The 39 Melakhot Yeshiva Course

By Rabbi Yosef Ben David

Volume Four

Yeshiva Beit David, Inc.

The 39 Melakhot – Yeshiva Course
By Rabbi Yosef Ben David

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The 39 Melakhot
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Shiur 01: BORER (Part 1)

I) The Definition of Borer

What is the nature of the prohibition of borer (selecting)? What is the unique difficulty in explicating it? Is it permitted to pick out just some of the refuse?

ZOREH, BORER AND MERAKKED

As we attempt to delve into each of the thirty-nine types of labor (melakhot) which are forbidden on Shabbat, we must first understand how they relate to each other. This is especially true in the case of the melakha of borer, which is strikingly similar to two other prohibitions, zoreh (winnowing) and merakked (sifting). Why are all three necessary, and how do they relate to dash (threshing) and tochen (grinding) in the flour-making process?

We must note that each wheat kernel is covered by a dry husk and supported by a stalk. Before grinding the kernels into flour, the unwanted material, or chaff, must be removed, and the kernels must be cleansed of all dirt. This is done in a number of stages.

FIRST STAGE (DASH-THRESHING): removing the chaff from the kernel. In order to do this, pressure must be applied to the kernels of grain, so that the husk is broken and the wheat kernel is exposed. This act is called threshing, and it is performed by striking the wheat with a stick or using a threshing instrument. In biblical times, this act was accomplished through a threshing-sledge (Yeshayahu 41:15), a wooden implement, with blades on its bottom, which would be dragged on top of the harvested wheat.

SECOND STAGE (ZOREH-WINNOWING): separating the husk and the stalks from the grain. In the previous step, each wheat kernel was removed from its husk, but the kernels, stalks and husks are still mixed together, and they must be separated. One therefore takes a winnowing fan, into which the kernels, stalks and husks are placed and then thrown in the air. The light husks and stalks blow away in the wind, while the heavy kernels fall back into the winnowing fan.

THIRD STAGE (BORER-SELECTING): removing dirt and pebbles. The kernels of grain are now separated from the chaff; however, in the meantime, the kernels have become mixed with clumps of earth and pebbles. Now is the time to pick out the refuse from the kernels.

FOURTH STAGE (TOCHEN-GRINDING): breaking down the kernels into flour. Now that the kernels are clean, they can be ground.

FIFTH STAGE (MERAKKED-SIFTING): separating the bran. When the wheat kernels are ground, a mixture of fine flour and coarse flour (bran) is produced. Now, they must

be separated. This is done by sifting the flour with a sieve: while the fine flour falls through the sieve's holes, the coarse flour remains in it.

We can determine that zoreh, borer and merakked are similar melakhot. The aim of each of these is to separate the pesolet (refuse) from the okhel (food), but each one uses a different means to that end: while zoreh utilizes the wind, borer is done by hand and merakked is accomplished through a utensil. (See Rabbeinu Chananel, Shabbat[1] 74a; also see Ran, 31b, Rif ibid., et al.) Indeed, the Talmud (73b) notes the similarity between these melakhot:

Zoreh is borer is merakked!

The Talmud explains that, despite the similarity, these three actions are counted as three separate melakhot since every one of them was performed in the Mishkan (Tabernacle), and every melakha which was performed in the Mishkan is counted on its own. Therefore, our analysis of the melakha of borer actually deals with the principles tied to all three of these melakhot, all of which bring us to the same end: separating the pesolet from the okhel, the refuse from the food.

The Difficulty of the Melakha of Borer

In the melakha of borer, the distinction between a biblical prohibition and a totally permissible action is very fine. With a slight alteration, an act which would have rendered one liable for violating Shabbat can become absolutely acceptable. Therefore, this melakha requires intense study and unique comprehension.

We should also note that the terms "pesolet" and "okhel" are relative: pesolet is what one does not want in a mixture, while okhel is what one does want, whether it is edible per se or not.

THE BASIS OF THE MELAKHA OF BORER

At first glance, the very conception of the melakha of borer is questionable. We have a rule that a melakha she-einah tzerikha le-gufah is biblically permissible (though rabbinically banned). A melakha she-einah tzerikha le-gufah is a melakha which one performs without any interest in its essence, but for the sake of an incidental result. For example, in catching a venomous snake in the interests of public safety, one is not compelled by the desire to acquire an animal (the essence of trapping), but by a side effect of confining it: preventing it from attacking people. (It is worth discussing at length the issue of how we define the "essence" of a given melakha, but this is not the occasion to do so.) It would appear that every act of borer is a melakha she-einah tzerikha le-gufah, since it is the pesolet upon which the melakha is performed — and no one wants the pesolet which is being removed!

Indeed, the Baal Ha-ma'or writes (37b, Rif):

Every single one of the thirty-nine melakhot which parallel those performed in the Mishkan had an essential need within it, except for zoreh and borer.

According to this, borer is indeed a melakha she-einah tzerikha le-gufah; however, it (along with zoreh) is a unique innovation of the Torah: despite its nature, one is liable for such an act.

However, the words of the Ramban (106a) indicate that borer is considered a melakha ha-tzerikha le-gufah. Why? In order to understand his approach, let us take a look at

the formulation of the author of the Yeshuot Ya'akov (quoted in Bei'ur Halakha 319:3, s.v. Le'ekhol miyyad):

The concept of the melakha of borer is that the pesolet is inedible, and the okhel as well is not quite edible as long as the pesolet is in its midst... Consequently, the melakha is not picking out the pesolet, but rather fixing the okhel and rendering it edible, and this is a melakha essential for the okhel itself.

According to this, even though the melakha is executed by removing the pesolet, the essence of borer is fixing the okhel, and it turns out that it is an "essential" melakha.

If so, we have two approaches to the basis of the melakha of borer.
1. Borer is removing the pesolet.
2. Borer is fixing the okhel.[2]

This distinction has many ramifications, some of which we will enumerate here.

Removing Some of the Pesolet

The Talmud Yerushalmi (7:2) says that one may spend the whole day selecting without violating the prohibition of borer; inversely, one may select just a tiny amount and thereby violate the prohibition of borer. How so? The Yerushalmi explains:

Rabbi Yudan said: "One may pick out pebbles all day long and not be liable; one may take a fig's worth and be liable immediately. How is this done? If one sits on a heap and picks out pebbles all day long — he is not liable. If he takes a fig's worth in his hand and picks out [the pebbles] — he is liable."

In other words, if one initiates the process of borer on a giant heap but fails to remove all of the pesolet from it, he is not liable. On the other hand, if he performs borer fully on even a small amount, he is liable. From the words of the Yerushalmi, we may conclude that the basis of the melakha of borer is fixing the okhel. Therefore, even if one performs borer all day long, if he does not succeed in removing all of the pesolet from the okhel, the okhel has not been fixed, and therefore he is not liable.

According to the Eglei Tal's view (Zoreh, 1), the Bavli disagrees with the Yerushalmi and renders one liable even if one does not remove all of the pesolet. It may indeed be that the Bavli holds that borer is removing the pesolet, but the Bavli's position may be explained in other ways.

Removing the Pesolet along with a Bit of Okhel

Another ramification of this distinction: according to the Taz (319:13), if a fly falls into one's drink, the fly may be removed along with some of the liquid. The Mishna Berura (ibid, 61) codifies the words of the Taz and expands upon them. He determines that every time one picks out pesolet along with a bit of okhel, one does not violate the prohibition of borer. Indeed, it is widely accepted that we rule leniently in accordance with the view of the Mishna Berura and that one is allowed to remove pesolet with a bit of okhel.

However, the Chazon Ish (Ch. 53, opening; Ch. 54:3) vigorously rejects this approach. According to him, one who removes, for example, a bone with a bit of meat on it violates the prohibition of borer, since "he is not thinking about the meat, but about picking the plate clean." (We will expand on this argument below.)

It appears that the Mishna Berura and the Chazon Ish argue over the point raised above. If we understand that the basis of the melakha of borer is eliminating the pesolet, it may be that removing it with a bit of okhel negates what has been done to the pesolet, as there is no segregation between okhel and pesolet. (This would be the understanding of the Mishna Berura, who permits one to remove the pesolet with a bit of okhel.) However, if we understand that the basis of the melakha of borer is fixing the okhel, we should forbid this even if one takes a bit of okhel along with the pesolet, since the ultimate result is that one fixes the remaining okhel. (This would be the understanding of the Chazon Ish, who forbids removing pesolet with a bit of okhel.)

There are many other ramifications of this distinction, and we will return to them presently.

II) The Fundamental Rule of the Prohibition of Borer

What practical solutions are there to separate between okhel and pesolet? Is it possible to eat in a normal way on Shabbat?

The Gemara (74a) brings a beraita concerning the prohibition of borer and the act of bereira (selection):

The rabbis taught: If types of food lay before one, one may select and eat, select and set aside [for others]; but one may not select, and if one selects, one is liable [to bring] a sin-offering.

In the words of the beraita, there is a clear contradiction: at first it says that it is permitted to perform borer; then, at the end, it says that there is a biblical prohibition to do so and that one who does so must bring a sin-offering. The Gemara is aware of this contradiction and suggests a number of solutions.

Rav Yosef said: "'One may select and eat' by hand, 'select and set aside' by hand... By sieve and sifter, 'one may not select, and if one selects, one is liable [to bring] a sin-offering.'"

Rav Hamnuna said: "'One may select and eat' the food out of the refuse, 'select and set aside' the food out of the refuse. Refuse out of food, 'one may not select, and if one selects, one is liable [to bring] a sin-offering.'"

Abbayei said: "'One may select and eat' for immediate use, 'select and set aside' for immediate use. But for [later] that day, 'one may not select, and if one selects, one is liable [to bring] a sin-offering.'"

According to many Rishonim (Rabbeinu Chananel, Rambam, Ramban, et al.), the Amora'im argue only about the best way to explicate the language of the beraita, but there is no halakhic argument between them, as anyone who performs borer with a sieve or sifter (i.e., with a sorting appliance) or by removing refuse from food (pesolet mi-tokh okhel) or with the aim of eating later is liable. Selection is prohibited unless all three conditions are met: a) selecting by hand and not with a sorting appliance, b) taking okhel out of pesolet and c) selecting for the purpose of eating immediately. The Shulchan Arukh rules accordingly (319:1-4):

One who picks food out of refuse... by sieve and sifter is liable... If one selects by hand in order to eat immediately, this is permissible... One who picks food out of refuse for later, even on that very day, is considered to be selecting for the granary and is liable... One who picks refuse out of food, even with one hand, is liable.

WHY IS IT PERMITTED?

Why do these three conditions suffice to permit borer? The simplest understanding is that we are talking about a certain alteration (shinnui) from the normal selection process (derekh bereira). However, this appears quite difficult, because generally doing something with an alteration downgrades a Torah prohibition to a rabbinic one, but it does not make it permissible ab initio. Why is it totally permitted to perform borer under these conditions? We have found two approaches to this question among the Rishonim:

A Deviation from Normal Selection

Rashi (ibid.) explains that selection under these circumstances is not considered an act of bereira.
Selecting by hand bears no similarity to borer...

"The food out of the refuse" — this is not the way of selection.
"'Select and set aside' for immediate use" — to eat immediately, as this is not the way of those who select.
That is to say, since there is a total deviation, the act is totally permissible. It may be that the combination of all three of these things (by hand, okhel from pesolet, for immediate use) makes the alteration so remarkable that the act becomes permissible ab initio.

Tosafot also follow this approach (s.v. Borer Ve-okhel), writing:

"'One may select and eat' the food out of the refuse" — it sounds as if picking food out of refuse is not the way of selection. This is difficult, since at the beginning of Chapter 20 (138a), we say "What is the way to select? One selects the food from the refuse." One may suggest that in that case, there is more refuse than food, so that selecting the food from the refuse is the way of selection (derekh bereira).

In any case, Tosafot maintain that the permissibility of the act is based on its being "not the way of selection," and in light of this they propose a novel idea: that if one has a mixture in which the majority is pesolet, one is allowed to remove the pesolet in particular, since "the way of selection" in this case would be to removed the okhel (and thus if one would in fact remove the food, one would be liable).

The Manner of Eating

The Ramban (ibid., s.v. Ve-hatanya chayav) and other Rishonim dispute Tosafot's innovation (indeed, the halakhic authorities reject it[3]). The Ramban writes:

This is illogical, for when it comes to Shabbat, it is always forbidden to pick out refuse and leave food, and even though both of them are the way of selection, [the general principle is that] on Shabbat we involve ourselves only with [removing] that which is permitted and not with that which is forbidden. One who involves himself with [removing] the forbidden part is considered like one who selects for the granary, for his intention is not to eat what one has selected, and thus, he is liable if he does so.

According to this view, selecting okhel from pesolet is considered derekh bereira just as much as selecting pesolet from okhel. The permissibility to select okhel from pesolet (when one does so manually and for immediate use) does not stem from the fact that such an act is not derekh bereira, but from the fact that one who does so is involving himself with permitted material and preparing a meal. Therefore, it makes no difference if the okhel or the pesolet is quantitatively greater — in any case, one must select the food one wants to eat and not involve oneself with the pesolet.

From the words of the Ramban it emerges that the three conditions required to permit bereira are not based on the concept of shinnui, that the act is no longer consistent with derekh bereira, rather they are based on a positive principle. Namely, bereira under these conditions falls under a new category: derekh akhila, the way one eats. When one picks out food by hand and immediately eats it, this is considered a natural part of the process of eating, and it is not included in the prohibition of borer.

This principle, that the permissibility of selection is based on its being categorized as derekh akhila, also appears in the words of Rabbeinu Chananel (74b):

What is the reason? The Torah forbids “thoughtful labor,” and this is not “thoughtful labor,” because one has no intention in this melakha beyond the simple act of eating.

This is also implied in the Chiddushim Ha-meyuchasim La-Ran (74a, s.v. U-l’vo va-yom):

One might challenge Abbayei: since one who selects for later that day is liable, how is it permitted to do so for immediate use — is not cooking forbidden even for immediate use? But this is untenable; since it is only a temporary state, [this act of bereira] is no more than a part of the eating process...

These principles are very important for our understanding of "immediate use." There are two schools of thought regarding this issue. One approach (that of Rashi and Tosafot) searches for permissibility based on the standard halakhic principle of shinnui — a minor shinnui changes a biblical prohibition to a rabbinic one, while a great shinnui renders it totally permissible. The other view, that of the Ramban and his camp, posits that the Torah allows a person to eat and to prepare to eat in a normal way, and therefore when one is involved in eating and preparing to eat — there is no prohibition at all.[4] Of course, even according to this approach, only acts which are directly related to eating itself are permissible, not other elements, such as cooking and the like.)

This argument has practical ramifications for the status of borer for immediate use. In later shiurim, we will deal with the definitions of "immediate use" and "by hand." Before this, we must clarify some important principles in the melakha of borer.

III) Two Types of Food

Is it permissible to take out slices of tomato from one's salad? Is it permissible to take raisins out of rice if one does not like them? Is it permissible to sort the silverware for the next meal? Is it permissible to arrange the pieces on a chessboard after the game?

Is borer prohibited only when there is actual pesolet mixed in with the okhel, or is borer prohibited even with two types of okhel?

The Gemara (74a) states:

The rabbis taught: If types of food lay before one, one may select and eat, select and set aside [for others]; but one may not select, and if one selects, one is liable [to bring] a sin-offering.

The words of the Gemara indicate that even when one is faced with two types of okhel, there is a biblical prohibition to sort them. However, Rashi (s.v. Hayu) maintains that there is another version of this Talmudic text: "Our version is 'If types of food lay before one,' but our version is not 'two.'" According to him, the proper version of the text is not "two types of food," but rather "types of food."

According to this version, one may understand that the person is not separating between one type of food and another type, but rather one is selecting the types of okhel from the pesolet which is mixed in with them. It may be that Rashi rejects the "two types of food" version because he maintains that there is no prohibition to separate one type of food from another, but only to remove pesolet from okhel. Tosafot (s.v. Hayu lefanav) also imply that this is the proper understanding according to Rashi's version of the text.[5]

However, Tosafot themselves accept the version of "two types of food":

Our version is "if two types of food lay before one," and this is Rabbeinu Chananel's explanation: that bereira applies in selecting okhel from okhel, when one selects the type which one does not want to eat from the type that one wants to eat, because the type which one does not want is considered pesolet relative to the type which one wants to eat.

According to them, the prohibition of borer applies even to the separation of one type of food from another type of food. As we have seen, the essence of the prohibition of borer is that one is selecting pesolet out of okhel. If so, what is considered pesolet when there are two types of food? Tosafot explain that the desired type is defined as okhel, while the currently undesired type is defined as pesolet.

In the Yerushalmi (7:2), there is an explicit dispute on the issue of selecting okhel from okhel: "If one selects food from food, Chizkiya said: 'He is liable;' Rabbi Yochanan said: 'He is exempt.'"

The Root of the Argument

On what does this dispute of the Rishonim — as well as the Acharonim — turn? The Bei'ur Halakha (319:3, s.v. Le'ekhol miyad) cites the words of the Yeshu'ot Ya'akov to explain this:

The melakha is not picking out the pesolet, but rather fixing the okhel and rendering it edible, and this is a melakha essential for the okhel itself, because one makes it into prepared food. According to this, it is only picking pesolet out of okhel [which is forbidden], because initially [the mixture] is totally inedible, and one makes it into food through this bereira. However, in the case of two types of food, wherein one separates the second type of food because one does not want to eat it, it is considered a melakha which is not essential le-gufah, since this food that one wants to eat is currently edible, even while it is mixed with the second type of food, and the separation is motivated solely by the fact that [the second type of food] does not interest one at the moment.

According to his view, following the understanding that the basis of the melakha of borer is tikkun okhel, one who selects food from food will be exempt because there is no tikkun okhel, as one is able to eat the mixture without any bereira. According to this, it may be that that Tosafot and their camp understand that the basis of the melakha of borer is hotza'at pesolet, and therefore bereira applies when one has two types of food, since one removes the undesired food, considering this okhel to be pesolet, as Tosafot explain.

However, the Bei'ur Halakha himself (ibid.) questions this suggestion of the Yeshu'ot Ya'akov, and he concludes that even if the basis of the melakha is tikkun okhel, in any case there is good reason to forbid bereira between two types of food:

We are compelled to say that he maintains that even when there are two types of food that are mixed together, each type is improved by its being sorted, and therefore it is called melakha ha-tzerikha le-gufah.

In other words, sorting okhel from okhel is also a type of tikkun, since each type is made better by being separated from the other.

It may well be that there is a practical difference between these two approaches in the case of two types of food where one is stacked atop the other, as to whether one may remove the top food in order to reach the bottom food. The Bei'ur Halakha (ibid.) permits such an act, consistent with his approach cited above, since the two types are not mixed together, and as such the removal of the top layer does not significantly improve the bottom layer (it merely allows one to reach the food below). On the other hand, if we understand that the basis of the melakha of borer is hotza'at pesolet, this must be prohibited even though there is no tikkun of the lower level, since there clearly is an act of removing an unwanted substance – which must be considered pesolet in context.

However, it may be that this act is unanimously permitted, since items piled on top of each other are not considered a mixture at all. (We will deal with this at length in a later shiur.)

Removing One Type of Food to Eat the Other Immediately

In order to properly understand the status of separating two types of food, we must examine the opinion of the Shulchan Arukh, who rules (319:3): "If two types of food are mixed together before one, one may select one from the other and set aside for immediate use." The Shulchan Arukh rules that there is a prohibition of borer with two types of food; however, there is one point which is unclear in his words. As we have seen, when there is a mixture of okhel and pesolet, it is permitted to remove manually the okhel from the pesolet, but one may not take the pesolet from the okhel, even if one's intention is to eat the okhel immediately. However, when it comes to two types of food, the Shulchan Arukh writes that one is allowed to "select one from the other" and to eat it immediately, but he does not state explicitly if one is required to remove from the mixture the wanted type specifically. It should be noted that the Shulchan Arukh's formulation here is a quotation from the Rambam (Hilkhot Shabbat 8:13). Regarding the Rambam's view, some Acharonim (cited by the Bei'ur Halakha, 319:3, s.v. U-meniach) understand that since there is no objective pesolet here, one may even remove the undesired type in order to immediately eat the other type.[6]

However, the Rema adds two words to the Shulchan Arukh's formulation: "One may select one from the other and set aside the other for immediate use." The Magen Avraham (ibid., 4) explains that the intention of the Rema is to stress that one is permitted only to remove the desired type and to leave the other one; one may not remove the type which one does not want to eat, since this type is considered pesolet. It is quite possible that the Shulchan Arukh also accepts this and the Rema is only clarifying his words. As we are talking about a potential Torah prohibition, even the Sephardic authorities (see Yalkut Yosef 319:16) rule stringently on this matter.

Summary

In sum, the prohibition of borer applies even to separating two types of food.

SORTING

How does Halakha view a situation in which there are two types of okhel, neither of which is currently desired? What if one is interested not in one or the other, but both — just not for immediate use, but for a longer-term purpose?

For example, what if one wants to arrange the pieces on a chessboard after a game is over?[7]

One is not interested in the immediate use of these pieces, but rather in the next game, which may not happen for quite a while.

Alternatively, what if one wants to sort silverware for the next meal? At the moment, knives are not more desirable than forks — one wants both, just for later use. Is this permissible?

Presumably, this depends on the question of the reasoning behind the prohibition of bereira of two types of food. According to the aforementioned view of Tosafot, this prohibition stems from the fact that the undesired type is regarded as pesolet, so that one is in fact removing pesolet from okhel. However, one may understand that there is no pesolet here; rather, the very separation between two things is forbidden, since every separation involves a tikkun of those items, and therefore it is prohibited as borer.[8]

If we understand that the unwanted type is regarded as pesolet, we may say that since neither type is currently desired, as one wishes to use both of them at a later point, there is neither pesolet nor okhel in this case, so there cannot be a prohibition of borer. However, if we understand that the very separation between the two types is forbidden, such sorting would be forbidden.

This issue is disputed by the Acharonim. The Peri Megadim (Mishbetzot Zahav 320:2) indicates that such sorting could be permitted on Shabbat, as there is neither okhel nor pesolet,[9] while the Bei'ur Halakha (319:3, s.v. Hayu lefanav) rules that the prohibition of borer applies here as well:

The Peri Megadim is in doubt whether one's selection of one type from another, with the intention to set aside both for a later point, is considered bereira — after all, where is the okhel and where is the pesolet?
In my humble opinion, it seems obvious from the language of the Rambam that he maintains that the essence of the melakha of bereira is to select one type from another, so that each type becomes independent; but if one's intention is to eat right away, and it is in one's hands — this is how one eats!
If so, a fortiori, given that a selection process which leaves one type in place is considered to be bereira, all the more so in a selection process which involves taking each type and setting it down on its own, is one liable... When one sorts two types of food, [separating] each from the other in order to eat each type independently at a later point, one is definitely improving both of them through one's bereira, and it is indisputably borer, as we have written.

According to the Bei'ur Halakha, this type of sorting is even worse than regular bereira of two types of food. In regular bereira, one takes only one type, leaving the other in its place, while in the case of sorting, one places each of these in a separate place, and it turns out that one has done an act of bereira with both of the types, and all the more so, one should be liable for violating the prohibition of borer!

The Peri Megadim understands that the prohibition to select one type of food from another is based on the fact that the undesired type is defined as pesolet. Naturally, when one wants both of them at a later time, there is neither pesolet nor okhel, and ipso facto, there is no prohibition of borer.

On the other hand, the Bei'ur Halakha understands that the very separation between two types is forbidden, as the creation of a state in which every type stands on its own is

considered tikkun. If, in a situation in which one only wants to use one type out of two it is considered bereira because one is fixing that type, then certainly when one wants both types and separates them, this renders one liable for violating borer, because one is executing tikkun on both of the types!

Halakha:

Based on the Bei'ur Halakha's ruling to forbid sorting of this type, the accepted ruling is that it is forbidden. Of course, if one needs both types immediately (e.g., if one wants to play another game right now, or one wants to begin a meal soon), it is permitted to sort them, even according to the view of the Bei'ur Halakha. Similarly, one may take the view of the Peri Megadim into consideration as an argument for leniency when there are other mitigating factors.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 02: BORER (Part 2)

IV) Selection of One Type

When it comes to the prohibition of borer (selecting) on Shabbat, is it permissible to separate larger pieces of fish from smaller ones? May one separate between types of pastries? Is it allowed to remove ripe pieces of fruit and leave the unripe ones? May one select between different parts of a chicken?

May one separate two items of one type? For example, if there are pieces of cake of varying size on a table, may one separate a large piece from among the smaller ones?

The Terumat Ha-deshen, in his Responsa (Ch. 57), permits this:

Question: Pieces of fish are placed on a platter or a plate separately, as people are accustomed to do, and on Shabbat, one wants to eat some of them and leave the others for another meal. How may one select these from those without violating the prohibition of borer?
Answer: It appears that one need not be so precise in the matter, as I will explain below. Granted, one of the sages was careful to select specifically the pieces which he wanted to eat at that very moment, and the ones which he wanted to save for the next meal, he would leave on the platter... However, it appears that even according to this view, there is no bereira (selection) unless one has two types; with one type, there is no [bereira], because the beraita and all of the sources have phrased it as "two types of food"...

The proof of the Terumat Ha-deshen is that the Gemara (74a) says (according to Tosafot's version) that there is a prohibition of bereira for "two types of food" — which implies that with one type, there is no bereira.
The Rema (319:3) adopts the view of the Terumat Ha-deshen:
Whenever there is only one type, even though one selects large pieces of it from among small ones, it is not called bereira. Even if there are two types, and one chooses from both of them the large pieces from among the small pieces (or vice versa) — it is permitted, since one is not selecting one type from another type.

The Taz (ibid., 2) argues with the Terumat Ha-deshen and the Rema, and he maintains that there is a prohibition of bereira with one type. According to him if a person is interested at the moment in large pieces, these large pieces are considered okhel (food) and the small ones are considered pesolet (refuse), and one who separates them violates borer.

If so, why does the Gemara specify "two types of food"? The Taz explains:

It seems that it mentions "two types of food" to make a point: while it is obvious that with one [type of food], bereira is applicable to what one wants to leave, [one might think] that [bereira is inapplicable] to two types of food, since each one is distinct and separate in its own right, an thus it is not considered to be mixed — nevertheless, one must not select.

According to the Taz, when it comes to two types of food, since each one is distinct, there would have been good reason to say there is no mixture, and the prohibition of borer is not applicable. As such the Gemara goes out of its way to state that bereira is forbidden with two types — all the more so is there a prohibition of bereira with one type. The Taz rules:

Since there is concern here for violation of a Torah prohibition, one must be stringent even with one type, and one must not select even among one type — even large pieces from small ones. One may only take what one wants to eat now, or one may take randomly and then leave something for the next meal, but not in the way of selection (derekh bereira). So it appears in my humble opinion.

The Root of the Argument

This dispute depends ostensibly on the main question which we saw in our previous shiur. If the prohibition of borer is tikkun okhel (fixing the food), it may be that only when the two types of food are mixed together may one say that there is tikkun in the fact that each one is separated from the other, but when we consider a number of pieces of one type, separating them is not a significant tikkun. Since all of the pieces are essentially the same, the size of each does not define the other; thus, taking out one is not considered a real tikkun for the other. (This would be the opinion of the Terumat Ha-deshen and the Rema, who permit one to do so.)
Conversely, if the prohibition of borer is the very fact of hotza'at pesolet (removing the refuse) or of purifying the okhel from the pesolet, it may be that the more the okhel and the pesolet are related, the more their separation is significant, and as the Taz claims, if there is a prohibition to select from two types, all the more so there must be a prohibition to select from one type.[1]

Halakha:

The Mishna Berura (319:15) rules that there is no prohibition of bereira for one type. The Eglei Tal (Borer, 8) and the Arukh Ha-shulchan (319:6) agree.

In fact, this is implied by the Gemara (134a) when it forbids straining mustard through a strainer because "it looks like selecting." Why does it only “look like” it? This is a case of bereira with an implement! Apparently the mustard and its seeds are considered to be one type, and therefore by Torah law there is no prohibition of borer; however, since the seeds are an inferior element within the mustard, there remains a rabbinic ban. (This point is raised by the Tehilla Le-David, 319:7; Zera Ya'akov, Shabbat 74b; Ayil Meshullash, Ch. 3, n. 1.)

The Maggid Mishneh, commenting on the Rambam (Hilkhot Shevitat Asor 1:3), states that when one has lettuce and finds some leaves to be somewhat moldy, even if those moldy leaves are considered edible in extreme circumstances, there is a rabbinic prohibition to separate them from the good leaves. It is implied that there is no Torah prohibition of borer here because we are talking about one type; however, since the moldy leaves are considered to be pesolet to some extent, there is a rabbinic prohibition to remove them. This is also the explanation of the Eglei Tal (Borer, 17).[2]

Therefore, the practical halakha is that we may be lenient and assume that there is no prohibition of bereira of one type, and one may select among different pieces of a given type in any way one wants. However, if one removes from the okhel something which is barely edible, one violates a rabbinic prohibition (Mishna Berura 319:15, based on the aforementioned view of the Maggid Mishneh).

There are many ramifications of this principle, but before we approach them, we must define what exactly "one type" is.

WHAT IS "ONE TYPE"?

Recall that the Terumat Ha-deshen and the Rema permit selecting large pieces from among small pieces of a given type. According to them, when two types of food are mixed together, one may select the large pieces from the small or vice versa, even for a later time, since one is not separating by type.

Different Names and Types

However, the Terumat Ha-deshen (Ch. 57) writes that types of fish with different names are considered different types, and the Rema (319:3) rules accordingly:

Two types of fish are considered two types of food, and it is forbidden to select one type from another except manually and for immediate use.

The Peri Megadim (Eshel Avraham 319:5) attempts to formulate a rule to decide what creates "two types" of food:

What are two types? It may be that red and black cherries are considered two types. See the Magen Avraham 225:10, who rules that if they are considered independent in name or taste when it comes to the Shehecheyanu blessing, the same applies here, but this issue requires further study.

According to this, a difference in either name or taste creates two types. The source of this definition is the law of the blessing of Shehecheyanu, which is made over a fruit when it is consumed for the first time in its season: the Shulchan Arukh (225:4) writes that one must make this blessing over every single type of fruit, and the Magen Avraham (ibid., 10) points out that one must make the blessing separately on two types if there is a difference in either name or taste.

This means that fresh and dried fruit from the same species (e.g., grapes and raisins) each require a Shehecheyanu, since each has a different taste (in this case, they also differ in name). Correspondingly, different pastries would also be considered independent types for our issue because they have different tastes, and in general, their names differ as well. Similarly, white bread and black bread would also be two different types, even if they are made from the same species of grain.

Different Use

The Maharil (Hilkhot Yom Tov, 8) writes that one may not separate large pieces of matza (farfel) from small pieces of matza (matza meal). The Taz (319:2) sees this as a proof to his approach, as there is a prohibition of bereira with one type. However, given the halakhic consensus that there is no prohibition of bereira of one type, how can we understand the view of the Maharil? The Peri Megadim explains (Mishbetzot Zahav, ibid., 2) that matza meal and matza farfel are considered two types because they have different purposes: matza balls can be made only out of the former, so the latter (used

as a replacement for croutons and the like) are regarded as a different type. Other Acharonim (Eglei Tal, Borer, 17; Torat Shabbat, 4) explain similarly.

In light of this, we may suggest another rule: a difference in use may lead us to define two entities as different types. Consequently, when it comes to shallow and deep plates, small and large pins, Shabbat clothing and weekday clothing, etc., we would regard each pair as two types. The prohibition of borer applies because they have different uses (see Shemirat Shabbat Ke-hilkhatah 3:27).

Minor Differences

If two foods or objects share a name and a use, but they are distinguished by minor, insignificant differences, they are considered like one type, and there is no prohibition of borer.[3]

The reasoning is that the minor differences between the substances do not allow for defining one as okhel and the other as pesolet, as the removal of one is not a significant tikkun of the other. While the person selecting apparently sees a significant difference — why else would one want to separate them —since the difference is objectively considered to be negligible, this preference is deemed arbitrary, not as indicative of there being two distinct types. The Ayil Meshullash (3:1-6), in the name of Rav Karelitz, explains the law in this way, and he brings a number of examples (see also the Ma'amar Mordekhai, 319:5):

There is no prohibition of borer regarding one type, all pieces of which are the same, with no significant variation... Even though one may prefer the large ones or the whole ones, and there is a certain difference between them [and the other pieces], in any case, since this is not a significant difference, this becomes an issue of preference rather than rejection, as it is with two types. Consequently, the unwanted component is not considered pesolet...
Therefore it is permissible to select the broken matzot from the whole ones,[4] leaving the whole ones in order to make Ha-motzi over them...
One may select the fresher fruit or the fresher loaves in order to leave them for another meal. Similarly, among fully cooked pieces of meat, one may pick the softer ones to leave them for a later point...

If so, when there are fresher loaves and loaves that are less fresh (which are still edible by normal standards), they are considered to be one type, and one may pick the fresher bread to be eaten even at a later date. So too, when one has riper fruit and less ripe fruit (yet both of them are considered reasonably edible), one may select the most appropriate and desirable fruit, or even remove the fruit which one does not want at the moment. So too, when one is selecting the most well-done pieces of meat from an assortment (assuming that all of them are fit to be eaten under normal circumstances), it is permissible to take them out and eat them after some time, or even to take out the rarer pieces and leave them on the side.

The Parts of a Chicken

The Mishna Berura (319:15) writes that roasted meat and cooked meat are considered two types, and the same applies to the meat of different birds:

Know that roasted and cooked meat are considered two types in this respect, and all the more so the meat of different types of poultry. Therefore, one must be careful at elaborate feasts when one confronts many types of poultry together and one picks

through them to leave something for after Shabbat: one must select what one wants to eat at the moment, not the inverse.

In light of this, it is forbidden to select a piece of chicken from among pieces of turkey and the like, unless one is taking out the piece which one wants to eat now.

From here it seems that different parts of a chicken would be considered two types, and Rav S.Z. Auerbach rules this way (as cited in Mei-or Ha-shabbat, Vol. III, 40:3). However Rav Karelitz and Rav Elyashiv (as cited by the Ayil Meshullash, 3:7 and n. 17) regard them as one type, since both come from the same type of bird. The Az Nidberu (YD, Ch. 10) confirms this and notes that, in this respect, we should not compare the laws of Shabbat to the laws of Purim; when it comes to sending two types of prepared food (manot) on Purim, we may indeed regard chicken breast and chicken thigh as two types, "but for the issue of borer we require totally separate types."

Practically, what should one do when it comes to eating a chicken on Shabbat? It is preferable to take the wanted part and not to remove the part which one does not want. If other parts are in the way, preventing one from getting to the wanted part, one is permitted to move them; after all, even with two species, the Mishna Berura allows one to move the top layer in order to get to the bottom layer (see above). What about separating pieces of poultry in order to heat them up for a later meal? According to Rav Elyashiv and those who follow his approach, one may rule leniently, because these pieces are all of the same type; in fact, even according to Rav S.Z. Auerbach, one may be lenient, since the warming is necessary for the meal, so it is considered bereira proximate to the meal. (We will deal with this in a later shiur.)

Common Practice vs. Objective Definitions

We should note that the determination whether two things are considered one type or two types for purposes of borer is not based on objective definitions, but on common practice. This differs from the laws of kashrut, wherein classification is determined by an item's inherent nature and characteristics. For example, permitted meat and the forbidden sciatic nerve are considered two types for kashrut purposes, but for issues of borer we regard them as one type (Magen Avraham, 500:12), since this is how people relate to them. Similarly, water and wooden splinters are definitely two types, but nevertheless the Rema (319:10) permits one to filter water from tiny splinters mixed in it, since people generally drink water with tiny splinters in it.

This distinction applies in reverse as well: matza farfel and matza meal are definitely one type for kashrut purposes, but nevertheless they are considered two types for issues of borer, since people use them in different ways, as mentioned above. The reason for this distinction is that the prohibition of selecting food from food emanates from the mindset of the person who looks at one type as pesolet, and therefore it is clear that this depends on common practice, not on objective definitions. (See Ayil Meshullash, Ch. 2, n. 13; Eglei Tal, Borer, 20; Shevitat Shabbat, Borer, Be'er Rechovot, 22).

Personal Practice or Common Practice

In this regard, the question arises: do we follow the person who is selecting or the accepted custom? If, for example, one does not eat fish skin, but many eat it together with the fish, will we say that for this person, skin is considered to be pesolet and a different type, so that its removal improves the fish significantly and is forbidden because of the prohibition of borer? Or perhaps, since many people eat the skin together with the fish, they are considered one type, and the removal of the skin would not constitute bereira even for that person?

