sugya that it is forbidden on Shabbat to generate heat within a cold food, but the precise definition of this halakha remains unclear. We will try to explore the nature of this prohibition by studying the various views mentioned in the Rishonim.

Generally speaking, we may point to two main approaches taken in explaining this sugya. The first sees it as dealing with a potential Torah violation of bishul, in which case its relevance to this chapter, which deals with the Rabbinic prohibition of hatmana, seems unclear. According to the second approach, this sugya refers to a problem involving hatmana, which seems more logical, in light of the context in which it appears.

We will begin with the first approach, that reads the sugya as dealing with the Torah prohibition of bishul.

Tosefot

Tosefot (s.v. mai shena) work off the clear assumption that the sugya refers to the prohibition of bishul. They write:

It is difficult – to what [case] does this refer? If [the water will reach the point of] yad soledet bo, then how did he [Rabbi Zeira] want to permit this, even though it is cooking? Did he not know that a derivative of fire is the same as fire [with respect to the prohibition of bishul], as the Mishna states, 'One may not place an egg alongside a pot,' and that it says that if it boiled, one is liable [for a Shabbat violation… And if [the servant's intention was merely] to warm [the cold water], how does it conclude that this is forbidden? The Berayta states in the chapter Kira, "A person may place a jug of water opposite a flame, not so that it will be heated, but to remove its chill" – and this refers to warming [the water], as evidenced by the sugya there… It seems to the Rashba [of Shantz] that when we allow placing a jug of water opposite a fire, this is only at a distance from the fire, where it can never reach the point of bishul. But near [the fire] it is forbidden [to place a jug of water], even for the purpose of warming it [as opposed to heating it], lest he forget and leave it there until it cooks. It therefore concludes here that it is forbidden [to place cold water on top of hot water]. And when the Mishna there states, "not so that it will be heated," it refers to a place where it can be heated, though the formulation is a bit forced.

Tosefot thus conclude that the prohibition stems from the concern that one may forgot to take away the water before it reaches the point of yad soledet. It is permissible, however, to place cold water in a place where it can never reach the point of bishul. According to this view, the expression, "it generates [heat]" refers to actual bishul, and Rabba and Rabbi Zeira debate the point of whether we allow placing the container on the pot to remove its chill, or if we forbid doing so out of concern that it may result in bishul. (This is also the view of the Rosh, 4:3.)

Rabbenu Yona

After proving – both from context and from the Tosefta at the end of the fourth chapter of Masekhet Shabbat – that this sugya deals with hatmana, the Rashba presents the approach taken by his rabbi, Rabbenu Yona:

He z"l explained that here the case involved placing a container on the opening of a kettle in order to conceal both with something [else] that does not increase heat, and this occurred on Shabbat, such as he covered the kettle while still daytime [before the onset of Shabbat], in which case it is permissible to expose

it and then cover it [again] on Shabbat… And he wanted to conceal the container in the opening of the kettle, for we hold that it is permissible to conceal cold [food], even for the purpose of removing its chill, as we will see later. Therefore, Rabbi Zeira initially thought that it is permissible even on a pot of water. But Rabba forbade [this], because they allowed concealing cold [food] only with something that does not increase heat; on a pot it is [therefore] forbidden because the additional heat of the pot is discernible in it, and it is thus akin to concealing on something that increases heat, which they did not allow when [they allowed] placing a pot on another pot. Only when the heat of the bottom pot is not discernible in the upper pot, when it merely maintains its heat, [is this permissible]. He drew proof from the Tosefta (3:14), which states explicitly, "One may conceal a kettle on top of a kettle and a pot on top of a pot."

In order to explain our sugya as referring to hatmana, Rabbenu Yona was compelled to claim that the servant placed the container of water inside the hatmana in which the kettle had been placed before Shabbat. He had thought this was allowed by virtue of the halakha permitting hatmana with cold food, but Rabba forbade doing so because the heat in the container is increased, and thus this resembles a case of davar ha-mosif hevel, which is forbidden, even when dealing with cold food. Rabbenu Yona supported his approach from the Tosefta, which, according to his version of the text, reads, "One may conceal a kettle on top of a kettle."[1] This proves that the issue here is one of hatmana, and it is this Berayta that Rabbi Zeira invoked to challenge Rabba's ruling.

We should note, however, that this case differs from the standard case of hatmana with a davar ha-mosif hevel, in that the heat of the kettle progressively decreases; nevertheless, this is forbidden on Shabbat due to the increase in the cold water's heat, which renders this forbidden even when dealing with cold food or water. Before Shabbat, however, this would be permissible, since in truth the bottom pot is a davar she-eino mosif hevel. We treat it as a davar ha-mosif only with respect to the halakha concerning hatmana of cold food on Shabbat itself. Since its heat is discernible, the bottom pot is treated as a davar ha-mosif with which hatmana is forbidden even for cold food and water. The Bei'ur Halakha writes (257):

Nevertheless, you must know that it is not actually like [something which] increases heat, for if so, then it would be forbidden even while still daytime [before the onset of Shabbat], so how did the Shulchan Arukh rule later, in 258, that while still daytime this is permissible? The Vilna Gaon there also writes explicitly that it is forbidden only on Shabbat itself, and it appears there that this is not considered mosif hevel; rather, it means that since it generates heat in a

cold item, the Rabbis likened it in this respect to [something that] increases heat, that it should be forbidden at least on Shabbat.

According to this explanation[2] of Rabbenu Yona's position, this sugya teaches that hatmana of cold food is permissible only in something that does not increase its heat at all. Hatmana of cold food is forbidden on Shabbat in something that increases heat even if it cannot be formally classified as a davar ha-mosif hevel (because its heat continuously escapes and thus it gets progressively cooler[3]).