This question is not addressed in the Gemara or by the Rishonim. It is clear that there is no Torah prohibition, because even if a given person does not eat a specific food, it is still suitable for this person and he might eat it in extreme circumstances, and we have already seen that this is sufficient to mitigate the borer issue on a Torah level; only on a rabbinic level do we rule stringently and consider it to be a separate type. The question is: will this be permissible even on a rabbinic level, since many regard it as good food; or does the definition follow the person who is selecting, who sees this food as pesolet? In other words, does the definition of one type follow personal practice or common practice?[5]

A response to this may be found in the words of the Peri Megadim (Mishbetzot Zahav, 319:2):

One might say that sour and sweet apples are in fact one type; nevertheless, for one who hates sour apples, they are regarded as pesolet and it is forbidden for him [to remove them]. However, if others are present who like sour apples, we should say that it is permitted for him to select the sour apples from the sweet ones.

According to him, we follow the intent of the person doing the selecting, and not common practice. However, Rav Elyashiv (cited by the Ayil Meshullash, Ch. 6, n. 54) qualifies the words of the Peri Megadim:

The Peri Megadim discusses specifically sweet and sour [apples], because it is quite common that many people do not like sour ones, and therefore we say that their opinion is taken into consideration. However, if this is a rare phenomenon, and only a few individuals dislike them, we say that their opinion is disregarded; thus, even for those individuals, those apples are not considered pesolet.

According to this view, the Peri Megadim discusses only a case similar to that of sweet and sour apples — i.e., even though most people like sour apples, there is a notable minority which does not, so that the preference of one who dislikes them is deemed significant; however, when a person dislikes a food which most everyone likes, this opinion is disregarded, and even for such an individual the "unwanted" type is not considered pesolet.

Despite this, it seems that in the modern context we may assume that when a given person does not eat a specific food, in general there are many others with the same preference, and therefore the given person must act stringently and regard the "unwanted" food as pesolet, with its removal prohibited as borer. Nevertheless, if one is not disgusted by this food and merely prefers not to eat it, there is no prohibition of borer (assuming it is considered “one type”), as explained above.

Chicken Skin

In the past, most people would eat chicken skin, but nowadays most people will not, because it is not healthy. Certainly, according to what we have seen, whoever does not like chicken skin must regard it as pesolet, since this preference is shared by a significant group. Nevertheless, one may be lenient and remove the skin in order to eat the chicken immediately, since it is similar to peeling fruit, which is permissible, as we will see. This is the ruling of both Rav Elyashiv (Ayil Meshullash, Ch. 6, n. 55) and Rav Zilber (Az Nidberu, Vol. VII, Ch. 16), among others.

V) Selection of Various Items

May one sort a pile of books? After the Shabbat meal on Friday night, may one arrange the silverware for the next day's lunch? On Friday night, may one take an article of clothing from a pile of clothes in one's closet in order to wear it the following morning?

NON-FOOD ITEMS

Is there a prohibition of borer for non-food items, e.g., clothing, books or silverware?

The Gemara, in its main discussion of borer (74a), talks about types of food. Based on this, one might claim that the prohibition of borer applies only with regard to food. However, this understanding is contradicted by the Gemara on the very next page (74b) when it enumerates the multiple liabilities for manufacturing various items: "Whoever makes a barrel is liable to bring seven sin-offerings.... whoever makes a wicker hive is liable to bring eleven sin-offerings." Rashi explains that among the prohibitions of each, respectively, is an act of bereira: picking out pebbles from the ground clay for the barrel and picking out the good reeds for the hive. This clearly indicates that the prohibition of borer applies even among non-food items.

The Taz (319:12) states this explicitly, making the point that Tosafot's version of the integral beraita of borer (which we discussed in our previous shiur) does seem to suggest that bereira applies to food only, but the inclusion of borer as a component of the barrel-making process — found in Rashi, but undisputed among the Rishonim — undoubtedly indicates that borer has no such limitation. The Eglei Tal (Borer, 12), Arukh Ha-shulchan (319:7) and Mishna Berura (ibid., 15) concur.

ITEMS WHICH DO NOT GROW FROM THE GROUND

Even though there is a prohibition of borer for things which are not food, one may still claim that the prohibition does not apply to items which do not grow from the ground. The Gemara (73b, 75a) limits the melakhot of dash (threshing) and me'ammer (bundling) to giddulei karka (that which grows from the ground), and Rabbi Akiva Eger writes in his Responsa (1st ed., Ch. 20) that zoreh (winnowing) also applies only to giddulei karka:

This is what we have seen in Chapter 17... that the Rabbis maintain that threshing only applies to giddulei karka. This is what we have found and what has been established there... that me'ammer exists only with giddulei karka...

In light of this, the Chemdat Yisra'el writes (Vol. I, 49a; cited by the Minchat Yitzchak, Vol. I, Ch. 75) that the melakha of borer is applicable only to giddulei karka (as part of his defense of those who discards bones while eating fish without worrying about borer):

It occurs to me that one may justify the common practice according to what it is written in the Responsa of Rabbi Akiva Eger, Ch. 20: just as threshing only applies to giddulei karka, the same applies to zoreh. Naturally, it is obvious that according to this sage, the same applies to borer as well — that it is limited to giddulei karka — as we have seen in the Gemara that zoreh and borer are one and the same, and fish do not grow from the ground! Consequently, one cannot be liable for borer when it comes to them.

The Chemdat Yisra'el notes that zoreh and borer are identical melakhot, as we mentioned in our previous shiur; consequently, since the melakha of zoreh is limited to giddulei karka, the same applies to borer. Granted, Rashi applies borer to removing stones from dirt (in the case of making a barrel); however, since the dirt is on the ground, we may consider this giddulei karka.

However, most Acharonim dispute this point and bring many proofs to the opposite view: that borer applies to items which are not giddulei karka. For example, the Rambam (8:14) rules that it is a Torah prohibition to filter water: "Whoever filters wine, oil, water or any other liquid in its respective strainer is liable."

Similarly, the Terumat Ha-deshen (Ch. 57) forbids selecting fish from fish, as we saw earlier — even though they are not giddulei karka.
The Eglei Tal (Borer, 12) writes that there is a Torah prohibition of borer even for items which are not giddulei karka.
The Peri Megadim (Mishbetzot Zahav, 321:10), the Minchat Yitzchak (Vol. I, Ch. 75) and others confirm this, writing that the prohibition of borer is not limited to giddulei karka.

Selecting Silverware, Clothes and Books

In light of this, the Mishna Berura (319:15) rules:

The Acharonim write that bereira applies to any case of “two types” — even, for example, utensils and clothing, and therefore one must select the item one desires for now leaving the others in their place, and not vice versa.

The Shevitat Shabbat (Borer, 13) writes that the prohibition of bereira applies fully to books and clothing, and therefore one must not select an article of clothing or a book at night to be used the following morning. Apparently, this would also mean that there is a prohibition to select silverware at the end of the meal, and similarly it would be forbidden to select silverware (even the type that one wants) in order to set the table on Friday night for lunch the next day.

However, other Acharonim permit this. For example, the Or Same'ach (8:11) writes:

Know that borer, by definition, is performed on a consistent mixture, from which one removes the pesolet and leaves the okhel or sorts two types of okhel — this is the melakha. Thus, if the mixture is not blended, borer does not apply... However, the Taz writes that borer is not limited to food; it also applies to wood and metals, and he cites the words of Rashi concerning the wicker hive; one is liable in that case for selecting the good reeds, and there one is able to do it when they are blended... From the fact that he mentions utensils, some authorities who have come after him have ruled that borer applies to utensils, but they err in this, as the melakha of borer only exists when a substance is blended, which can never be said of utensils or clothing — although it need not be edible, as we have explained.

On this view, the prohibition of borer applies to non-food items as well, but this should not be extended to utensils and clothing. According to him, the prohibition of bereira applies only to items that are normally used in a blended state — only such items can be defined as in a mixture. Utensils and clothing are not used while blended, but rather each one on is used on its own, and therefore if a number of utensils or articles of clothing are piled together, this is not considered a mixture, and the prohibition of borer does not apply.

The Arukh Ha-shulchan (319:8-9) offers a sharp analysis of this issue:

According to this, we should ask a major question: how is it that we [are permissive when we] deal with so many issues, e.g., when spoons, forks and knives are placed in a pile and one needs only knives, selecting the knives from the mixture?... Similarly, when there are many books piled on top of each other and one needs certain books and selects them and takes them? Furthermore, wealthy people have on their tables many types of

large and small plates, and each type of food has a different plate. There are many other examples of this. If there is bereira in everything, how shall we deal with this?!
The answer is twofold.
Firstly, if an item is readily discernable, bereira is not applicable — for this is not bereira, but rather the netila (removal) of an item, and all of these things that we have enumerated are readily discernable, e.g., clothing, utensils and books. And do not object by claiming: are not two types of fruit, such as dates and grapes, readily discernable? This is not true, since they are small and numerous they require selecting to be separated, unlike clothing, utensils and books.
Secondly, as will be explained, during a meal, one may take okhel from pesolet and eat it, for this is not derekh bereira (the way of selection) but derekh akhila (the way of eating), and thus anything one wants to use immediately — clothing to wear, utensils to use and books to read — has the same status, equivalent to food at mealtime, so that bereira is not applicable to it. [Certainly, when it comes to sorting books and putting each in its place, or sorting clothing in order to hang each one in its place, or a similar situation with utensils, this latter reason provides no justification to permit one to do so; but according to the first reason, there is no prohibition in the matter. This requires further analysis.]
The Arukh Ha-shulchan gives two reasons to be lenient when it comes to bereira of utensils, books, etc.:

According to the first reason, the prohibition of borer is applicable only to small items which require analysis and discernment in order to separate them, but items which are easily discernable, such as books, utensils and clothing, are not subject to a process of bereira, but rather simple netila.

Alternatively, according to the second reason, bereira is essentially applicable to these items, but just as one is allowed to select okhel from pesolet for immediate use, since this is derekh akhila and not derekh bereira, the same permit should apply for non-food items, enabling one to select items for immediate use, as this is not derekh bereira.

The distinction between these two approaches is clear: according to the second reason, one may select utensils and clothing only according to the conditions which allow one to perform bereira on food — namely, to take by hand that which is desired for immediate use. Whereas according to the first reason, bereira is not relevant at all for these types of items, as long as they are large and readily discernable from one another.

The Shevitat Shabbat (Borer, Be'er Rechovot, Ch. 26) accepts the second reason of the Arukh Ha-shulchan:

His second reason seems more compelling, as the Yerushalmi (7:5) states... "[One may not select] even cakes from among cakes and pomegranates from among pomegranates" — meaning that even though they are large items, bereira applies to them... Similarly, when it comes to the wicker hive, Rashi explains that one selects good reeds, and these reeds are large... We see from these sources that borer applies even to large and recognizable items; therefore, one may only take the utensils which one wants now in order to use them.

On the other hand, Rav Ovadya Yosef writes in his Yabbia Omer (Vol. V, OC, Ch. 31) that the first approach is correct, and thus there is no prohibition of borer regarding utensils or clothing,. The Tzitz Eliezer (Vol. XII, Ch. 35) rules accordingly:

What emerges from the words of the Arukh Ha-shulchan is that according to the first reason, it is clear that the prohibition of bereira applies even to non-food items; nevertheless when it comes to clothing, utensils, books and the like, there is no prohibition of bereira... because they are readily discernable and the definition of a

mixture does not apply to them... However, according to the second reason of the Arukh Ha-shulchan, he admits that when it comes to clothing, utensils, books and the like, the prohibition of bereira applies. According to this view, it is permitted to select these items only when one has an immediate need to wear that article of clothing or use those utensils or read those books, making it into the halakhic equivalent of mealtime, so that bereira does not apply.

In my humble opinion, the first answer makes more sense, and we have found support for this in other sources, against the view of the Shevitat Shabbat... who endorses the second answer.

In the Yabbia Omer (ibid.), Rav Ovadya Yosef writes that there is another reason to be lenient when it comes to sorting silverware after a meal: we may also enlist the view of the Peri Megadim (Mishbetzot Zahav, 319:2) that there is no prohibition of borer in sorting, since there is no okhel and pesolet here, as one wants to use everything equally at a later time (as we discussed above). We may add the view of Rabbeinu Yerucham as well (as we will discuss in a future shiur), that bereira for the next meal, even if it will take place many hours later, is considered bereira for immediate use. According to this, Rav Ovadya concludes, one is permitted to select silverware for the next meal.

However, many Acharonim rule stringently, in light of the view of the Mishna Berura (319:15). Rav Neuwirth (Shemirat Shabbat Ke-hilkhatah 3:27, 68-69, 78-84) rules that the rules of bereira apply to sorting items such as clothing, silverware and books, and Rav Moshe Feinstein (Iggerot Moshe, OC Vol. IV, Ch. 74, Borer 12) writes the following concerning books and clothing:

How may one look for a book which one needs for a later time if the book's title is not written on its spine or if it is in a dark room?
Answer: I have already advised to take each book and open it, and once one sees that it is not the right one, one may set it aside... However, one must not do this in a way which constitutes an act of borer, namely to open it while one is still standing there, look at it briefly and realize it is not the correct book; for this is an act of borer. Similarly, this method is practicable for clothing as well: namely, one should take it out of the closet casually in a manner of perusal until one finds the desired article, but not in a way that makes clear one intends to select.

Halakha:

The general consensus is to be stringent and forbid bereira of non-food items, e.g., clothing, silverware and books. However, even when it comes to these items, one may sometimes permit selection when there is not a true mixture, as we shall see in our next shiur. Similarly, one may be lenient concerning bereira of non-food items when there are other mitigating factors, since there are those who permit this regardless.

[1] In other words, if the prohibition is tikkun okhel, we look at the entire mixture to check if there is any imperfection which can be repaired; if the entire mixture is from that same type, we do not see any problem or imperfection; on the other hand, if the prohibition is hotza'at pesolet, we focus on the piece which one takes out and the way one conceives of it, and if one is desires, for example, the large piece, the removal of the small piece is considered to be the relative elimination of pesolet.
[2] Still, it is possible to argue and say that the prohibition mentioned in the Gemara and by the Maggid Mishneh exists in every case of bereira with one type, not only when one separates an inferior substance from a superior substance; nevertheless, even one who says this will admit that the prohibition is only rabbinic in nature, and since we are dealing

with a rabbinic ban, there is good reason to be lenient (although the Taz himself thinks that the prohibition to perform borer on one type applies by Torah law).

[3] This principle parallels the main rule of the Terumat Ha-deshen that even if someone prefers at the moment a large (or small) piece, there is no inherent act of bereira among them, because from an objective point of view the large and small pieces are all the same thing. This also comes up in the issue of the strainer, as we will see below: one may filter a liquid on Shabbat if most people would drink it without filtering. This would appear to prove that when bereira comes to solve a problem which is not deemed as significant, there is no prohibition of borer to do so (as Rashi ibid., 139b, s.v. Bein Ha-gittot, points out), even though a given individual may be concerned enough to go to the trouble of trying to fix it.

[4] Apparently, this is regarded as a mere matter of preference, not a significant difference. However, this seems to require further study, since there is a different use here. Apparently, Rav Karelitz believes that the main purpose of matza is eating, not considering the preference for whole matzot in making the blessing of Ha-motzi as significant enough to considered them a different type. In any case, Rav Neuwirth (Shemirat Shabbat Ke-hilkhatah 3:28) notes that Rav S. Z. Auerbach disputes this, ruling that broken and whole matzot are two different types. (Below we will discuss whether a prohibited substance is rendered a different type by the very fact of its forbidden status.)

[5] When one confronts items that are generally regarded as two separate types, we define what is okhel and what is pesolet according to each person's intent — whatever that person does not want is considered pesolet, as we have seen above (according to Tosafot, 74a, s.v. Hayu). However, most people would consider this to be only one type, it is not clear that we follow the person's intent and see okhel and pesolet, and it may be that the given person's intent is deemed irrelevant given its divergence from the general perception.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 03: BORER (Part 3)

VI) Defining a Mixture

Is it permissible to select a book from a bookcase on Shabbat? Is one permitted to take a piece of meat out of sauce? Is it permissible to strain the oil from a can of tuna or sardines? Is oane permitted to spill out the whey which has accumulated on top of sour-milk? Is it permissible to move a coat in a closet in order to get to one hanging behind it? How may one sort spoons and forks well in advance of a meal?

It is clear that to be liable for borer (selecting), there must be a mixture, or ta'arovet. There is certainly no problem with clearing a plate off the table, even if this is done for the next morning, despite the usual requirement of immediate use to permit an act of bereira (selection). The Tosefta (16:9 in the Lieberman edition; 17:6 in the standard edition) says so explicitly:

One may pick scattered fruits one by one and eat them. If fruits are mixed with fruits, one may select and eat... If one selects each type on its own, or if one picks out dirt and pebbles, one is liable.

In other words, there is no prohibition of borer with scattered fruit. Only when "fruits are mixed with fruits" is the prohibition of borer applicable (so that one can become liable for it). This is also clear in the formulation of the Rambam (8:13), who writes "If two types of food are mixed together before one..." The Bei'ur Halakha (319:3, s.v. Le'ekhol miyad) interprets the Rambam's words:

It appears that there is not even a rabbinical prohibition... as is implied by the language of the Rambam and the Shulchan Arukh who specify that "two types of food are mixed together before one," etc. – implying that if they are not mixed together, borer is inapplicable to selecting one type from another.[1]

SEPARATE AND RECOGNIZABLE PIECES

In his Responsa (Ch. 57), the Terumat Ha-deshen discusses pieces of fish which are laid out on one plate or platter separately: is the prohibition of borer applicable in this case? According to him, there is a logical argument to be lenient in this case:

It would be strange to apply bereira to large pieces of distinct and separate types which are sitting in the same place. Consider the language of the Mordekhai... who writes, "Thus, a person must be careful with types of fruits that are mixed," etc. — implying that only when they are blended and no longer distinct [is borer applicable]. However, in a case like this, even though each type is not arranged on its own, they are not considered to be mixed. Nevertheless, since the Semag writes that one who selects pesolet from

okhel — even if one does so for immediate use — is liable, we may not make this distinction and rule leniently without compelling proof.

Ultimately, the Terumat Ha-deshen rules that since we are talking about a Torah prohibition, we should not be lenient without a clear proof; we must not permit borer unless we are talking about one type. The Rema (319:3) rules accordingly:

Two types of fish are called two types of food, and it is forbidden to select one from the other except by hand in order to eat them immediately, even though the pieces are large and each one is distinct.

According to this, a ta'arovet is not only a fully-blended mixture; even large items which are situated next to each other, each of which is distinct in its own right may carry the classification of ta'arovet.[2]

Lone Pieces

However, some Acharonim have limited the words of the Rema. The Arukh Ha-shulchan (319:17) writes that only where there are many pieces is it considered a ta'arovet:

However, if one has four or five pieces, taking a piece or two is not called bereira. These are everyday occurrences: one has on a platter [pieces of] beef and chicken — for they are certainly two types — and the hostess takes chicken off the platter to put it away for the next morning... In fact, if we propose to apply the law of bereira every time we encounter two types of food together, even if they are few in number, it would be impossible to live, and Heaven forbid that we say such a thing!

According to him, this stringency is only logical when the large, distinct pieces are numerous, not few. Consequently, it would seem that if one is clearing the silverware off a table and is holding just one knife, one spoon and one fork, there is no problem to set down each in its place in the silverware drawer.

Books in a Bookcase

The Shevitat Shabbat (Borer, Be'er Rechovot, 25) limits the Rema's stringency from another direction:

The Terumat Ha-deshen is talking about items that are mixed together randomly and are in each other's way, a situation wherein one cannot take a piece until one removes the other from the platter... However, when each is sitting in its place — e.g., books which are arranged in a box or fruits laid out on a board — and not sitting on top of another, bereira is not applicable.

This ruling limits the stringency of the Rema and the Terumat Ha-deshen to a situation wherein one must move an unwanted item in order to reach a wanted item. Consequently, books in a bookcase with visible titles are not in a ta'arovet, so borer does not apply.[3] The same would apply to articles of clothing lying next to each other that are easily identifiable; only a pile of socks or a heap of books would be considered a true ta'arovet.

A Piece in Liquid

In a similar way, the Shevitat Shabbat (ibid., 11) allows taking large pieces out of liquids.

If flies fall into a cup, one must not remove the flies alone, because this is like selecting pesolet from okhel, which is forbidden... This is true only of flies and the like, as

sometimes they sink and become blended in to the drink; when it comes to large, noticeable items, however, such as meat sitting in sauce or vegetables pickled in brine, we have not found that taking them out of the liquid would be bereira.

According to this, one may remove a piece of meat from soup or gravy, since there is no ta'arovet. Other Acharonim (Az Nidberu, Vol. IV, Ch. 21; Chiddushim U-vei'urim, Shabbat, Ch. 14, 17) agree that the prohibition of borer does not apply to large pieces in liquid and that it is permitted to remove the piece or the liquid — even using a utensil, such as the lid of a pot or a can.

All this is true for large pieces, but small pieces which are difficult to remove are considered to be in a ta'arovet, and one must avoid selecting them. Therefore, it is permitted to drain oil the out of a can of (whole) sardines, but it is forbidden to drain it out of a can of tuna (which is cut into small pieces). For the same reason, one must not remove water from a can of peas or corn and the like (unless one pours out the peas and corn as well). Similarly, one may pour out the water from a jar of pickles, but not from a jar of olives.

A TA'AROVET AT THE POINT OF CONTACT

Sometimes, the two types are not totally blended but are only touching at a given point. In such a situation, only the point of contact is considered a ta'arovet, so one may remove either okhel or pesolet as long as one does not directly affect that part.

An example of this is the cream on top of the milk. As the Mishna Berura (319:62) writes:

Skimming the cream floating on top of the milk is included in borer, so one must be careful when one is approaching the level of the milk to leave a bit [of the cream], and then it is permitted... Alternatively, one may take a bit of the milk along with the cream [but to take only the cream and none of the milk is forbidden — even if one intends to eat it immediately — since one is removing it with the spoon].

According to this, only at the exact point where the cream meets the milk is there a ta'arovet; separating it from a different point involves no act of bereira. Similarly, the Mishna Berura (ibid., 55) forbids pouring out fat which is floating on top of gravy, unless one also spills out some gravy.

Rav Neuwirth, in Shemirat Shabbat Ke-hilkhata (3:19), rules that one may not pour the whey off of sour-milk and yogurt, unless one also pours off some of the sour-milk. However, this is questionable. Firstly, sometimes the sour-milk is hard, in which case the whey is totally separate. Indeed, Rav Moshe Feinstein (Iggerot Moshe, Vol. IV, Ch. 74, Borer, 6) allows one to take the "skin" off of the milk, since it is separate from the milk, as opposed to the cream.

Is there a distinction between removing the "skin" on pasteurized milk and removing cream which is floating on milk...?

Answer: It is obvious that removing this "skin" is permissible, because it is totally separate from the milk. This is easier to permit than [the removal of] the skin of garlic or onions, at the end of Ch. 321, because [this "skin"] is edible, and it is not comparable to the Magen Avraham's cream, which is a liquid which has congealed somewhat... This tiny bit of cream on top of all milk is as much a liquid as the milk below it.

Secondly, it may be that most people eat the sour-milk with the whey, and if so, this should apparently be considered one type (because the whey is part of the sour-milk), and there would be no prohibition of borer.[4]

Cantaloupe and Watermelon Seeds

Concerning cantaloupe seeds, Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 94) rules:

The seeds which can be easily removed from the cantaloupe are not mixed at all [with the flesh of the cantaloupe]... Even when it comes to the individual seeds which are left, one may still note that these seeds are not adhering and attached [to the flesh], but merely sitting on top of it. There is no need for discernment in order to remove them, as one requires in removing the cream from the milk and the like, so it is logical that there would be no prohibition of bereira, and in any case it would be permissible immediately before the meal.

According to him, even at the point of contact, the seeds and the flesh are not considered mixed, and one may dispose of the seeds normally. (The same applies to the top layer of watermelon seeds; see Az Nidberu, Volume I, Chapter 26.) One may even be lenient with the few seeds that remain on the cantaloupe. However, he recommends waiting until right before the meal, which allows us to enlist those who permit bereira when there is no other way to get to the fruit.

A LAYERED MIXTURE

The Bei'ur Halakha (319:3, s.v. Le-ekhol miyad) expresses some doubts as to whether a layered mixture is a ta'arovet. At first he presents a lenient view:

When there is one type and another type below it on a plate, and one removes the upper layer in order to get to the lower layer... it appears that there would not even be a rabbinic prohibition... As the language of the Rambam and Shulchan Arukh indicates — "If two types of food are mixed together before one" — there is no problem in selecting one from the other if the types are not mixed.

However, later on, he equivocates:

One may want to insist and claim that since each type is not arranged alone, they are considered mixed and bereira applies. Nevertheless, it appears that one should be stringent only regarding removing a layer from above with intent to leaving it for a later point... but if one has no such intent and is simply removing this layer in order to get to the type below, this in no way falls into the category of borer. Furthermore, consider the ruling of the Shulchan Arukh above, 316:7, permitting trapping a snake if one is only trying to prevent it from biting... since one does not care about the hunting itself and simply wants to distance it from him, it is not considered to be a Torah melakha. The same applies here when one wants to remove a layer just to get at what is below. Separating pesolet out of okhel is different, because the okhel is improved through one's bereira, but that is not the case here, as the lower type is not improved all through this separation.

According to him, the melakha of borer in the context of a normal ta'arovet is forbidden for two reasons: 1) the very separation between okhel and pesolet and 2) the result of the bereira: fixing the okhel. With a layered mixture, on the other hand, only the first issue exists, while the second issue, fixing the okhel, is not relevant, since in point of fact

the types are not truly mixed together, and removing one is not considered a true tikkun of the other.

Based on this, the Bei'ur Halakha writes here (also see Mishna Berura ibid., 15) that in a layered mixture it is permitted to remove the upper type in order to get to the lower type. An action such as this is not considered to be selection and separation between two things, because the person is totally uninterested in the upper type. One's sole aim is to remove that which impedes access to the lower level; thus, there is no tikkun, because there is no true ta'arovet, and the lower type is not improved thereby.[5]

Since neither aspect of the prohibition of borer exists here, this act cannot be regarded as bereira, and it would be permitted even if one does not intend to use the lower type immediately (as Rav Chayim Kanievsky, cited by the Ayil Meshullash, Ch. 4, n. 77, writes), as long as one's aim is not to sort or to set aside the upper level, but simply to remove the lower level.

The view of the Bei'ur Halakha indicates that one is allowed to do this only with a layered mixture. When it comes to an absolute mixture, on the other hand, even if one is uninterested in the pesolet and is only removing it in order to get to the okhel, there is still a prohibition of borer. Though there is no selection and separation, there is a tikkun of the okhel, and therefore it is forbidden. Only with a layered mixture may one remove the unwanted layer.[6] This is true even if the upper layer is true pesolet, since the same logic applies (as Rav Chayim Kanievsky, cited by the Ayil Meshullash, Ch. 4, n. 82, writes).

A Pile of Books or Papers

One may not sort a pile of books, but one is allowed to remove books on top in order to get to a book on the bottom (even if one must remove many books until one gets to the desired volume). For example, one may have numerous prayer-books and desire to separate it by rite (Ashkenazic vs. Sephardic), or one may want to separate prayer-books from Chumashim. Based on what we have seen, this act is problematic (even though one may take away the upper volumes in order to get to the desired book), and therefore it is preferable simply to put the books in the bookcase without sorting them or to have each person take his or her prayer-book and place it in its right place. (This would also show the proper moral consideration for the sextons.) One may also take each book out of the pile, peruse it briefly and then put it in its proper place (Ayil Meshullash 18:3).

Nevertheless, one should not criticize one who sorts a pile of prayer-books in the normal way (as Rav Chayim Kanievsky, cited by the Ayil Meshullash, Ch. 18, n. 14, writes), as there are those who rule (Or Same'ach 8:11; see also Chiddushim U-vei'urim, Shabbat, Ch. 14, 15, s.v. Sham) that bereira does not apply to books, while others hold that there is no bereira for a layered mixture, all the more so when one can see the title of each book on its spine.[7] Similarly, one may first put the books on the shelf, so that the title of each is immediately visible; they are then no longer considered to be mixed, so that one may then sort them (see Shulchan Shelomo 319:1, 4; 2).

What about weekly parasha sheets? If they are lying one on top of the other, this is a layered mixture, so one may remove the upper ones in order to get to the desired parasha sheet. This is permissible even for later use.

However, if the sheets are truly mixed together haphazardly, one may not remove an unwanted sheet. In this case, one must peruse each removed sheet briefly until one gets to the desired sheet. It may be that there is another way to permit this: one may

arrange the pile so that each sheet lies directly on top of another; one may then have a layered mixture. (It does not appear to be at all problematic to arrange a pile of printed matter in this way.)

PERMITTED METHODS OF SORTING

As we have seen above, the halakhic consensus is to forbid selection of silverware and other utensils (although there are those who permit this). Is there then any unanimously permissible way to sort utensils? One may of course do so immediately before the meal, but there are other solutions.

Scattering the Mixture

One solution is found in the Gemara (74a) itself:

When Rav Dimi arrived, he said: "It was the Shabbat of Rav Bivi, and Rabbi Ammi and Rabbi Assi happened to be there. He poured out before them a basket of fruit, but I do not know if it was because he maintains that that okhel from pesolet is forbidden, or because he intended to be magnanimous."

In this anecdote, Rav Bivi pours out a basket containing fruit and pesolet rather than picking out the pesolet. As Rashi explains,

He did not want to select the food from the leaves and put in front of each and every one [of his guests], but rather he poured [the fruits] out and each [guest] took and ate. In this act of pouring out, the food becomes separated and independent.

The Gemara has its doubts: is Rav Bivi avoiding the prohibition of borer, or is he just demonstrating that he has a cornucopia of fruit? Regardless, we see that one can overcome the prohibition of borer by scattering the ta'arovet — once the items are dispersed and no longer mixed, the prohibition of borer is not applicable, and there is no problem to sort them or to remove the pesolet from the okhel. Rav Moshe Feinstein writes (Iggerot Moshe, OC Vol. IV, Ch. 74, Borer, 11) that "this is a good idea," and Rav S.Z. Auerbach concurs (Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 6).[8]

Sorting as a Byproduct

Another permissible way to sort is to remove the item from the mixture without the aim of sorting, but for another aim. Rav Neuwirth rules (Shemirat Shabbat Ke-hilkhata 3:78):

One may not sort silverware in order to put each one in its own slot. It is forbidden as well to remove all the utensils of one type simultaneously, dry them and return them to their slots. However, to put the utensils in their slots immediately after drying, as one takes each utensil randomly and dries it on its own — this is permissible.

In a note there (210), he explains in the name of Rav S.Z. Auerbach: "One is not selecting and sorting; rather, one dries and puts in its place whatever comes into one's hand." That is to say, if there is a ta'arovet of wet silverware, one may randomly remove each utensil and dry it, and after that it is permissible to put each wherever one wants (e.g., forks in one slot, knives in another, etc.). This action is not forbidden as an act of sorting, since the removal of the utensil from the ta'arovet is done randomly — "whatever comes into one's hand" — without any intent to sort, and since the utensil is already separated from the mixture, there is no problem to put it in its proper place. The same applies when there is a mixture of dirty utensils in a sink: it is permissible to take each time a utensil randomly and to wash it, and after that it is allowed to put it wherever one wants.

However, this is only allowed when one takes out the utensils randomly in order to wash them or dry them. It is not permissible to take out the utensils randomly from the mixture in order to put each one in its proper place later, since in this case we see the two actions as one act of sorting, which is forbidden.

VII) Removing Pesolet with a Bit of Okhel

How may one remove a fly which has fallen into a drink? Is it permissible to remove a bone with some meat on it? May one remove the label which is stuck to a loaf of bread?

The Taz (319:13) writes that if a fly falls into one's drink, it is forbidden to remove the fly alone, but it is permissible to take it out with a bit of liquid:

There is a prohibition, when flies fall into a cup, of removing the flies alone from the cup, as this is analogous to selecting pesolet; rather, one must take a bit of the drink with them.

The Mishna Berura (ibid., 61) rules in accordance with the view of the Taz and expands it to other circumstances. From his words, it appears that every time one removes pesolet with a bit of okhel, there is no violation of borer:

Therefore, when a fly or something else falls into one's food or drink, one must not remove the fly, whether manually or with a utensil, because this is selecting pesolet from okhel; rather, one must take a bit of the food or drink with it and toss it.

The Chazon Ish (53, s.v. Taz) argues forcefully with this approach:

The Taz's solution of taking some liquid with it requires further analysis. Presumably, every time one selects pesolet from okhel, taking a bit of okhel with the pesolet would still be prohibited. As long as one's intent is for the remainder of the okhel to be purified, does one care about a bit of the okhel which comes out with the pesolet? Similarly, one's action here proves that one has no intent to split the drink between vessels; one wants to clean out the fly from the cup! In what way is the melakha deficient if one takes a bit of the drink, as one's whole intent is to circumvent the prohibition of removing the fly alone?

The Chazon Ish sees the Taz's reasoning as follows: if one is not separating precisely between the fly and the drink, but rather is removing the fly with a bit of liquid, one is merely dividing the drink between two vessels, the cup and the spoon. The Chazon Ish objects to this, as it is clear that this is a ruse; one's intent is obviously to "fix" the drink by removing the fly, and this is a classic example of bereira. What then does it help if one removes a bit of the drink alongside the fly?

Similarly, the Chazon Ish (54:3) disputes the view of the Mishna Berura, that it is permissible to remove a bone with a bit of meat on it (even if one has no intention of eating this bit of meat), because one is removing the pesolet with a bit of okhel. The Chazon Ish argues, writing that "one is not thinking about the meat, but about picking the plate clean."

As we mentioned in our first shiur, this argument apparently depends on the underlying rationale of the melakha of borer. The Chazon Ish maintains that the basis of the melakha is tikkun okhel (fixing the food), and therefore even if one removes the pesolet with a bit of okhel, it is still forbidden; at the end of the day, the ta'arovet is "fixed" through one's action. The Taz and the Mishna Berura understand, apparently, that the basis of

the melakha of borer is hotza'at pesolet (removing refuse), or severing the connection between the okhel and the pesolet, and since in this case one is not removing the pesolet alone and is not disconnecting absolutely between the okhel and the pesolet, there is no prohibition.[9]

According to the Chazon Ish, separating in this manner involves a Torah prohibition.[10] According to the Taz and the Mishna Berura, this method is totally permissible.
It should be noted that the Chazon Ish (53, s.v. Taz) suggests an alternate explanation for the words of the Taz:

Indeed, one may say that the wine on the body of the fly has the status of being in a ta'arovet, and therefore the Taz maintains that if one takes the fly itself, it is considered borer in separating the wine on the fly and between its wings from the rest of the wine, and therefore one should take a bit of the liquid with it. Meanwhile, the remaining liquid certainly has no status of borer, as the fly was not mixed in it at all.

In other words, it may be that the fly is not considered to be mixed with the drink in the cup, but only with the liquid that is clinging to its body; if so, when one removes the fly with the liquid which is around it, it turns out that one takes the entire area of the ta'arovet, and there is no action of bereira.[11] According to this, the Taz rules leniently only when the pesolet is not fully blended with the okhel, but if the pesolet is fully mixed in (such as bones in meat), the Taz would concede that one may not take the pesolet with a bit of okhel[12] (against the view of the Mishna Berura, who rules leniently regardless).

This argument has an important halakhic ramification, as we often encounter pesolet in our okhel. According to the Mishna Berura, the solution is simple: it is possible to take the pesolet with a bit of okhel, and to do so is permissible. According to the Chazon Ish, on the other hand, there is a Torah prohibition! The same applies to a bone with some meat on it, as well as pesolet that one removes with a bit of okhel.

However, even according to the Chazon Ish, there are cases in which one may be lenient:

1. When one takes along with the pesolet a large quantity of okhel — in this case, the Chazon Ish concedes that it is permissible, since this is considered dividing a ta'arovet in two, not an action of bereira.[13]
2. When one removes the pesolet with a bit of okhel and eats the okhel stuck to the pesolet, e.g., if one removes a bone with some meat and eats that meat. In this case, the bone is deemed insignificant relative to the meat, and one is considered to be selecting okhel from okhel (Chazon Ish 54:3).
3. When the pesolet is not considered to be mixed throughout the okhel, but connected only at their point of contact — in this case, even the Chazon Ish allows one to remove the pesolet with the okhel stuck to it, since one removes the entire area of the ta'arovet, as the Chazon Ish writes concerning a fly in a ta'arovet with the liquid around it.

According to this, a tag stuck to a loaf of bread may be removed along with a bit of bread even according to the Chazon Ish, and the same applies to the fat on top of soup. One may even be allowed to remove them without any of the okhel stuck to them if one does so just before the meal, as one is allowed to peel fruit under such conditions (as we will discuss in our next shiur). It is nevertheless preferable to remove them along with a bit of the okhel.[14]

Practically, the halakhic consensus is to follow the lenient view of the Mishna Berura (see Shevitat Shabbat, Borer, Be'er Rechovot, 20). However, wherever possible, it is preferable to select in ways that even the Chazon Ish would approve of (by tasting the

bit of okhel one removes or by removing a large quantity of okhel), as according to his opinion, one may violate a prohibition on a Torah level, and his argument is quite convincing, as we explained above.[15] Similarly, even one who rules leniently, following the Mishna Berura, should remove the pesolet with a greater amount of okhel then one would normally discard.[16]

Conclusion

To summarize, one may remove an insect from a drink using a spoon in such a way that the insect and some of the adjacent liquid are in the spoon. According to the Mishna Berura's view, one may generally remove pesolet with a bit of okhel. However, it is preferable to be stringent, taking the Chazon Ish into account, and to taste a bit of the okhel or to remove a relatively large amount of the okhel. When the pesolet is stuck to the okhel at one point, e.g., a tag stuck to a loaf of bread, one may remove the pesolet along with a bit of okhel according to all opinions.

[1] Though the Rambam and the Bei'ur Halakha discuss two types of food, the definition of the mixture must ostensibly be the same when it comes to okhel and pesolet.
[2] See Ayil Meshullash, Ch. 4, for more on the issue of defining a ta'arovet.
[3] According to Rav Elyashiv (cited by the Ayil Meshullash, Ch. 18, n. 15), even if the title is not visible, if one can recognize the book clearly, there is no ta'arovet or prohibition of bereira.
[4] We should add that according to the Maharitatz (Ch. 203, cited by the Ba'er Heitev, 319:2), there is no prohibition of borer in a dry-liquid mixture; this case may fall into that category.
[5] The Bei'ur Halakha equates this to trapping a snake to prevent it from biting, which all opinions allow, since one is not interested in the snake at all and only wants to keep it away, so that it is not a melakha at all (316:7). According to him, although generally there is a rabbinic prohibition and one is permitted to do so only in a case of danger, in our case one should permit it in the first place since one may enlist the view that a layered mixture is not a ta'arovet at all. (Recall that the Terumat Ha-deshen was inclined to say this, ruling stringently only because of the possible Torah violation, which is not relevant here.)
[6] Logically, one may suggest that even with a regular mixture such an action is not considered to be the melakha of bereira, since the person simply wants to reach the desired object, and any other effect is inadvertent. See also the Misgeret Ha-shulchan (notes to 80:16, cited by the Shevitat Shabbat, Borer, Be'er Rechovot, 27) who writes that when one has a heap of clothing, one may remove clothes on top in order to reach clothing on the bottom, since this is similar to peeling fruit (which we will discuss in the next shiur), as the upper clothing is like a peel relative to the desired article on the bottom. Some see the fruit and the peel as a true ta'arovet; if so, it may be that one may apply this solution even to a regular mixture (see Ayil Meshullash, Ch. 4, n. 38).
[7] It would be preferable to take each book and randomly and then put it in its proper place; this gives an additional reason to be lenient, as one is not selecting a specific book.
[8] However, Rav Auerbach writes that one person needs to scatter the ta'arovet, after which someone else may remove items (as is the case in the Gemara). Apparently, on his view, if one person were to do both actions, it would be regarded as one act of bereira. However, in the Tikkunim U-milllu'im (ibid.), Rav Auerbach writes that it is possible that the same person could scatter and then select, even for use at a later point. Since Rav Auerbach considers permitting this and Rav Feinstein does so explicitly, we consider the halakhic consensus to be that there is no need to insist on the involvement of different people.
[9] In fact, one may argue that even if the basis of the melakha of borer is hotza'at pesolet, in any case, one who removes pesolet with a bit of okhel should be liable for borer, since

the pesolet is the essence and the okhel is negligible, and it is as if one removes pesolet alone. On the other hand, according to the understanding that the basis of the melakha of borer is severing the connection between the okhel and the pesolet, it may be sufficient to remove the pesolet with a small quantity of okhel, as this may suffice to enable one to claim that the connection between the okhel and the pesolet has not been completely severed.

[10] The Ba'al Ha-tanya (Piskei Ha-siddur, Hilkheta Rabbeta Le-shabbeta) writes that one who removes a fly with a bit of liquid is in jeopardy of being liable to bring a sin-offering. A creative solution is cited in the name of the Gerrer Rebbe (author of the Imrei Emet): he would insert the spoon beneath the fly, and instead of removing the spoon, he would lower the cup, and thereby he would select the okhel (the cup) from the pesolet (the fly)! (See Ayil Meshullash, Ch. 6, n. 127.)

[11] The basis of this approach is the view of the Maharitatz (cited by the Ba'er Heitev, 319:2), that there is no bereira of a liquid — i.e., a solid substance floating in a liquid is not considered a ta'arovet. (According to the Maharitatz himself, it is permitted to remove the fly even without any liquid.)

[12] However, the view of the Chazon Ish requires further analysis: what is the precise definition of this distinction? When do we see the pesolet as fully blended with the okhel, so that one is not allowed to remove it with a bit of okhel, and when do we see it as connected only at the point of contact, so that one may remove the pesolet with a bit of okhel?

[13] What is considered a large quantity? It may be that that the turning point is the point at which, even on a weekday, one would care to separate the okhel from the pesolet and not throw everything into the garbage. (This is the opinion of Harav Ya'akov Medan; on his view, even the Mishna Berura would only allow this type of separation to be performed when this criterion is met.)

[14] Since one can access the bread without removing the tag, and can access the soup without removing the fat, this is not comparable to peeling fruit. (See the words of Rav S.Z. Auerbach, cited in Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 132, 135.)

[15] In Shemirat Shabbat Ke-hilkhata (3:12), Rav Neuwirth cites both approaches without deciding between them. As mentioned above, when it comes to the insect in the drink, it is easier to be lenient, since the Chazon Ish also permits it, and many authorities have explicitly endorsed this solution, e.g., Eglei Tal (Borer, 3, 6) and Rav Neuwirth (ibid. 3:18). However, as mentioned above, according to the Ba'al Ha-tanya in his Siddur Shulchan Arukh Ha-rav, there is a Torah prohibition here. (Nevertheless, in the text of the Shulchan Arukh Ha-rav, 319:24, the Baal Ha-tanya rules in accordance with the Taz, contradicting his own view.)

[16] Since when one removes the pesolet, the okhel stuck to it is simply a byproduct of the pesolet separation, it may be that the okhel is rendered insignificant by the pesolet, and the action is considered to be removing pesolet alone, just as the authorities forbid peeling fruit (when it is not meant for immediate use), even though generally a bit of the flesh of the fruit comes along with the peel; since this bit of fruit is insignificant relative to the peel, one is considered to be removing the peel alone. We will discuss this issue at length in our next shiur.

The Chazon Ish sees the Taz's reasoning as follows: if one is not separating precisely between the fly and the drink, but rather is removing the fly with a bit of liquid, one is merely dividing the drink between two vessels, the cup and the spoon. The Chazon Ish objects to this, as it is clear that this is a ruse; one's intent is obviously to "fix" the drink by removing the fly, and this is a classic example of bereira. What then does it help if one removes a bit of the drink alongside the fly?

Similarly, the Chazon Ish (54:3) disputes the view of the Mishna Berura, that it is permissible to remove a bone with a bit of meat on it (even if one has no intention of eating this bit of meat), because one is removing the pesolet with a bit of okhel. The

Chazon Ish argues, writing that "one is not thinking about the meat, but about picking the plate clean."

As we mentioned in our first shiur, this argument apparently depends on the underlying rationale of the melakha of borer. The Chazon Ish maintains that the basis of the melakha is tikkun okhel (fixing the food), and therefore even if one removes the pesolet with a bit of okhel, it is still forbidden; at the end of the day, the ta'arovet is "fixed" through one's action. The Taz and the Mishna Berura understand, apparently, that the basis of the melakha of borer is hotza'at pesolet (removing refuse), or severing the connection between the okhel and the pesolet, and since in this case one is not removing the pesolet alone and is not disconnecting absolutely between the okhel and the pesolet, there is no prohibition.[9]

According to the Chazon Ish, separating in this manner involves a Torah prohibition.[10] According to the Taz and the Mishna Berura, this method is totally permissible.

It should be noted that the Chazon Ish (53, s.v. Taz) suggests an alternate explanation for the words of the Taz:

Indeed, one may say that the wine on the body of the fly has the status of being in a ta'arovet, and therefore the Taz maintains that if one takes the fly itself, it is considered borer in separating the wine on the fly and between its wings from the rest of the wine, and therefore one should take a bit of the liquid with it. Meanwhile, the remaining liquid certainly has no status of borer, as the fly was not mixed in it at all.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 04: BORER (Part 4)

VIII) Peeling Fruits and Vegetables

Why is one allowed to remove peels on Shabbat? Is it permissible to use a peeler? Is one allowed to peel fruits and vegetables for later use?

Based on our previous shiurim, it would appear that peeling fruits and vegetables would violate the prohibition of borer (selecting), as one is removing the pesolet (refuse — i.e., the peel) from the okhel (food — i.e., the flesh of the fruit or vegetable). Indeed, the Yerushalmi (7:2) appears to indicate exactly this: "Whoever grinds garlic... and removes the peel [is liable] for borer."

Despite this, the Beit Yosef writes (end of Ch. 321), that the Sefer Ha-teruma (Ch. 220), Semag (Prohibition 65, Lash) and Semak (Ch. 282, 285a) permit removing peels on Shabbat. After citing the Yerushalmi, the Beit Yosef notes:

Even so, the Semag, Semak and Teruma write that one should not forbid peeling garlic and onions to eat immediately, because the Yerushalmi is not talking about peeling for immediate use, but peeling to set aside.

According to them, the Yerushalmi only forbids peeling a fruit for later use; however, one may remove the peel in order to eat the fruit immediately. The Rema (321:19) rules: "It is forbidden to peel garlic and onions when one is peeling to set aside, but [in order] to eat immediately is permitted." The Magen Avraham (ibid., 30) and the Mishna Berura (ibid., 84) rule that it is permissible to peel apples as long as one does so to eat them immediately.

Derekh Akhila

Why is one permitted to peel a fruit for immediate use? Why does peeling not violate the prohibition of borer? The act of peeling is, by definition, separating pesolet from okhel! The Bei'ur Halakha (ibid., s.v. Liklof) is troubled by this:

It would appear that even for immediate use, peeling should be forbidden, for one who peels apples, garlic and onions takes away the pesolet and leaves the okhel. We already explained this earlier in Ch. 319: one who selects pesolet from okhel even for immediate use is liable!
It appears that since it is impossible to do it in any other method, and this is the way of eating it, it is not called "pesolet from okhel," because one's sole aim is to eat the inside, and whatever is done for immediate use is permitted. However, selecting in order to set it aside is forbidden; it cannot conceivably be better than a normal case of selecting okhel from pesolet.

The Bei'ur Halakha's answer is that since it is impossible to get to the fruit in any other way, peeling is permitted, as this is derekh akhila, the way of eating. If so, why must the bereira (selection) be for immediate use? Apparently, only actions for immediate use (when there is no other option) may be classified as "derekh akhila" and allowed.

The Peel is not Commingled with the Fruit

We have found other explanations to permit peeling as well. One comes from the words of Rabbeinu Chananel (74a), who differentiates between the melakha of borer and the melakha of dash (threshing):

Dash is removing pesolet which is attached to okhel... So it turns out that zoreh (winnowing), borer and merakked (sifting) all remove pesolet which is mixed with okhel but not attached to it...

According to him, the prohibition of borer is applicable only when the pesolet is mixed in with the okhel, not when pesolet is attached to okhel. This would mean that there is no prohibition of borer with the peels of cucumbers, apples and the like, because they adhere to the flesh (Tal Orot, pp. 156-157, cited by the Shevitat Shabbat, Borer, Be'er Rechovot, 45). However, this allowance would not apply to peels which do not adhere to the flesh, e.g., onion and garlic peels (Shevitat Shabbat, ibid.).

The Arukh Ha-shulchan (319:22) also writes that removing the peel from the fruit has no connection to the prohibition of borer. How then does he explain the clear ruling of the Yerushalmi that removing the garlic from its peel is forbidden because of borer? He explains the Yerushalmi as follows:

It appears from their words that peeling a great quantity of garlic or onions is borer, and it is forbidden if one does not eat immediately. Aside from the fact that it is not clear what bereira (selection) has to do with this, it contradicts an explicit Talmudic passage in Beitza (13b) about peeling barley... Furthermore, this is mefarek, as Rashi says there, and not borer.
It appears to me that this is the explanation: they are not referring to removing the peels and setting the peels down on their own; rather, as one peels the fruits, the peels are mixed in with them [the fruit]... In such a case, borer is definitely applicable, and that is why they say that it is only permitted for immediate use... This is the intent of our master, the Rema, as well — that [the peels and the fruit] are mixed together — even though he does not write so explicitly. Were it not so, bereira would not be applicable in this case.

According to him, peeling fruit is linked to the prohibition of mefarek, a subcategory of dash, and not to the melakha of borer. It appears that in his view, since the peel is not mixed with the flesh of the fruit, but rather only envelops and covers it, the prohibition of borer is not applicable, Thus, the prohibition of dash, which relates to removing food from its natural covering, is the relevant issue.[1]

Although the Yerushalmi and the Rishonim mention the prohibition of borer in the context of peeling garlic, the Arukh Ha-shulchan is of the opinion that they are not speaking of the act of peeling per se, but rather of a specific case in which the cloves of garlic became mixed with their peels (after the peeling process had been finished). In such an instance, a prohibition of borer exists, and one must remove the garlic from the mixture in accordance with the normal rules of borer. According to the Arukh Ha-shulchan, this is also the intent of the Rema: the act of peeling per se is not forbidden, even if one's intent is to eat the garlic or the onions at a later point, but if the garlic or the onions have become mixed with their peels, one may not remove them from the mixture in order to eat them later.

Similarly, the Eglei Tal (Borer, 6 and 11) writes that there is no prohibition to remove the peel from the fruit, even if one intends to leave the fruit for a later time (at least when one peels a lone fruit), because this does not fall under the rubric of the melakha of borer, but rather the melakha of dash.

Peel Eaten with the Fruit

Sometimes, there is another reason to permit peeling fruits or vegetables on Shabbat. There are many fruits and vegetables that we are accustomed to eat with the peel (a trend which has increased in recent years). In these cases, one may see the fruit and its peel as one type, so that even if one wants to peel the fruit, there would not be a prohibition of borer. The Mishna Berura (Sha'ar Ha-tziyun 321:97) writes in the name of Peri Megadim (Eshel Avraham 321:30): "Most people are accustomed to eat apple peels even under normal circumstances; consequently, this should be permissible even to set aside." This is echoed by the Eglei Tal (Borer, 6).

Removing the Peel with Part of the Fruit

Certain types of fruit cannot be peeled without taking some of the flesh with the peel. In such a case, there is another reason to permit peeling: we have already mentioned that the view of the Mishna Berura (319:61) that it is permitted to remove the pesolet with a bit of the okhel.[2]

The Menuchat Ahava (Vol. II, 7:12) writes:

If it is a type of fruit to which the peel closely adheres, and when one peels with a knife, part of the flesh comes off with it, it is permitted, according to all opinions, to peel them on Shabbat, even if one's intent is to eat it later on that same Shabbat.

The Difference between the Approaches

What is the practical difference between these views? According to the Bei'ur Halakha, one may remove the peel only if one wants to eat the fruit immediately, and only if one peels by hand and not with a utensil designed for peeling; according to the other views, there is no action of bereira here at all, and therefore it is permissible to peel even with a specially-designed utensil, such as a peeler, even if one wants to eat the fruit at a later point.

Summary and Practical Ruling

To conclude, the Rishonim agree that one is allowed to peel fruit on Shabbat. There are numerous explanations of this:

1. There is no other way to get to the food, and therefore it is derekh akhila. (Bei'ur Halakha)
2. An adhering peel is not included in the prohibition of borer. (Rabbeinu Chananel)
3. The peel is not considered to be commingled with the fruit. (Arukh Ha-shulchan)
4. Peels which are edible are considered to be the same type as the flesh of the fruit. (Peri Megadim, Mishna Berura, Eglei Tal)
5. Many times the peel comes off with a bit of the fruit.

According to the first view, one must be stringent and peel only by hand and for immediate use, while according to the other opinions, these conditions need not be met.

Practically, when it comes to a peel which is usually eaten, one may remove it even not for immediate use, even using a peeler, and this is how Rav Neuwirth rules (Shemirat Shabbat Ke-hilkhatah 3:30). However, when it comes to a peel which is usually not eaten, one should be stringent in accordance with the view of the Bei'ur Halakha, and one may peel only by hand or with a knife and the like (i.e., not with a utensil designed for peeling), and only for immediate use.

Therefore, if one wants to peel oranges or eggs, one must do it by hand or with a knife, and one may only do it right before eating or right before a meal (as we will explain when we deal with the definition of "immediate use" in the next section), because we do not eat their respective peels or shells. The same applies to carrots (in our modern reality, in which most people do not eat the top layer of the carrot): one may peel it with a knife, but not with a peeler, and only right before the meal.

On the other hand, when it comes to cucumbers and apples, since nowadays most people eat the peels, there is no prohibition of borer at all, and it is permissible to remove the peels even using a peeler, and even the night before for the next day's lunch and the like.

IX) Defining "Immediate Use"

Is one allowed to select before the meal for dessert? How long before the meal is it permissible to start selecting for the meal? Is one allowed to select in order to heat up food on the hot plate for a meal which will take place later?

As we have seen, it is permissible to manually select okhel from pesolet, provided that one has the intent "for immediate use." Now we must ask: what is the definition of "for immediate use" (le-altar)? How close must the bereira be to eating?

The Gemara (74a) states, "Abbayei said: '"One may select and eat" for immediate use, "select and set aside" for immediate use.'" This means that "for immediate use" does not mean that the food must be put in one's mouth immediately; one may set it aside on one's plate. If so, what is the precise measure of time? Rabbeinu Chananel (74b) writes: "The measure is the amount of time that one spends at the table during that meal only."

According to this, it is permitted to select for that entire meal. Rabbeinu Chananel writes that his words are based on the Yerushalmi (7:2):

If one selects food from food, Chizkiya said: "Liable;" Rabbi Yochanan said: "Exempt." There is a beraita opposed to Chizkiya's view — it says: "One may select and eat, select and set aside on the table." Rabbi Bun bar Chiya says in the name of Rav Shemu'el bar Rav Yitzchak: "Explain it that there were guests eating first things first."

The Yerushalmi explains that even though there is a prohibition of borer for two types of food, nevertheless the beraita permits one to select and set aside on the table, since one is dealing with a case "that there were guests eating first things first." Apparently, Rabbeinu Chananel understands that the host leaves all the food on the table, but the guests are "eating first things first" — i.e., they start on the appetizer first, and only after that do they reach the course that is being selected for them. From this it is clear that one may select food for the meal that one is eating — even the food which one will eat for dessert. The words of Rabbeinu Chananel are quoted by most Rishonim (e.g., Rosh 7:4).

The Beit Yosef (319, s.v. Ve-shiur le-altar) understands the view of Rabbeinu Yerucham (12:8) to be even more lenient:

So writes Rabbeinu Yerucham... But he writes before this, and I quote: "Even though [bereira] by hand is permitted, as we have said, this is only for immediate use — namely, that very meal. However, for that very day — i.e., selecting and setting aside for the needs of another meal on that very day — [bereira] is forbidden." It appears to me that we should understand this rule in the following way: if one selects after the meal, any selection for the next meal on the same day is considered le-altar; but if one selects in the midst of a meal, one cannot select except for that very meal."

According to this understanding, it is permitted to select even long before the meal, on the condition that one selects only for the next meal. Conceptually, this means that one's having the next meal in mind neutralizes the status of "selecting for the granary," as the selection is unequivocally not for the sake of storage, and therefore it is permitted, even if the meal will not take place for several hours.

The most stringent view is cited by the Mordekhai (Hagahot, Ch. 7, #461) in the name of the Ra'avan. He defines "select and set aside for immediate use" as:

to select and to set aside a mouthful and to put it in one's mouth; alternatively: to select the amount of the meal, to start and to finish immediately after one's selection. However, [bereira in order] to eat an hour later — this is equivalent to selecting for the granary...

According to the first option which he mentions, one must eat immediately after the bereira (according to what we have seen, one may put the okhel on the plate and eat it immediately), and in any case one definitely may not select for the entire meal.[3]

The Rema rules (319:1) that one is allowed to select for a meal that one is about to eat immediately: "Whatever one selects for the meal which one is about to eat is called 'le-altar.'"

What is the source of the Rema's view? His opinion is not in keeping with the view of the Mordekhai, who requires one to eat immediately, or with the view of Rabbeinu Yerucham, who permits selecting for a meal which will be eaten much later. His words are not even in keeping with those of Rabbeinu Chananel, who (as cited by the Rishonim[4]) implies that is permissible to select only during the meal; the Rema, on the other hand, permits selecting even before the meal, as long as it is close to the meal.[5]

The Peri Megadim (Eshel Avraham 319:6) writes that even though Rabbeinu Chananel's language implies that one is already sitting at the table, the Rema believes that logically there is no reason to make such a distinction (and he understands that even Rabbeinu Yerucham permits this). Similarly, one may derive this from the words of other Rishonim.[6]

The Bei'ur Halakha (319:1, s.v. Ve-khol Ma She-borer) cites this argument while evaluating whether one can be lenient in accordance with the Rema's view. After noting that the Tosefet Yerushalayim tries to disprove the Rema's view based on the Yerushalmi, he writes: "In any case, one need not be stringent in this, as the words of the Rema have a source in our Talmud."

Apparently the Tosefet Yerushalayim argues with Rabbeinu Chananel and the Rema, following the view of the Mordekhai that selecting is permitted only for immediate consumption. According to him, there is a proof to this in the Yerushalmi.[7] The Bei'ur Halakha, on the other hand, writes that one need not act stringently, since the Babylonian

Talmud supports the Rema's view, as the Vilna Gaon notes (cited ibid.): "from the fact that it says, 'even on that very day,' etc., it indicates that le-altar does not literally mean immediately." The Gemara says that the opposite of "le-altar" is "that very day," implying that the immediacy of "le-altar" is relative; if "le-altar" were to be understood literally as immediate, the Gemara would have to teach us this novelty, that not only is selection for later that day forbidden, but even selection shortly before one eats! Similarly, since almost all of the Rishonim echo the words of Rabbeinu Chananel, there is no place for the stringency of the Tosefet Yerushalayim, which only accords the view of the Mordekhai. Thus, le-altar is not measured halakhically by the akhila (eating) but by the se'uda (meal).

The Acharonim (Mishna Berura, 4; Ben Ish Chai, Year 2, Beshallach 1; Halikhot Olam, Vol. IV, p. 75; Yalkut Yosef, 319, n. 12-14) accept the ruling of the Rema, and so we rule halakhically, that one may select before the meal, as long as it is "close to the meal."[8] However, we still need to define this term.

Samukh La-se'uda

What exactly is considered "close to the meal" (samukh la-se'uda)? The Rashba in his Responsa (Vol. IV, Ch. 75) writes:

If one selects in the normal way and sets it aside for an hour later, one is liable; however, eating it immediately is permissible.

It appears that one may derive from this that bereira for a shorter time is absolutely permissible.[9] However, it may be that the Rashba is not referring to an hour on the clock, but rather, colloquially, to a short amount of time. Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Borer, 13) raises the question: "Is less than an hour of sixty minutes considered selection to eat le-altar?" He responds,

This hour is not an hour per se, but rather the amount of time that it takes this homemaker to arrange the food for the meal, and before that point, even a short time, [bereira] is forbidden.

The Magen Avraham (321:15) also implies that one must perform bereira right before the meal.[10] However, the Ben Ish Chai (Year 2, Beshallach 1) understands[11] that the intent is for an actual hour, and he writes:

Everything that is selection for an hour later is considered “borer for a later point” and is forbidden. However, it is permissible to select for a meal that starts within the hour; even though one may continue eating at the meal for many hours, it is still allowed.

The view of the Eglei Tal (Borer, 5) lies between these two extremes:

It is not called le-altar unless it is within an hour of one's bereira. If one sits down near mealtime, even though one may tarry eating other things for longer than an hour before one eats the selected items, it is permitted to select for the needs of that entire meal, since one sits down at the meal very close to one's bereira. If one will not sit down very close [to the bereira], one must not select beyond what one will eat within an hour of the bereira.

According to this, one may be lenient in the measure of the hour if the akhila itself will take place within an hour, and it is also permissible to select samukh la-se'uda, even if during the meal a great deal of time will pass until one consumes this food. However,

one should not rely on both leniencies simultaneously by selecting close to an hour before the meal. Rav Ovadya Yosef (Halikhot Olam, Vol. IV, pp. 75-77; Yalkut Yosef, 319, n. 12, 14) concurs with this ruling.

Lengthy Preparations for the Meal

The Gemara (115a) seems to allow one to crack nuts in the late afternoon[12] of Yom Kippur for after the fast, since the Sages did not issue any decree against this. The Mishna Berura (Sha'ar Ha-tziyyun 611:9) questions this reading, since peeling fruit for non-immediate use is a Torah prohibition, not a rabbinical ban. The Mishna Berura explains this based on the words of the Me'iri:

They only allow it in the afternoon, because this is the time that people commonly prepare their food on a weekday, and all will realize that one is doing it for the needs of the night; but before this time, it is forbidden, because it appears that one is preparing for the needs of the day.

The Me'iri is not discussing the prohibition of borer, but according to the Mishna Berura, his words may help us understand why there is no problem of bereira in this case:

With this he explains also the implication of the allowance to crack nuts since one is not eating le-altar — although we have established above, in a gloss [of the Rema] in 321:19, that this is forbidden! Indeed, according to what we have said above, it is no problem: since it is close to the evening, it as if one prepares to eat le-altar.

Note that, according to this, it is clear that if one does not have many vegetables or nuts, and one does not need to spend a lot of time preparing them, certainly one should delay the matter until close to dark, so that it will be close to the evening meal.

According to him, since one shells the nuts close to the evening, at the time when people would prepare supper on a weekday, this is considered "peeling" for immediate use. According to this, one may start selecting a bit before the meal, if the bereira is part of the process of preparing the meal and this process lasts until near the meal. However, the Mishna Berura limits himself and says that only if one has a great quantity is one allowed to start this bereira a long time before the meal; however, if it is a small amount of okhel, one must start the selection a bit later, so that one will complete the act samukh la-se'uda.

In any case, one may select close to the meal even if the meal will take many hours, and it is permissible to start the bereira at a much earlier point, depending on the quantity one needs to select. To put it simply, one must complete the preparations very close to the meal, as the Magen Avraham indicates. On the other hand, the Ben Ish Chai rules leniently: one may complete these preparations close to an hour before the meal. One may adopt the definition of Rav Moshe Feinstein for "samukh la-se'uda" — namely, "the amount of time that it takes this homemaker to arrange the food for the meal." In other words, one must complete the preparations for the meal according to the normal timetable. If so, it appears that one may start the preparations so that they will be completed a few minutes before the meal, as every person is accustomed to include a certain "safety margin."

If there are number of types of preparation for the meal, it is preferable to leave the bereira for the end: removing peels that are not normally eaten (or even peels that are normally eaten, if possible), sorting silverware, etc. However, if there is a reason to do the bereira before other preparations, there is no problem in this, even if the bereira will not be close to the meal, since it is logical that all preparations for the meal fall under the

same rubric. The Ayil Meshullash (Ch. 8, n. 22) writes something similar in the name of Rav Karelitz, and one may enlist the view of the Ben Ish Chai, who permits any act of selection within an hour of the meal.

Bereira and Essential Acts

We have seen above that one may select samukh la-se'uda even if one will not eat the given item for a while. On the other hand, if one wants to eat something outside of the context of a meal, one must select and eat immediately (though there are those who allow this within one hour). What is the basis of the distinction?

It appears that the rule is that an act bereira must be near in time to the "use" of the okhel, but each time the definition of "use" changes. If one simply eats the food, akhila is the use, and then one needs to select shortly before the actual ingestion.

However, in the context of a meal, the fact is that the meal begins once all of the food is prepared; consequently, bereira le-altar in this case means completing the act of selection near the start of the meal.

According to this approach, if one must do a number of actions long before the meal so that the food will be ready for it, and in order to execute a given act one must first perform bereira, the bereira must merely be proximate to the given act — the relevant "use" or "purpose" in this case. Rav Neuwirth (Shemirat Shabbat Ke-hilkhatah, Ch. 3, n. 4) quotes Rav S.Z. Auerbach to this effect:
It may be that the onions need to remain in the soup for a long time in order for the food to taste good; if so, there is good reason to say that it is considered le-altar and permissible... The same applies if one is peeling produce in order to put in a salad and moving up its preparation makes it taste better.

Similarly, Rav Auerbach (ibid., 74) rules that one may select and remove a given food from the refrigerator in advance of the meal so that it will reach room temperature by mealtime. Since a great deal of time is required for the food to be properly prepared for the meal, such an act is considered part of the process of preparing the meal, and the only relevant question is whether bereira is done soon before this act.[13]

However, Rav Auerbach points out (Shemirat Shabbat Ke-hilkhatah, Tikkunim U-milllu'im, Ch. 3, n. 200) that this is limited to an act that people are accustomed to do in the hours before mealtime; however, an act which is normally done some days before the meal, though it may improve the taste of the food, is not considered part of the process of preparing the meal, and one may only do it right before the meal.

Similarly, it is clear that if one can do the act closer to the meal and wants to do it earlier merely for the sake of convenience (for example, one wants to prepare the meal earlier in order to go afterwards to the synagogue), one must not allow this bereira. The basic distinction is between the needs of the meal and the needs of the person; bereira can only be advanced when the impetus is objective and culinary in nature, not when it is subjective and human.

A practical application of this is that one would be allowed to remove the meat from the sauce in order to heat it on a hotplate, even though there are many hours before the meal, since placing the meat on the hotplate is necessary so that it will be hot at the time of the meal, and thus it is permissible to select the meat for the sake of the act of heating. However, if one does not need the meat to be heated for so long, and it merely makes one's life easier by freeing one to concentrate on other things, one may not select earlier.

Additional Points of Le-altar

For Others

Selecting for other people who will eat le-altar is permitted, as indicated by the anecdote of Rav Bivi cited in the Gemara (74a), and the Rema (319:1) rules accordingly.[14] The Ben Ish Chai (Year 2, Beshallach 3; Rav Pe'alim, Vol. I, Ch. 12) rules that one who is selecting for of others is allowed to select a quantity greater than what is needed in order to honor the guests:

If one selects a full platter in order to present it to the guests for their immediate enjoyment, and at the time of selection one knows clearly that the guests will not eat all of the food on the platter — or even one third of it! — one is selecting all of this solely in order to fill up the platter in the guests' honor. Indeed, it is an embarrassment to present a half-empty platter to them, so my conclusion is to permit this, because we regard the entire platter as necessary for that meal, and doing so is permitted.

The reason is that the honor of the guests is also an essential element of the se'uda, so that the person is actually selecting for the sake of the meal.

The Selected Food

The Bei'ur Halakha (319:1, s.v. Ha-borer) cites an argument concerning the rule of okhel which has been selected in a prohibited way on Shabbat:

See the Peri Megadim, who writes that if one does select, it may be forbidden [to use the selected item] for that Shabbat, because one is benefitting from a melakha on Shabbat... However, according to what the Vilna Gaon has written above 318:1, there is no need to be stringent with other melakhot [aside from cooking] after the fact, if one does so inadvertently.

According to the Peri Megadim (Eshel Avraham 319:1), okhel which was selected in a prohibited manner may not be eaten during that Shabbat, while the Bei'ur Halakha writes that one may rely on the view of the Vilna Gaon (318:1), who allows one to partake of the product of an inadvertent melakha.[15] Practically, there is another reason to be lenient here, because one could have done bereira in a permissible way, and if so this is not considered to be benefit from a melakha.[16]

If one selects for later (not le-altar) use, can one rectify the problem by eating the food immediately? The Ben Ish Chai (Rav Pe'alim, Vol. I, Ch. 12) rules that one may not correct the violation, since at the time that one does the bereira, it is considered a melakha. However, there are those who understand that this would alleviate the problem. It seems to be preferable to mix everything together again, thereby undoing the gain from the prohibited bereira. By doing so one may solve the problem, and certainly one does not lose anything — even according to the Ben Ish Chai (see Yalkut Yosef 319:11).

Is it a problem if after bereira and akhila, some of the food is left over? The Mishna Berura (5) rules that there is no problem:

And if one's intention is to leave something for after the meal or for another meal, one is liable to bring a sin-offering. However, if in the course of events something is left of one's bereira after the meal, this is of no consequence, since one has already performed the selection in a permissible manner.

In other words, since one had intended to select food for the meal, and the food has indeed been used at the meal (unlike a person who selects and decides not to eat[17]), there is no problem in this case. In light of this, it is clear that one who selects samukh la-se'uda need not be exact; one may prepare whatever amount one thinks may be needed for the meal. However, the Mishna Berura (based on the Tur) adds that if one intentionally prepares an excessive amount, one is liable (see Yalkut Yosef 319:1).

[1] According to Rabbeinu Chananel and the Arukh Ha-shulchan, one may ask: why is peeling fruit not forbidden as a violation of dash? We will deal with this in our shiurim on the melakha of dash.
[2] In fact, even the Chazon Ish, who generally opposes this view, may concede in this case, since the commingling exists only in the place where the peel touches the fruit, and when one removes the peel with a bit of the fruit, one takes the entire area of the mixture, just as the Chazon Ish rules leniently to allow removing a fly with a bit of liquid (see our previous shiur; see also Menuchat Ahava, Vol. II, 7:12). On the other hand, one may argue that this case should be treated more stringently than removing the fly with a bit of the liquid, so that even the Mishna Berura would concede in this case. This is because the normal way to prepare these fruits is to remove the peel with part of the flesh; thus, it may be that the flesh which comes off with the peel is insignificant relative to the peel, and it is considered as if one is removing only pesolet. This is the view of most halakhic authorities: one may not peel fruit for later use, even though generally a bit of the flesh comes off with peel. The Ketzot Ha-shulchan (Ch. 125, Baddei Ha-shulchan, 42) puts it this way: "The little bit of the apple's flesh which adheres to the peel is insignificant in relation to the peel since this is the common way — to remove the peel with a bit of the apple — and it is selecting pesolet from okhel."
[3] The Eglei Tal (Borer, 9) writes that the Ra'avan does not believe that it is permitted to select only for immediate use, as he cites (Ch. 351) the words of Rabbeinu Chananel that "le-altar" is as long as one is sitting at the table.
[4] See, for example, the Me'iri (74a, s.v. Zeh She-biarnu): "They explained in the Western Talmud [the Yerushalmi, this is Rabbeinu Chananel's source], that [bereira is permissible] as long as one is sitting at the table — not that they will eat immediately after the selection. Rather, as long as one is sitting and one's intent is to eat the food or feed it to the family before they leave the table, it is le-altar and permitted."
[5] The words of Tosafot imply that only use during the meal is considered le-altar. The Gemara (74a) tells that Rav Bivi poured out a basket of fruit and pesolet before Rabbi Ammi and Rabbi Assi, and Rav Dimi is unsure whether this was to avoid the prohibition of borer or simply to appear magnanimous. Tosafot (s.v. Ve-lo yadana) write that it cannot be that the question is why Rav Bivi did not select the fruits in front of them, since according to all opinions one may pick okhel from pesolet for immediate use; the question is why he did not select the fruit ahead of time. From the words of the Tosafot it appears that le-altar is only when one selects in the midst of the meal, but when one selects before the meal, this is not necessarily le-altar (and this may be the Gemara's question).
[6] The Sefer Ha-ittim (p. 337) seems to support the Rema, because he writes that if one selects and sets aside at the table with intent to sit down and eat, this is called le-altar. This implies that one selects before one sits down. The second possibility cited above by the Mordekhai ("to select the amount of the meal, to start and to finish immediately after one's selection") also seems to be in line with the Rema.
[7] It appears that he understands the Yerushalmi's "guests eating first things first" as meaning that the guests eat immediately everything which the host selects and sets before them, not, as Rabbeinu Chananel understands it, that the guests start with the appetizer and eventually reach the selected okhel.
[8] Rav Yosef Karo (Beit Yosef 319, s.v. Ve-ha'mordekhai) understands the view of the Rambam (8:13) as distinguishing between one who is picking okhel from pesolet and one who is selecting between two types of okhel when it comes to le-altar. In the former case, the Rambam writes that one who selects "even for that same day" is liable, and

the Beit Yosef understands that he agrees with the view of the Mordekhai, that one should select close to eating, or in any case the view of Rabbeinu Chananel, that one should select close to the meal. Concerning bereira of two types of food, the Rambam writes that if one selects for a later point, "for example, one selects in the morning to eat in the afternoon, one is liable," and the Beit Yosef derives from this that only in such a case would one be liable — not to set aside for three or four hours later. Similarly, in the Shulchan Arukh (319:2-3), Rav Yosef Karo copies the language of the Rambam, and according to this, one who perform bereira on two types of food (or silverware, etc.) is allowed to select for a point some hours in the future. The Magen Avraham (ibid., 6) writes that according to Rav Yosef Karo, it is forbidden to perform bereira on two types of food from one meal to the next, but for a shorter time, it is permitted. However, the Bei'ur Halakha (s.v. She-birer Shacharit) cites a dispute among the Acharonim about this issue, and he concludes that "one should be careful about this, as it touches on a Torah prohibition" (Sephardic halakhic authorities also rule stringently. Nevertheless, the lenient view can be taken into account when there are other mitigating factors.)