The two approaches mentioned thus far, though different from one another in terms of their understanding of the Gemara, do not necessarily yield conflicting halakhic conclusions. Indeed, the Shulchan Arukh and its commentaries mention both cases. The Shulchan Arukh rules (318:17)[4]:

It is forbidden to place cold [food or water] (on a kettle), even just to warm it, so long as the kettle is hot enough that it could reach the point of bishul – meaning, that one's hand would immediately recoil [on contact] – if it is left there for an extended period, for the law regarding placing [food or water] on top of a kettle is the same as the law regarding placing opposite a fire. But if it is not this hot, then it is permissible.

This follows Tosefot's reading of the sugya, whereby it forbids placing a utensil with cold water on a kettle in a place where it could potentially reach the point of yad soledet bo, given the concern that he may forget and leave it there until it reaches this point.

Later (258), the Shulchan Arukh rules, "It is permissible while still daytime to place a utensil containing a cold item over a hot pot, for this is not similar to concealing [food] in something that increases heat." The Vilna Gaon, in his commentary to the Shulchan Arukh, explained this ruling on the basis of Rabbenu Yona's approach to our sugya. The Mishna Berura likewise cites this understanding of the Shulchan Arukh:

Meaning, even if he then covered the utensil and pot with garments, such that the heat of the cold item was certainly increased as a result of the pot, this is nevertheless permissible, for the pot is not considered like peat and the like, which increase heat, for in those cases [the given material] increases heat intrinsically, whereas the pot does not contain intrinsic heat.; to the contrary, its heat continuously diminishes at every moment. Therefore, it is permissible. [This applies] specifically to placing the cold item [there] while it is still daytime; it is forbidden, however, to place it on Shabbat under the covering of garments on the pot for it to become hot, even if there is not enough heat for it to reach

the point of yad soledet bo, because they allowed hatmana for cold food on Shabbat only for the purpose of removing its chill. In this case, where heat is generated through hatmana, it is forbidden. And if the pot is not covered with garments, there is no prohibition against placing the cold item on it unless it can reach the point of yad soledet bo, as we see later, 318:6.[5]

As mentioned earlier, neither of these approaches yields any significant chiddush in the laws of bishul or the in laws of hatmana[6], and we may therefore embrace both as practical Halakha. Later, however, we will address several points of contention that arise in the poskim in these contexts. In the meantime, however, let us turn our attention to yet another approach to this sugya, which yields a very significant chiddush in the definition of hatmana – the approach taken by the Rambam.

The Rambam writes in Hilkhot Shabbat (4:6):

One may place a kettle on top of a kettle on Shabbat, or a pot on top of a pot, or a pot on top of a kettle, or a kettle on top of a pot, and seal their opening with dough, not so that they will become hot, but rather so that they will retain their heat, for they forbade on Shabbat only concealing [food within something to retain its heat]. But placing a hot utensil on top of a hot utensil so that they will retain their heat, is permissible. However, one may not place a utensil containing a cold item on top of a hot utensil on Shabbat, since it generates heat within it on Shabbat. But if he placed it already the night before this is permissible, as it does not resemble hatmana with something that increases [heat].

The Rambam's version of the text of the Tosefta reads, "One may place a kettle on top of a kettle and a pot on top of a pot"[7], and in his view, this passage teaches that this arrangement does not constitute hatmana since we deal with simply placing one utensil on top of another, rather than a covering.[8] Nevertheless, he forbids placing a utensil containing a cold food on top of a hot utensil, because it generates heat within it.

We thus have here an entirely new halakha that the Rambam introduces in a chapter that deals entirely with hatmana. Even though the upper utensil is not "concealed" within the lower utensil, nevertheless, if the lower utensil generates heat in the food in the upper utensil, the prohibition of hatmana applies. The Rambam restricts this prohibition to Shabbat itself, as he allows placing the utensil of cold food on the hot utensil before Shabbat, even though it will increase the food's temperature, since this is not actual hatmana. According to our understanding of the Rambam's ruling, we should call this halakha "the prohibition against generating heat in a cold food," and perceive it

as an extension of the hatmana prohibition to situations where the food is not actually "concealed," and therefore this prohibition applies only on Shabbat, and not before Shabbat.

We explained the Rambam's view in accordance with our understanding of this passage. The Maggid Mishneh, however, understood this passage as referring entirely to the prohibition of bishul (as opposed to hatmana). He writes that one may not place a utensil containing a cold item on top of a hot kettle in situations where the cold item can reach the point of yad soledet bo; even if one intends merely to warm the cold food, this is nevertheless forbidden due to the concern that he may forget to remove the utensil. But the Maggid Mishneh's reading of the Rambam becomes very difficult in light of the Maggid Mishneh's own comments later in Hilkhot Shabbat (22:4). There, he understands the Rambam as allowing placing a jug of water opposite a fire even at a short distance where it could potentially reach the point of yad soledet bo. Thus, according to the Maggid Mishneh's understanding, the Rambam does not forbid warming water out of the concern that one may forget and come to violate bishul – seemingly in direct contradiction to the Maggid Mishneh's reading of the Rambam's comments in our context. One might suggest that the Maggid Mishneh sought to establish precisely this very distinction, between a case of placing water opposite a fire, where no prohibition was enacted, and our case, which involves direct contact between the cold water and a source of heat, and there is thus more reason for concern.[9]

According to our understanding of the Rambam, however, that the prohibition here stems not from the concern that one may forget to remove the utensil, and the potential violation of bishul, but rather as an extension of hatmana, there is no contradiction between the two contexts whatsoever.

I believe the Rambam would allow placing before Shabbat a utensil containing a cold item on a kettle situated over the fire, even though in this case the heat of the kettle does not continuously diminish (since it sits over the fire), because this is not actual hatmana. As we explained earlier, this extension of the hatmana prohibition applies only on Shabbat itself. Rabbenu Yona explained the sugya as dealing with actual hatmana, a case where cloths are used to cover the pots, and we were therefore compelled to say that he allows this arrangement before Shabbat only if the lower pot's heat continuously diminishes.

But all this presumes the Vilna Gaon's reading of Rabbenu Yona, as discussed earlier. We may, however, explain Rabbenu Yona's comments differently. According to the standard principles of hatmana, we would allow

placing the container of cold water on the hot kettle because this constitutes hatmana with a davar she-eino mosif hevel, given that the kettle's heat continuously diminishes. However, this sugya introduces a new provision, forbidding hatmana on Shabbat for cold food items in a davar she-eino mosif hevel if the lower utensil adds heat to the upper utensil. As the upper utensil is warmed, heat is generated within it, and this thus becomes a situation of hatmana of a hot food item, rather than a cold food item, which is forbidden on Shabbat with a davar she-eino mosif hevel. This would be permitted before Shabbat, since the lower pot, as mentioned, constitutes a davar she-eino mosif hevel. This explanation of the Gemara emerges from the following comments of the Chazon Ish (37:17):

Earlier we wrote that placing a container of water over a kettle of hot water and covering it is forbidden, as this is considered concealing cold food in a davar ha-mosif hevel, given that the upper [utensil] generates heat in the entire covering, and this is not permitted for cold foods[10]. But this is imprecise, for the issue at hand is not hatmana in a davar ha-mosif hevel; were this to be the case, then it would be forbidden even while still daytime[11]. Rather, since heat reaches it, it is considered like hatmana with hot food[12], and not like hatmana with cold food.

According to the Chazon Ish, we have here a new halakha, that a cold food item in which heat has been generated assumes the status of a hot food item, and it thus becomes subject to the standard laws of hatmana.

This gives rise to the question of what level of heat must be generated for this halakha to take effect. According to the Rambam, this halakha forbids generating heat within a cold food item; according to Rabbenu Yona as understood by the Chazon Ish, it lends a cold food item the status of a hot food item with respect to hatmana; and according to the Vilna Gaon's reading of Rabbenu Yona, it requires that we consider the bottom utensil a davar ha-mosif hevel. What level of heat is required for this to occur, according to each of these three views?[13]

The Mishna Berura (258:2) writes that the food need not reach the point of yad soledet bo for this halakha to take effect, and the prohibition applies once heat is generated through hatmana. He himself, however, in Sha'ar Ha-tziyun (258:4), raises the possibility that the prohibition perhaps takes effect only at the level of yad soledet bo, since we do not acknowledge the generation of "heat" below this level. Furthermore, according to the Chazon Ish, who explained this halakha to mean that the food now attains the status of hot food, we would

certainly require that the food reaches the level of yad soledet bo for it to attain this status.

The Tur writes (258):

It is permissible to place a utensil containing a hot item on a pot concealed [in some material to retain its heat] so that it retains its heat and will not cool… But one may not place a utensil containing a cold item on top of a hot pot on Shabbat, because it generates heat within it on Shabbat. If one placed it on Erev Shabbat – this is permissible, for this is not akin to concealing [food] with something that increases heat.

The Tur appears to have adopted the Rambam's position, and it is very surprising that he makes no mention of the approach taken by his father – the Rosh – in explaining this sugya. It indeed seems that the Tur refers here to a new halakha relevant to the laws of hatmana, for were he referring here to a potential violation of bishul, this is already discussed later (318). And if he follows the understanding of Rabbenu Yona, that this resembles hatmana of cold food, the basic principle of this halakha is mentioned already in siman 257. He should have at least added relevant details there in siman 257, as do the Vilna Gaon and Bei'ur Halakha in their respective commentaries to siman 257.

That the Tur designated a special siman for this halakha testifies to the fact that he refers here to a provision that is included neither in siman 318 nor in siman 257; thus, he likely followed the Rambam's view, as we explained.

In practice, however, all the poskim ignored this halakha that seems to very clearly emerge from the comments of the Rambam and the Tur.

The Beit Yosef seems to have indeed understood the Tur as referring to a new halakha of generating heat in a cold food item. However, he writes that this halakha applies only to generating heat at the level of yad soledet bo – "for he had the impression that it is considered generating [heat] only if it reaches a boil"[14]. Accordingly, this halakha is of no practical relevance, since the Tur and Shulchan Arukh maintain that the bishul prohibition applies to previously-cooked liquids. Hence, it is forbidden to bring the upper utensil the point of yad soledet in any event due to the Torah prohibition of bishul.[15]

The Shulchan Arukh (258) makes no mention of this discussion concerning placing a kettle or utensil containing a cold item on a hot utensil on Shabbat, because he discusses these issues later (318:6-8). Here, in siman 258, he mentions only the halakha allowing doing this before Shabbat: "It is permissible

to place while still daytime a utensil containing something cold on top of a hot pot, for this is not akin to concealing [food] in something that increases heat." The Acharonim argue in explaining the Shulchan Arukh's intent:

1) The Taz explained that the Shulchan Arukh here deals not with hatmana, but rather with the prohibition of bishul. This is allowed before Shabbat because the prohibition of bishul does not apply until the onset of Shabbat, whereas on Shabbat it is forbidden out of concern that it may result in bishul. If the food is already fully cooked, or if the arrangement would not allow for it to reach the point of yad soledet bo, the prohibition does not apply. And when the Shulchan Arukh concludes, "for this is not akin to concealing [food] in something that increases heat," he means simply that the prohibition of hatmana does not apply in this case at all.
2) The Mishna Berura, based on the Vilna Gaon, explained the Shulchan Arukh as referring to a case where both pots are covered, in accordance with Rabbenu Yona's understanding of our sugya, despite the fact that the plain reading of the Shulchan Arukh does not appear to lend itself to this interpretation.