[9] When it comes to le-altar, the Gemara distinguishes between liability and permissibility, without raising the in-between option of "forbidden, but not liable" (a rabbinical prohibition).

[10] The Magen Avraham writes that this is the implication of the words of the Rishonim commenting on Shabbat 114b-115a. The Gemara there permits trimming vegetables on the afternoon of Yom Kippur. The Rishonim (Rashba, Ran, et al.) question this: is this not a violation of borer? This implies that even though one is preparing the vegetable for the next meal, this is not le-altar, and it appears that one must do this immediately before the meal. However, this proof is not compelling. The Gemara permits trimming vegetables in the afternoon, even though the meal will only be at night, once the fast ends — some hours later. This would certainly be a violation of borer. Still, it is certainly feasible to maintain that one cannot select for the next meal if that meal will not occur for a long time, but one may do so a bit closer to the meal, even if it is not immediately before.

[11] The Az Nidberu (Vol. VI, 72:5) writes that "samukh la-se'uda" would be within one half-hour, as this is the definition of "samukh" in other circumstances, e.g., eating before the Seder (see Rashbam, Pesachim 99b, s.v. Arvei Pesachim).

[12] The literal term is "from the mincha and above," which is roughly equivalent to the last fifth of the daytime (measured from sunrise to sunset).

[13] Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhatah, Ch. 3, n. 185) goes even further, ruling that one is allowed to select an item to give to another who is about to leave but has no intention of using the object immediately. In this case, he maintain, the borrowing is the use, and the act of borrowing is done le-altar. (However, there are those who dispute this; see Ayil Meshullash 8:27, in the name of Rav Elyashiv and Rav Karelitz.)

[14] However, Mahari Abulafia (cited in the Responsa of the Maharitatz, Ch. 23) writes that Rav Dimi's doubt in the Gemara flows from the question of whether it is permitted to select for others when one is not partaking oneself; accordingly, he forbids one to do so. However, one may be lenient practically given that one is allowed to select even for the sake of one's animal (Tosefta 17:6, Rashba's Responsa, Vol. IV, Ch. 75; Rema 321:12). The words of Tosafot (74a, s.v. Ve-lo yadana) also imply that this is not the basis of Rav Dimi's question; rather, he is troubled by selecting okhel from pesolet for non-immediate use. The Mishna Berura (319:6) rules that it is permissible to select for others even if one does not intend to partake.

[15] From the words of the Bei'ur Halakha it appears that one may rely on the Vilna Gaon, particularly when it comes to melakhot other than cooking. He seems to be referring to melakhot which involve no fundamental change in the item itself and are reversible, in which case we may enlist the view of the Ritva (Eiruvin 41b), that the prohibition of benefitting from the product of a melakha on Shabbat does not apply to these melakhot.

[16] However, it may be that this is not a sufficient reason on its own, for there may be a punishment, even if one does not derive tangible benefit from the violation. A fuller treatment of this topic is beyond the purview of this chapter. The Maharsham (Da'at Torah, beginning Ch. 319) rules leniently on this matter. Indeed, Rav Ovadya Yosef (Yalkut Yosef 319:15) rules leniently even in cases of deliberate violation.

[17] According to the Peri Megadim (Mishbetzot Zahav 319:2), one who selects for immediate use and then decides not to eat the food is not liable, since at the time of the bereira one had a legitimate aim. However, one may not do so in the first place; one must eat the okhel right away. The Mishna Berura (Sha'ar Ha-tziyyun, 5) cites this view and questions it in light of a ruling of Rav Yosef Karo concerning trapping on Shabbat (316:6): one may continue to sit by the door of a house even if a wild animal has entered it (and is now "trapped" by one's blocking the door) since at the time of one's sitting down, there was no problem. The Mishna Berura argues that this applies in our case as well: since at the time of bereira one does nothing wrong, one cannot say that failing to eat the food would create a retroactive violation. Nevertheless, this comparison is questionable, since sitting by the doorway of an empty house is not an action of trapping in any way, while here one is definitely doing an act of bereira, just with the intention to eat immediately, and it may be that this case is more serious (unless we say that bereira le-altar is not considered an act of bereira at all). The Shevitat Shabbat (Borer, Be'er Rechovot, 9) writes this and adds that the words of the Beit Yosef (319, s.v. Ve-shiur Le-altar) imply that if one does not eat, one is liable. He writes, "Similarly, if one selects before the meal, one must eat the food at the first meal, and if one leaves it until one gets up from the meal, it is not called le-altar, and one is liable," but there are those who explain his words otherwise. (See Yalkut Yosef 319:12.) To summarize, according to the Mishna Berura, one may change one's mind after selecting le-altar; according to the Peri Megadim, there is a rabbinic ban; and some understand that the Beit Yosef sees it as a Torah prohibition.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 05: BORER (Part 5)

X) Tokh ke-dei Akhila

Must one eat the fish with its bones?

We have seen in our previous shiurim on the melakha of borer (selecting) that there are three necessary elements to allow selection on Shabbat: one must a) remove okhel (food) from pesolet (refuse) b) by hand c) le-altar (for immediate use). In our previous shiur, we dealt with the definition of "le-altar" and the proximity of the berira (selection) to the meal or the eating (akhila) itself. Now we must ask: is there anything more immediate than le-altar? What may one do tokh ke-dei akhila (in the midst of eating)?

According to the Ramban (74a), the reason one is allowed to perform berira under the three abovementioned conditions is that these conditions transforms the act into derekh (the way of) akhila, as opposed to derekh berira. While discussing this (ibid., s.v. Ve-khi muttar), the Ramban mentions an additional point:

This is not derekh berira; instead, it is comparable to the case of one who is eating, discovers pesolet while in the midst of the akhila and removes this pesolet from the okhel, which is permitted.

It is explicit in the words of the Ramban that while eating, one may remove pesolet from okhel, and this is what the Ran writes in his Chiddushim ibid. What level of eating are we talking about? The Bei'ur Halakha (319:4, s.v. Ha-borer pesolet) understands that the Ramban and the Ran refer to someone who finds pesolet in a piece which one is about to eat, but before one ingests it:

This question is worth discussing: does the title of borer pertain only when one initially selects and then makes ready to eat? What about removing the pesolet and tossing it aside at the moment of akhila itself, as one holds [the food] in one's hand and wants to eat? Perhaps borer does not apply, even though this is before the actual ingestion, because this is the way of food; or perhaps it makes no difference, and therefore one must only toss [the pesolet] after one eats, or toss part of the food along with [the pesolet].
Now, I have found that the Birkei Yosef writes in his book that the Mahari Abulafia and the Maharit Tzahalon argue about this, that the former rules leniently and the latter forbids it...
Moreover, I have delved into the books, and I have found that the Rishonim argue about this idea, for the Ramban in his Chiddushim clearly supports the abovementioned view of the Mahari Abulafia. In his Likkutim on Shabbat, the Ramban writes, and I quote... "This is not derekh berira; instead, it is comparable to the case of one who is eating, discovers pesolet while in the midst of the akhila and removes this pesolet from the okhel, which is permitted" — this means that the Ramban cites this as a self-evident case which cannot be regarded as derekh berira... Furthermore, the Ritva has cited in his Chiddushim[1] these words of the Ramban.

The Bei'ur Halakha has some doubts from a logical point of view, and he also cites a dispute of the Acharonim about this: according to the Mahari Abulafia (cited in the Responsa of the Maharitatz, Ch. 203), it is permitted to select even pesolet from okhel tokh ke-dei akhila, but according to the Maharitatz (ibid.), it is forbidden. However, in the end, the Bei'ur Halakha writes that according to the Ramban and the Ran one may rule leniently and remove the pesolet from the piece one is about to eat.[2]

Thus, while generally it is forbidden to select pesolet from okhel even for immediate use, according to the Ramban and the Ran, there is a limit to this prohibition. As we have discussed at length in our previous shiur, le-altar only applies at the stage of samukh la-se'uda (close to the meal), and at this point it is allowed to select okhel from pesolet only; however, while one is is in the actual process of eating there is no prohibition of borer at all, even if one is picking pesolet from okhel before putting the food in one's mouth.

However, the Chazon Ish (54:1) understands the view of the Ramban and the Ran in a different way:

It appears that their meaning is that one removes from one's mouth the refuse in the piece... It is inconceivable to explain that the piece is in one's hand prior to being placed in one's mouth, as we have already established that this will be permissible only le-altar... It is logical that even berira of a piece that one is ingesting is forbidden, for we have found no distinction between a large piece and a small piece, or between le-altar of the moment and le-altar of the hour. The Mishna Berura there explains that the view of the Ramban is that berira is permissible even when it comes to the pesolet in the piece in one's hand. It does not appear so, as this would allow one to pick out even a large quantity of pesolet, and where would we get such an idea?

According to him, the Ramban and the Ran allow one to remove the pesolet from a piece in one's mouth only; however, before the food enters one's mouth, it is forbidden to remove pesolet from okhel.[3] It has been related that the Beit Ha-levi would eat the fish along with the bones (Shevitat Shabbat, Borer, Be'er Rechovot, end Ch. 20) to avoid removing pesolet under any circumstances. The Ramban and the Ran, according to the Chazon Ish, believe that there is no need for this, and once the fish is in one's mouth, one may remove the bones. However, according to the Chazon Ish, one may not remove the bones before that, even though it is done tokh ke-dei akhila.

One may explain the view of the Ramban and the Ran in an alternative way. According to the Mishna Berura, we are talking about a person who removes bones from the fish (found, for example, on the plate) and eats the fish right away. According to the Chazon Ish, we are talking about a piece which is already in one's mouth. It may be that we are talking about an intermediate situation: the person has begun to eat the fish, and the fish in one's hand or on the fork (but not on the plate), and tokh ke-dei akhila one finds a bone, and once one stumbles across a bone, one removes it (by hand). It may be that a situation such as this is considered "tokh ke-dei akhila" and we may allow even removing pesolet (see Shevitat Shabbat, Borer, Be'er Rechovot, Ch. 20).

The Root of the Argument

It appears that this dispute depends on the way we understand the allowance to select okhel manually and le-altar. We saw that we may understand this in one of two ways: a) this is not derekh berira; or b) berira in this way actually becomes derekh akhila, and derekh akhila was never forbidden.

If we understand that the allowance is because this is not derekh berira, it may be that selecting pesolet from okhel is always considered standard derekh berira (even according to this understanding, one may say that in the process of akhila itself, derekh berira would not apply at all). However, if we understand that the allowance is because this is derekh akhila, it turns out that removing pesolet tokh ke-dei akhila is itself considered derekh akhila. Perhaps this is even an a fortiori argument, because there is no more absolute derekh akhila than berira tokh ke-dei akhila itself. Indeed, from the word of the Ramban it is clear that the allowance is based on derekh akhila, and he is also the one who permits (according to the understanding of the Bei'ur Halakha) to remove the pesolet tokh ke-dei akhila.[4]

Halakhic Ruling

The Bei'ur Halakha (319:4, s.v. Mi-tokh Okhel) justifies the common custom to remove bones from fish on Shabbat. According to his words, those who find bones in fish tokh ke-dei akhila certainly have on whom to rely; according to the Ramban and the Ran, it is permissible to remove the bones, one may even justify removing the before the akhila:

People are not particularly cautious or precise when it comes to this. There is no need to say that we cannot object to those who do so at the time of akhila itself, for they have on whom to rely, as we said above; but what about [those who do so] before the akhila, such as men and women who prepare food to bring to the table and are not cautious at all, removing the bones from the flesh beforehand? Presumably, they are faltering in a prohibition which makes one liable [to bring] a sin-offering! Nevertheless, I have sought some justification for them...[5]

As we mentioned, the Chazon Ish (54:1) disputes the words of the Bei'ur Halakha, and he holds that one may not remove pesolet from okhel tokh ke-dei akhila.[6] Correspondingly, the Chazon Ish (ibid., 3-4) rejects the Mishna Berura's justifications for those who remove the bones before eating. According to him, one may put the poultry or fish into one's mouth and then remove the bones, or one may grab the bone and pull off the flesh (a solution more practicable with poultry than with fish).

In his Responsa (Vol. I, Ch. 83), the Shevet Ha-levi supports the Mishna Berura's argument. The Ben Ish Chai (Year 2, Beshallach 10) also permits removing the bones and eating the meat right away; since this is how everyone eats it all the time, this is not derekh berira but derekh akhila.

Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 3:11-13) brings the two opinions, and he writes that essentially, one should be stringent; however there is support for those who are lenient if they remove the bones tokh ke-dei akhila and not before that point.

This rule has practical ramifications for many foods: watermelon, fish, poultry, etc. — does one need to put the food in one's mouth, eat the okhel and remove the pesolet, or perhaps may one may eat it normally and remove the pesolet immediately before putting the piece in one's mouth?
In fact, those who are lenient and remove the bones tokh ke-dei akhila have on whom to rely. Those who are stringent in this matter, according to the view of the Chazon Ish, are allowed to avoid the problem in a number of ways: to put the fish in one's mouth and then take out the bones, to hold the fish and eat its flesh, or to take out the bone and taste a bit of the flesh on it. In order to avoid issues of borer, many Jews have the custom of eating gefilte fish, thereby fulfilling all views.

XI) Defining "By Hand"

Why is one allowed to eat with a spoon or a fork? May one use them to remove vegetables from the soup?

As we have established that to allow berira, it must be accomplished manually, how are we allowed to eat with a fork or a spoon?

The Gemara (74a) distinguishes between different utensils for purpose of borer:

Rav Yosef said: "'One may select and eat' by hand, 'select and set aside' by hand, but one may not select with a reed-basket or a tray; and if one does, one is not liable, but it is forbidden. By sieve and sifter, 'one may not select, and if one selects, one is liable [to bring] a sin-offering.'"

According to the Gemara, berira with a sieve or a sifter is forbidden by the Torah, manual berira is absolutely permissible (when one picks out okhel from pesolet for immediate akhila, as we explained above). Berira with a reed-basket or a tray has an intermediate status of "not liable, but forbidden," namely a rabbinical prohibition.[7] Rashi (s.v. Patur Aval Asur) explains the reasoning of this law:

"One is not liable, but it is forbidden" — it is not absolutely permitted, because it is similar to berira; but one is not liable to bring a sin-offering because it is like using the back of one's hand, for the essential berira is with a sieve or a sifter. However, [berira] by hand is not similar to borer at all.

In other words, the reed-basket and the tray are utensils not normally used for berira, and therefore berira with them is not forbidden by the Torah, however, there is in any case a rabbinical ban, since it is similar to standard berira. This is opposed to manual berira, which is not similar to berira at all, and therefore it is permitted.

In light of this, it appears logical that there is no problem with eating with a spoon or fork, because this bears no resemblance to using a reed-basket or a tray, which is "similar to berira." On the contrary, this is not derekh berira, but derekh akhila.

The same idea emerges from the words of the Bei'ur Halakha. The Rema (321:12) rules, following a responsum of the Rashba, that it is permissible to cut food into small pieces in order to eat them immediately, and there is no prohibition of tochen (grinding), just as it is permitted to select in order to eat immediately. The Bei'ur Halakha (ibid., s.v. Midei) asks: "Is it not true that they permitted borer only by hand, not with a utensil?" The Bei'ur Halakha explains that cutting with a knife is derekh akhila, and therefore it is permissible:

The words of all of the halakhic authorities imply that in our issue, one is even permitted to cut with a knife. The reason, writes the Peri Megadim, is that just as with borer, derekh akhila is when one selects by hand in order to eat immediately, so too here, it is derekh akhila even when one cuts with a knife to eat right away, because derekh akhila is with a knife — though not when one cuts with a utensil which is designed for tochen.

In a similar way, we should permit selecting the okhel from the pesolet with a spoon or fork, since this is derekh akhila. Moreover, the Chayei Adam (82:7) permits removing cream from the top of milk, and he explains in his Nishmat Adam (2) that it is permissible with a spoon, as this is not a utensil designed for berira.

We find in the words of the Mishna Berura an apparent contradiction in the definition of a utensil which is permissible for berira. In one place (319:62), he indicates that it is forbidden to select with a spoon:

Skimming the cream floating on top of the milk is included in borer, so one must be careful when one is approaching the level of the milk to leave a bit [of the cream], and then it is permitted... Alternatively, one may take a bit of the milk along with the cream [but to take only the cream and none of the milk is forbidden — even if one intends to eat it immediately — since one is removing it with the spoon].

The Mishna Berura forbids removing with a spoon the cream of the milk even if one wants to eat it immediately, as this is berira with a utensil. (In the Sha'ar Ha-tziyun, 58, he explains that this is derekh berira, and he notes that in this he argues with the Chayei Adam.) However, in other place the Mishna Berura writes (ibid., 66):

Know that in the Tosefta it states: "But one may churn a stew and eat it" — this means [that one may] separate a thick food from the sauce with a spoon, because this is derekh akhila.

Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. I, Ch. 124) writes that sometimes it is permissible to select with a spoon or a fork, and sometimes it is prohibited:

Let us consider selecting on Shabbat okhel from pesolet with a fork and a spoon to eat le-altar: is it considered to be borer with a utensil, which is forbidden? It is obvious, in my humble opinion, that berira with a fork or a spoon may provide an advantage over using one's hand. If it turns out that they assist in the act of berira itself, this should be considered borer with a utensil, and one must forbid it just like using a reed-basket and a tray. However, if they add nothing to the berira compared to using one's hand, but they simply help one avoid dirty hands; or if the food is far away and one cannot reach it by hand; or if the food is liquid and cannot be taken by hand, etc. — [using silverware] is only akin to borer by hand, which is allowed le-altar when one takes okhel from pesolet.

According to him, if the item assists in the berira itself, it is considered a utensil and it is forbidden to select using it; however, if a utensil does not assist in the berira itself, but one uses it only in order so that one's hands will not be dirtied or because the food is hot, etc. — there is no prohibition of berira.[8]

In light of this distinction, we may resolve the contradiction in the Mishna Berura's words. On the one hand, it is permissible to remove a thick food with a spoon, because in this case one could separate the thick food by hand. On the other hand, one may not remove the cream with a spoon, because the cream is virtually impossible to remove manually. The Minchat Yitzchak (Vol. I, Ch. 76) explains this in a similar vein.[9] In addition, the Chazon Ish (54:5) writes that it is permissible to remove the meat from the bone with a fork, and there is no hint of borer in this.

According to this, it is permissible to take vegetables out of soup with a spoon or a fork, but one may not remove with them tiny pieces which one could not remove by hand, so that one needs a spoon or a fork in order to "fish" for them.

We should note that the prohibitions that come to bear here are rabbinical in nature, since a spoon and fork are not more specialized for berira than a reed-basket or tray, because they are not designed for this function (the same appears in the Iggerot Moshe). Naturally, it is easier to be lenient with questions in a rabbinical context.[10]

[1] This is a reference to the Chiddushim of the Ran, erroneously attributed to the Ritva for many years.
[2] The Bei'ur Halakha adds that the Rosh implies that berira tokh ke-dei akhila is forbidden. In his Responsa (22:9), the Rosh writes that it is permitted to filter worm-infested water by putting a cloth over one's mouth, since one is only preventing the pesolet from entering his mouth, and this is not akin to the melakha. This implies that, on an essential level, berira also applies tokh ke-dei akhila, but preventing pesolet from entering one's mouth is not an act of berira. Nevertheless, the abovementioned Mahari Abulafia explains simply that the Rosh is talking about a cloth — i.e., a utensil — which would still be forbidden to use even tokh ke-dei akhila; however, berira by hand tokh ke-dei akhila is certainly permissible, even if one is selecting pesolet from okhel. (The Bei'ur Halakha himself quotes the conclusion of the Mahari Abulafia, but he does not cite his view concerning the Rosh, and it appears that the Bei'ur Halakha did not see the Mahari's words in the original, but only as cited by the Birkei Yosef). However, from the words of the Ritva (74a, s.v. Amruha Kameih) it appears that one is not allowed to select tokh ke-dei akhila: "Now, the common practice of crushing walnuts or almonds and the like and picking the okhel from them before the meal in order to eat during the meal is forbidden, and one should not do so except during the actual eating, selecting okhel from pesolet." That is to say, even when one selects "during the actual eating," one must select okhel from the pesolet.
[3] The Ramban (142b, s.v. Man Tana) writes that that one who finds a stone in a pile of fruit may take it out like pesolet amidst okhel. This implies that he agrees with the view of the Bei'ur Halakha. However, Rav Isser Zalman Meltzer writes in his glosses there that the Ramban is speaking of Yom Tov, for on Shabbat one is not allowed to remove pesolet from okhel. However, it appears that the Ramban is talking about Shabbat, and if so, this supports the interpretation of the Bei'ur Halakha.
[4] In our previous shiur, we saw how the Bei'ur Halakha explains in similar way how one is allowed to peel fruit on Shabbat: since it is impossible to eat the fruit in another way, this becomes derekh akhila.
[5] When it comes to removing the bones before eating, the Bei'ur Halakha assembles a number of reasons to justify the practice of those who remove the bones beforehand:
1. Sometimes the bones are themselves edible (ipso facto, the bones and flesh would be one type, so that no prohibition of borer applies at all).
2. According to the Yam shel Shelomo (Beitza 1:42), when the pesolet adheres to the okhel naturally, it is considered one type with the okhel, and its separation is not considered berira, but only simple food preparation (tikkun okhel). Pesolet is considered pesolet only if it is independent and distinct, but as long as it is naturally attached to the okhel and does not stand on its own, it is not considered pesolet, and its removal is not considered removing pesolet, but exposing the okhel. However, the Magen Avraham (510:4) challenges this view, as it is forbidden to peel fruits in order to eat them a later point, even though the peel naturally adheres to the fruit; nevertheless, he permits peeling fruit for immediate akhila, and it would also be permissible to remove the bones for immediate akhila.
3. One may enlist the Rishonim who hold that in every case it is permitted to pick pesolet from okhel for immediate akhila.
The Shevitat Shabbat (Borer, Be'er Rechovot, Ch. 20) adds that one may also enlist the view of Rabbeinu Chananel that the prohibition of borer applies only when the okhel and pesolet are commingled, not when they are merely attached.
[6] According to his words, removing the bones is not comparable to peeling fruits, which he allows (see previous note), because there is no other way to get to the okhel; here, one may find other ways to eat the fish or meat.
[7] Concerning berira with a reed-basket or a tray, one must ask: a) is one exempt even when the berira is not for immediate use? This is a discussion beyond the scope of this shiur. b) Is one exempt even when selects pesolet from okhel? The Mishna Berura rules that one is liable (Bei'ur Halakha 510:2, s.v. Im Rotzeh; Mishna Berura 319:9-10).

However, one may argue that one who uses a reed-basket or tray would be exempt in this case as well (Or Le-Tziyon, Vol. I, 27:4).

[8] It seems that one could challenge this based on the view of the Magen Avraham and the Mishna Berura, who allow peeling apples le-altar: one cannot peel apples without a knife, and if so, it should be forbidden to peel with a knife because it is berira with a utensil. Rav Feinstein addresses this, and he argues that the knife does not help the actual berira; it is simply that by hand it is impossible to cut, and therefore one uses a knife. However, this still seems a bit difficult, because the essential character of berira when it comes to apples is the cutting; this issue requires further study.

[9] Rav Neuwirth (Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 126) answers similarly, but below (ibid., n. 130) he cites another answer in the name of Rav S.Z. Auerbach (see there).

[10] As we have said, the Chayei Adam allows removing cream with a spoon because this is not derekh berira, but the Mishna Berura disputes this. It may be that the argument depends on the extent of the reed-basket ban. We have seen in the words of Rashi that using a reed-basket or a tray "is similar to berira" but selection by hand "is not similar to borer at all." According to the Chayei Adam, only the use of a reed-basket or a tray is forbidden, because this is "similar to berira," so that we worry that one may come to use even a sieve or sifter; but every other utensil which is not "similar" is not forbidden. By their very nature, a sieve and a sifter are utensils which do not assist in eating, but the essential aim of silverware is to assist in eating, so that using it is considered derekh akhila, even though it may assist berira as well. (It may be that because of this the Gemara forbids using a reed-basket or a tray, and it is does not forbid using other utensils). According to the Mishna Berura, any utensil which assists in berira is included in the reed-basket ban. The halakhic consensus is that even though this is a question of a rabbinical ban, we follow the stringent view of the Mishna Berura; this conclusion arises from the words of Rav Feinstein and other Acharonim. However, there definitely is an argument for those who are lenient to allow one to use silverware to select okhel from pesolet tokh ke-dei akhila, even if the silverware assists in the berira itself (unless we answer the problem with Rav Feinstein's solution), because this is a rabbinical doubt, and one may maintain that this is also derekh akhila and that forks and spoons are considered an extension of one's arm, not utensils.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 06: BORER (Part 6)

XII) Filtering Liquids:
The Melakha of Merakked

Is it permissible to use a faucet with an attached filter or a water-purification system on Shabbat? Is one allowed to use a tea strainer or a teabag? Is it permissible to separate vegetables from soup by holding the spoon next to the side of the pot? Is one allowed to use a lettuce dryer?

Defining the Melakha of Merakked

As we have seen in previous shiurim, the melakha of merakked[1] (sifting) is classically done with a sieve: while the fine flour falls through the sieve's holes, the bran remains in it. Merakked is thus similar to borer in the aim of removing pesolet (refuse) from okhel (food), but it is accomplished with a keli, a utensil, vessel or tool. The Gemara (138a) explains in the name of Rabbi Zeira that one who strains liquids violates this melakha. According to Rabbi Zeira, any process which separates pesolet from okhel so that the pesolet remains in its place and the okhel falls out (e.g., straining liquid) is forbidden because of the melakha of merakked.[2]

However, although it is forbidden to filter liquid with a strainer on Shabbat, there are other ways to bring about this result. The mishna (139b) allows one to strain wine through a cloth: "Water may be poured over lees [dregs of grapes] in order to dilute them, and wine may be strained through cloths or an Egyptian basket." A sudar is a cloth which is not designed for filtering but which can be utilized for this purpose, and the same is true of an Egyptian basket, made of palm twigs. The Amora Ze'iri, in the Gemara (ibid.), even allows for the use of a strainer, which is designed specially for filtering: "A person may put clear wine or water into a strainer on Shabbat without concern, but not cloudy [liquids]." Under what conditions may one strain wine with a strainer, and when is it permissible to strain only with a cloth? The Ran (57b, Rif) explains:
[Using] the cloths and the Egyptian baskets... and everything of this ilk is an alteration, since one is not straining with a strainer. The cloudy wine discussed here is still drinkable; if it were clear wine, even using a strainer would be permissible, as is stated in the Gemara; and if it is cloudy wine which is undrinkable, even [using] cloths or an Egyptian basket would be forbidden, because it would be borer regardless.

According to this, clear water or wine may be filtered even with a strainer (as Ze'iri states); somewhat cloudy water or wine (as long as it is still drinkable) may be filtered only with a cloth and the like (as the mishna states); while extremely cloudy water or wine (which is undrinkable) may not be filtered at all on Shabbat. The Ran goes on to explain that if a majority of people would drink the water or the wine as is, the liquid is considered clear and it is permissible to filter it with a strainer, even if there are some debris inside. However, if a majority of people would not drink the water without filtering, one may not

use a utensil designed for straining; one may only use a vessel or utensil which is not designed for filtering, such as a sudar.

If so, according to the Ran, there are three levels. The Rashba (ibid.) takes a similar approach to the Ran. On the other hand, the Rambam (8:14) understands the Gemara differently:

One who filters wine or oil or water or other liquids with the appropriate strainer is liable... but one may filter wine with no lees or clear water using cloths or an Egyptian basket, so that [the wine or water] will become extremely clear.

According to him, one is allowed to filter only clear wine or water, and only with a cloth. One is forbidden to filter liquids which are not clear, and there is no allowance in any case to filter to use a normal strainer.

If so, the Rambam allows filtering clear liquids with a cloth, while according to the Rashba and the Ran one is allowed to filter clear liquids even with a strainer, while with a cloth one is allowed to filter even somewhat cloudy liquids.

The Tur (Ch. 319) agrees with the Rashba when it comes to clear water, permitting even the use of a strainer, but he agrees with the Rambam when it comes to somewhat cloudy water, and he forbids using even a cloth.

The Shulchan Arukh (319:10) cites both opinions regarding the filtering of clear water (without addressing somewhat cloudy water):

Clear wine or water may be filtered through a strainer... And according to the Rambam, filtering with a strainer is forbidden — even for clear water or wine. Even [using] cloths is permitted only with clear liquids, but not with cloudy ones.

If so, the Shulchan Arukh starts by ruling according to the view of the Rashba and the Ran — that one is allowed to filter clear water even with a strainer — without attribution, and after that he notes that the Rambam forbids it. From his language, it appears that he rules in accordance with the first view. The Mishna Berura (41) indeed writes that "the law is in accordance with the first view." (However, some Yemenites are stringent, in accordance with the view of the Rambam.)

Nevertheless, the Mishna Berura adds (42) that one may be lenient when it comes to filtering clear water with a strainer, but "not with cloudy [liquids] — that is, even a bit cloudy," explaining that "in this matter, it is appropriate to be concerned about the words of the Rambam."

In the Sha'ar Ha-tziyun (34), he explains that in this case other halakhic authorities (such as the Tur) agree with the Rambam, and therefore one should be concerned about their view.[3]

Permitting the Filtering of Clear Liquids

Why is one allowed to filter clear liquids (in a strainer, according to the Rashba and the Ran; in a cloth, according to the Rambam)?

The simple explanation is that since the majority of people drink the water even without the filtration, the filtering does not constitute a tikkun (a significant repair or improvement). Rashi indicates the same. The Gemara below says that fresh wine, which has just come

out of the press, may be filtered even with a strainer, and Rashi (s.v. Bein Ha-gittot) writes:

All wines are cloudy, and they are drunk with the lees; therefore there is no tikkun here, because it is drinkable regardless.

In other words, since people will drink the wine without filtering, the filtering is not a tikkun.

It should be noted that this explanation is reasonable for those who maintain that the basis of the prohibition of borer is tikkun okhel, improving the food. As was explained in earlier shiurim, others maintain that the prohibition of borer stems from the fact that one removes pesolet or separates pesolet and okhel, and if so, why is one allowed to filter clear water? At the end of the day, even in this water, some pesolet is removed (otherwise, one would not filter at all!)

It appears that one could justify filtering clear liquids in another way: since most people drink the water in this way, the water and the debris are considered to be one type, and therefore there is no bereira in this (as we have seen in earlier shiurim, there is no prohibition in the bereira of one type).

Two Types of Food

However, the Tehilla Le-David (319:15) questions this:

This law requires some explication. Apparently, even if we say that [the debris] is not considered pesolet because [the liquid] can be drunk regardless, nevertheless, it should make no difference! Since one does not want to drink the debris, it should be like two types of food: whatever one does not want to consume now is called pesolet.

In other words, if we allow a mixture to be separated into its constituent elements whenever the mixture is edible in its commingled state, why is there a prohibition to separate two types of food? Generally, the two types of food can be eaten when they are commingled; nevertheless, we have determined that if, at the moment, one does not desire one of the types, it is considered pesolet, and there is no permission to separate it! Why do we not say this concerning one who does not want debris in the water?

An answer to this question can be found in the Shevitat Ha-Shabbat (Merakked, Be'er Rechovot, 26), who indicates that this allowance is applicable also to two types of food: "Straining the sauce from latkes or vegetables appears to be permissible, since they are eaten like this." According to him, it is permissible to separate vegetables from broth even with a colander, since many people eat the broth and the vegetables together; consequently, the mixture of vegetable soup is considered like clear water, as it can be consumed without any filtering. According to this, just as it is permissible to separate a mixture which is edible in its commingled state, one is allowed to separate a mixture of two types of food!

Yet, Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 156) disputes this claim:

This approach is only applicable to debris... which has no significance on its own. Therefore, since most people drink wine with the lees, they are insignificant in relation to the wine and are considered of one type, so that it is not considered borer... This is not the case with two significant types, because neither nullifies the other; if, in such a case, one wants to eat only one type, the mere fact that it is possible to eat them together does

not permit one to apply this principle. Therefore, one is liable for borer of two types... and this resolves the question of the Tehilla Le-David.

This means that the debris, because it is insignificant, is considered to be of the same type as the water, so that borer cannot apply when one removes the debris. In, for example, vegetable soup, the broth and the vegetables are two types, each of which is significant in its own right; although people customarily eat them together, their separation is a violation of borer.[4]

Summary

In conclusion, two types of food that are commingled (each type being significant in its own right, e.g., vegetable soup) may not be separated with a strainer, even if most people generally eat them together; but clear liquids, which most people would drink without filtering, may be filtered even with strainer. Cloudy liquids which most people would not drink (though they are potable) may not be filtered with a strainer; it is preferable not to filter them at all, even though there are those who are lenient and allow one to filter with a keli not designed for this purpose.

A Filter on a Faucet

A sink with a built-in filter on the faucet seems to bring us once again to the dispute among the Rishonim, as generally we are dealing with potable tap water which is being put through a filter: the Rambam would forbid it, while the Rashba and the Ran (whom we follow) would permit it. This is what the Chazon Ish (53, s.v. Ve-im) indicates:

If a filter hangs from the faucet in order to remove the sand from the water, it is permissible to use it if most people would not avoid drinking unfiltered water... But if there is a great amount of sand, so that the majority would not drink [the water] unfiltered, it is forbidden.

If so, a filter on a faucet or a water-purification system would pose a problem on Shabbat only if the local water is avoided by most people.

However, the Minchat Yitzchak (Vol. VII, Ch. 23) writes that even in such a case, one may be lenient:

However, it appears that in our case, because the filter is permanently attached to the faucet, and there is no way for the water to come out of the faucet except via the filter... We should say that since all of the water passes this way — even the water used for washing hands and dishes comes through this filter — and one is not doing any new act to prepare the water for drinking, this should be no less than the law of bereira by hand, which is allowed when one takes okhel from pesolet in order to eat immediately... Know that if it were not so, life would be impossible, because, even setting aside the filter on this faucet, the municipal water goes through many filters before it enters the pipes in one's house, and without that filtering it would not be possible to drink the water. Consequently, even if one would not put a filter on this faucet, it would be forbidden to take water from any faucet on Shabbat. One is compelled to explain as we have above!

However, it is not clear that this reasoning would apply to a water-purification system, especially one dedicated to drinking water. Therefore, one should use such a system only when most people would drink this water without purification (and on the condition that there is no electrical circuit completed each time one uses it). If this water is not potable without purification, one may not use such a system on Shabbat.[5]

The Fastidious

The Bei'ur Halakha (319:10, s.v. Ho'il) writes:

If one is fastidious and unable to drink [water] filled with debris and the like, even though most people are not bothered by it, we do not disregard this person's view, and for this person it is forbidden because it is borer.

According to this, a fastidious person (one who normally insists on filtering water) may not filter water on Shabbat, and this is the view of Rav Elyashiv (cited in Orechot Shabbat, Ch. 3, n. 37). However, Rav Karelitz (cited ibid., n. 38) maintains that the Bei'ur Halakha's stringency applies only to noticeable pesolet; one may be lenient when it comes to our tap water, which does not contain noticeable debris.

In conclusion, one may use a filter attached to one's faucet. One may also use a water-purification system (as long as there is no electrical circuit completed in order to get the water out), on the condition that most people drink the local water without filtering. If this is not the case, one should filter the water before Shabbat. One who seeks to be lenient despite this should first let some water go to waste or use it for washing, and only subsequently fill the cup with drinking water.

A Tea Strainer

In some teapots, there is a built-in strainer over the spout. This prevents the tea leaves, which are on the bottom, from being poured off with the liquid when one pours out the last drops. May one use such a keli on Shabbat?

Let us consider the ruling of the Shulchan Arukh (319:14) concerning a container of wine with lees at the bottom:

One may pour gently from one keli into another, as long as, when the flow comes to an end and a few drops come out of the pesolet [the lees], one does not remove them [the lees]. If one does not do so, these drops prove that it is borer.

The Shulchan Arukh allows this because the wine on top is not commingled with the lees, so that one does not violate bereira simply by pouring off. Similarly, as long as there is a lot of tea in the teapot, there is no problem presented by the strainer when pouring from the teapot, since the tea on top is not mixed in with the leaves and does not require filtering.