According to both readings, it appears that the Shulchan Arukh had no need to designate siman 258 as a separate siman, since this halakha is, in his view, subsumed under his discussion in siman 318 regarding bishul, and his discussion in siman 257 regarding hatmana. But since the Tur allocated a siman for this halakha, the Shulchan Arukh was compelled to do so, as well, and kept his comments in this siman to a minimum.[16]

Notes:

1. According to Rabbenu Yona's reading, the question arises as to why it is allowed to insert the upper kettle into the hatmana. Even if the material used for hatmana does not increase its heat, this is allowed only before the onset of Shabbat, and not on Shabbat itself. We might suggest that since this does not constitute a new hatmana, and, as we will explain in the next shiur, one may return the hatmana to the bottom pot, it is likewise permissible to insert the upper pot into the hatmana. See Mishna Berura 318:51, and compare with his comments to 253:88; this requires further explanation.
2. Later, we will mention a different understanding of Rabbenu Yona's approach.
3. The Taz (258:1) writes that this applies only if the hatmana is done for an extended period of time. If the hatmana is done for a brief period, in which the pot will not have a chance to cool, then we consider this a situation of davar ha-mosif, and the hatmana is forbidden even before Shabbat. Most poskim, however, disagreed, and drew no distinction between the duration of time for

which the hatmana is done; in all cases, if the pot continuously cools we cannot consider it a davar ha-mosif hevel in the true sense of the term.

4. This basic principle appears elsewhere in siman 318, as well; see se'ifim 6 & 14.

5. See also Bei'ur Halakha, where it is clear that this reading is based on the Gaon's comments, in accordance with Rabbenu Yona's understanding of our sugya.

6. Rabbenu Yona's reading does, however, yield a very specific chiddush with respect to the law of hatmana of cold food, in that he forbids hatmana in this case with something that resembles a davar ha-mosif hevel. But this does not entail a novel theory, but rather an extension of the prohibition of hatmana of cold food with a davar ha-mosif hevel.

7. This is as opposed to Rabbenu Yona's version, which reads, "One may conceal a kettle on top of a kettle and a pot on top of a pot."

8. Although the Rambam held that even a partial hatmana constitutes hatmana, nevertheless, in this case the upper utensil does not come in direct contact with the coals, and touches only the lower utensil, which is not the source of the increased heat, and it therefore does not constitute hatmana. Furthermore, we contended in an earlier shiur that even if partial hatmana constitutes hatmana, we require that the utensil is placed on the davar ha-mosif in such a manner that it can be viewed as to some extent embedded or concealed within it. According to this contention, placing one utensil on top of another would not comprise hatmana at all.

9. The Even Ha-azel commentary to the Rambam (Hilkhot Shabbat 22:4) elaborates at length to explain the Maggid Mishneh.

10. This is in accordance with the Vilna Gaon's understanding of Rabbenu Yona.

11. We refuted this proof earlier, explaining that this is not a case of mosif hevel in the true sense of the term; we consider the bottom pot a davar ha-mosif only with respect to the laws of hatmana for cold food.

12. Meaning, this is a case of hatmana of cold food with a davar she-eino mosif hevel, which is forbidden on Shabbat itself and permissible before Shabbat.

13. At first glance, we might claim that heat beneath the level of yad soledet bo does not qualify as heat, for as we saw in the previous shiur, once a food's temperature drops below yad soledet, it has the status of "cold food" and hatmana is permissible. On the other hand, we might argue that there the keli rishon is in the process of cooling, and for this reason, perhaps, we consider its food "cold" with respect to hatmana. Here, the cold food is being warmed, and so perhaps at even a lower temperature we would recognize the presence of "heat" with regard to this halakha.

14. See our earlier discussion concerning the comments of the Mishna Berura and Sha'ar Ha-tziyun.

15. One might have claimed that this halakha still bears relevance with respect to generating heat in a cold, solid food that had previously been fully cooked, to which the prohibition of bishul does not apply. However, it seems from the Beit Yosef that the prohibition against generating heat applies only to liquids; in any event, the Beit Yosef's comments are not abundantly clear and require further elucidation.

16. I would like to apologize for the fact that we dealt in this shiur with a complicated sugya, the interpretation of which remains obscure even after our discussion. According to my understanding, from the comments of the Tur and the Rambam a new halakha of hatmana emerges, one which the poskim ignored, as they preferred following other views among the Rishonim.

The Laws of Cooking Part 1
By Rabbi Yosef Ben David
Shiur 27: Returning, Exchanging and Adding to a Hatmana

The Berayta in Masekhet Shabbat (51a) states:

Although they said, "One may not conceal [food to maintain its heat] after dark [on Shabbat eve] even with something that does not increase its heat," if one wishes to add [to the material with which he concealed the food before Shabbat], he may add [to the material]. How does he do this? Rabban Shimon Ben Gamliel says: He removes the sheets and places the blankets, or removes the blankets and places the covers.

Tosefot comment, "It appears to the Ri and to Rabbi Por"t that we should omit from the text, 'How does he does this,' because Rabban Shimon Ben Gamliel disagrees with the Tanna Kama, who allows only adding, but [holds that] exchanging is forbidden." Indeed, the version of the text of the corresponding passage in the Tosefta (chapter 4)[1] confirms Tosefot's emendation: "One may not initially conceal hot food on Shabbat, but one may add materials to them. Rabban Shimon Ben Gamliel says: One may remove the sheet and place the blanket, or remove the blanket and place the sheet."

According to this view, the Tanna Kama allows adding to a hatmana but forbids exchanging one hatmana for another, whereas Rabban Shimon permits even exchanging a hatmana. It remains unclear whether the Tanna Kama would allow removing and then replacing a hatmana in which a pot had been wrapped before Shabbat.

Let us first address the underlying basis of the dispute between the Tanna Kama and Rabban Shimon. The Tanna Kama allows only adding to a hatmana, because in his view one may not make a new hatmana on Shabbat. When one exchanges a hatmana, there is a moment when the pot is exposed, and thus when he places the new covering he essentially makes a new hatmana. Seemingly, then, the Tanna Kama would likewise forbid removing and returning

the same hatmana. Rabban Shimon, by contrast, who allows exchanging one hatmana for another, would certainly permit removing and replacing the same hatmana.

We may, however, explain the Tanna Kama's view differently, and claim that even he would allow returning the same hatmana in which the pot had initially been concealed. He perhaps forbids exchanging a hatmana because there is a moment when the pot is exposed, and the material in which one wishes to conceal it had never been over the pot, and thus constitutes a new hatmana.