However, when there is only a bit of tea left, it would ostensibly be forbidden to pour it out; as the Mechabber writes, once the flow comes to an end and only a bit of wine is left commingled with the lees, one may not pour the last drops of wine into another keli, since one is selecting the wine from the lees. Granted, the Mishna Berura there (55) writes that if one drinks the wine immediately, it is permissible to pour out the last drops, but this applies only if one is pouring from one utensil to another without a strainer, so that the bereira of okhel from pesolet is by hand and for immediate use; but when there is a strainer, this is bereira with a keli, which is forbidden even for immediate use, as the Mishna Berura himself writes:

He is talking about one who wants to drink later, for if one wants to drink immediately, have we not established that selecting okhel from pesolet, when done without a keli, is permissible, if one's intention is to consume it immediately? Here, even though one pours from one keli to another, nevertheless, the essence of the bereira is done by hand. If one puts wood chips in the spout of the keli into which one is pouring so that [the liquid]

will be well-filtered, one must stop when the last drops start coming out — even if the intent is for immediate use — because this is borer by way of a keli.

It would stand to reason that using a teapot with a strainer is equivalent to putting wood chips in the spout of the vessel, and the matter is considered bereira with a keli and is forbidden (if there is only a bit of tea remaining in the vessel).

However, the Chazon Ish (53, s.v. Min Ha-amur) is inclined to permit using a tea strainer, even if there is only a bit of tea left:

However, it is possible that since there is no use of an actual sifter, even though there is inside, by the spout of the keli, a network which keeps the leaves out, one may say nevertheless that it is nothing more than bereira by hand, which is permissible when one takes okhel from pesolet in order to consume immediately.

Why does the Chazon Ish claim that using a strainer is considered bereira by hand? We may explain this according to the view cited in Shemirat Shabbat Ke-hilkhatah, Ch. 3, n. 125, that a keli designed for bereira for immediate use is not included in the prohibition of selecting with a keli:

I heard from Rav S.Z. Auerbach... that it is possible that a keli designed specifically to select for immediate use is not included in the prohibition to select with a keli... as it is permitted to select by hand because of the reason that this is derekh akhila; it is also permitted for this reason to use a knife even to peel pesolet from okhel... It is the same in our case: we may say that one is allowed to select with a keli which is always employed for immediate use.

According to this view, one may say that since the teapot is always used for drinking right away, using it is considered bereira by hand, as opposed to a normal strainer or even a spoon, which is at times used to select for later use, so that utilizing it is considered bereira with a keli.

However, there are Acharonim who are stringent in this matter, and they forbid using a teapot with a built-in strainer when there is only a bit of tea left. This is what the Chayei Adam (16:9) rules, as does the Kaf Ha-chayim (319:113):

It appears to me that on Shabbat it is forbidden to pour the tea out through the abovementioned perforated spout, because this is filtering the tea via the abovementioned spout, and since the spout is made for this purpose, so that the tea will be filtered, this is borer by way of a keli, which is forbidden even to drink it immediately...

This Shevet Ha-levi (Vol. I, Ch. 84),the Berit Olam (Borer, 40-44) and others also rule to this effect. The Az Nidberu (Vol. I, Ch. 23) suggests that the Chazon Ish's intent is not actually to permit using such a teapot but merely raises the possibility for consideration. However, the Orechot Rabbeinu (Vol. I, p. 150) cites that both the Chazon Ish and the Kehillot Ya'akov would use such a receptacle without checking how much tea was left.

The Shevitat Ha-Shabbat (Borer, Be'er Rechovot, Ch. 49) justifies the common custom to use a teapot with a built-in strainer in another way: "because it is drunk in this way [separating the leaves from the tea], even if the leaves are still there, by filtering through one's teeth." According to him, since one can drink the tea with the leaves in, filtering the tea through one's teeth, the tea is considered a liquid which may be drunk without being filtered first, so that it is like clear water and there is no prohibition to filer it. The Ketzot Ha-shulchan (Ch. 125, Baddei Ha-shulchan, 21) writes something similar, and so does Rav Ovadya Yosef (Yechaveh Da'at, Vol. II, Ch. 51): since most people will not be

perturbed by some leaves landing in their teacup, as they always have the option of filtering through their teeth, the liquid is considered clear, and it is permissible to strain it even with a strainer.

In conclusion, it is permissible to use a teapot with a built-in strainer; however, one should be careful not to use it when there is a small quantity of tea left. Nevertheless, one who is lenient in this has valid opinions on which to rely, and this seems to have been the practice of the Chazon Ish and other halakhic luminaries.

Teabags

Nowadays, most people use teabags. At first glance, this should be forbidden, because there are grains in the bag, which functions as a filter to keep the grains in while letting the liquid pass. To understand the common custom to permit teabags on Shabbat, we must consider another ruling of the Shulchan Arukh (319:9):

Even if a strainer has been hanging from Erev Shabbat, one may not put lees in it; but if one put lees in it on Erev Shabbat, it is permissible to pour water on them so that the clear [liquid] will flow again.

The Shulchan Arukh allows pouring clear water over the lees in a strainer. The water will absorb a bit of the wine which is absorbed in the lees, even through the water is commingled with the lees, and after that it is filtered by the strainer. The Mishna Berura explains:

The reason that there is no issue of borer with pouring water is that the water is clear, and there is nothing in it which needs to be selected.

In other words, the prohibition of borer applies only to things which were originally commingled; if the water starts out clear, becomes mixed with lees and then is filtered out through a strainer, there is no issue of borer.

According to this, there is no problem using a teabag on Shabbat, since at the start, the water is clear, and only afterward is it mixed with the grains of tea in the bag, from which it emerges as filtered tea. This explanation appears in the Minchat Yitzchak (Vol. IV, 99:2).

Removing the Teabag from the Cup

One concern in using a teabag is that when one removes the teabag from the cup, some drops fall from the bag into the cup. This is a problem of borer (the bereira of the drops via the bag, which is considered a strainer). In Shemirat Shabbat Ke-hilkhatah (Ch. 3, n. 171), Rav Neuwirth cites Rav S.Z. Auerbach's view:

It is appropriate to be stringent not to remove the teabag and hold it in one's hand so that the water will flow out, for even though the water was originally clear... holding the bag so that the water will flow out of it is more serious, since the water and the leaves are already commingled. Removing the bag and holding it in one's hand is like filtering cloudy water, not clear water... However, if one only removes the bag from the water and has no interest in the liquid coming out, it may be that even if it is inevitable that some drops will drip from the bag, nevertheless, since they come out easily — even if one only lifts and holds it, the filtering is effected on its own — it may be that it is not considered borer.

According to him, one should be stringent and not leave the bag above the cup so that the tea will drip in. In this case, we do not say that the water starts out and ends up clear because the removal of the bag from the water is considered a new act. Therefore we ignore the original state of the water in the bag and focus on its current state — commingled with the tea grains in the bag — so that it is considered like cloudy water which is being filtered by the teabag as it drips into the cup. The Minchat Yitzchak rules similarly (ibid).

However, Rav Auerbach adds that if the person does not intend to select, but the drops come out on their own while the teabag is being removed, there is no prohibition of borer in this. Therefore, one must not hold the teabag above the cup so that it will drip into the cup; rather one must transfer the teabag elsewhere immediately. It is preferable to remove the teabag with a spoon, so that one can avoid the prohibition of borer altogether (Shemirat Shabbat Ke-hilkhata 3:58).

In conclusion, it is permitted [6] to use a teabag on Shabbat. It is permissible to remove the teabag from the cup as well, but one should transfer it quickly away from the cup and not allow it to drip back into the cup.

A Slotted Spoon

At first glance, one should forbid the use of a slotted spoon on Shabbat, because this is filtering by way of a keli. Should we compare this keli to a sieve and a sifter, which are forbidden by Torah law, or to a reed-basket and a tray, which are banned rabbinically?

On the one hand, this is a keli designed for straining, and if so, it should be no better than a sieve. On the other hand, it is used for taking okhel out, and it may be that the straining is merely a convenient side-effect. In other words, this keli is used for straining as well, but it may be that it has more significant purposes. The Or Le-Tziyon (Vol. II, 31:10) writes that this keli has the status of a reed-basket, and its use is prohibited only on the rabbinic level. This view is compelling, especially in light of the fact that it may be that such a spoon is like a "long hand", since it is used to present food, and if so it is not like bereira with a keli at all.

That being said, it is still forbidden to use a slotted spoon, at least rabbinically. However, the Or Le-Tziyon (ibid.) writes that there is room for leniency in this matter:

Question: Is it permissible to take out okhel from the soup pot with a ladle which has holes in it by which the liquid is filtered out, or is there a prohibition of borer?
Answer: One should allow removing okhel with this ladle even though the soup is filtered out by way of the holes, if one's intent is to eat it immediately. In any case, one who is stringent in this matter is praiseworthy.

In a note there, he explains:

Even though apparently, on a rabbinic level, there is reason to forbid it when one does so with a keli, because it is like a reed-basket or a tray... nevertheless, one may enlist the view of those who rule that bereira is inapplicable to liquids. Even according to those who believe that bereira is applicable to liquids, there is no Torah prohibition, because it is like a reed-basked and a tray, which are rabbinically banned, since they are not utensils designed for bereira, and the same applies to a ladle, which is not specifically designed for bereira. Therefore one may permit this.

According to him, one may use a slotted spoon in order to remove a solid from a liquid, since one may enlist the view of those who hold that bereira is inapplicable to liquids, so

that the solid inside a liquid is not considered to be commingled with it (Ba'er Heitev 319:2, in the name of the Maharitatz).

The Shevitat Ha-Shabbat (Merakked, Be'er Rechovot, 26) allows using a slotted spoon in order to separate vegetables from soup and the like, in light of the view we mentioned above, that since many people eat the broth and the vegetables together, the mixture is considered to be a clear liquid, which may be filtered.

However, we have seen that Rav Auerbach disputes this view of the Shevitat Ha-Shabbat. Moreover, it is difficult to rely solely on the view that bereira is inapplicable to liquids; therefore it is appropriate to be stringent and to refrain from using a slotted spoon on Shabbat.

Practically, using a slotted spoon also raises another problem: even if we say that the spoon is not defined as a keli, or in any case it is not a keli which is forbidden by the Torah, one must wonder whether removing with it vegetables from soup and the like is considered to be selecting okhel from pesolet. On the one hand, if one is interested in vegetables, at the time one puts the spoon into the soup and then raises it, one is removing okhel from pesolet. On the other hand, if one waits for the soup to drip through the holes in the spoon, this means that right now one is separating pesolet from okhel.[7]

Putting a Spoon against the Wall of the Pot

A similar problem may arise when one puts a regular spoon next to the side of the bowl or the pot, e.g., to remove vegetables or noodles without broth. In Shemirat Shabbat Ke-hilkhatah (Ch. 3, n. 159, according to Tikkunim U-milllu'im ibid.), Rav Neuwirth writes:

I heard from Rav S.Z. Auerbach... that he had a question: perhaps one should be careful and not put the noodles in the spoon next to the walls of the bowl in order to let the broth in the spoon flow out, since the spoon together with the bowl is considered a keli. One should not do this even if one's intent is to eat both of them.

Even if we do not say that this is considered bereira with a keli, one may still forbid it because it is bereira of pesolet from okhel. However, if in the top part of the spoon there is clear liquid, one may pour it into the pot, since this broth is not commingled with the vegetables or with the noodles.[8]

Therefore, one who wants to remove certain vegetables from the soup, particularly when one wants to remove them without liquid, should use a regular spoon or a fork; furthermore, one should take first the okhel from the pesolet. Similarly, one may put a regular spoon or ladle into the top part of the liquid and remove the broth alone (because this is selecting okhel from pesolet, and here one is not using the wall of the keli).

In conclusion, it is preferable not to use a slotted spoon, because this may involve a prohibition of borer (even though one who uses it has support; in any case, one should not suspend it over the pot so that it will drip). Similarly, it is appropriate not to place the ladle (even if it has no perforations) against the walls of the pot in order to remove the liquids, since this is removing pesolet from okhel (and perhaps even bereira with a keli). Sometimes, it is convenient to remove vegetable specifically with a regular spoon or fork, because in this way one is able to remove particular vegetables without liquid. Similarly, one may put a ladle into the top part of the liquid so that only broth will enter.

A Saltshaker with Rice

Some people put grains of rice into the saltshaker in order to absorb the moisture in the salt. Is it permissible to use such a saltshaker on Shabbat?

In this case it would seem that there should be a prohibition of borer, as the shaker is like a strainer, since the salt comes out and the rice stays in — which is berera by way of a keli. While the main objective of the saltshaker is to sprinkle the salt rather than filter it; nevertheless, we have already seen that there is a rabbinic ban on using a keli which assists in bereira, even if it is not designed for bereira. Rav Moshe Feinstein is quoted (in Rav Shimon Eider's Halachos of Shabbos, Merakked, n. 103) as saying that one should not use such a saltshaker on Shabbat, and this is cited in Shemirat Shabbat Ke-hilkhata in the name of Rav S.Z. Auerbach:

One may put grains of rice (before Shabbat, to avoid a prohibition of muktze) in an open saltshaker in order to absorb the moisture in the salt; in a well-covered saltshaker, one should not take salt out through its cover, even if there is a lot of salt left mixed in with the rice.

However, there are many reasons to be lenient and allow one to use such a saltshaker:

1. Generally, a saltshaker contains a lot of salt and a tiny bit of rice, and one does not need the perforations in the cover to take out only salt, so that the keli is not assisting in bereira. Even when there is just a bit of salt in the saltshaker, one may be lenient and say that since one could readily open the saltshaker and remove just the salt, the keli does not assist in bereira in a significant way.
2. One may rely on the view of Rav Auerbach that a keli which is always used for bereira for immediate consumption is not considered a keli. In Shemirat Shabbat Ke-hilkhata (Ch. 3, n. 125; Tikkunim U-milllu'im, ibid.), Rav Neuwirth writes — contradicting what we noted above —

I heard in the name of Rav S.Z. Auerbach that it is possible that a keli which is designed for selection for immediate use is not included in the prohibition to select with a keli... According to this, one should permit [using] a saltshaker with rice.

3. The person has no intent of bereira. Even though the separation is an inevitable result, there are those who are lenient when it comes to an inevitable, unintentional result (pesik reisha). Even those who are generally stringent may concede here, as there are other reasons to be lenient.
4. This is derekh akhila (the way of eating) and not derekh bereira (the way of selection). (See Tefilla Le-Moshe, Ch. 38.)

The Az Nidberu (Vol. IV, Ch. 23) raises many of these points:

Therefore, my view is to allow [the use of] a saltshaker. It is not like a reed-basket, which is rabbinically banned, because one's aim [with a reed-basket] is to perform bereira; but when one has no such intent, and it is not an act of bereira, we have not found that the Rabbis should forbid this... One may add that since this is customarily done during the actual time of akhila, and this is its derekh akhila, it is as if it is impossible to do otherwise... It appears that there is another reason that borer is not applicable here: this is not classified as a mixture, since the rice mixed in is there in order to maintain the salt; therefore, it is not called borer of one type from another type or okhel from pesolet.

Other halakhic authorities agree as well (Rav Elyashiv and Rav Karelitz, as cited by the Ayil Meshullash, Ch. 7, n. 110; Tefilla Le-Moshe, Ch. 38; et al.) that one is allowed to use a saltshaker with rice on Shabbat, and this is the practical halakha.

Lettuce Dryer

May one use a device that uses centrifugal force to dehydrate lettuce (in which one turns a crank, spinning the lettuce leaves so that the water flies off them)? Apparently, such a device should not be allowed on Shabbat, because it seems akin to a strainer; beyond this, there is bereira of pesolet from okhel (casting the undesired water droplets off of the lettuce leaves).

However, practically, there is reason to allow this. As we have seen, one may even use a strainer to filter clear liquids. The reason is that most people drink the water without filtering, and thus the filtering is not a true tikkun of the water; alternatively, the water and debris are considered to be of the same type. Similarly, there is no problem to eat the lettuce when it is wet. People dehydrate the lettuce in order to allow it to last a long time without becoming moldy, or they find the lettuce tastier in this way; nevertheless, most people would be willing to eat the lettuce without dehydrating it. Therefore, drying lettuce is not a significant tikkun. Moreover, the water is insignificant in relation to the lettuce, so that they are considered to be of the same type; therefore, drying the lettuce does not constitute a violation of borer.[9] The Mishna Berura (320:24) rules similarly in a comparable case, talking about someone who wants to squeeze cooked or pickled vegetables in order to eat them without liquid:
One may squeeze out the liquid which floats on top of them or is absorbed in them in order to prepare them to be eaten alone, as one does not need their liquid, just as it is customary to squeeze lettuce after it has been soaked in water. One is not in violation of mefarek [a subcategory of threshing], even if one squeezes the liquid into a bowl and does not let it immediately go to waste; in any case, since one is not interested in the liquid, it is not included in the melakha.

The Mishna Berura writes that one may squeeze the water out of the lettuce without violating mefarek, since one does not want the water. However, why is there no prohibition of borer? One is taking out pesolet from okhel! It appears that because the water does not bother one who wants to eat the lettuce, even if it is wet, there is no problem of borer. According to this, one may permit dehydrating the lettuce even with a device designed for this purpose, just as it is permissible to strain clear liquids with the use of a mishmeret. Thus straining of this type is permitted, a ruling which has been confirmed by Rav Asher Weiss.

[1] Merakked literally means "causing to dance", as one shakes the flour such that it "dances" in the sieve.
[2] Although Rabba (ibid.) argues with Rabbi Zeira and says that one who strains liquids is in violation of borer, Rashi (s.v. De-notel) explains that Rabba's intent is to say that one violates borer as well: one who strains or filters liquids would be liable on two counts according to Rabba, borer and merakked. Tosafot, on the other hand (73b, s.v. Mishum) indicate that according to Rabba one violates borer only, not merakked, and this is cited by the Bei'ur Halakha (319:9, s.v. Meshammeret) as the view of the Rambam (8:11). The Bei'ur Halakha explains that, according to them, the melakha of merakked is applicable only to one who performs an action on okhel and pesolet in order to separate them, just as one shakes the sieve filled with okhel and pesolet in order to separate them. In filtering liquids, the separation is done on its own (by gravity alone), and therefore one does not violates merakked but rather borer (because it is a general melakha which applies to any separation between okhel and pesolet).

[3] The Gemara states that when one uses a cloth to filter water, one must not make a hollow (gumma). The Rambam accordingly explains (21:17) that since there is a total prohibition to filter with a strainer, one who uses a cloth must do it in a distinctive way, so that one will not come to filter with a strainer. However, according to the Rashba and the Ran, putting clear water in a strainer is completely permissible; as such, why is it forbidden to make a hollow with a cloth? Rashi (s.v. She-lo Ya'aseh Gumma) provides two reasons: a) this is a weekday practice (uvdin de-chol); b) one may come to squeeze the liquid out. The former applies only when filtering a liquid which is not clear; if the liquid is clear, even using a strainer is allowed, so all the more so it should be allowed to use a cloth, even with a hollow. Indeed, the Mishna Berura rules in accordance with this latter leniency (319:45).

[4] Based on this principle, Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhatah, Tikkunim U-milllu'im, Ch. 3, n. 156) permits filtering fruit juices in order to remove the pulp mixed in them, as they are essentially one type and are normally drunk together.

[5] There may be cause to be lenient even in this case, if one first lets the water flow and then puts the cup in; in this way, one demonstrates that the filtering is not for the purposes of bereira per se. (See Chazon Ish and Minchat Yitzchak ibid.) However, this is questionable, because if the water is cloudy and one benefits from the filtering, how does it help to pour out some water? Does this say anything about the filter, which is used only for purifying water? This requires further study.

[6] This is in terms of issues of borer. In terms of issues of cooking, there are two methods: some prepare tea essence before Shabbat, while others put a teabag in a tertiary keli.

[7] This raises a question: how do we know what is being selected? In his Responsa, the Or Le-Tziyon takes a lenient view and writes that when one holds the keli with the okhel, and the pesolet separates on its own, this is considered bereira of okhel from pesolet, since we consider whatever the person is holding to be the selected matter. This is what arises from the ruling of the Ba'al Ha-tanya (Piskei Ha-siddur, Hilkheta Rabbeta Le-shabbeta), that one who discovers a fly in a cup may tip the cup in order to pour out the liquid until the fly falls; since the person is holding the cup with the liquid and not the fly, it is considered to be separating okhel from pesolet, not the reverse.

However, the Magen Avraham (319:15) and the Mishna Berura (ibid., 55) seem to dispute this. They write that it is permissible to take a keli filled with a mixture of a bit of wine and lees and to pour the wine from it into another keli, as long as one drinks the wine right away. According to them, even though the person is holding the keli with the pesolet (the lees), the okhel (the wine) comes out on its own, and it is not considered selecting pesolet from okhel, but rather okhel from pesolet. This indicates that we do not follow what the person is holding, but rather what remains at the site of the mixture and what comes out of the mixture. According to this, holding a slotted spoon with vegetables above the soup so that the broth is strained and falls back into the pot is considered to be selection of pesolet from okhel, since the vegetables remain in their place and the broth comes out.

Nevertheless, one may be lenient for another reason: the essence of the liquid is separated at the moment that one lifts the slotted spoon (and this action is selecting okhel from pesolet); after that, when one waits for the extra liquid to drip out, in general the intent is not to perform bereira, but to avoid making a mess. As a result, this may not be considered bereira of pesolet from okhel (see Shemirat Shabbat Ke-hilkhatah 3:54).

[8] Similarly, when there are large chunks of vegetables and the like along with a bit of liquid in the spoon, the pieces are not considered to be commingled, so their separation is not bereira, as we have seen above.

[9] The lettuce dryer may be used only for the next meal and the like. In this case, there is no great significance to the water, and therefore one is allowed to do so even using a filter. If one dries the lettuce in order to preserve it, it may be that at the moment, the water does bother one a great deal, since because of it the lettuce may become moldy,

and therefore it is not comparable to clear water. Perhaps, in this case, there would be a problem to dry the lettuce.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 07: BORER (Part 7)

XIII) Selecting Refuse from Refuse

Is it permissible to use a sink strainer? Is one permitted to separate the scraps of shemitta produce from other scraps?

Sink Strainer

We have seen in our previous shiurim that bereira (selection) is forbidden on Shabbat if performed with a keli (vessel or utensil) or by removing pesolet (refuse) from okhel (food). Thus, it would seem clear that the use of a sink strainer should be forbidden, because the strainer is a keli and the pesolet is caught in it. Let us try to examine this case, an analysis that will lead us to an important principle regarding the melakha of borer (selecting).

The mishna (139b) allows one to put an egg in a mustard strainer (mesannenet), even though the strainer causes the yolk and the white to separate. The Gemara (140a) explains why this is permitted: "Yaakov Korcha taught: 'Because it is only done for coloring.'" In other words, since this bereira is done for the sake of coloring with the yolk, there is no prohibition here. The words of the Gemara are confusing: what difference does it make if one is interested in the yolk for coloring or for some other purpose? As long as one is interested in isolating the yolk for any use, this should be forbidden bereira!

Rashi explains:

"Because it is only done for coloring" — for appearance; the yolk is good for coloring, but not the white. Therefore, both of these are okhel, and there is no selection of pesolet from okhel.

According to him, since both the yolk and the albumen are edible, there is no bereira of pesolet from okhel, but rather of okhel from okhel. Rashi seems to follow his view that there is no prohibition of bereira for two types of food. However, his comments raise a question: if in any case there is no prohibition to select okhel from okhel, for what purpose does the Gemara raise the point that "it is only done for coloring"?

The Acharonim argue as to how to explain Rashi's words. The Bach (319, s.v. Mesannenet) explains that selecting okhel from pesolet is forbidden whether one selects for the sake of okhel or whether one selects for the sake of something else; selecting okhel from okhel is forbidden only if one selects for the sake of utilizing the okhel for its usual use. Therefore, it is permitted based on the combination of these two factors: a) the two types are both okhel; b) one is interested in the yolk not for eating, but for coloring (this is implied by the Tur as well).

The Peri Megadim (Mishbetzot Zahav, 319:2, 12; see Taz 319:12) explains that there is no prohibition to sort two types of foods when the purpose is for the convenience of eating them separately later. The prohibition of bereira for two types of food exists only when one type is for immediate use and the other is for later use, for then we define the unwanted type as pesolet, so that there is a separation of okhel from pesolet here. Thus, the Gemara stresses that it is the yolk, which is used for coloring the mustard, which passes through the mesannenet while the white remains; since both the yolk and the white will be eaten later, and both of them are considered okhel in equal measure, there is no prohibition to separate them.

The Magen Avraham (16) explains that the yolk and the white are considered to be of the same type, and therefore it is permissible to perform bereira on them. If so, one wonders, why does the Gemara state: "Because it is only done for coloring"? The Magen Avraham explains (as understood by the Machatzit Ha-shekel) that this sentence is not the reason that it is permissible; it merely comes to prove that the yolk and the white are both considered to be okhel. One might have thought that the yolk and the white of a raw egg are not fit to be eaten and are not considered okhel, and only the yolk, which is mixed with mustard, is considered okhel, since one eats it together with the mustard. According to this understanding, one may not strain an egg with the mustard, since the yolk will become okhel and the white will remain pesolet, and it turns out that one is removing okhel from pesolet. It is for this reason that the Gemara points out that the yolk and the white are both fit for consumption and are considered okhel in any case. The yolk is not put in the mustard to change it into food, but only for the purpose of coloring. Nevertheless, there is a problem with this explanation: if the main innovation of the mishna is that it is permissible to separate between the two parts of the egg, why does it talk specifically about a mustard strainer, and not say simply that one is allowed to strain an egg? Similarly, it is a bit difficult to say that the reason cited by the Gemara does not justify the practice, but merely makes a side-point.

Let us turn to the explanation of the Bei'ur Halakha (319:3, s.v. Hayu lefanav), who notes an important ramification:

In that case, neither of them will ever be consumed, because the white is mixed with the pesolet of the mustard and one does not want to eat it, and the yolk is extracted for coloring and not for eating. Thus, the classification of borer is not appropriate, because through one's bereira, one does not prepare it for eventual consumption. However, when one selects two types of food, each one from the other, in order to eat each on its own at a later point, both of them are improved through one's bereira, and it is clearly borer.

The Bei'ur Halakha seems to assume that the case is that the white which remains in the strainer is tossed away and not eaten, and even the yolk is not used for eating but for coloring. Assuming that neither component is designated as okhel, both are considered pesolet, thus there is no significant tikkun (improvement) in their separation, and no prohibition of borer is involved. This is not comparable to an act of borer, because the separation involved in borer is where the person is interested in both of the types for a later point, which renders their separation as a tikkun. Here, on the other hand, one is not interested in either component, and therefore there is no significant tikkun in their separation.

It is not clear how the Bei'ur Halakha explains the Gemara's phrase "only done for coloring," or why he believes that that which is separated for coloring is considered pesolet and not okhel, but in any case he articulates an important principle: borer of two types, both of which are destined to be pesolet, is permissible, since there is no great significance to this separation.

Similarly, the Chazon Ish (53, s.v. U-le'inyan barza) explains that it is permissible to select something which immediately goes to waste. He derives this from the rule of squeezing fruit: one is allowed to squeeze fruit if the juice goes to waste (even though some believe that there is a rabbinic prohibition in doing so; we will deal with this in our next series). The Chazon Ish seems to say that bereira is forbidden only if it is a tikkun for eating or another use, but when everything will go to waste (or the selected matter goes to waste and the other part is worthless), there is no prohibition of borer at all.
One should add that that this case is defined as bereira of one type because both elements are designated as pesolet. While the person has interest in separating the two types of pesolet, it is permitted by the same rationale as separating small and large pieces of one type; even though the person is interested in separating them, there is no prohibition, since they are considered one type, and the person's will is a mere preference.

In light of this, one can understand why there is no concern of borer when one spills things into a sink which has a strainer — since both types are headed to the garbage, there is no prohibition.

Indeed, modern halakhic authorities allow one to use a sink strainer. For example, the Tzitz Eliezer (Vol. VII, 12:8) writes:

I have seen some who are fastidious and remove the sink strainer before Shabbat, as they are concerned about borer, since the thick pesolet is separated from the rest and remains above the drain... However, in my humble opinion, there is no need to be overly cautious about this stringency, for it appears clear that in every case wherein two types are selected from each other but they both go to waste, the prohibition of bereira is not applicable at all. In order to remove any question here I will bring a proof to this from the words of the Mishna Berura... that when neither of them is designated for eating, there is no issue of borer. I have also seen that the Chazon Ish says the same... Furthermore, my beloved son... showed me that the Peri Megadim says... that separating pesolet from pesolet is not borer (see ibid.), and in our case it is also pesolet from pesolet.
Thus, it is clear that one should not be concerned at all about borer when one pours on Shabbat into the drain of the sink by way of the strainer, and one need not remove the strainer for Shabbat.

Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Borer, 4), Rav Elyashiv and Rav Zilber (cited by the Ayil Meshullash, Ch. 7, n. 111) confirm this, and Rav Neuwirth writes the same in Shemirat Shabbat Ke-hilkhata (12:16). This is the halakhic consensus.

To summarize, one may use a sink strainer, since there is no prohibition of borer in separating pesolet from pesolet. The reason is that there is no significant tikkun, and indeed the two elements may be considered to be of the same type.

Bereira of Shemitta Produce

Every seventh year, Jews in Israel confront the challenge of the shemitta (sabbatical) year, the produce of which is considered holy, requiring one to save the scraps and put them in a separate container (until they have decayed). May one separate shemitta scraps from the rest of the discarded food on Shabbat, or this is a violation of the prohibition of borer?

At first glance, even though this appears to be the removal of desired okhel from unwanted pesolet, there would still be a prohibition in this matter, because the bereira is

not being done for immediate use. However, in light of the principle which we saw above, it appears that one may allow this, since both types of remnants are not designated for akhila (eating), although we put them in different containers. Since neither will be eaten, this is the separation of pesolet from pesolet, which involves no prohibition of borer.

However, this issue is not clear-cut, since we are not talking about two types of trash, but trash on the one hand and shemitta produce on the other; if so, the two things are different in a very basic way from each other, and perhaps there is in their separation a violation of borer, even though both of them are not designated for akhila.

A Halakhic Distinction

However, this distinction between two types of scraps is not based on a practical difference between the two, but only a halakhic difference, and here arises the question: is the halakhic status of components found in a mixture significant with regard to the prohibition of borer?

This question depends on a dispute among the halakhic authorities. The Chayei Adam (16:8) wonders: may one filter water which has small bugs in it? In his Nishmat Adam (ibid. note 5), he explains his ambivalence:

One may say that even though one may not drink the water because of the bugs, nevertheless, if not for the recoil from the prohibition, one could drink it... However from the Responsa of the Rosh... it is clear that if [the filtering] is not at the time of drinking, it is forbidden. It is possible that one may differentiate between bugs such as flies and the like — which, even without the prohibition, are repulsive and defined as absolute pesolet — and the small bugs which grow in beer and drinks, that if not for the prohibition, one would drink them. Indeed, the proof is that the non-Jews drink it in this way, so [the small bugs] may be like debris in water...

In other words, we are talking about water which is appropriate to drink because non-Jews drink it as is, and even the Jews avoid it only because of the prohibition of consuming bugs. We saw in the previous shiur that the filtering of liquids is permissible when it comes to "clear water" and forbidden for "cloudy water," and so one must ask: is the water in our case considered to be clear water, since in a practical sense there is nothing preventing one from drinking it, or is it considered cloudy water, since halakhically it is forbidden to drink it as is? The Chayei Adam cites the view of the Kol Bo (Ch. 31, s.v. Ha-motzi), who allows one to filter gnats out of water, but the Chayei Adam leaves it as an open question.[1]

According to the Eglei Tal (Borer, 11; 20) the existence of a halakhic prohibition is not significant for the issue of borer. The Shulchan Arukh (500:6) rules in accordance with the view of the Ra'avya (Ch. 730) that on Yom Tov it is permitted to remove the forbidden fat and sciatic nerve from the meat, and there is no problem of borer. The Eglei Tal explains that since these parts are fit for consumption, and it is only the Divine command which keeps one from eating them, these parts are not considered pesolet, but rather they are considered to be of one type with the rest of the meat, and removing them does not violate the prohibition of borer.

The Minchat Chinukh (Mosakh Ha-shabbat, Borer 6) raises a similar question: if one has a number of fruit of a single type, some of which are halakhically prohibited, do those forbidden foods have the status of pesolet? Since there is no real, pragmatic difference, from the culinary or biological point of view, between the forbidden and the permitted fruit, is the halakhic distinction enough to turn them into two types?

The Minchat Chinukh notes that a similar question is discussed by the Ran (60a-b of the Rif pagination, s.v. Amar, Va-acherim). The Ran deals with the question of whether one may milk a goat, when the milk goes directly into a pot of food, on Shabbat. (There is a special permit for extracting liquid when it is defined as being "extracted directly into food," as this is not considered to be creating a new substance – liquid; see Shulchan Arukh 319:4.) This is allowed on Yom Tov because the milk and the goat are both considered okhel (since one may slaughter the goat for consumption on that day). However, on Shabbat there is a prohibition to slaughter the goat — so how can the goat be considered okhel? The Ran cites a dispute:

One may milk a goat when the milk goes directly into a pot of food... specifically on Yom Tov, but on Shabbat even when the milk goes directly into a pot of food the milking is forbidden. This is the reason: even though one may squeeze a cluster of grapes into a pot of food on Shabbat, that is because the cluster itself is edible [so you are squeezing directly from food into food], unlike a goat, which is not fit for use on Shabbat... so that it is selecting okhel from pesolet...

Others say that just as we permit one to squeeze a cluster of grapes into a pot of food on Shabbat, so too we permit one to milk a goat when the milk goes directly into a pot, even on Shabbat... Since the goat itself is fit for consumption and it is the prohibition which prevents one from making use of it, [the goat] is not called pesolet.

The dispute here turns on the question raised above: the goat itself is edible (and therefore apparently it is considered to be okhel), but practically it is impossible to eat it on Shabbat because of the prohibition of slaughtering. Does the prohibition alone cause the goat to be considered to be undesired?[2]

If so, it may be that the question of shemitta scraps also depends on this dispute: the two types of scraps, at the end of the day, reach the garbage, and they are not designated for akhila, and the main distinction between them is their halakhic status. Naturally, the question of separating them depends on the issue of whether the halakhic status defines the remains of the shemitta produce as another type.

However, there is good reason to say that even if the holiness of shemitta produce does not make it a separate type, one should still prohibited separating them from other remnants, since there is a practical difference between them. Granted, the two types of scraps will eventually reach the garbage and will not be eaten, but right now the person is careful not to relate to the remains of shemitta produce as pesolet, but rather to place them in a safe place, as opposed to other scraps that one tosses in the trash. As a result, one may say that this is not a separation of pesolet from pesolet, but a removal of okhel from pesolet. Of course, it is permitted to remove manually okhel from pesolet, but the problem is that the separation does not appear to be for immediate use, which we have seen is a prerequisite for allowing bereira on Shabbat.[3]

Practically, contemporary Acharonim argue about this issue: Rav Wosner (Kovetz Mi-beit Levi, 4, p. 24) and Rav Elyashiv (Ayil Meshullash, Ch. 9, n. 78) rule stringently, while Rav Karelitz (Kovetz Mi-beit Levi, 5, p. 163) inclines to leniency.

Practical Halakha: Removing Shemitta Scraps

It is preferable not to separate shemitta scraps on Shabbat because of the prohibition of borer. Practically, one must distinguish between a number of circumstances:

1. When the shemitta scraps are separate from other scraps, this is not considered a mixture, and there is no prohibition to remove the shemitta scraps and put them in their special container.
2. If the shemitta scraps are mixed with other food on the plate, e.g., when they are different elements of a salad and the like, there is no need to select the shemitta vegetables, and one may put the entire salad into the special container, since the scraps do not immediately ruin one another (see my book, "Shemita: From the Sources to the Practical Halacha," pp. 480-486 {pp. 355-358 in the Hebrew edition}).
3. When the scraps will cause each other to decay (for example, when the remains of the shemitta salad are mixed in with the remains of a meat dish which contains no shemitta produce), it is not proper to separate them because of the concern of the prohibition of borer. Similarly, it is also not proper to put everything into the special shemitta container, since doing so will damage the produce already inside (by adding a non-shemitta item which will quickly rot), and therefore in this case, one must take the scraps which are mixed on the plate, put all of them in a separate plastic bag[4] and put it on the side (or even in the trash can) until the scraps decay.[5] This act is not considered destruction of shemitta produce, since the produce is already mixed together, so that one does not change their status.

XIV) Washing Produce

Is it permissible to wash fruit and vegetables which are covered with dirt, dust or pesticides? Is one allowed to soak them in water for this purpose? Is one permitted to soak lettuce in soap and water in order to remove the bugs?

Karshinin are a type of grain (usually designated for animals) mixed with dust and dirt. The mishna (140a) says: "one must not cause karshinin to float, nor rub them," and Rashi explains

"One must not cause karshinin to float" — flood them with water in order to select them from their pesolet.
"Nor rub them" — by hand to remove the pesolet, because it is borer.