Tosefot write, "Rabban Shimon Ben Gamliel permits even exchanging, not to mention removing and returning the same item, which is not so much an initial hatmana." They appear to hold that only Rabban Shimon Ben Gamliel allows removing and replacing the same hatmana on Shabbat. This is also the implication of the Rosh, in siman 12, who then writes, "According to this interpretation, it would seem, at first glance, that Halakha follows the Tanna Kama." It thus appears that the Rosh forbids removing and then returning a hatmana on Shabbat.

The Mishna, however, states (51a), "If one did not cover it while still daytime [on Erev Shabbat], he may not cover it after dark; if he covered it and it became exposed, it is permissible to cover it." Tosefot comment (s.v. kiseihu), "It appears to the Ri that it is likewise permissible to actively expose it and then cover it again, just as it is permissible to remove the pot [from the stove] and then return it." These comments of Tosefot seem to indicate that they followed the view of Rabban Shimon Ben Gamilel[2].

The Rosh, however, who accepts the Tanna Kama's position, explains the Mishna as follows:

We find it possible to explain the Mishna as referring specifically to when one covered it and it became exposed; after the fact, it is permissible to cover it. Initially, however, it is forbidden to expose [the pot] and cover it – in this way the Mishna can follow the Tanna Kama.

The Beit Yosef (siman 257) questions the Rosh's view, and understood that the Ri allows removing and returning a hatmana even according to the Tanna Kama, and that only exchanging a hatmana with a material that had not been there previously is forbidden. He writes:

This is very difficult, for Tosefot wrote that the Ri explains Rabban Shimon Ben Gamliel as arguing with the Tanna Kama, and they wrote that the Ri explains that

it is permissible to actively expose it [the pot] and then cover it again. And the Semag and Semak also wrote that Rabban Shimon Ben Gamliel disagrees with the Tanna Kama, and the Halakha follows the Tanna Kama, and they wrote that it is permissible to actively expose it le-khatechila. It therefore seems to me that according to the comments of Tosefot, the Tanna Kama allows only adding [to a hatmana], but not exchanging, because since he conceals the pot with garments that had not been [on the pot] while still daytime, and it [the pot] is now entirely exposed, it gives the appearance of an initial hatmana, and for this reason is forbidden. But it is permissible le-khatechila to expose [the pot] and then cover it again with the same garments, because this does not give the appearance of an initial hatmana. It never crossed the Ri's mind to forbid exposing it and then covering it again, for it was obvious to him that this is permissible, just as it is permissible to remove a pot [from the fire] and return it.

The Beit Yosef thus understood that even the Tanna Kama would permit removing and replacing the same hatmana.

The Rosh, however, cites a different approach in the name of Rabbenu Yona:

Rabbi Yona z"l upholds the prevalent version of the text, that it all follows the view of the Tanna Kama, and he explains as follows: In what way does somebody who wishes to add [to a hatmana] add? Did he [the Tanna Kama] say that we allow adding only if he initially covered with an item that maintains its heat very well, such as blankets and the like? Or, perhaps even if one covered it with a light item, such as sheets, through which its heat is not very well maintained, since it is somewhat effective we consider it as having been covered while still daytime. And Rabban Shimon Ben Gamliel explains that from the fact that he [the Tanna Kama] stated, "He removes the sheets" we infer that we consider it covered while still daytime even [if the pot is covered with only] sheets. And that which Rabban Shimon Ben Gamliel concludes – "He removes the blankets…" – it means, "This, and not to mention this" [one may add onto a hatmana, and not to mention that one may exchange a hatmana].

According to Rabbenu Yona, there is no disagreement between the Tanna Kama and Rabban Shimon Ben Gamliel, and Rabban Shimon Ben Gamliel comes to explain the Tanna Kama's comments. The Tanna Kama allows adding onto the hatmana, and even if the initial, lower level was a thin material, such as sheets, one may add a thicker layer. Rabban Shimon Ben Gamliel inferred this from the fact that covering with sheets also constitutes hatmana, and it thus follows that one may add onto them or exchange them with a different covering. The Tanna Kama speaks of adding onto a hatmana, and all the more so, Rabban Shimon

understood, would he allow exchanging a hatmana. According to Rabbenu Yona, then, we are more likely to permit exchanging a hatmana than adding onto a hatmana – the precise opposite approach to that taken by Tosefot and the Rosh.

This approach emerges as well from the comments of the Rambam (Hilkhot Shabbat 4:4):

Hot foods that were concealed from before Shabbat and were exposed on Shabbat – one may cover them, for he does not add [to the hatmana]. It is permissible to exchange the covering on Shabbat. How? One removes the garment and places the pigeon wings, or removes the pigeon wings and places the garment.

It appears that the Rambam held that exchanging a hatmana is permissible whereas adding onto a hatmana is forbidden, and that in his view, Rabban Shimon Ben Gamliel comes to explain the Tanna Kama's comments to mean that one may add onto a hatmana only by exchanging a thin covering with a thicker one. One may not, however, add any covering onto the existing covering. This is indeed how the Maggid Mishneh understood the Rambam's comments. The Kesef Mishneh, however, objected to the Maggid Mishneh's reading, and understood the Rambam in the precise opposite direction. According to his understanding, the Rambam allows even exchanging the hatmana, even though it more closely resembles an initial hatmana, and he all the more so permits adding to a hatmana, which most certainly cannot be considered an initial hatmana.

The truth is, however, that the Rambam explicitly forbids adding onto hatmana – "for he does not add."[3] I would explain that according to the Rambam, we are more likely to permit exchanging a hatmana because it does not amount to a new hatmana, and resembles somewhat the case of a hatmana that was removed which may be returned to its place. Adding onto an existing hatmana, however, is forbidden, because doing so gives the appearance of performing hatmana on a covered pot, which would constitute a new, initial hatmana. The pot with its previous hatmana layer may be perceived as a single unit, which one now wishes to cover by adding a second layer of hatmana.

The Shulchan Arukh rules (257:4):

Likewise, if one wishes to add onto it on Shabbat, he may add; and this is true also if one wishes to remove it entirely and put another in its place, whether the first is hotter than the second or the second is hotter than the first. Even if it had been covered with only a sheet, one may remove it to cover it [the pot] with

blankets. This is provided that the pot had been fully cooked, but if it had not been fully cooked, then even adding onto the covering is forbidden, for this addition causes it to be cooked.

The Shulchan Arukh thus permits both adding onto a hatmana and returning the same hatmana, which accommodates the view of Rabbenu Yona, who permits in practice both adding onto and exchanging a hatmana.

It is worth noting the Shulchan Arukh's qualification that this halakha applies only if the food had been fully cooked, so that the additional hatmana or the new, thicker hatmana will not cause further cooking. The Magen Avraham commented that this is true only when one covers the pot with cloths and the like as the pot sits over the stove, in which case the stove causes an increase in the pot's heat. But if one merely adds a cloth to a pot, this is permissible even if the food in the pot had not been fully cooked, since no additional cooking will result. The Bei'ur Halakha, however, disagrees:

The work Beit Meir disagrees with him and writes that the straightforward implication of the Tur and Shulchan Arukh is that this refers to all cases. The work Nehar Shalom writes this, as well. The work Beit Meir writes that the reason is because when one conceals a boiling [food] item, it remains boiling and cooks. Even if one conceals it with something that does not increase its heat, and only sustains its heat and boil, every moment that the boil and cooking are prolonged the food cooks more, and thus by adding [to the hatmana] one causes cooking.

Cooking is a function of heat sustained over an extended period of time, and thus hatmana, which maintains the heat for a longer period of time, results in bishul.[4]

Let us now return to the issue of exposing a pot on Shabbat and then returning its hatmana. Earlier we encountered a debate as to whether one may actively remove the hatmana and then cover it again, or if one may return a hatmana only if the hatmana came off by itself. The Rambam (Hilkhot Shabbat 4:4) cites the precise text of the Mishna – "Hot foods that were concealed from before Shabbat and were exposed on Shabbat – one may cover them." It is unclear whether or not he allows one to le-khatechila expose the pot on Shabbat, though it stands to reason that if he permits exchanging a current hatmana with another, then he would certainly permit removing and replacing the same hatmana. Indeed, the consensus among the Acharonim is that one may remove a hatmana on Shabbat and then return it.[5]

If One Removed a Hatmana Before Dark, May He Cover it After Dark?

The Yerushalmi states (Shabbat, end of chapter 4):

If one removed it [a hatmana] while still daytime [on Erev Shabbat], he may return it while still daytime; if he removed it after dark, he may return it after dark; if he removed it while still daytime and Shabbat set in – Rabbi Abba says in the name of Rav Yehuda – if the indentation [caused by the pot in the material used for hatmana] has been ruined, it is forbidden.

Later, the Yerushalmi comments:

If it was exposed while still daytime, one may cover it while still daytime; if it was exposed after dark, one may cover it after dark; if it was exposed while still daytime and Shabbat set in – it is taught [in a Berayta]: One may not conceal hot foods after dark, but one may add to them garments or linens…

These two passages deal with two different situations: actively removing a hatmana, and a hatmana that became exposed on its own. In both situations, one may return the hatmana before Shabbat – if he had removed it or it came off independently before Shabbat – and one may return it after dark – if one had removed it or it came off independently after dark. The Yerushalmi raises the question of whether one may return a hatmana after Shabbat set in if he had removed it or if it came off before Shabbat.

It is unclear from these passages whether the Yerushalmi leaves the question unresolved, and Rabbi Abba's comment in the name of Rav Yehuda (or the Berayta cited in the second passage) stands separate and apart from the previous discussion[6], or if he expresses his ruling on the issue that had been raised. According to the second possibility, Rabbi Abba establishes that if one removed the hatmana before Shabbat and then Shabbat began, he may return the hatmana if the indentation in which the pot had originally sat still exists. Once the indentation has disappeared, one may not return the hatmana because it would then constitute making an initial hatmana. If, however, the hatmana came off on its own, then, it would seem from the Yerushalmi, one may not return it to the pot because this would be deemed a new hatmana on Shabbat, which is forbidden.

The Rishonim address this halakha, some of whom without making any direct reference to the Yerushalmi. The Rambam (4:4) appears to forbid covering a pot after dark if the covering had fallen off before Shabbat. The Sefer Ha-teruma (231) writes that this is forbidden because it gives the appearance of an

initial hatmana: "But if it was exposed while still daytime, even by itself, it is forbidden to cover it after dark, for it resembles an initial hatmana." He draws support to his view from the Yerushalmi[7], and he implies that Halakha deals more stringently with a case of one who actively removed a hatmana, and that doing so is forbidden. From the Yerushalmi, however, it appears that to the contrary, we rule more stringently in the case of a hatmana that came off on its own, where returning the hatmana is forbidden, than in a case of the active removal of a hatmana, where the Yerushalmi allows returning it if the indentation is intact. The Sefer Ha-teruma apparently understood the discussion concerning the indentation as a separate issue, and that the Yerushalmi drew no distinction between a hatmana that came off on its own and one that a person had actively removed. To the contrary, he felt that we may be more lenient concerning a case of a hatmana that came off independently, and nevertheless the Yerushalmi forbade returning it; all the more so, then, would the Yerushalmi forbid actively removing the hatmana.

Tosefot write (51a s.v. kiseihu):

It speaks of [a case where] one had covered it and then it became exposed because it refers to [a pot that] became exposed while still daytime…and it states that it is permissible to cover it after dark. But if he actively exposed it while still daytime in order to cover it after dark, it is forbidden to cover it after dark, as it resembles an initial hatmana.