The Shulchan Arukh rules accordingly.[6]
The mishna seems to indicate that soaking karshinin in water is forbidden even if this is done right before one eats. What is the reason for this?

1. It may be that this is selecting pesolet from okhel.
2. It may be that bereira through water is considered bereira with a keli.

If we understand this as bereira with a keli, it may be that there will be cases when we allow soaking food in water, since at times we allow bereira with a keli (e.g., if one is able to do the selection manually, so that the utensil does not assist in the bereira, but this helps in keeping one's hands clean). In any case, the Acharonim seem to endorse the first option, that this is selecting pesolet from okhel (see Mishbetzot Zahav 319:5).

This means that one may not wash the dirt off fruits and vegetables, even if one wants to eat them immediately. This is also indicated by the Mishna Berura (ibid. 29): "The same applies to potatoes and the like, that one may not pour water on them in order to remove the dirt."

The Ayil Meshullash (15:3) summarizes the views as follows:

There are those who allow one to hold a fruit in one's hand and to wash it off under the faucet in order to eat it immediately, but the Acharonim indicate that even this is forbidden, because one is selecting pesolet from okhel. I have heard the same in the name of the Chazon Ish, that it is forbidden to wash them off under the faucet.

However, there seems to be good reason to allow washing fruit. In a previous shiur, we have seen that peeling fruit is permitted even if the peel is not edible, at least if one does it soon before eating, because there is no other way to access the fruit. In halakhic terminology, it is derekh akhila (the way of eating), not derekh bereira (the way of selection). According to this, it would seem that one should be allowed to remove the dirt from the fruit near the time of eating, because there is no other way to eat the fruit.

On the other hand, it may be that one should distinguish between these cases: the peel is an organic part of the fruit, and removing it is the way one eats the fruit, but dirt is external pesolet (Ayil Meshullash ibid. n. 12). However, this distinction is itself questionable: it is common for fruit to be dirty; as such, what is the difference between dirt which comes from the outside world and "dirt" which grows with the fruit? Either prevents one from accessing the fruit, and removing either of them is the ordinary way of eating the fruit!
There are a number of proofs that one is allowed to remove external dirt (mentioned by Rav S.Z. Auerbach, cited in Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 48). One proof comes from the Gemara (118a) itself:

Our Rabbis taught: "The plates on which one eats in the evening [Friday night] may be washed so one may eat on them in the morning; [those which are used] in the morning may be washed so one may eat on them at midday; [those used] at midday may be washed so one may eat on them from the mincha and onwards; but from the mincha and onwards they may no longer be washed; but regarding goblets, drink-ladles and flasks, one may go on washing [them] all day, because there is no fixed time for drinking."

The Gemara allows washing dishes on Shabbat for Shabbat; "from the mincha and onwards," which is roughly equivalent to the last fifth of the daytime (measured from sunrise to sunset), one may no longer wash dishes because this becomes an act of preparation for after Shabbat. The Shulchan Arukh (323:6) rules according to this Gemara. Note that neither the Gemara nor the Shulchan Arukh raise the issue of borer in this context. Apparently, one is allowed to remove external dirt.[7]

In addition, the Gemara (114b) permits kenivat yarak on the afternoon of Yom Kippur from the mincha and onwards. What is "kenivat yarak"? The Rishonim have a number of different explanations. While many translate it as "trimming vegetables", the Ramban (ibid.) explains:

From the passage in the Yerushalmi, it turns out that the kenivat yarak discussed here is simple washing, and this is what we have learnt in the Tosefta. If this were really "trimming", it would be borer, and one would be liable even if the vegetables were already harvested, because this is done in order to set it aside.

The Rashba (ibid.) also explains along these lines. According to this view, washing fruits and vegetables is permitted on Shabbat.

Another proof arises from the law of washing raw meat on Shabbat. The Shulchan Arukh (318:2) allows one to eat such meat on Shabbat:

Whether the patient has fallen ill the previous day or on Shabbat itself, one who slaughters meat for the patient may eat it raw on Shabbat.

However, in terms of the prohibition of consuming blood, one may not eat raw meat on Shabbat unless it is very well washed. The Mishna Berura writes (ibid. 10): "'One may eat it raw on Shabbat' — but not by salting, for one may not salt on Shabbat, but rinsing is required because of the blood present." Ostensibly, washing the blood off the meat is like washing dirt off of fruit, but it is nevertheless allowed.

Following these sources, many Acharonim allow one to wash dirt off of fruit and vegetables, as long as one does so proximate to eating. This the ruling of the Ketzot Ha-shulchan (Ch. 125; Baddei Ha-shulchan, 16), Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. I, Ch. 125), Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 48), Rav Elyashiv[8] (cited by the Ayil Meshullash, Ch. 15, n. 10) and others.

According to these Acharonim, one must ask: what is the difference between soaking karshinin in water, which the mishna forbids, and washing fruit, which they allow?

Soaking in Water and Washing under the Faucet

Rav Feinstein (Iggerot Moshe, ibid.) explains that one must distinguish between the two issues:

In my humble opinion, I am inclined to suggest that putting items such as karshinin into a vessel filled with water is an act of borer... but to put water on top of them and not to submerge them in water is the way of washing and not the way of borer, and washing was never forbidden for produce, just as it was never prohibited for vessels.
On this explanation, there is a distinction between soaking and rinsing. The mishna forbids soaking the karshinin in water, since this causes the pesolet to float on its own, and this is the forbidden derekh bereira, but when one rinses produce under the faucet, this not derekh bereira; rather, it is derekh rechitza, the way of washing and cleaning, and it is similar to removing the peel (which is allowed for immediate eating). A similar distinction is advanced by the Ketzot Ha-shulchan (ibid.).[9]

Is the Dirt Attached or Mixed in?

Rav S.Z. Auerbach (ibid.), Rav Zilber (Az Nidberu, Vol. I, Ch. 17-18) and others suggest that the distinction that answers the above question is between dirt that adheres to the food and dirt that is mixed in with it. Dirt or dust that is attached to fruit is considered like a peel, and removing it for immediate eating is not considered bereira, but rather derekh akhila, just like peeling. The mishna, on the other hand, talks about karshinin, which have dirt and dust mixed in with them in a normal mixture, so that removing the pesolet from them is an act of bereira. This is the ruling of Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 3:21):
If fruits or vegetables have pesolet mixed throughout them to the extent that most people would not eat them, it is forbidden to put them in water so that the pesolet will fall off or rise above them. Similarly, it is forbidden to rinse the pesolet with a stream of water, because there is an issue of separating pesolet from okhel in this case as well. Rather, one must prepare and rinse the fruit on Erev Shabbat.
However, if dirt adheres to fruits, or if they have dust or pesticides etc. on them, one is allowed to remove [the dirt] with a stream of water, but one should do so only proximate to eating the fruits.

This distinction is strengthened by the view of Rabbeinu Chananel (74a) that the prohibition of borer is not applicable at all when okhel and pesolet are merely touching, but only when the okhel and pesolet are mixed together.

As we have said, the Chazon Ish does not accept these distinctions, and he rules that it is forbidden to rinse fruits and vegetables even if the dirt adheres to them, even if one cleans them with a stream of water and even if one eats them immediately (see Ayil Meshullash, Ch. 15, n. 13). According to him, if one wants to eat on Shabbat fruits and vegetables which have dirt on them, one must wash them off before Shabbat.

Dirt which Most People Ignore

However, if the fruits and vegetables have no visible dirt on them, but people wash them for the sake of hygiene and health (for example, because of pesticides), washing them off or soaking them in water is permissible even according to the Chazon Ish (Ayil Meshullash ibid. n. 22; Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 54). The Shevet Ha-levi rules (Responsa, Vol. I, 52:2):

Concerning what you have asked, whether it is permissible to wash grapes on Shabbat in order to remove dirt... I generally rule that if the rinsing is only because of the contemporary standard of cleanliness, and there is no visible pesolet which would prevent one from eating it, there is no question that it is permissible to rinse them. However, if there is visible pesolet, which is quite common, it becomes like the karshinin and potatoes of which the Mishna Berura speaks, and it is forbidden.

The reason for this is that fruits and vegetables of this type are already considered edible, and many people would be willing to eat them without cleaning. This issue is comparable to clear water, which can be filtered even with a keli, since most people are inclined to drink the water without filtering. Thus, there is no significant tikkun, and it may even be that the entire mixture is considered to be of the same type.[10]

Cleaning such as this is apparently allowed even if one does not want to eat the produce immediately (this is the ruling of Rav Feinstein ibid.).

A Biblical or Rabbinical Prohibition

How shall we choose among these views? In order to rule on the practical halakha, one must first examine whether the bereira through soaking in water is a Torah prohibition or a rabbinic one. On the one hand, it would seem that this would be a Torah prohibition, because this is the selection of pesolet from okhel, and perhaps even using a keli (i.e., the stream of water). On the other hand, it may be that bereira through water is not the regular manner of bereira, and perhaps it is like removing a peel or washing dishes, as we have explained. Rashi, commenting on the mishna, writes that one may not rub the dirt off the karshinin by hand "because it is borer." It seems that, in his view, there is a Torah prohibition of borer. On the other hand, the Tur and the Shulchan Arukh (319:8) forbid it "because it is like borer." It seems that this is not true bereira, but only analogous to borer. The Peri Megadim (Mishbetzot Zahav 319:5) raises a doubt as to whether there is a Torah prohibition. The Bei'ur Halakha (ibid. s.v. De-hava leih) also has some doubt about this and inclines towards forbidding it:

The language of Rashi is "because this is borer." Note that the Peri Megadim has a doubt whether one is liable for this. In my humble opinion, one should cite the passage in Beitza 13b... because this is also a true melakha from the Torah, and the Yerushalmi there in Beitza implies this as well.

On the other hand, the Shevitat Ha-shabbat (Borer, Be'er Rechovot, 50) writes that it is a rabbinic prohibition:

It appears that it is only of rabbinic origin, because one should have prepared the previous day, which is not true of dishes; since they become dirty on Shabbat and one needs them for that very day, [the Sages] did not ban this.

The Eglei Tal (Borer, 16) and the Livyat Chen (52) seem to follow this approach as well.

It appears that it is difficult to establish conclusively whether this is a question of Torah or rabbinical law, but one may enlist the view that the prohibition here is only rabbinic in combination with other mitigating factors. (This is certainly valid considering that most of the stringent views only have a suspicion that this prohibition may be biblical, while those who are lenient have decisively defined the ban as rabbinic.)

Halakhic Ruling
Practically, if fruits or vegetables have pesticides or another unrecognizable substance on them, and some people would eat them without rinsing, one may be lenient and wash them normally, and even soak them in soap and the like if there is a need (in order to remove the pesticides).

When visible dirt is stuck to the fruit, one may be lenient and wash it under the faucet for immediate eating, but one may not soak it. In this way, one may combine the view that dirt adhering to the fruit is considered like a peel with the view that washing under a stream of water is not considered an act of bereira.

When the dirt is mixed in with the fruits, for example grapes or berries which have pesolet among them, one should wash them before Shabbat (because it may be that only dirt which is stuck to the fruit is considered a peel, not dirt mingled with fruit). If one has failed to do so, one who is lenient to wash it under the stream of water has support; as we have said, according to the Ketzot Ha-shulchan and Rav Feinstein, washing produce under the faucet is in any case not derekh bereira, but derekh rechitza. (See Tzitz Eliezer, Vol. VI, Ch. 37.)
Washing Lettuce to Remove Bugs

If one buys regular lettuce (i.e., that which was not grown hydroponically) and wants to clean off the bugs on it, one must soak it for three minutes in water with a bit of dish soap, rub each leaf from both sides and after that rinse it off under the faucet. (Sometimes it is proper to do some of this even for hydroponically-grown lettuce). Is this allowed on Shabbat?

If lettuce has dirt or other undesired material on it and the soaking causes the dirt to separate, it is clear that soaking is forbidden. In this case, one should rinse the leaves in water (as we explained above), so that the dirt comes off and the lettuce will be clean.

When the lettuce is clean, the soaking is done only to loosen the bugs from the leaf (their legs actually secrete a substance which helps them hang on, and emulsifying soap loosens their hold). As such, there is no problem with soaking the lettuce, since the pesolet does not separate; the soapy water only loosens the bugs' grasp. After this, one may use the stream of water from the faucet to knock the bugs off, as we explained in relation to dirt adhering to fruit.

However, this act will be allowed only if one does not kill the bugs, because killing bugs on Shabbat is forbidden (see Rambam, 11:2; Mishna Berura 316:41 and Bei'ur Halakha; Shemirat Shabbat Ke-hilkhata 3:36). Practically, since regular lettuce has bugs which will die, one may not soak it in soapy water. However, with hydroponically-grown lettuce, even if one soaks it in soapy water, this is done only as an extra precaution, and it may

be that there are no bugs there; therefore it appears that one should be lenient even when it comes to cleaning it on Shabbat.[11]

Similarly, inspecting a lettuce leaf under the light is permissible, and if one finds a bug, one may remove it along with part of the leaf which is not infested. Indeed, if the bug is large, it is essentially permissible even to take it on its own, since it is considered separate from the lettuce.[12] One may also remove moldy upper leaves and leave the edible inner leaves, since this is similar to removing a peel (Bei'ur Halakha 319:1, s.v. Min He-alim).

Summary

To conclude, one is allowed to soak produce in order to remove unrecognizable pesticides (when the fruit is otherwise edible). It is forbidden to soak produce in order to remove actual dirt which is stuck to it, but it is permissible to wash it under the faucet (and if it is mixed in with the individual berries, etc., it is preferable to wash it before Shabbat). One is allowed to soak hydroponically-grown lettuce in soapy water, and it is permissible to remove a bug from lettuce with a bit of the leaf, but one may not kill bugs on Shabbat.

[1] The Tehilla Le-David (319:16) rejects the proof of the Kol Bo and argues that one is allowed to drink water with gnats, but the Minchat Yitzchak (Vol. VII, Ch. 23) disputes this and supports the doubt of the Chayei Adam. According to him, the doubt is whether the Kol Bo allows this filtering even when there is a true prohibition of drinking the water; perhaps he allows it only when it is essentially permitted to drink the water "and only for the sake of added caution, the sin-fearing filter the water."
[2] For a broader analysis of this issue, see the following responsa: Be-tzel Ha-chokhma, Vol. VI, 99:1; Maharshag, Vol. I, OC, Ch. 47; Yalkut Yosef, Shabbat, Vol. III, pp. 294-295; Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 100.
[3] Unless we say that the use of shemitta scraps is to be contained in the shemitta vessel, and if so, putting them in the vessel is their use, and since this is done immediately after the bereira, this use is immediate. However, we must weigh carefully if this is considered a use, for one has no benefit from this use; this is only a way to set aside the fruits without ruining them.
[4] One must be careful to tie the bag only with a knot which is allowed on Shabbat, namely to take the two sides of the bag and tie one to the other with one knot, not to take the two sides together and make a separate knot on top of them.
[5] Another possibility is to remove the shemitta scraps with a few other scraps and leave them in a vessel designed for shemitta products. In this way, on the one hand one would not violate the prohibition of borer (at least according to the view of the Mishna Berura that one may remove the pesolet with a bit of okhel), and on the other hand, the small amount of other scraps do not impact negatively the shemitta scraps.
[6] The Gemara (Beitza 14b) states that Rabban Gamliel allowed filling up a pail with lentils and pouring water over them on Yom Tov in order to pick out the pesolet (which floats). It seems that Rabban Gamliel argues with the mishna and would allow soaking karshinin, and this view requires some explanation (see the Me'iri ibid.). Regardless, the consensus of the Rishonim and the Shulchan Arukh is to forbid it.
[7] However, it should be noted that washing dishes is not fully equivalent to washing produce, as the former is permitted even not for immediate use. Moreover, it appears that there are other reasons to be lenient: for example, that the dirt is not considered to be mixed with the dish, or that this act is considered cleaning the dish and not bereira, etc.
[8] However, he writes that it is preferable to wash them before Shabbat, apparently taking into account the view of the Chazon Ish.

[9] The Mishna Berura says that it is forbidden even to "clean" the karshinin by hand (this is the Shulchan Arukh's ruling), but it may be that the reference is to one who is rubbing off the pesolet stuck to the karshinin, after one has selected the pesolet from the okhel (Rav S.Z. Auerbach, cited in Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 53); or that one rubs the karshinin underwater, and after that the water causes the pesolet to float up (Eglei Tal, Borer 16). Similarly, we should note that according to the Yerushalmi (20:3), the prohibition to clean the karshinin is not because of borer but because of dash, threshing (and this prohibition is not applicable to washing produce, since threshing is an act done in the field, while washing produce is done in the house).

[10] Shemirat Shabbat Ke-hilkhata (ibid.), mentions an additional reason to permit this: since the dirt is not recognizable at all, perhaps it is not considered bereira. According to this, it is permissible to wash the produce even if the person is very fastidious and would never eat unwashed produce.

[11] In this case, it may be that there are no bugs, and even if there are bugs, it may be that they are already dead. Similarly, while some bugs may not be killed on Shabbat by Torah law, others are only prohibited by rabbinic law (see Mishna Berura 316:41, Bei'ur Halakha there). Since one does not intend to kill them, but to remove them, this is a case of a double doubt with regard to pesik reisha; moreover, it may even be only a rabbinic prohibition. Therefore, it seems that it is appropriate to allow it. As we have said, all this rests on the assumption that the lettuce appears to be clean, so that soaking it will not cause the separation of clumps of dirt and the like.

[12] This is the view of Rav S.Z. Auerbach, cited in Shemirat Shabbat Ke-hilkhata, 3:36 and n. 100. See there where he notes that in any case it is good to be stringent to remove the bug along with a bit of the leaf, as moving the bug alone is prohibited because it is considered muktze.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 08: BORER (Part 8)

XV) The Melakha of Zoreh

Is it permissible to scatter pesolet (refuse) by blowing with one's breath? Is one allowed to use a spray? Is one permitted to shake out a tablecloth so that the crumbs will be scattered?

As we have learned, the first stage of processing harvested grain is disha (threshing), removing the chaff from the kernel, and the second stage is zeriya (winnowing), separating the husk and the stalks from the grain. During disha, each wheat kernel is removed from its husk, but the kernels, stalks and husks are still mixed together, and they must be separated. One therefore takes a winnowing fan (mizreh), into which the kernels, stalks and husks are placed and then thrown in the air. The light husks and stalks blow away in the wind, while the heavy kernels fall back into the winnowing fan. This action is zeriya, and the melakha (or the person performing it) is known as zoreh.

Is there any practical application of this melakha in a non-agricultural setting? Study of the sources reveals that there are both incidental and direct ramifications.

Performing a Melakha via the Wind

One incidental ramification is found in Bava Kamma (60a), where the Gemara analyzes one's liability for fire-starting in light of the melakha of zoreh. If a person lights a fire, and the wind fans it and causes it to spread and damage, in certain cases the fire-starter will be exempt from paying for the damage, as it is caused by the wind. According to this, the Gemara asks why a winnower should be liable on Shabbat, because a winnower only throws the kernels and the husks up in the air, and it is the wind which blows away the husks.

The Gemara resolves this question in a number of ways, but the most resolution for our purposes is that of Rav Ashi:

When we say that zoreh [is liable when] the wind helps, this is true for the issue of Shabbat, because it is “thoughtful labor” which the Torah forbids; but here it is mere causation, and one is not liable for damages by causation.

Rav Ashi explains that the action of zeriya is considered causation (gerama). Therefore by the laws of damages, the winnower should be exempt; however, by the laws of Shabbat, one will be liable, since "the Torah forbids thoughtful labor (melekhet machshevet)." In other words, since the person knows that his action will make the husks fly away, and one wants to use the wind as a tool for bereira, this is considered a Shabbat violation for which one is liable, even though one is exempt for causing this type of damage. The Rosh (ibid. 6:11) explains this further:

There "the Torah forbids thoughtful labor" — even though "it is mere causation," the Torah rules that one is liable in such a case, since this melakha is essentially performed by the wind [and it is considered a melakha nonetheless], "but here [with regard to damages] it is mere causation, and one is not liable for damages by causation."

On this explanation, one is liable for the melakha of zoreh even though one does not perform the action directly, since the melakha is generally done by the wind; this is the accustomed and accepted way to process grain.

The Mishna Berura (316:10; Shaar Ha-tziyun, 13) applies this explanation to one of the Rambam's rulings on the issue of trapping. The Rambam (10:22) writes that one who stands in front of a deer and startles it, helping one's dogs to reach the deer and grab it, is liable. The Mishna Berura explains that even though one is apparently doing only an act of causation, nevertheless one is liable, since this is the way of the hunters, just as it is the way of the farmers to select via the wind.

Scattering Pesolet by Blowing

What direct ramification is there of this melakha? An act which is similar to zoreh in contemporary reality is scattering the pesolet by blowing with one's breath. For example, if there is a mixture of peanuts and seed coats, and one blows on them and scatters the seed coats, this action is very similar to zoreh. Indeed, the Arukh (s.v. Zar) writes that the prohibition of zoreh applies to blowing with one's breath:
For every process which is completed by the wind blowing, one is liable for zoreh, and if one takes by hand okhel (food) which has pesolet or dirt in it and blows [the pesolet] away with one's breath, this is zoreh.

This view is shared by the Ba'al Ha-tanya (Piskei Ha-siddur, Hilkheta Rabbeta Le-shabbeta) and the Tal Orot (Introduction to Laws of Borer, Zoreh and Merakked). The Shevitat Ha-shabbat also rules along these lines (Zoreh, 5):

Taking grain in one’s hand and throwing it into the wind in order to scatter the husk or dirt, or taking it in one’s hand and blowing it off by mouth to scatter the husk or dirt — these are subcategories of zoreh. One should also not throw grain to birds from a high place because of zoreh.

However, it appears that the Arukh Ha-shulchan (319:26) rules that one may separate pesolet by blowing:

If one has wheat which was rubbed together on Erev Shabbat, so that [the kernels] are still mixed with their husks, one cannot sift them even with a reed-basket or a tray. Moreover, [doing so] with a sieve and a sifter would be bereira, making one liable to bring a sin-offering. Similarly, one may not blow them away with one's two hands, pouring from one hand to another until the husk comes off, because this is a weekday practice. However, one may blow with one's hand and all of one's strength — i.e., one may take it one's hand, raising the hand and lowering it until the husk comes off, in order to do it with an alteration. Furthermore, blowing it with one's breath definitely appears to be allowed.

He seems to rule that blowing is not really equivalent to zoreh, since the separation is not done by the wind but through manpower. Nevertheless, logic seems to demand that if separation effected by the wind is forbidden, all the more so one must forbid separation by manpower! Therefore, it appears that practically one must forbid separation of okhel and pesolet by blowing with one's breath, since this is explicit in the words of the Rishonim, and most halakhic authorities confirm this — and so it appears logically.

In conclusion, the melakha of zoreh teaches us that sometimes a person is liable even for a melakha that is done using natural forces, such as the wind, when this is the normal way of executing the melakha. The melakha of zoreh has limited practical halakhic ramifications nowadays, but there are a few derivative actions related to this melakha, including that one may not scatter pesolet by blowing with one's breath.

Scattering Using the Wind

The Yerushalmi (7:2) has a surprising ruling: "If one spits and the wind blows it away, one is liable for zoreh." How can someone be liable for spitting into the wind? Ostensibly, this is not similar at all to zoreh, because in the melakha of zoreh a person causes the separation between the kernel and the husks — between okhel and pesolet — and if so, there is only a scattering of the spit, without any separation between okhel and pesolet!

It appears that according to the Yerushalmi, the prohibition of zoreh applies to any scattering of components by way of the wind, even if both of them are okhel or both of them are pesolet. This understanding of the melakha is apparently opposed to what the Bavli states (73a): "Zoreh is borer is merakked!" According to the Gemara, the melakha of zoreh is similar in its nature to the melakha of borer: just as the aim of borer is separating pesolet from okhel, so one must define the melakha of zoreh (just that bereira is by hand and zeriya is by wind).

It turns out that there is a basic dispute in the definition of the melakha of zoreh: according to the Bavli, the definition of zoreh is separating pesolet from okhel using the wind; according to the Yerushalmi, the definition of zoreh is the scattering of components using the wind.

Consequently, it appears that we should rule that it is permissible to spit into the wind, since we follow the Bavli. However, the Rema (319:17) follows the Yerushalmi: "If one spits into the wind on Shabbat and the wind scatters the spit, one is liable for zoreh." This is astounding — he is ruling against the Bavli! Indeed, Rabbi Akiva Eger (Responsa, 1st Ed., Ch. 20) argues with the Rema and allows one to spit into the wind. He speaks of a similar question: is one allowed pour water into the wind, in such a way that the wind scatters the water. He writes:

As I was walking on Shabbat in the synagogue courtyard here in the holy community of Leszno, I saw a man who poured water out of a bottle through the window, into the enclosed courtyard. As I watched, it occurred to me that there is a concern of a prohibition, since the wind scatters the drops, one turning this way and one turning that way; this is akin to what we find in the Yerushalmi in Chapter 7, "If one spits and the wind blows it away, one is liable for zoreh." If so, apparently even with pouring a bit of water — not a great torrent — there is power in the wind to scatter it, so one should be liable for zoreh.

However, after a bit of analysis it appears that there is good reason to be lenient, because one must justify the view of the earlier halakhic authorities, from whom no secret was hidden — namely: the Rif, Rambam, Semag, Rosh and Tur — who did not cite the abovementioned passage in the Yerushalmi, which is a tremendous halakhic innovation! It appears that their reasoning is this: they believe that the halakha does not follow this ruling, for our passage [in the Bavli] disputes this by stating: "Zoreh is borer is merakked!" — which implies that the essence of the melakha of zoreh is like borer, for the wind takes and separates pesolet from okhel. However, when it is all pesolet and one does not select one from the other but only divides it into small parts, it is not included in zoreh... It also seems, in my humble opinion, that even according to the abovementioned view of the Rema, one has good reason to permit it in our case... According to this, one may

say that here too zoreh is only applicable to that which grows from the ground... As for the fact that the Yerushalmi makes one liable for spitting into the wind, one must say that this in accordance with the view of Rabbi Yehuda, that threshing applies to that which does not grow from the ground, and the same applies to zoreh; alternatively, it is evident from the view of the Rambam that man and animal are considered as if they grow from the ground...
Similarly, in our case, it should certainly be permissible if there is not a case of pesik reisha (an inevitable, unintended result), because it is clear that one has no intention here. Even with a case of pesik reisha, according to the Arukh, an unwanted pesik reisha is allowed even rabbinically; in our case, it is unwanted, because what does one care if the wind will divide up one's expectoration? Furthermore, even according to Tosafot, who argue that it is banned, it would be so only rabbinically...
So one may rely on these abovementioned leniencies, taking into account that the halakhic authorities omit the Yerushalmi and that, even according to the Rema, there is a great distinction between spitting and winnowing.

Rabbi Akiva Eger bases his lenient ruling on a number of points:

1. The Bavli argues with the Yerushalmi and permits this, and the halakha follows the Bavli.
2. Major Rishonim, such as the Rif and the Rambam, do not cite the Yerushalmi.
3. The person has no intent to scatter the spittle.
4. It appears that zoreh should only be applicable to that which grows from the ground, which would exclude water (although perhaps not spit, as there are those who believe that human beings and animals, because they depend on flora for sustenance, have this status).

The Bei'ur Halakha (319:17, s.v. Mefazzer) cites Rav Akiva Eger's responsum, and appears to accept his view. He goes on to cite an original view from Rabbi Menasheh of Ilya, one of the Vilna Gaon's students:

In the book Alfei Menasheh, he explains that the intent of the Yerushalmi is that one transports an item four ammot (cubits) in a public domain by the wind. Thus, this is merely an example, the analogy being that just as with zoreh the wind assists and nevertheless one is liable, so too the one who spits is liable for transporting via the wind. This is correct.

In other words, the Yerushalmi only forbids spitting in an area in which one may not carry on Shabbat, and the innovation is that even though the person does not take the spittle four ammot away directly, but through the agency of the wind, nevertheless one is liable, just as we find with the melakha of zoreh, but the liability is not because of zoreh but because of the melakha of hotza'a (transporting).

Similarly, the Arukh Ha-shulchan (319:42) is shocked by the Rema's ruling, and he writes that perhaps it is due to a printer's error, that "one is liable for zoreh" should really be "one is liable for zorek" (throwing), and he is speaking of spitting into the wind in an area in which one may not carry on Shabbat, and it is the wind which takes it four ammot away.[1]

However, according to many Acharonim, although spitting into the wind is not a Torah prohibition, there is a rabbinic ban. This is what the Chayei Adam (15:1; Nishmat Adam) indicates:

One who winnows with a shovel into the wind is liable; therefore, one may not spit into the wind, because the wind will scatter it, and this is akin to zoreh.[2]

The Ba'al Ha-tanya (Shulchan Arukh Ha-Rav 446:5; Kunteres Acharon 3) appears to agree with this, based on his solution for one who finds chametz at home during the Yom Tov of Pesach:

So too, by Torah law, one may crumble it and scatter it in the wind, and zoreh is only considered to be a primary melakha when one winnows grain in order to separate husks from it, selecting pesolet from okhel, but when one casts all of the okhel into the wind, there is no Torah prohibition.

From his words, it is implied that throwing chametz crumbs into the wind is not forbidden by the Torah, but is rather prohibited due to a rabbinic decree (which is superseded by the interest of avoiding the Torah prohibitions of owning chametz on Pesach).
In the laws of Pesach, the Mishna Berura (Shaar Ha-tziyun 446:7) rules similarly, stating that throwing crumbs into the wind "is not a biblical melakha" and he refers to the Ba'al Ha-Tanya's words, implying somewhat that he agrees that this act is rabbinically prohibited. On the other hand, in the laws of Shabbat, the Mishna Berura (319:67) rules that it is altogether permissible to spit into the wind:

We have not seen anyone who is concerned about this, since one has no intention — all the more so that this is not the way of winnowing!

It may be that according to him, one may forbid on a rabbinic level throwing matter into the wind when one has this intention; however, when the person does not intend to scatter, but in fact the wind scatters what one throws, one may permit the matter.[3]

According to this, it is permissible to expectorate or urinate in a windy place when one has no intention of effecting dispersal via the wind, but when one is interested in this dispersal — e.g., one is shaking the crumbs out of a tablecloth into the wind (assuming that this is in an area where one may carry) and one wants the wind to scatter the crumbs so that they will not be concentrated in one place — it is appropriate to be stringent. There is more of a reason to be lenient when what is being dispersed has not grown in the ground. (Below we will discuss shaking out a tablecloth in a place which is not windy.)

Using a Spray

An important practical ramification of this analysis is the use of an aerosol spray on Shabbat. This would seem to be quit similar to the case of the Yerushalmi: dispersing a substance in the air. In this case, there is even more of a reason to forbid this practice, because one wants the substance to be dispersed (unlike spittle), and apparently, according to the Mishna Berura, it would be prohibited. Rabbi Avraham David Horowitz rules in accordance with this logic in a responsum (Kinyan Torah, Vol. V, Ch. 23).

However, it seems that there is a valid halakhic basis for allowing the use of a spray. First, we have seen that there are halakhic authorities who reject the Yerushalmi absolutely and believe that the melakha of zoreh is not applicable when there is no separation between okhel and pesolet. However, even if we are worried about the Yerushalmi and say that there is a problem of zoreh (at least rabbinically) in the scattering of components using the wind, this may not pose a problem with an aerosol: in the spray the scattering is done by manpower and not by wind power, and it may be that an act such as this is not considered zoreh at all.[4] The Minchat Yitzchak (Vol. VI, Ch. 26), after noting that some are concerned about the Rema's ruling and its implication for using perfume, concludes:

However, it appears that in every case such as ours, in which the wind does not do anything and everything is done by human hands, everyone would agree that there is

not even a rabbinic prohibition of zoreh... for if one does the dispersal alone, without the assistance of the wind, there is not even a supposition that it would fall in the category of zoreh.

Rav Ovadya Yosef (Yechaveh Daat, Vol. VI, Ch. 25) rules leniently, and Rav Elyashiv concurs (Kovetz Teshuvot Me-harav Elyashiv, Vol. I, Ch. 36), and this is the halakhic consensus. According to this, it would be allowed to shake out a tablecloth in a place which is not windy, even if one intends to scatter the crumbs, since the prohibition of zoreh is not applicable to scattering done by human beings.

Adding Water to a Humidifier

Similarly, one may add water to a humidifier. This device separates the water into droplets that are dispersed in the form of vapor. There is no problem of cooking, and as we have seen now, there is also no problem of zoreh, because a) this is a dispersal of water, and not a separation between okhel and pesolet; and b) the scattering is done in a mechanical way, not by the wind. Indeed, there are those who forbid this because of molid, creating a new entity (Minchat Yitzchak, Vol. VII, Ch. 28), but the generally accepted view is to be lenient about this, certainly for the sake of a minor or a sick person (as the Rema rules {318:16} that one may be lenient about molid when it is needed). Rav Moshe Feinstein (cited in Rav Shimon Eider's Halachos of Shabbos, Zoreh, n. 64) also rules leniently in this case.

However, one must be careful not to add water in a way which will cause the device to activate. (Some devices continue to work without the addition of water, while some stop, in which case adding new water causes it to switch on again).

Summary
In conclusion, the Yerushalmi forbids spitting into the wind because of the prohibition of zoreh. The Rema codifies this, but most halakhic authorities argue with him, and they claim that there is no prohibition of zoreh when there is no separation of okhel from pesolet. The Mishna Berura rules leniently, at least when one does intend to disperse; but in a place where one aims to have the wind scatter it, it is appropriate to be stringent.

Similarly, one may use an aerosol spray on Shabbat without being concerned about zoreh, since there is no separation of okhel and pesolet, only scattering, and this dispersal is effected by manpower and not by wind power. Similarly, one may add water to a humidifier, as long as the device is already operating and adding water does not cause it to activate.

XVI) General Summary: Borer

We will try to briefly summarize the main principles of borer (along with its complementary melakhot, merakked and zoreh), as we have learned in this series of shiurim.

Bereira is forbidden by the Torah, but there are circumstances under which one is allowed to perform bereira. For this we require three conditions (as Tosafot state; this is the accepted halakha): okhel from pesolet, for immediate use, and by hand.

[1] However, this does not appear to be the simple meaning of the Rema's words, for if we were talking about the melakha of hotza'a, the Rema would cite this in the laws of hotza'a (Ch. 346), not in the laws of borer (Ch. 319).
[2] The Tiferet Yisrael (Kalkalat Shabbat, Kelalei Lamed-Tet Melakhot, Zoreh) rules accordingly, arguing that this is the proper reading of the Yerushalmi. See the Eglei Tal (Zoreh, 1, 8).

[3] Rabbi Akiva Eger also indicates in the end of this responsum that there is reason to be concerned about the Yerushalmi's view when one's intent is to scatter; however when one does not have such an intent, there is room to be lenient. According to him, even when one is talking about a situation of pesik reisha, one can be lenient, since there are those who allow a pesik reisha when one has no interest in it, and even those who forbid do so only on a rabbinic level. Since we are talking about a rabbinic doubt, one may be lenient, in accordance with the view of the halakhic authorities who are not concerned about the Yerushalmi.
[4] However, it may be that according to the Yerushalmi, if dispersal by wind is forbidden, all the more so scattering by a person should be forbidden.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 09: DASH (Part 1)

I) The Definition of the Melakha

What is the difference between the melakha of dash and the melakha of borer? Why is one allowed to remove grapes from a cluster? Can one use a nutcracker? Can one shell peanuts?

As we have already seen, the first stage of processing harvested grain is threshing, removing the chaff from the kernel. In order to do this, pressure must be applied to the kernels of grain, so that the husk is broken and the wheat kernel is exposed. This act is called threshing (disha; the melakha is dash), and it is performed by striking the wheat with a stick or using a threshing instrument. Next is zeriya, winnowing, separating the husk and the stalks from the grain. During disha, each wheat kernel is removed from its husk, but the kernels, stalks and husks are still mixed together, and they must be separated. For this purpose one uses a winnowing fan, into which the kernels, stalks and husks are placed and then thrown in the air. The light husks and stalks blow away in the wind, while the heavy kernels fall back into the winnowing fan. Finally, in bereira (selection; the melakha is known as borer), one removes the stones and dirt which remain among the kernels, so that they are ready to be ground.

Practically, the melakha of dash is similar to the melakha of borer: these two melakhot come to separate the kernels from the various forms of refuse (pesolet). However, the Gemara (73b) makes it clear that these are two different melakhot. If so, what is the difference between dash and borer? What is the definition of dash?