According to Tosefot, if the pot became exposed on its own before Shabbat, one may cover it after dark, but if the person himself uncovered it before Shabbat, he may not then cover it after the onset of Shabbat. Tosefot do, however, imply that if one uncovered the pot before Shabbat with the intention of then covering it again before dark, but this was delayed until after dark, he may cover it even once Shabbat has begun.

The Rosh comments (siman 10), "However, if he covered it while still daytime with the intention of not covering it after dark, it would seem that it is forbidden, as it resembles an initial hatmana." This passage, as it appears in our texts, is unintelligible. We should most likely emend the text to read, "But if he exposed it while still daytime with the intention not to cover it until dark…" This is indeed the text that appears in the Tosefot Ha-Rosh, and the Rosh would thus follow the view of Tosefot. The Bach (257) accepts this position of Tosefot, as we understood it. According to the Beit Yosef, however, the Rosh meant that only if one removed the hatmana before Shabbat with the intention of not covering it again at all, even after dark, is it forbidden to return it. If, however, he removed it initially with the intention of returning it after dark, he may do so.

The Shulchan Arukh (257:4) follows the view of the Rambam and Sefer Ha-teruma, that one may not return the hatmana after dark, regardless of whether or not he had intended to cover it again after dark, and regardless of whether he actively removed it or if it came off independently. If the pot was exposed when Shabbat began, returning the hatmana after Shabbat resembles initiating a new hatmana on Shabbat, and is therefore forbidden.[8]

The Relationship Between Returning a Pot to the Fire, and Returning a Hatmana

In our shiurim regarding the permissibility of hachazara, returning food to the stove, we saw that under certain conditions one may return food to the stove. Some of these conditions have no relevance in the context of hatmana – such as the requirement that the stove be garuf ve-katum – while others may, indeed, be applied to hatmana – initial intention to return the pot, and that one does not place the pot on the ground in the interim.

Earlier we cited Tosefot's comment (51a s.v. kiseihu) that one may le-khatechila remove and then return a hatmana, "just as it is permissible to remove the pot [from the stove] and then return it." It appears that Tosefot seek to draw a parallel between the laws of hachazara and the permissibility of returning a hatmana. If so, then we should seemingly permit returning a hatmana only if the individual initially intended to do so, and that he hadn't placed it on the ground in the interim. This is indeed the view of the Eliya Rabba (259:9). However, the silence of the Rishonim in our sugya strongly suggests that these conditions do not apply to returning a hatmana. The Meiri in our sugya writes this explicitly:

It seems reasonable to say that even if one placed it on the ground [he may return it to its hatmana], and even though in chapter Kira they said [that one may return a pot to a stove] only if it was still in his hand, but if he had placed it on the ground, it is forbidden, this was said only with regard to returning [a pot] onto a stove.

The Meiri does not explain the rationale behind this distinction. We might suggest that the prohibition against returning a pot to a stove stems from the concern of meichazi ke-mevashel – it gives the appearance of actual cooking – and therefore it is permitted only if one makes it evident that he merely returns the food, and that this is not its initial placement on the stove. In the case of returning a hatmana, by contrast, there is no reason to demand that the individual hold the hatmana in his hand the entire time, because regarding hatmana the concern is that the pot may cool in the interim; holding the hatmana in one's hand will thus not affect the halakha in such a case.

We do, however, find in the Rambam this concept of avoiding giving the appearance of an initial hatmana, in a slightly different context. The Mishna states (49a): "Rabbi Eliezer Ben Azarya said: One turns the box on its side and takes [the pot from it], lest he take it and then be unable to return it. The Chakhamim say: One may take it and return it." The Gemara (50b) comments on this Mishna: "Rabbi Abba said in the name of Rabbi Chiya Bar Ashi… Everyone agrees that if the indentation was ruined, it is forbidden to return it." The Rishonim explain this halakha in terms of the laws of muktzeh: if one concealed a pot within material that is muktzeh, he may not return the pot if the indentation no longer exists, since he will have to move the muktzeh material when he conceals the pot within it.[9] The Rambam, however, gives a different explanation in his commentary to this Mishna:

As an example it said that if one concealed a pot within straw, and when he removed the pot the place was destroyed and the straw became loose, it is forbidden to return the pot to that straw, because its place was lost and loosened, and the pot will have to make for itself a place in the straw when one returns it, and it will turn out similar to concealing on Shabbat.

According to the Rambam, once the indentation has been lost, returning the pot constitutes a new hatmana, and therefore one may return the pot to its hatmana only if its initial place is still intact. It would thus appear that he, too, maintains that returning a hatmana is permitted only in such a fashion that clearly demonstrates that one performs an act of returning, rather than beginning a new process. The Rambam here perhaps follows his own view that initial hatmana is forbidden on Shabbat due to the concern that one might cover the pot with embers containing kindled coals[10]; for this reason he requires a clear demonstration that one merely continues a previous hatmana, rather than creating a new one.

The Vilna Gaon, in Bei'ur Ha-Gra (259:6), claims that the Rambam drew his ruling from the passage in the Yerushalmi cited in the previous section. According to the Gaon, the Yerushalmi asked about the case of one who removed a hatmana before Shabbat and wishes to return it on Shabbat, and resolved this uncertainty from the requirement that the indentation remains intact, so that we do not consider the returning of the hatmana the beginning of a new process. Similarly, one may not return the hatmana after Shabbat has begun, since this would constitute beginning a new hatmana, rather than restoring the previous hatmana.

The Shulchan Arukh (259:3) cites the majority view among the Rishonim, that we require that the indentation remain intact to avoid the prohibition of muktzeh, and then he proceeds to mention the Rambam's view:

One who conceals [a pot] in a box filled with fleece, which is forbidden to move [on Shabbat], and he takes out the pot, so long as the indentation has not been ruined he may return it, but once it is ruined, he may not return it. One may even le-khatechila take out [the pot] with the intention of returning it if [the indentation] is not ruined, and we are not concerned that he might return it even though it was ruined. And some say that even if one concealed [the pot] in something that is permissible to be moved, if the indentation is ruined one may not return it, because the pot will have to make a place for itself when he returns it, and it will turn out like concealing [the pot initially] on Shabbat.

The Bei'ur Halakha writes that most Acharonim dismissed the Rambam's position, though he takes note of the Vilna Gaon's comments cited above.

We should note in the context of this discussion that the Yerushalmi raised the question of returning the pot on Shabbat after having removed it before Shabbat both with regard to hatmana and hachazara. When it comes to hatmana, many poskim rule that one may not return the hatmana in this situation at all, because it resembles making an initial hatmana. Accordingly, it would appear that the same ruling should apply to hachazara; this is indeed the view of Rabbenu Tam, in Sefer Ha-yashar, and of the Tosefot Rid.[11] The Ran, however, explains that the Yerushalmi would allow returning the pot if it had not been placed on the ground, and thus, according to the Ran, the Yerushalmi establishes a special halakha regarding hachazara; see our shiur on the topic of hachazara. As stated, based on the implied parallel we should forbid hachazara entirely. The Ran perhaps held that hatmana and hachazara differ from one another based on the principle that we developed above in the context of the Meiri's comments.

As for the final halakha, the Rama (siman 253) concludes that one who removed a pot from the fire before Shabbat and wishes to return it on Shabbat must abide by the conditions of hachazara, whereas regarding hatmana, this would be forbidden altogether.

Notes:

1. In the Lieberman edition, chapter 3.
2. This is on the assumption that Tosefot's comments to this Mishna correspond to their view later in the sugya, in explaining the debate between the Tanna Kama and Rabban Shimon Ben Gamliel. This is, indeed, a reasonable assumption, given that in both contexts Tosefot cite the position of the Ri.
3. The Kesef Mishneh perhaps understood this to mean that one may return the hatmana to the pot because it "does not add" heat, meaning, this amounts to a davar she-eino mosif hevel; this would require further clarification.
4. One could argue that since through hatmana one merely prevents the pot from cooling, rather than adding heat to the pot, this should not constitute actual bishul, but rather indirectly causing bishul. There is room to discuss whether or not we should allow indirect bishul of this kind; see the discussion in Shulchan Arukh 334 regarding the indirect extinguishing of a flame.
5. See Mishna Berura 257:25, and Shulchan Arukh Ha-Rav 257:8.
6. One might suggest a distinction between the two passages, and claim that in the first passage, Rabbi Abba's statement stands independently, whereas in the second, the Berayta is cited as a resolution to the Yerushalmi's doubt. See the comments of the Sefer Teruma cited below; this still requires further clarification. For an additional interpretation of the Yerushalmi, see Bei'ur Ha-Gra, 259:6; we will mention his position later, towards the end of the shiur.
7. See also Hagahot Maimoniyot, 6:2.
8. See Magen Avraham, Mishna Berura and Shulchan Arukh Ha-Rav.
9. See Rashi, Tosefot and other Rishonim.
10. See our first shiur on the subject of hatmana.
11. See our shiur on the topic of hachazara.

About the Author



Rabbi Yosef Netanyahu Ben David

The Rosh Yeshiva grew up in San Diego, California and learned in Yeshivat Torah Emet as a talmid of Maran Hagaon Harav Chaim Pinchos Scheinberg zt"l. He received Semichah from Rabbi Aaron Gartner, Rav Yaakev Agavir. For twelve years, he taught and inspired talmidim in various yeshivas who still have a very close connection with him today. Patient and determined, the Rosh Yeshiva always believed in every bochur. He is a sought out speaker worldwide. He is also the Rov at the Kav Halacha Beis Hora'ah, and the author of Ethics of Interpersonal Conduct (Halacha) and The Jewish Halacha Series.

The Rosh Yeshiva devotes his entire life to the success of every bochur, always concerned about their spiritual and physical well-being. Here every bochur is unique and is encouraged to reach his full potential. With constant encouragement, overflowing love, and infinite patience, every bochur is nurtured and developed to be an accomplished ben-Torah. Yeshiva Beit David is a yeshiva designed for post-high school students looking for a focused yet relaxed atmosphere in which to grow. Our warm, down to earth Rebbeim are ready to help you have a productive, enjoyable and inspiring year. The yeshiva aims to give boys an authentic and honest Torah Hashkofa with, exceptionally dedicated rebbeim in an atmosphere that exudes warmth and tremendous simchos hachaim This is handed over not just through exciting and interactive Shmoozen and vaadim but with a living example of the Rosh Yeshiva and Rebbeim. A major part of this enterprise is to encourage a genuine understanding of spirituality which begins with making G-d a real and important part of our lives.

Personal Growth

Each boy is able to grow with his own personality and characteristics without suppression of his traits, interests and most importantly sense of humour. The Yeshiva views each boy's individuality as a blessing to be nurtured. An inquiring, questioning mind is highly regarded in the Yeshiva. Outlets, tiyulim and activities are built into the semester to ensure that each boy remains well-rounded, healthy and productive. Here every bochur is unique and is encouraged to reach his full potential. With an emphasis on retaining a thorough knowledge of every sugya and completing the masechtah, the bochurim are trained to set goals and to reach them at all costs. Character development and interpersonal relationships are a key area in the bochurim's growth as they are carefully molded to be the future leaders and role models of Klal Yisroel.

Hanholo

The qualification for being on the Beit David hanhola is primarily a commitment to care for and nurture a boy as if he were one's own child. As a result the Rebbeim take a very broad and devoted approach to their role providing support and guidance on every possible front. This includes ensuring a boy is settled, happy with accommodation, socially integrated, engaging in his preferred outlets, balanced in his learning. Whether it be on major issues or the finest details in learning or extra-curricular matters. The Rosh Yeshiva Rabbi Yosef Netanyahu Ben David makes every effort to give every bochur a loving and caring environment, and gives every bochur a chance to learn with him individually. Through his love and sensitivity for every bochur who enters the yeshiva, he builds every bochurs self-esteem, enables them to make and accomplish goals, and to succeed in Torah and in building exceptional middos.