Removing Pesolet Adhering to Okhel

One answer is given by Rabbeinu Chananel (74a):

Dash is one who separates pesolet which is attached to the okhel and prepares it for bereira... It turns out that zoreh (winnowing), borer and merakked (sifting) all serve to remove pesolet which is mixed with okhel and is not attached to it.
On this view, dash is the removal of pesolet which adheres to okhel (food), while borer is removing pesolet which is mixed in with the okhel. When the okhel and the pesolet grow together as a single entity, and one separates this entity into okhel and pesolet, this is the melakha of dash; while in the case that the okhel and the pesolet are separate bodies which are mixed and one separates them, this is the melakha of borer. (See Shevitat Ha-shabbat's Introduction to the Melakha of Dash, 1, where he deals with this at length.)[1]

Extracting Okhel from Its Covering

Other Rishonim provide alternative definitions for the prohibition of dash. Rashi (74a, s.v. Ve-lichshav nammi) writes that crushing wheat in order to remove the husk is

comparable to the melakha of dash, "Because this also is removing it from its attire." From his words it appears that the melakha of dash is removing the okhel from its "attire" — i.e., the covering in which it grows. Similarly, the Gemara (95a) writes that one who milks an animal[2] is liable for mefarek, and Rashi explains that mefarek is a subcategory of dash:

"Mefarek" means unloading: one unloads the okhel from the packaging with which it is covered, and this is a subcategory of dash.

Rashi indicates that the melakha of dash is extracting okhel from its natural covering. Other Rishonim point to the same idea, and the Peri Megadim (Eshel Avraham, Introduction to Ch. 320, 5) writes that "mefarek applies to [extracting] okhel from the pesolet in which it is concealed and in which it has grown."

Let us try to sharpen this basic point further. Some melakhot are involved in the process of manufacturing the okhel, while other melakhot prepare the okhel for consumption: the melakhot of threshing, sowing and harvesting, for example, allow one to produce the okhel in the first place, while the melakhot of winnowing, selecting, grinding, sifting, kneading and baking make the okhel edible. Where does dash fit in along this continuum?

At first glance one would assume that dash should be considered along with the latter group, because the "creation" process is completed at harvesting. However, on closer investigation, it seems reasonable that dash may fit better with the first group. Before disha, the wheat kernel is still attached to its stalk and hidden within it. Although it has already been harvested from the ground, it has not been "harvested" from the stalk! Only after this second harvest, one can see the wheat as fully-formed and complete, such that one may begin to prepare it for eating: to remove the pesolet found next to it (whether we define borer as removing the pesolet or fixing the okhel), to grind it, to knead it and to bake it. [The Shevitat Ha-shabbat (Introduction to the Melakha of Dash, 2, in the name of the Pe'er Etz Chayim) explains the melakha along these lines.]

As such, we can sharpen the distinction between dash and borer: disha is the creation of okhel, while bereira is the tikkun (fixing) of the okhel which has already been created. Naturally, the prohibition of dash is applicable only to something which has been hidden until now and is suddenly revealed.

Removing Okhel from Its Natural Place

There are Rishonim who define the prohibition of dash more broadly. The Gemara (73b) says:

Rav Pappa said: "One who throws a clod of earth at a palm tree and dislodges dates is liable twice, once for tolesh (detaching flora) and one for mefarek."

As we have said, mefarek is a subcategory of dash: removing grain from the stalks is the primary melakha, and removing other things is the subcategory (Rashi ibid.; Rambam 8:7). Why does knocking down dates make one liable for dash?

Tosafot (s.v. Ve-achat) write in the name of Rabbeinu Shemuel:

Dates have an upper peel, and when one knocks the dates off the tree, one removes the peels from the dates, and it is like dash, in which one removes the grain from the stalk.

Tosafot assume that dash is relevant here because dates have an upper peel, and their fall causes it to come off.[3] This act is forbidden because of dash, since one is extracting okhel from its covering. It may be that Tosafot believe that the prohibition of dash applies specifically when one removes a peel or covering from okhel.

The Ran (31a, Rif) explains the words of the Gemara differently:

When the cluster is detached from the tree, one is liable for tolesh, and when it hits the ground, the dates fall out from the cluster, one is liable for mefarek.

In other words, the date branch is detached from the tree, falls to the ground and makes impact, and, as a result, the dates are detached from their cluster. This detachment, removing the dates from their cluster, renders one liable for dash. The Ramban (ibid.) explains this in the same way, and so one may understand in Rashi (ibid. s.v. Mefarek).[4] According to this, the prohibition of dash is not limited to okhel which is covered and wrapped in pesolet; it applies to detaching any okhel from the place where it has grown. Rashi in Ketubbot (60a, s.v. Mefarek) writes the same, defining mefarek as "detaching something from the place where it has grown."[5]

Actions Not Forbidden as Dash

The question remains: if removing the fruit from the cluster is forbidden because of dash, it should be forbidden by Torah law to eat grapes on Shabbat, because we pick them out of the cluster! Practically, the view of Tosafot also raises some problems: if disha only applies to removing okhel from its cover, one must ask how it is permissible to peel a banana or an orange; since we remove each from its covering, this is precisely the prohibition of dash!

Another question comes up based on the words of the Rema. In light of the ruling of the Shulchan Arukh (319:6) that it is forbidden to remove grain from its stalks because of the prohibition of dash, the Rema writes: "Therefore, one may not remove almonds or walnuts from their green hulls."

Almonds and walnuts both have a green hull which often falls off on its own when the fruit ripens, and beneath it is a dark, hard shell (indeed, almonds have another peel below this, but most people do not remove it at all). It seems that the Rema rules that removing the green hull is forbidden because of dash, however from his words it appears that if the green hull has already been removed, there is no prohibition to remove the hard, brown shell. The Mishna Berura (24) explains his view along these lines, pointing out that removing the green hull is like removing grain from the stalks, while removing the hard shell is like peeling fruit, which is permissible just before eating.

However, the Peri Megadim (Eshel Avraham 320:1) challenges this ruling of the Rema as follows: "How is the green hull different from the hard shell?" Indeed, the matter requires some explanation: why should taking grain out of the stalk and removing the green hull of a walnut, be forbidden because of dash, while peeling fruit, removing the hard shell and picking grapes out of a cluster are not? In all of these cases, the okhel is removed from the place where it has grown!

The Eglei Tal (Dash, 3:1-2) discusses these questions and establishes an important principle in the laws of dash, based on the concept of she'at akhila — the time of eating — as opposed to the time of harvesting or processing:

It is permissible to peel garlic or onions to eat immediately... The fact that one wants to eat it immediately means that [the action] cannot be considered dash. Even though in Ch. 319 it is explained that [removing] stems or the outer hull of walnuts is considered dash even if one eats them immediately, one must say that it is different here. This is because the customary way is to peel [onions] at she'at akhila, unlike walnuts, where the outer hull is removed before she'at akhila. The same is true of parched ears, so it is forbidden there... even in order to eat it immediately, because grain is generally threshed when it is heaped [in the field]. For this reason, one may crack walnuts on Shabbat, and this is not considered dash... since the customary way to do it is only at she'at akhila. The same is true of a cluster of grapes and the like.

On this view, the prohibition of dash is not applicable to actions which are generally performed at she'at akhila; it is only relevant for actions which are usually performed before eating.[6] Removing the wheat from the stalks is done in the field long before eating, and the removal of the green hull of the walnuts is done in the field or in the factory, so that commercially-available walnuts usually do not have this hull. Therefore, these actions are forbidden because of dash. On the other hand, one peels produce or removes the brown shells of the walnuts at she'at akhila, and therefore these actions are not included in the prohibition of dash.[7] Similarly, removing dates from their cluster is prohibited because of dash, since this is generally done in the field, while removing grapes from their cluster is permitted, since one generally does so at home at she'at akhila. Similarly, one can take bananas out of the bunch, since one generally does this act near she'at akhila.

Derekh Akhila

Why does the prohibition of dash not exist in actions that are generally performed at she'at akhila? One may understand that we are talking about the concept of derekh akhila, the way of eating, a familiar concept from our study of the melakha of borer: the Torah allows a person to eat and to prepare one's food in the normal way on Shabbat, and it does not forbid those actions which are done in the framework of regular eating. According to this, these actions may only be permissible when they are done proximate to eating, but someone who is peeling fruit or detaching grapes from the cluster a long time before eating would be liable for dash. This indeed seems to be the view of the Eglei Tal (ibid. 3-4).

Fieldwork and Housework

However, many Acharonim (Magen Avraham 321:30; Mishna Berura ibid. 83; et al.) seem to indicate that peeling fruit long before she'at akhila is not forbidden because of dash but rather because of borer.[8] According to this, it appears that if the action of removing okhel from its natural cover is generally done proximate to eating, it is not included in the melakha of dash at all. The reason for allowing it is not because of derekh akhila, but that the prohibition of disha is not applicable to such actions. The Ketzot Ha-shulchan writes (Ch. 126; Baddei Ha-shulchan, 7):

Disha only applies to something which is going to be stored, but something which is generally done just before akhila is permissible. Thus, [disha] is threshing wheat from stalks or legumes from stems or walnuts from green hulls, because all of this [pesolet] is customarily removed through disha before one puts the produce in the storehouse, so that even if one threshes them near akhila it is forbidden. However, with the peels which are customarily removed only proximate to akhila for the sake of akhila, there is no issue of disha at all. On this view, the melakha of dash includes only actions of extraction which are done generally "to store" — in other words, in great quantities and for a commercial need,

while actions which are generally done in small amounts close to akhila are not included in the melakha of dash.

This approach works well with the general view which we presented before concerning the melakha of dash. The nature of disha is the completion of the "creation" of the produce. Therefore, only actions which are performed generally in the field may be seen as relevant to this process. Once the produce reaches the house for eating (or after the disha in the field has been completed and it has moved on to zeriya), it is considered to be a complete product, and all of the actions that one does with it from that point forward are considered "fixing" the okhel and preparing it for akhila, not creation of the food. Therefore, these actions are not included in the melakha of dash; if anything, it would be a prohibition of borer.[9]

Peeling Barley

This approach may help us understand another question as well. The Gemara in Beitza (13b) notes that the wife of Rav would peel a lot of barley on Shabbat for him. Tosafot (s.v. Ve-im kalaf) are surprised by this, because this one would expect that this would be forbidden because of dash:

It is surprising: how could Rav's wife peel a lot of barley for him? We have already seen above that one should rub parched ears on Erev Shabbat, which implies that it is forbidden on Shabbat. One may say that there we are talking about detaching from the stalks, which is mefarek, a subcategory of dash, the primary melakha; here, on the other hand, we are talking about those which were already detached on Erev Shabbat from the stalks but are still in their outer shell, and therefore it is permissible.

According to their answer, removing the barley kernels from the stalk is forbidden because of dash;[10] however, after removing the kernels, one may remove the inner husk, and there is no prohibition of dash. The Beit Yosef (319, s.v. Ein Molelin) and the Magen Avraham (319:8) rule accordingly.

Why is removing the inner husk of the barley not forbidden because of dash? After all, this involves extraction of the okhel from the covering in which it has grown! The Peri Megadim (Eshel Avraham 319:8) and Rabbi Akiva Eiger (Glosses, end of Ch. 321) explain that the light husk of the barley adheres to the kernel, and therefore it is insignificant in relation to it, and the prohibition of mefarek is not applicable at all. The Bei'ur Halakha (321:19, s.v. Le-altar) takes a different approach, explaining that the allowance is based on the fact that one removes the husk by hand and not with a utensil.[11] However, according to the view that we have raised, one may explain this matter simply:[12] removing the barley kernels from the stalk is done in the field; thus, the prohibition of dash applies to it. The light husk, however, which covers the kernel, would apparently be left to be taken off only at home, and therefore its removal does not involve a problem of dash.[13]

Dash vs. Borer

Paralleling our analysis of the definition of the prohibition of dash, one should discuss the specific definition of the prohibition of borer: is the prohibition of borer applicable only to okhel which is fully-formed but has pesolet mixed in it; or perhaps this prohibition is applicable in every separation of okhel and pesolet, even if this separation is considered to "create" the okhel? Might it be that certain actions are forbidden because of both dash and borer?

This issue is apparently a subject of debate amongst the Acharonim. The Mishna Berura (Shaar Ha-tziyun 319:15) seems to indicate that removing legumes from their stalks is forbidden because of both dash and borer; in fact, classical disha itself would make one liable for borer if the grain were totally separate from the husks, rather than mixed with them. The Eglei Tal (Borer, 10) also writes along these lines.
This issue also comes up is a debate amongst Acharonim regarding the following question: why is someone who squeezes fruits, who is liable for dash (as we will see later), not liable for borer as well? (See Magen Avraham 319:16, Eglei Tal ibid, et al.) There are those who understand that one who squeezes fruits is indeed liable for borer (see Peri Megadim, Introduction to Ch. 320). The Shevitat Ha-shabbat, however (Introduction to the Melakha of Dash, 1-2), maintains that there is an absolute distinction between dash and borer: dash involves taking out the okhel which is absorbed in the pesolet, while borer involves the separation of pesolet which is mixed in with okhel, and it cannot be that one can be liable with one action for these two melakhot. This also emerges from the words of Rabbeinu Chananel which we saw above: dash applies to pesolet which is attached to the okhel while borer applies to pesolet which is separate but mixed in with the okhel. This issue underlies the argument of the Acharonim whether the issue of borer applies in peeling fruit, as we have discussed in a previous shiur.

Summary: Defining the Melakha of Dash

To conclude, the melakha of dash relates to removing okhel from the covering in which it has grown or separating it from the place in which it has grown. This act "creates" the okhel, unlike borer, which merely "fixes" the already-extant okhel. Therefore, disha applies only to an action which is customarily done in the field, an extraction which creates the okhel, while an act which is normally done in the home, such as peeling produce or taking grapes off the cluster, is not forbidden because of dash.

[1] Rabbeinu Chananel notes that the action of disha is a preparation for the action of bereira: even though the attached pesolet has been removed, it is still mixed with the okhel, and it is necessary to pick it out. It may be that on his view, the melakha is defined based on this notion: the basis of the melakha of dash is the preparation of the okhel for bereira, while disha which eliminates the need for bereira is not included in the prohibition. Now it is possible to explain why peeling fruit is not forbidden because of dash — after the peeling of the fruit, it is ready to eat without any additional bereira. However, the Arukh (s.v. Dash), who presents a view similar to that of Rabbeinu Chananel, adds a few words that imply otherwise: "Dash... this is removing from okhel the pesolet which is attached to it and preparing it for bereira... Similarly, it is removing from the okhel the pesolet which is attached to it, so that it will be ready for eating." This last line indicates that disha is prohibited both as a preparation for bereira, and as a preparation for eating. (Perhaps the preparation for bereira is mentioned to make a point: not only disha which prepares okhel for immediate consumption is forbidden, but even if the pesolet is still mixed and there is a need for bereira, there is still a prohibition of dash). According to this, one must explain in another way why peeling fruit is not forbidden because of dash, which we will deal with shortly.
[2] We will deal at length with the issue of milking animals in a future shiur.
[3] It is difficult to understand what the peel is to which Tosafot refer, and the Shevitat Ha-shabbat writes (Introduction to the Melakha of Dash, 5): "I asked a sage from Babylonia, where palm trees grow, and he said... that, according to his understanding, he did not merit to comprehend these abovementioned words of Rabbeinu Shemuel, because the peel exists only before the dates form, and once the dates form, there is no peel."
[4] However, Tosafot, the Ramban and other Rishonim understand the view of Rashi to be that severing the date from the tree makes one liable for dash, but a full treatment of that discussion is beyond the scope of this shiur.

[5] According to Rashi, the prohibition of dash is applicable to okhel covered by pesolet, even if they are not attached (like milk in the animal's body and juice inside the fruit), and the same is true when okhel is attached to the pesolet, even if it does not cover it (Shevitat Ha-shabbat, ibid. 5). Rashi's view requires some more discussion, but that is beyond our scope here.
[6] The Me'iri indicates the same (114b, s.v. Kenivat yarak), explaining that one may break open nuts or pomegranates on Shabbat because "this is their derekh akhila."
[7] However, when it comes to these actions, it may be that there is a problem of borer, as we discussed in our shiurim on this topic. Later on we will deal with other details of cracking nuts.
[8] The Eglei Tal himself writes (Borer, 6) that peeling fruit to eat later renders one liable for borer and not for dash, and the Ketzot Ha-shulchan (Ch. 126; Baddei Ha-shulchan, 8) notes that he contradicts himself.
[9] The Maharshag writes in his Responsa (Vol. II, Ch. 108): "Nothing can fall into the category of mefarek or dash unless it is generally performed by the farmer. Thus, following the standard procedure for grain: the farmer threshes and takes the wheat out of the stalk and the husk, and this is the end of the field labor... However, that which is not done by the farmer but by each householder at home... this is not dash, but rather derekh akhila... Now, we may understand the common practice to peel eggs on Shabbat — as well as garlic and onions — since when it comes to all of these [foods], since these are generally done [peeled] at home, and the farmer does not generally do it, it is not included in dash." The Chelkat Yaakov (OC, Ch. 133) explains along similar lines, and he claims that the Chayei Adam (14:1) should also be understood in this way.
[10] Rabbeinu Chananel indicates (73b) that when one separates the stalk from the kernel by rubbing one's hands together, one violates the Torah prohibition of disha. The Rambam (14:21), on the other hand, rules that one who does so only appears to be violating dash, so it is only rabbinically banned. The rulings of both the Shulchan Arukh (319:6) the Mishna Berura (ibid. 20; Shaar Ha-tziyun, 11) seem to follow this latter approach.
[11] The Bei'ur Halakha does not explain why peeling barley is not forbidden at least rabbinically, as a melakha performed with an alteration is generally banned. What is the reason for the distinction between removing the kernel from the stalk and the removal of its inner husk?
[12] It may be that the Acharonim who present other answers also agree with this logic, but they understand the removal of the barley husk as fieldwork, and therefore they seek out other reasons to allow for removing it.
[13] This explanation can also help us understand the Rema's ruling (336:8) that one is allowed to take fruit off of a branch which has been cut off before Shabbat. Most fruits are harvested directly off the tree (unlike dates, which are taken off the branch only after it is severed from the tree), and therefore removing fruit after cutting off the branch is not considered fieldwork, and is not included in the prohibition of dash (see Eglei Tal, Dash, 2:4).

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 10: DASH (Part 2)

II) Practical Ramifications of the Melakha of Dash

As we have already seen, removing grain from its stalks is the primary melakha of dash (threshing). Any removal of food or drink from the place in which it has been enclosed is a subcategory of dash.[1] It should be noted that actions which fall into this subcategory are still prohibited by Torah law.

In light of this, peeling or shelling legumes and the like should be a Torah violation of dash; the same applies to squeezing olives and grapes (removing the liquid enclosed within them), and sometimes even to wringing out clothing. Aside from this, there are additional actions forbidden by the Torah or the Sages because of the melakha of dash: the squeezing of other produce, milking animals on Shabbat, crushing ice, etc. We will deal with all of these activities in the coming shiurim.

Cracking Nuts

As we have seen above it is forbidden to remove the upper, green hull of walnuts on Shabbat, since this is a melakha normally performed in the field. However, one is allowed to crack walnuts and to remove their hard, brown shells, since this is an act that is generally performed at home. Similarly, one may crack open almonds or sunflower seeds (see our previous shiur about peanuts). Similarly, the Rema (319:6) indicates that one is allowed to remove the green hull together with the brown shell below it without separating them.

Apparently, since cracking nuts is a home-based activity, the prohibition of dash should not apply, and as such it should be permitted even for non-immediate use. However, the Mishna Berura (319:24) indicates that one should only crack nuts for immediate use. It appears that the reason for this is that while dash indeed does not apply to a home-based activity, the prohibition of borer (selecting) remains; as we have seen on in our series on borer, one may peel fruits and vegetables only for immediate use, because of the melakha of borer. As we explained in our analysis of borer, preparation proximate to the meal is considered "for immediate use" and consequently allowed.

Since cracking nuts is permissible for immediate use according to all views, let us turn to the question of method. May one use a nutcracker, or can the nuts only be cracked by hand? In terms of the prohibition of dash, there should not be a problem to use a utensil, because this is a home-based activity and does not fall under the rubric of dash. However, as we have seen, the prohibition of borer is also in play; therefore, one should not be able to use a nutcracker, as borer is forbidden with a utensil.

Nevertheless, the mishna (122b) states explicitly: "One may take a hammer to crack nuts." The Eglei Tal (Borer, 10) explains that cracking nuts with a utensil is not forbidden

because of borer, since the okhel (food) is still contained within the shell. Indeed, after using a nutcracker, when one needs to discard the shards of the shell and extract the okhel from among them, one must do so proximate to eating because of the prohibition of borer.

The conclusion of the Mishna Berura (319:24) is that one is allowed to remove the broken shells after the nuts have been split open (proximate to eating), and even though one removes the pesolet (refuse) from okhel, there is no prohibition of borer in this, since this is an integral part of tikkun okhel (fixing/ preparing the food).[2] However, if the fruit has already been freed from the shell, such as sunflower seeds mixed with their hulls, one must remove the okhel from the hulls.

Shelling Peanuts

The Chazon Ish is cited (Orechot Shabbat, Ch. 4, n. 7) as allowing for the removal of the hard shell of peanuts, and Rav Neuwirth rules accordingly (Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 92). However, this question warrants revisiting nowadays. In the past, peanuts were generally sold in their hard shells, and naturally the removal of the shells was a home-based activity. On the other hand, nowadays, peanuts are almost always purchased pre-shelled, and only rarely does one find peanuts in their shells. According to this, this should be defined as “fieldwork,” and one should forbid it, as the Shevet Ha-levi indeed rules (Vol. I, Ch. 81).

However, one may argue that since some people buy unshelled peanuts and even present them as such on their tables, unshelled peanuts may be considered a fully-processed food, so that removing the shell is not the “fieldwork” of creating the okhel, but rather an action of preparing the okhel for eating at home. Although most people purchase shelled peanuts nowadays, this is only because they prefer to buy food which is ready-to-eat, not because unshelled peanuts do not have the status of okhel (see Chut Shani, Vol. II, p. 53).

Practically, it appears that due to this halakhic ambiguity, one should be stringent and avoid shelling peanuts in the normal way. Nonetheless, there remains a permitted way of shelling them: one may remove the hard shell by hand, rather than with a utensil, and shell the peanuts one-by-one, and this would be allowed even if we were to classify shelling peanuts as “fieldwork,” since this is considered a major alteration. This notion is derived from a Talmudic passage in Beitza (13b): "One who peels barley may peel one-by-one and eat." Rashi explains (ibid, s.v. Ve-khen Le-shabbat), that there is no prohibition of dash in this, since it is done in a irregular manner.[3] It is obvious that the thin, red seed coat may be removed normally and in great quantity (proximate to the meal[4]), since this seed coat is normally eaten, and the prohibition of dash is not applicable to it.

Legumes and Garlic

When it comes to removing legumes (such as peas) from their pods, the Mishna Berura (319:21) writes that if the pod is inedible, this is forbidden because of dash; however, if the pod is edible, there is no prohibition, because the prohibition of dash does not apply to removing okhel from okhel.

It is permissible to remove cloves of garlic from the bulb; there is no prohibition of dash because this is a home-based activity (Orechot Shabbat 4:6, in the name of Rav Karelitz). One must do so proximate to the meal, because of the prohibition of borer; we have already seen that one may peel garlic or onions proximate to the meal.

Summary

In conclusion, it is forbidden to remove wheat kernels from their stalks (doing so with a utensil is a Torah prohibition; doing so by hand may be only a rabbinic decree). It is also forbidden to remove the green hull on top of the hard, brown shell of a walnut or almond. However, one is allowed to remove the brown, hard shell of walnuts or almonds, and similarly one may remove the hulls of sunflower seeds. It is permissible to do this even with a utensil, but one must do it proximate to eating (or proximate to the meal). Peanut shells must be removed by hand, and only one-by-one. The thin, red seed coats of peanuts may be removed even in great quantities (but only proximate to the meal).

III) Squeezing Fruit

Is one allowed to squeeze an orange, carrot or apple? May one squeeze a lemon into a cup of tea or into a salad? May one suck the liquid out of grapes in one's mouth? May one soak up the oil absorbed in chicken cutlets?

The mishna (143b) states: "One may not squeeze produce to remove liquids from it, and if they come out on their own, they are forbidden." This prohibition of squeezing produce is included in the prohibition of mefarek (extraction), because this is a subcategory of dash. Just as in the prohibition of dash, one removes the okhel (kernel) from its container (husk), in squeezing (sechita) one removes the juice from the fruit (mashkeh from okhel). The Sages forbade the juice which comes out of the fruit, even if it comes out on its own.[5]

The Gemara (145a) stresses that the Torah prohibition of sechita only applies to olives and grapes:

One may not squeeze olives and grapes, and if one does so, one is liable to bring a sin-offering...
Rav Chiya bar Ashi said in the name of Rav, "By Torah law, one is liable only for pressing grapes and olives."

From the words of the Gemara (143b ff.) and the Rishonim, it appears that squeezing berries[6] and pomegranates was banned by the Sages because people were accustomed to squeeze these fruits in Mishnaic times; on the other hand, squeezing other produce, which is not ordinarily utilized for sechita, is permissible. This is how the Rambam (21:12) rules:

Mefarek is liable because of dash, and one who squeezes olives or grapes is liable for mefarek. Therefore, it is forbidden to squeeze berries and pomegranates — since some people squeeze them like olives and grapes — lest one come to squeeze olives and grapes. However, other produce — for example: quinces, apples and sorb-apples — may be squeezed on Shabbat, because it is not designated for sechita.

In other words, there are three levels:
1. Grapes and olives may not be squeezed by Torah law.
2. Berries and pomegranates (which some people use for juice) may not be squeezed by rabbinic law.
3. Other fruits (which are not normally squeezed) may be squeezed.

Why Does the Torah Forbid Only Grapes and Olives?

The Rishonim provide a variety of explanations as to the special status of grapes and olives when it comes to sechita.

Rashi (145a, s.v. Devar Torah) writes: "Pressing other species is not their normal use, so it is not a melakha." In other words, because it is not as common to squeeze these other types of produce, one is allowed to do so on Shabbat; only grapes and olives are commonly pressed by many people.

Why should the practice of humans influence the existence of a divine prohibition? The Tosafot Rid (144a, s.v. Sochatin) explains that when one squeezes a fruit which is not customarily squeezed, this act is considered performing a melakha with an alteration.

However, the Rashba (145a, s.v. Le-meimeihen) and the Ritva (ibid, s.v. Le-meimeihen) argue that this relates to the very nature of mefarek and dash itself: the extract and the source must be different by definition. When it comes to juicing, the melakha is applicable only to olives and grapes, which people are accustomed to squeeze; the liquid which comes out of them has the status of a mashkeh, so that one who squeezes them is considered to be extracting mashkeh from okhel. However, all other species, which are generally designated for eating and not for juicing, retain their okhel status even in liquid form. Since what comes out of them is considered okhel and not mashkeh, one who squeezes them is considered to be extracting okhel from okhel — and therefore cannot be liable because of dash.[7]

Alternatively, the Ran (61a, Rif, s.v. Kevashin) challenges Rashi's view and writes that this rule has nothing to do with common practice: rather, only olives and grapes contain liquids which can be defined as mashkeh! According to him, there is an essential halakhic determination here: only the juice which comes out of olives and grapes is considered mashkeh, without any connection to human practice, and therefore only in these species does one find the removal of mashkeh from okhel, which is forbidden because of dash. The Peri Megadim (Eshel Avraham, Introduction to Ch. 320) rules in accordance with the Ran's explanation.

According to this, the special law of the liquids which come out of olives and grapes for purposes of dash relates to their special status in other contexts. For example, many Rishonim maintain that grape juice and olive oil are the only liquids subject to the requirement to separate tithes; similarly, grape juice has its own special blessing when drunk.

This approach may be better understood in light of the basic concept of the melakha of dash. As we have seen, dash is the completion of the creation of the fruit. With other fruits, the creation of the fruit ends when it is plucked from the tree, at which point they transition to preparation as food. Regarding olives and grapes, on the other hand, their harvest does not conclude the process of creating the food. Rather, their juice has a special status, a significance which exceeds the significance of the fruit itself (as we have seen concerning tithes and blessings), such that it stands to reason that the full preparation of these fruits is completed only when the juice is extracted. Therefore, their sechita is forbidden by the Torah because of dash. (The Shevitat Ha-shabbat suggests a similar approach in his Introduction to the Melakha of Dash, 2, in the name of the Pe'er Etz Chayim.)[8]

Squeezing Other Produce Nowadays

These two understandings will impact our approach towards squeezing other fruits nowadays.

Nowadays, most fruits are used for sechita, and there are certain species, especially among citrus fruits, that are cultivated mainly for the sake of producing juice. Is squeezing these fruits prohibited by the Torah?

If we take the first approach, the Torah prohibition for olives and grapes stems from the customary aim of sechita, so that one would violate a Torah prohibition by squeezing these fruits nowadays.

However, according to the second view, that the Torah prohibition of the olives and grapes is based on the special status of the liquids which come out of them, squeezing other fruits would still not be prohibited by the Torah.

It is hard to resolve this debate conclusively; in any case, there is at least a rabbinic prohibition of squeezing fruits which are often juiced, while fruits which are almost never juiced may be squeezed. Still, one must ask: how does universal practice relate to individual intent in this case? Let us examine this.

Squeezing Produce Not Used for Juice

As we have noted, the Gemara rules that one may squeeze produce which is not ordinarily juiced. However, there is still a question about this: do we follow the common practice? In other words, if a given species is not generally squeezed for its juice, it may be juiced on Shabbat, because the liquid is not considered a mashkeh. This is the simple understanding of the Rif (60a) and the Rambam (21:12; see Beit Yosef, Ch. 320), and this is the explicit view of the Ramban (144b), the Rashba (ibid), the Yere'im (Ch. 274, 132b), and others. Alternatively, perhaps one who squeezes the fruit in order to drink the liquid grants it the status of a drink by the very fact that he squeezes it, and therefore this is forbidden. Consequently, one would be allowed to squeeze the fruit solely for the purpose of improving the fruit's taste. This is the view of Rashi (144b, s.v. Ke-Rav Chisda) and Tosafot (ibid, s.v. Hakhei nammei).

The Shulchan Arukh (320:1) rules leniently on this matter, while the Bach (320, s.v. Ve-ikka) writes that in light of the view of Rashi and Tosafot, "One should not rule leniently to allow squeezing any fruit for its juice — heaven forbid! — the way it is written in the Shulchan Arukh." This is the view of the Taz (ibid, 1), the Chayei Adam (14:3) and others. On the other hand, the Magen Avraham (320:1) and the Ba'al Ha-tanya (Shulchan Arukh Ha-rav 320:1) write that in principle one may be lenient, but the common custom is to be stringent. The Bei'ur Halakha (320:1, s.v. Muttar) writes that since most Rishonim rule leniently on this issue, one need not follow the stringent views, unless one is in a place where the local custom is to follow them.

In practice, this dispute would appear to have very limited, if any, application, as nowadays virtually all fruits, vegetables, etc. are used for juicing to some extent.

Summary

In conclusion, it is forbidden nowadays to squeeze any fruit or vegetable for its juice. The squeezing of olives and grapes is prohibited by Torah law; the squeezing of other species which are customarily squeezed is forbidden either by Torah or rabbinic law; the squeezing of species which are seldom juiced is only rabbinically banned.

SQUEEZING LEMONS

It would stand to reason that squeezing lemons on Shabbat should be forbidden, because this is a fruit which is usually squeezed. There is even more of a reason to forbid squeezing lemons than other fruits, because lemons are not generally eaten; rather, lemons are used exclusively for sechita.

However, the Rosh in his Responsa (22:2) allows squeezing lemons on Shabbat because "it is not the way to squeeze lemons for the sake of mashkeh, but rather for the sake of okhel." Similarly, the common custom among the Jews of Egypt was to squeeze lemons into sugar water — even on Shabbat! The Beit Yosef (320, s.v. Ve-yesh litmoah) writes that one may justify the custom in one of two ways. Firstly:

It may be that there is no prohibition unless one drinks the liquid squeezed out of a fruit without it being mixed into another drink.

In other words, only juice that would normally be drunk on its own must not be squeezed; the juice which one generally drinks only inside another drink may be squeezed on Shabbat. What is the logic of this? Apparently, juice such as this is not considered a mashkeh but only a garnish, because it is not drunk on its own, and therefore there is no removal of mashkeh from okhel. The Beit Yosef continues:

Alternatively, it is only forbidden to squeeze the liquid alone and then to mix it, but if the custom is to squeeze its liquid into another drink, this is allowed.

In other words, if one generally squeezes the juice into an empty vessel and only mixes it in with other drink subsequently, squeezing it is forbidden; but juice which is generally squeezed directly into a drink does not have the status of a mashkeh, because it never stands on its own.
The application of the Rosh's ruling to lemon juice nowadays depends on the two reasons he provides. According to his first explanation, squeezing lemons should be permitted, since lemon juice is not drunk on its own. According to his second explanation, the Rosh's leniency would not be applicable anymore: in factories worldwide, huge quantities of lemons are squeezed to fill empty bottles.

The Shulchan Arukh (320:6) rules unequivocally on the matter: "One may squeeze lemons." The Magen Avraham (8), the Taz (5) and the Ba'al Ha-tanya (Shulchan Arukh Ha-rav 320:10) understand that the Shulchan Arukh ruling is based on the first explanation, and thus, one may squeeze lemons even nowadays. Rav Ovadya Yosef rules accordingly (Livyat Chen, 57).

On the other hand, the Chayei Adam (14:4), the Mishna Berura (320:22; Shaar Ha-tziyun, 26) and the Ben Ish Chai (Year 2, Yitro 5) rule that the second approach is correct, and consequently squeezing lemons should be forbidden nowadays. This is Rav Neuwirth's ruling (Shemirat Shabbat Ke-hilkhata 5:5), as well as Rav Moshe Levi (Tefilla Le-Moshe (Vol. I, Ch. 43; Menuchat Ahava, Vol. II, 2:6, n. 40).

Putting a Slice of Lemon in a Drink

However, one may put a slice of lemon in cold water or in tea which is in a tertiary vessel (and according to the Chazon Ish, who believes that lemon is a garnish, even in a secondary vessel), even though it is clear that juice will flow out of the lemon into the drink, just as the Acharonim allow one to put fresh grapes into wine on Shabbat so that the grapes will split open and release their juice (Mishna Berura 320:14).

Summary

In conclusion, the Rosh allows squeezing lemons, but it is not clear what his reason is and whether it still applies today, when lemons are often squeezed into bottles. According to Rav Ovadya Yosef, the reasoning still holds true today; however, according to many halakhic authorities, both Ashkenazic and Sephardic, nowadays one should not

squeeze a lemon into an empty vessel or into a drink. Nevertheless, one may squirt the lemon directly into a salad or the like, as we will explain in our next shiur.

[1] See Rashi, 73b, s.v. Mefarek; Rambam 8:7; Shulchan Arukh Ha-rav 305:28.
[2] The Mishna Berura cites the Peri Megadim who rules stringently, that one must take out the food from the shell because of the prohibition of borer; however one may rely on the Maharshal who rules leniently, that removing the shell for immediate eating is considered tikkun okhel, and the prohibition of borer does not apply. In practice, there is good reason to be lenient in this, in light of the various leniencies concerning peeling produce.
[3] However, Tosafot (s.v. Ve-im kalaf) explain that we are talking about the thin husk of barley, to which the prohibition of dash is not applicable at all, as we cited in our previous shiur. However, they write this only in order to explain the conclusion of the passage, which allows one to peel even a great amount of barley, and they do not necessarily claim that the assumption of the beginning of the passage is rejected, because peeling one-by-one is permitted even for produce subject to the prohibition of dash. The Tzemach Tzedek indicates this in his Responsa (Chiddushei Shulchan Arukh, Ch. 319; also, addenda at the end of Shulchan Arukh Ha-rav), as does the Tiferet Yisrael (Kalkalat Shabbat, Kelalei Lamed-Tet Melakhot, Dash). However, Rav Neuwirth (Shemirat Shabbat Ke-hilkhata, Ch. 3, n. 92) writes that the Mishna Berura (319:22) implies otherwise; nevertheless, since it is not clear that this is the Mishna Berura's intent — in fact, there are Acharonim who allow removing even the peanut's hard shell, as we cited above (even though their approach is arguable) — it appears that practically one may allow shelling the peanuts one-by-one, if one does so specifically by hand, since this is a doubt regarding a rabbinic prohibition. Rav Moshe Levi (Tefilla Le-Moshe, Vol. I, Ch. 42; Menuchat Ahava, Vol. II, 6:3), and the Minchat Yitzchak (Vol. III, Ch. 32) concur.
[4] Many Acharonim write (Eglei Tal, Dash 5; Shevitat Ha-shabbat, Dash 5) that one may remove the seed coat of the peanuts specifically in order to eat them immediately, and this is the implication of the words of the Mishna Berura (319:24). However, logically, there should be good reason to allow removing the shell even sometime before consumption, since most people eat the peanuts with the seed coat, and thus it is considered part of the legume, such that the prohibition of borer would not be applicable. See the Ketzot Ha-shulchan (126; Baddei Ha-shulchan, 8) and Ayil Meshullash (Ch. 12, n. 56) who discuss this issue.
[5] We will deal with the details of this prohibition later.
[6] The Talmudic tut seems to be a mulberry (as both Jastrow and Epstein render it), but in modern Hebrew this word usually refers to a strawberry (technically, tut sadeh).
[7] The primary melakha of dash is removing the grain from the husk, i.e., okhel from pesolet; in squeezing produce, one removes liquid from okhel, not from pesolet, and despite this, this act is a subcategory of dash, since the liquid is different in its nature from the okhel, and one creates something new by removing it from the covering in which it has grown. On the other hand, when we remove okhel from okhel, even if the okhel being removed has been covered and hidden, this is not considered the creation of something new; it is mere tikkun okhel, and therefore it is not forbidden because of dash. We will see another ramification of this approach for the issue of squeezing produce into okhel. (See also our discussion above of removing legumes from their pods).
[8] The Meiri (145a, s.v. Ma She-ameru), in the name of the "great ones of the generations", cites another explanation of the rule that squeezing is forbidden by Torah law only for olives and grapes. He argues that there is a botanical reason: in grapes and olives, the liquid is concentrated within them; in other produce, the liquid is merely absorbed within it. A similar view is mentioned by the Peri Megadim (Eshel Avraham, Introduction to Ch. 320, 5, end)

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Shiur 11: DASH (Part 3)

IV) Squeezing Liquids Absorbed in Food

In our previous shiur, we dealt with the prohibition to squeeze fruits or vegetables in order to extract their natural juices. This is prohibited under the rubric of mefarek (extracting), a subcategory of dash (threshing). However, sometimes a food (okhel) may be saturated with a liquid (mashkeh) which it has absorbed, e.g., a pickle's juice or the oil in a doughnut or latke. Is the squeezing (sechita) of such foods permissible on Shabbat?

The Gemara (145a) deals with this question in the context of kevashim (pickled vegetables) and shelakot (boiled vegetables) and formulates the following rule: if the purpose of the sechita is le-gufan, for their own sake, i.e., in order to allow one to eat the vegetables without superfluous liquid, there is a consensus that squeezing them is permitted. However, if the aim of the sechita is "le-meimeihen," for their liquid, i.e., in order to use the liquid which is extracted from the vegetables, there is a dispute:

Shmuel said: "Whether kevashim or shelakot, for their own sake, it is permitted; for their liquid, it is forbidden but one is not liable..."
Rabbi Yochanan said: "Whether kevashim or shelakot, for their own sake, it is permitted; for their liquid, one is liable to bring a sin-offering."

In other words, squeezing the vegetables in order to eat them without liquid is permitted according to both views. Conversely, squeezing the vegetables in order to use their liquids (for example, as a relish for bread) is forbidden on both views, but the Talmudic authorities dispute the status of this prohibition: Torah (Rabbi Yochanan) or rabbinic (Shmuel).[1] Although this liquid is not the natural juice of the vegetable, but rather a liquid which it has absorbed, there is a prohibition of dash in this (at least according to Rabbi Yochanan), since one is removing the liquid absorbed in the produce.

The Reason for Allowing Sechita Le-gufan

As we have seen, according to all of the views, one is allowed to squeeze kevashim and shelakot in order to eat them without superfluous liquid, and the Shulchan Arukh rules accordingly (320:7).[2] What is the reason for this being permissible?

Rashi (ibid, s.v. Le-gufo) explains that one who does so does not violate mefarek, "Since he does not need the liquid." In other words, the entire nature of mefarek is removing something from its covering in order to use it, but when one does not need the extract, it is not included in mefarek at all. Tosafot (73b, s.v. Ve-tzarikh la-etzim) write, along the same lines, that this is not derekh disha (the way of threshing). The Ramban (111a, s.v. Hai Mesokhraita) and the Ran (41a, Rif, s.v. U-lfikakh) also state that sechita such as this is not like disha at all. Even though the Sages do sometimes ban sechita of this sort, there is no such decree in the case of kevashim and shelakot.

However, Tosafot in Ketubbot (6a, s.v. Hai Mesokhraita) write that generally there is a prohibition of mefarek even if the person is not interested at all in the liquid which is being squeezed; only in the case of kevashim and shelakot the Sages allow sechita, since the liquid absorbed in them is not an independent mashkeh, but rather part of the food. Even after it is extracted from the food, this liquid is considered okhel and not mashkeh (at least when one is not interested in it), and this is like extracting okhel from okhel, which is not forbidden because of dash.

Summary

To summarize, it is permissible to squeeze a vegetable or a fruit which has an absorbed liquid in it, if the aim is to eat the cooked food without liquid. Therefore, it is permissible to squeeze a doughnut or latke to remove the oil or a pickle in order to remove the "juice" within it (when one is not interested in the liquid). However, it is forbidden to squeeze a pickled or cooked vegetable in order to use the liquid, e.g., as a relish for bread.

V) Squeezing Produce into Food

The Gemara (144b) states that even though it is forbidden to squeeze produce on Shabbat, there is nevertheless a solution, quoted by Rav Yehuda in the name of Shmuel: "A person can squeeze a cluster of grapes into a pot [of food], but not into a[n empty] bowl."

The Gemara thus rules that although one may not squeeze grapes into an empty bowl, one may squeeze grapes into a vessel with food in it. Why is this latter case permitted? Rashi (s.v. Le-tokh ha-kedeira) explains:

It is self-evident that one does not want it for mashkeh, but for okhel; therefore, this is not the way of extracting it, and it is like separating okhel from okhel.

In other words, the melakha of dash — particularly, its subcategory of mefarek — exists only when one removes mashkeh from okhel (e.g., from a fruit or vegetable). However, when one squeezes straight into food, the liquid which emerges immediately enters the food, and it serves as okhel. Therefore, this is not the squeezing of mashkeh from okhel, but removing okhel from okhel, which is allowed on Shabbat. Tosafot (145a, s.v. Ve-Rabbi Yochanan), the Rif (60a) and the Rambam (8:10) all rule in accordance with this explanation.

The Rosh in his rulings on the Gemara there (22:3) also follows this leniency, but in his Responsa (22:1), he cites the view of Rabbeinu Chananel that Shmuel's solution is not accepted halakhically (since, according to him, Rabbi Yochanan challenges it), and therefore it is forbidden to squeeze produce into food:

Now you know that it is a dispute of the greats: Rabbeinu Chananel's halakhic ruling follows Rabbi Yochanan... and he says that Rabbi Yochanan disputes Shmuel's view. On the other hand, Rav Alfas [i.e., the Rif] follows Shmuel, and who would stick his head between the mountains? Whoever is stringent is praiseworthy!

The Rosh cites this dispute and recommends being stringent in this matter, for "Who would stick his head between the mountains?" — i.e., who would dare to wade into a dispute between these pillars of halakhic authority: the Rif and the Rambam on the lenient side and Rabbeinu Chananel on the stringent side?

However, the halakhic ruling of the Shulchan Arukh (320:4) is to be lenient in accordance with the Rif and the Rambam (this seems to be the Rosh's inclination as well):

It is permissible to squeeze a cluster of grapes into a pot which has a cooked food in it in order to improve the food, because this is mashkeh entering okhel, and it has the status of okhel; however, if there is no food in it, this is forbidden.

Based on this ruling, it would appear that one may squeeze grapes into food. However, in a subsequent ruling (7), the Shulchan Arukh cites the view of Rabbeinu Chananel: it is prohibited to squeeze cooked vegetables into a pot even if there is food in it. The Rema adds that, according to this view, squeezing grapes into the pot is also forbidden:

In the view of Rabbeinu Chananel, whenever the liquid is needed, one is liable to bring a sin-offering even if one squeezes into a pot that contains food.

According to him, one who squeezes a cluster of grapes into a pot violates the melakha of dash.

What is the final ruling? What is the intent of the Shulchan Arukh in citing the lenient view initially and then mentioning the stringent one?

The Mishna Berura (17, 30) writes that the Shulchan Arukh adds the view of Rabbeinu Chananel in order to indicate that although essentially one may be lenient in this matter, whoever is stringent is praiseworthy.

In practice, regarding olives or grapes, one should be stringent and refrain from squeezing them directly into food, in accordance with the view of the Mishna Berura. However, when it comes to sechita of other produce (which is forbidden only rabbinically[3]), and certainly when it comes to the squeezing of a lemon (which in some views is never forbidden, because lemon juice is not a stand-alone drink), it appears that one may be lenient and permit squeezing them into food. This is the ruling of the Chayei Adam (14:3).
In any case, one must squeeze directly into a salad or other food, not into an empty cup or into a drink, even if one's intent is to transfer the liquid immediately to the food (Mishna Berura 320:18).[4]

Sechita into Sugar for a Drink

Is it permissible to squeeze a lemon into sugar (into okhel which would be permitted) if one's intent is to pour the sugar into a drink (mashkeh which would be prohibited)? The Radvaz, in his Responsa (Vol. I, Ch. 10), offers this solution:

I have become accustomed to squeeze lemons onto sugar before putting water on it, because this is mashkeh going into okhel, and it is permissible.

The Mishna Berura (22) rules in accordance with this leniency. The Ben Ish Chai (Year 2, Yitro 5) writes that according to this one who wants to make lemonade on Shabbat must squeeze the lemon into the sugar first, and only after that may one add the water; his mnemonic is "And behold a ladder (sullam) was standing on the ground" (Bereishit 28:12) — "sullam" standing for sugar, lemon, mayim (water).
However, the Chazon Ish (56:7) disputes this. According to him, since the lemon is ultimately designated to be added to water, it is considered mashkeh and not okhel, and this is extracting mashkeh from mashkeh:

To squeeze a lemon onto sugar... if one's intent is to put the sugar into water, it appears that this sechita is forbidden; since one's intent is for mashkeh, it is considered mashkeh... However, if one needs to give lemon juice to a child for medical purposes, one should do so.

Thus, the Chazon Ish prohibits this practice, allowing it only for the sake of "a child for medical purposes".

Practically, since many halakhic authorities allow squeezing lemons even into an empty vessel (since one does not generally drink lemon juice on its own), it appears that there is good reason to be lenient according to the view of Mishna Berura and to allow for squeezing the lemon into the sugar and from there to transfer it into the drink. However, it is better to put a lemon slice into the mashkeh, thereby acting in accordance with all of the views (one should clean the peel thoroughly because of a concern of insect infestation). As for the prohibition of cooking if the liquid is hot, see our previous shiur, in which we mentioned that the Chazon Ish allows putting a lemon in a secondary vessel, since according to him it is like a garnish. Nevertheless, many halakhic authorities are stringent when it comes to this, and it is preferable to put the lemon into a tertiary vessel.

VI) Sucking Produce

Rabbi Eliezer of Metz, the Yere'im (Ch. 274, 133a), writes that there is a Torah prohibition to suck juice from fruit:

I am concerned that one who puts meat in soup or soaks bread in wine and then puts it back in one's mouth to suck the liquid out will be liable for this — all the more so, one should not use one's mouth to suck liquid from grapes and the like.

However, the Baal Ha-ittur (Hilkhot Yom Tov, 12) disputes this because "it is not derekh sechita with one's mouth."

Presumably, even if we do not follow the ruling of the Yere'im that there is a Torah prohibition (at least for olives and grapes), one should forbid the matter at least rabbinically because even melakha with an alteration is forbidden by rabbinical law. Apparently, according to the Baal Ha-ittur, sechita by mouth is not a mere alteration — to extract liquid with one's mouth cannot be classified as sechita at all.

The Rema (320:1) cites the two views but does not decide between them. The Mishna Berura (12) writes, following the Eliya Rabba, that one must distinguish between different cases:

See the Eliya Rabba, who writes that since sechita of olives and grapes is prohibited by the Torah, it is appropriate to be stringent and avoid sucking even with one's mouth, in accordance with the first approach. However, with other foods, there is no reason to be stringent.

Nevertheless, it makes sense that even when it comes to olives and grapes there is no reason to be stringent unless one does so in “the way of suckling” — i.e., one sucks them and does not put them into one's mouth. However, if one puts them in one's mouth and sucks on the liquid, spitting out only the pits, according to everyone, this is the way of eating, as implied by the Peri Megadim.

According to him, one should be stringent and not suck olives and grapes in one’s mouth, since the sechita of these fruit is forbidden by the Torah, but one may be lenient with other produce, whose sechita is prohibited only rabbinically. According to this, it would also be permitted also to suck sauce absorbed into a piece of bread or wine absorbed into challa.

The Mishna Berura adds that one needs to be stringent only when it comes to "the way of suckling" — i.e., one holds the fruit in one's hand and sucks the liquid from it. However, if one puts the entire fruit in one's mouth and sucks from it the liquid before one swallows it, this is not derekh sechita. Rather, it is the way of eating, and this method is allowed even for olives and grapes.

Therefore, one may suck pomegranate seeds even if one spits out the seeds. Similarly, it is permissible to suck sugar cane, and one may suck juice out of half of a lemon or a slice of orange.

[1] Rav, on the other hand, distinguishes between kevashim and shelakot: it is permitted to squeeze shelakot even in order to use their liquid, but it is rabbinically forbidden to squeeze kevashim in order to use their liquid: "Kevashim which are squeezed: Rav said, 'For their own sake—permitted; for their liquid, it is forbidden, but one is not liable... Shelakot, whether for their own sake or for their liquid — it is permitted.'"
[2] Do we rule in accordance with Rabbi Yochanan or Shmuel? In other words, is squeezing kevashim or shelakot in order to use their liquids forbidden by the Torah (Rabbi Yochanan) or the Sages (Shmuel)? Rabbeinu Chananel (145a) rules like Rabbi Yochanan, that there is a biblical prohibition in this, while the Rif (61a) and the Rambam (21:13) rule like Shmuel, that there is only a rabbinical prohibition. The Mechabber (320:7) cites the view of the Rif and the Rambam without attribution, and after that he brings the view of Rabbeinu Chananel in his name — implying that the Mechabber rules that the prohibition is only rabbinical. As we will discuss below, this argument has practical implications for the issue of sechita into okhel, and the Mechabber brings the view of Rabbeinu Chananel in order to indicate that it is worthwhile to be stringent in this according to his view.
[3] However, when it comes to the fruits which are designated nowadays for sechita, we noted in the previous shiur (see there) that there is a doubt of a Torah prohibition in squeezing them. However, since sechita into okhel is essentially permissible — it is only a stringency to be concerned about the view of Rabbeinu Chananel — it appears that one may be lenient even with fruits that are generally used for squeezing nowadays.
[4] See more in Livyat Chen, 55

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Shiur 12: DASH (Part 4)

VII) Milking on Shabbat

Under what conditions may one milk cows on Shabbat?
Is it permissible for a nursing woman to squeeze milk into a vessel?

The Prohibition to Milk

The Gemara (95a) lists a number of actions whose violation on Shabbat is a matter of dispute. Rabbi Eliezer rules that their performance violates a Torah prohibition, while the Chakhamim (the other rabbis) maintain that their performance violates a rabbinic prohibition:

Our Rabbis taught: "One who milks, sets milk [for curdling] or makes cheese – [any of these at] the size of a dried fig; one who sweeps [the dirt floor], settles the dust [by sprinkling water] or removes loaves of honey – [regarding all of these] unwittingly on Shabbat, one is liable to bring a sin-offering... This is Rabbi Eliezer's view; however, the Chakhamim say that in both cases it is only prohibited rabbinically.

Note that milking appears on this list. As such, it would appear that the Chakhamim rule that milking is forbidden rabbinically. Indeed, Rav Hai Gaon (cited in the Rashba ibid.) and the Ramban (ibid.) rule accordingly.

However, most Rishonim understand that the Chakhamim argue only about the second part of the list (the housecleaning activities), while the melakhot which are mentioned in the beginning of the list (the dairy-production activities) are forbidden by the Torah according to all views. According to this, milking is forbidden by the Torah.

While the Rishonim dispute the reason for this prohibition, the accepted understanding is the view expressed by Tosafot (73b, s.v. Mefarek, in the name of the Ri) and the Rambam (8:10), that milking is forbidden because of mefarek (extracting), a subcategory of dash.[1] As we have seen, the basis of the melakha of dash is the removal of an absorbed substance from its natural place. Thus, milking is forbidden because of mefarek, because one removes the milk from its natural place of growth.[2]

Milking by a Non-Jew

Despite the prohibition of milking, a non-Jew is allowed to milk a Jew's cow because of the concern of animal pain (tza'ar ba'alei chayim). The Shulchan Arukh (305:20) rules:

It is permissible to tell a non-Jew to milk [a Jew's] animal due to tza'ar ba'alei chayim, because the milk causes it pain; however, the milk may not be used on that day.

This ruling was widely practiced among Jewish communities worldwide for many generations. However, with the renewal of Jewish settlement in Israel, this solution has become very difficult to apply, whether because of the desire for Jewish labor or because of security issues and the like. Rav Kook, then Ashkenazi Chief Rabbi of British Mandatory Palestine, was asked about this in 1925 (Orach Mishpat, OC, Ch. 64). His response is quite strong and unequivocal: one must utilize the services of a non-Jew to milk on Shabbat.

Milking on the holy Shabbat by a Jew is totally prohibited and a terrible desecration of Shabbat, and Heaven forbid that one take a lenient view of this. There is no other way of milking on Shabbat aside from having it done by a non-Jew.

Milking to Waste

Notwithstanding this firm stance, in cases where there is no alternative, Rav Kook does not object to a Jew milking on Shabbat in a way that the milk will go to waste (le-ibbud).[3] The cows on Jewish farms at the time were Dutch dairy cows, which needed to be milked daily because of their copious milk production. This is one of the reasons that Rav Kook ultimately does not prevent those who permit milking le-ibbud. However, he sanctions this only in cases where there is no alternative, and only if the milk will actually go le-ibbud, "but Heaven forbid and forfend that one expand this dispensation any further." Indeed, the dispensation to milk le-ibbud is not based only on the fact that this is a melakha she-einah tzerikha le-gufah — one which is performed without any interest in its essence, but for the sake of an incidental result — but also on the view of Rishonim that we saw in our previous shiurim that when one is not interested at all in the mashkeh (liquid) being squeezed out, this is not considered to be a case of mefarek at all.

This ruling of Rav Kook created great difficulties for many agricultural settlements; the residents wanted to adhere to his ruling, but they found this application to be impracticable and that it led to an unbearable financial loss. Rav Uziel (then Chief Rabbi of Tel Aviv, later Sephardic Chief Rabbi of Israel) felt that there was a possibility of allowing a Jew to milk the cows and keep the milk, because of the tremendous loss and the interest of settling the Land of Israel (Mishpetei Uziel, Vol. I, OC, Ch. 10); however most rabbis opposed this, and Rav Kook (Orach Mishpat, ibid.) rejected it conclusively. The problem of milking on Shabbat, which was very difficult for Jewish agricultural settlements throughout Israel, aroused much debate and major controversy.[4] Among other issues, it begged the question: can Jewish settlement exist without non-Jews?! (To our distress, nowadays there is a very widespread use of and reliance upon foreign workers, notwithstanding the ready availability of numerous modern halakhic solutions and other ways to solve this and other legal issues.)

Milking into Food

Rav Shaul Yisraeli (Ammud Ha-ymini, Ch. 24), who was the rabbi of Kefar Ha-ro'eh, later issued a ruling permitting milking on Shabbat into food (based on the principle that one is permitted to squeeze a mashkeh directly into food, which we saw in our previous shiur). This is the practice of many kibbutzim; they milk on Shabbat into bread (although the only commercial use available for this milk is to use it for cheese production, cutting profits in half).

The Chazon Ish (56:4) rules that one must exert effort to recruit a non-Jew for milking, but if this is not possible, one may milk le-ibbud.

Milking by Machine

In reality, none of the abovementioned solutions provided a fully satisfactory solution for the Jewish farms of the time. A satisfactory solution to the problem of milking on Shabbat emerged in the first decade of the State of Israel, with the electric milking machine. This solution is based on the fact that the first milking goes le-ibbud, and the rest of the milk is produced "on its own", as it were, by the machine. This method of milking was first applied in Kibbutz Chafetz Chayim with the consent of the Chazon Ish.[5]
In recent decades, this solution has been further improved halakhically by adding the element of gerama (causation), so that the machine does not start operating immediately when the cups are attached to the cow's teats, but rather after some delay (also, a small part of the first milk to be pumped goes le-ibbud). This method is mentioned by the Chazon Ish (38:4) and Rav Yisraeli (Ammud Ha-ymini, Ch. 25) as being preferable.[6]

These methods of milking by machine le-ibbud or via gerama are employed by many Shabbat-observant farms in our days, so that we have an elegant halakhic solution, giving a realistic response to the need to milk on Shabbat by a Jew without causing financial losses.

Milk Produced on Shabbat

Any milk produced on Shabbat, even if it was milked in a permissible way, may not be drunk on Shabbat itself (OC 305:20), because the Sages banned liquids produced on Shabbat, as we will see in our next shiur. If the milk was produced in a forbidden way, at times it is prohibited to drink it even on a weekday. This depends on the law of maaseh Shabbat (OC 318:1), a product of a melakha, which we will not deal with at length now.[7]

NURSING

Nursing a baby in the normal way is permissible, and there is no question of any prohibition at all (OC 328:35). This is not considered mefarek, but rather derekh akhila, the way of eating. The mother can even help the baby by pressing on her breast (Rav S.Z. Auerbach, cited by Megillat Sefer 7:5).

However, pumping breast milk into a vessel is forbidden. The Bei'ur Halakha (328:34) writes in the name of the Peri Megadim that this action is forbidden by the Torah because of mefarek.

A woman who is in pain due to the extra milk in her breasts or who wants to pump the milk in order to maintain her ability to nurse (see the words of Rav S.Z. Auerbach, cited in Me'or Ha-shabbat, Vol. I, pp. 504-505) is allowed to pump milk le-ibbud (OC 330:8) — e.g., pumping the milk directly into the sink or into a vessel which contains some sort of substance that ruins the milk's taste (e.g., soap). She may also use a breast pump (either a manual pump, or an electric pump which is turned on before Shabbat or by a timer), if there is an unpalatable substance in the receptacle as above.

A nursing woman may not pump milk into a vessel with the intent that her baby will drink it later, unless this baby is incapable of nursing and cannot consume milk substitutes. Clearly, the mother may not do this on Shabbat in order that she may involve herself in other pursuits during the week — indeed, there is a Torah prohibition to do so!

Summary

In conclusion, milking on Shabbat violates a Torah prohibition according to most halakhic authorities because of the prohibition of mefarek, which is a subcategory of dash. The

original custom of kibbutzim and agricultural settlements was to employ a non-Jew to take care of the milking on Shabbat. When this was impossible, the halakhic authorities allowed one to milk le-ibbud. There are those who wanted to allow milking by a Jew, but this has not been the accepted practice. Another solution, adopted in Kefar Ha-ro'eh, was to milk onto bread. This issue has inspired many debates and controversies, and made things quite difficult for Jewish settlement in the Land of Israel.

After the establishment of the State of Israel, a revolution began with the use of the electric milking machine. Using this method, they would first milk le-ibbud, and after that the machine would operate on its own. This was the practice in Kibbutz Chafetz Chayim, in accordance with the view of the Chazon Ish.

Nowadays, there is another solution, using gerama. These solutions allow one to observe Shabbat in the best way and also employ Jews to do the milking without causing major financial losses.

There is no problem of nursing a baby. However, pumping breast milk into an empty vessel constitutes the violation of a Torah prohibition in the view of many halakhic authorities. If the mother is in pain due to extra milk, she may pump le-ibbud. If the baby is unable to nurse or consume milk substitutes, she is allowed to pump the milk for the baby to drink (though it is preferable to consult a rabbi in these situations). In other circumstances, it is absolutely forbidden.

VIII) The Prohibition of Mashkim She-zavu

May one consume the juice which is squeezed out of a grapefruit as one eats the fruit with a spoon?
What is the status of the juice at the bottom of a fruit cup?

The mishna (143b) cites a dispute about liquids which come out of produce on their own on Shabbat:

One may not squeeze produce to remove liquids from it, and if they come out on their own, they are forbidden. Rabbi Yehuda says: "That which is food, whatever emerges from it is permissible; that which is drink, whatever emerges from it is forbidden."

The Chakhamim forbid all liquids which come out, while Rabbi Yehuda allows the liquids when the produces is destined to be eaten, rather than for sechita (squeezing). This rabbinic prohibition of mashkim she-zavu (literally, liquids which have flowed) is explained by the Gemara (Beitza 3a) as being based on the Sages' concern that if one were allowed to drink liquids which flow out of produce of their own accord, one might come to squeeze produce actively, by hand. The Chakhamim in this mishna apply this prohibition to all produce, while Rabbi Yehuda believes that if the produce is designated to be eaten as food, one is actually displeased by its secreting liquid, so that there is no concern that one might come to squeeze it actively.

Returning to Shabbat 143b, the Gemara explains that Rabbi Yehuda concedes to the Chakhamim when it comes to olives and grapes: one should prohibit the juice which comes out even if they are designated to be eaten, since generally these species are used for their juices, so that we must be concerned that the person may actually be pleased by the liquids which come out, discard the original plan to eat them and decide to squeeze them by hand.[8]

The Shulchan Arukh (320:1) rules in accordance with Rabbi Yehuda's view:

Olives and grapes may not be squeezed, and their juice is forbidden if it comes out on its own — even if they were only designated for eating. Berries and pomegranates may not be squeezed, and if their juice comes out on its own, it is permitted if they were designated for eating, but forbidden if they were designated for drinking.

Juice from Eating a Grapefruit

In light of this, if one eats a grapefruit with a spoon and some juice squirts out, this juice may be drunk, since the grapefruit is designated for eating, not for sechita, and the eater has no intent to juice the grapefruit, but merely to eat it. Thus, the prohibition of mashkim she-zavu should not be applicable to such a case.

As for the status of eating grapefruit with a spoon, Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhatah, Ch. 5, n. 42) argues that although there is a pesik reisha (an inevitable, unintentional result) in this case that some juice will be squeezed out, since this juice is not removed from the fruit, but remains mixed in with it, there is no problem.[9]

Juice from a Fruit Cup

Similarly, one may drink the liquid left at the bottom of a fruit salad, since the fruits are designated for eating, not for drinking. Aside from this, the juice has been originally mixed in with the fruit, not flowing out into another vessel, and therefore it is considered part of the food. According to this, one may allow the liquid even if grapes are among the fruits in the salad.[10]
Translated by Rav Yoseif Bloch

[1] It should be noted that there is a distinction between the views of the Ri and the Rambam. The Rishonim ask: how can it be that milking is forbidden by the Torah because of dash, when the Gemara (75a) says that disha (threshing) is only applicable to things which grow from the ground (giddulei karka). According to the Ri, disha applies even to non-giddulei karka, with the halakha rejecting the conclusion of that Gemara. The Rambam, on the other hand, accepts the ruling of the Gemara that disha applies only to giddulei karka. Yet, he writes (in the same law) that a milker violates a Torah prohibition of mefarek, a subcategory of dash. The Maggid Mishneh explains that the Rambam understands that animals are considered giddulei karka for these purposes. However Rabbi Avraham ben Ha-Rambam explains (Birkat Avraham, Ch. 18), that the primary melakha of disha only applies to giddulei karka, since in the Mishkan (Tabernacle), disha was specifically performed on giddulei karka. However, he claims, only the primary melakha need to be similar to what was done in the Mishkan, while the subcategories do not need to be totally similar to the activities in the Mishkan. Therefore, only actual disha is limited to giddulei karka, while milking, which is a subcategory of dash (because of mefarek), is forbidden by the Torah even for non-giddulei karka.

[2] Among the Rishonim, there are other views regarding the underlying prohibition of milking. We will enumerate them briefly:

1. Dash (abovementioned Ri and Rambam)
2. Smoothing — one is smoothing the udder (Rabbeinu Tam, cited by Tosafot, 73b, s.v. Mefarek)
3. Harvesting (Yerushalmi 7:3)
4. Selecting (Rashba, 144b, in the name of Rabbeinu Tam)
5. Grinding (Yere'im, Ch. 274, 141a)
6. Shearing (Rash bar Avraham, cited by the Rashba, Ketubbot 60a)

7. Rabbinical prohibition (abovementioned Rav Hai Gaon and Ramban)

[3] It should be noted that Rav Kook does not permit this; he simply turns a blind eye and does not protest it: "It suffices us to turn a blind eye to those who are lenient to milk upon the ground, and also this it is not appropriate that an explicit ruling should issue forth in the name of a scholar who is an established authority... I have already said to the honorable Torah scholar that I myself have no desire to issue such a ruling, so that it will not become the common practice, but one may not protest the actions of those who are accustomed to permit this."

[4] A historical survey of the developments and discussions of this issue appears in the article by Dr. Chaim Peles, Barkai 2, pp. 108-132.

[5] See Rav Kalman Kahana's book Ha-ish Ve-chazono, pp. 56-57, 70-71.

[6] For more on this, see Techumin 7, pp. 144-156 (Rav U. Dasberg); ibid. pp. 157-173 (Rav S. David); Techumin 11, pp. 170-175 (Rav S. Rosenfeld); Techumin 15, pp. 393-400 (Rav U. Dasberg); ibid. pp. 401-410 (Rav Z. Weitman), et al.

[7] We should note that when there is a suspicion that that the milk has been produced on Shabbat in a forbidden manner, there will not be mehadrin certification on the item.

[8] In the Gemara, there is another view — that Rabbi Yehuda argues about olives and grapes as well — but on this interpretation, the halakha does not follow his view, but rather the view of the Chakhamim.

[9] Rav S.Z. Auerbach adds that this is a pesik reisha regarding a prohibition which is only rabbinic on two counts (regarding which the law is that it is permitted; see Shaar Ha-tziyun 316:18), because the sechita of other fruits is prohibited rabbinically, and sechita with a spoon is considered an alteration (however, above we saw that it may be that the sechita of citrus fruits in our times is forbidden by the Torah, since we are accustomed to squeeze them).

[10] Similarly, the Shulchan Arukh (320:2) rules that if grapes are found in wine and liquid is flowing out of them into the wine, the liquid is not prohibited because of the mashkim she-zavu decree, since this liquid is nullified by the wine. It is even permissible to put grapes into wine on Shabbat with the intent that they split open and spill their liquid into it (Mishna Berura, ibid. 14).

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 13: DASH (Part 5)

IX FREEZING AND THAWING ICE

May one put an ice cube in an empty cup in order to melt it?
Is it permissible to put ice cubes in a pitcher of juice?
May one put water in the freezer?

Melting Ice

The Gemara (51b) cites a beraita:

And neither snow nor hail may be crushed on Shabbat to cause their liquid to flow, but they may be placed in a goblet or dish, without concern.

The beraita forbids crushing ice on Shabbat, but allows one to put it into a cup so that it will melt on its own. Why?

The Rashba (ibid.) explains (the Ramban ibid. and Rambam 21:13 seem to indicate the same) that this prohibition stems from the issue of sechita (squeezing), part of the melakha of dash. Just as it is forbidden to squeeze a fruit (which is designated for liquid) and turn it into a drink, so too it is forbidden to crush ice and turn it into water:

It appears to me that this was disallowed based on the prohibition of sechita of fruit designated for drinking, because the hail and snow are designated to become water. Therefore, putting it in a cup is permissible, because one does not appear to be squeezing.

On this approach, one may place ice into a cup (even if it is empty) so that it will melt on its own, because this is not similar to sechita.

However, other Rishonim cite an alternate explanation for this prohibition, unrelated to the melakha of dash; Rashi (ibid. s.v. Kedei) explains that this is forbidden: "because this is molid (“creating” a new entity) on Shabbat, and it is like a melakha, that one creates the water."

This idea is expressed differently by the Sefer Ha-teruma (Ch. 234-235):

One may not crush snow and make it clear as water, because it is nolad... If so, it is forbidden to wash one's hands in snow or frozen water... because one dissolves them and turns them into water, so that it is nolad. It also appears that one may not put a kugel in winter next to the fire in order to warm it up on Shabbat day; since the fat in it has congealed and become thick and opaque, and now it melts and becomes clear, this is nolad.

On this approach, the prohibition is because of the law of nolad, and a similar prohibition exists in putting a food with congealed fat near the fire, since the fat becomes liquid, which is a problem of nolad. The simple reading of the Sefer Ha-teruma is that crushing ice is prohibited because of nolad. What is nolad? Nolad literally means "born," and refers to an object that was "created" on Shabbat. The general problem with such a substance is that it is considered to be muktzeh (since it was not available for use at the beginning of Shabbat). This is the way the Ramban and Rashba mentioned above understand the view of the Sefer Ha-teruma (and dispute it).

According to this understanding, the problem with crushing ice does not lie in any action performed, but rather in the result brought about, namely, the water that was "created." As such, the prohibition applies even if one puts the ice into an empty vessel without crushing it by hand; since the water is nolad, it makes no difference how this comes about. Only if one puts the ice in a cup which has a liquid in it does the Gemara allow one to use the water created, since the ice-water is not noticeable, as it is integrated in with the other liquid.

However, on closer examination, it is possible to understand the words of the Sefer Ha-teruma differently. It may be that when he talks about nolad, he does not refer to the result, namely that the water is nolad. Rather, he categorizes the act of crushing ice as molid, along the lines of Rashi's phrasing. And indeed the Rosh (4:13) seems to understand that the Sefer Ha-teruma prohibits melting ice because of molid. According to this, the prohibition is specifically when one crushes by hand; perhaps if one violates this ban and crushes the water, the water would be prohibited to drink as well.[1] However, if the ice turns into water on its own, there would be no prohibition upon the resulting water.

If the prohibition is specifically the action of holada, why does the Sefer Ha-teruma forbid putting fatty food near the fire? Does the fat not melt on its own? From the words of the Sefer Ha-teruma later on, it appears that specifically putting it next to the fire is forbidden, because this is considered to be an action of heating; however, if someone leaves the food out and it thaws on its own, this is mere gerama (causation), and there is no prohibition in this. So too, it would be allowed, according to him, to put ice in an empty vessel, since the thawing takes place on its own, not by human action.

Summary and Practical Ruling

To conclude, one may not crush ice on Shabbat, because:

1. Ramban, Rashba, Rambam: It is similar to squeezing produce. According to this, it is permissible to put ice into an empty vessel, because this is not an action which is comparable to sechita.
2. Rashi, Rosh (explaining the Sefer Ha-teruma): It is similar to a melakha, because one "creates" the water, thus violating molid. According to this, one may put ice in an empty vessel, since the water is created on its own, and not through human actions.
3. Ramban and Rashba (explaining the Sefer Ha-teruma): It violates the prohibition of nolad — a new product being "created" on Shabbat, which is muktzeh. According to this, the prohibition is applicable to putting ice into an empty vessel as well.

The Shulchan Arukh (318:16) rules against the view of the Sefer Ha-teruma and allows putting a fatty food by the fire in order to thaw it out.

One may put a kugel by the fire in a place where the hand withdraws [due to the heat], even though the fat which is congealed within it melts again.

Similarly, the Shulchan Arukh (320:9) allows one to melt ice:

One may not crush snow or hail, breaking them into little pieces so that the water will flow from them, but one may put them into a cup of wine or water so that they melt on their own, and one need not be concerned. Similarly, if one leaves them in the sun or by the fire and they melt, this is permissible.

The language of the Shulchan Arukh ("if one leaves it in the sun... this is permissible") implies that he allows this only after the fact, but the Mishna Berura (35) writes that the Shulchan Arukh's intent is to allow this in the first place, just as he allows one to put a food with congealed fat in it by the fire.
On the other hand, the Rema (318:16) writes that the custom is to follow the view of the Sefer Ha-teruma and not to leave a fatty food by the fire, unless there is some great need:

There are those who are stringent, and the custom is to be stringent. However, in a place of need, one may rely on the former view.

The Mishna Berura (320:35) writes that according to this, one must be stringent about ice as well, that one may not melt it by the sun or by the fire, but only in a full cup.

According to this view, may one put ice in an empty vessel so that it will melt on its own? The Acharonim debate this.

Rav Neuwirth writes (Shmirat Shabbat Ke-hilkhata 10:3, n. 7) that just as the Mishna Berura forbids melting ice in the sun, melting ice in an empty vessel at room temperature should also be forbidden. According to him, the Mishna Berura rules in accordance with the Ramban and Rashba's explanation of the Sefer Ha-teruma, namely, that the prohibition of crushing the ice is because of nolad, and thus it is prohibited even if the ice melts on its own.

The Shevet Ha-levi (Vol. VII, Ch. 40) writes that the Mishna Berura rules in accordance with the Rosh's interpretation of the Sefer Ha-teruma, that the prohibition exists only in a situation in which there is molid of the water, not in a situation in which the ice melts on its own.[2] According to him, the Mishna Berura forbids specifically thawing in the sun, which is considered to be leaving it in a heated place, similar to placing it near the fire; however, taking it out of the freezer into room temperature is not forbidden according to him, because this action does not cause the thawing in a direct way, but only removes the cooling agent and allows the thawing to happen on its own.

The Sephardic practice is to permit removing ice from the freezer, leaving it in an empty vessel so that it will melt. Similarly, it permits heating food with congealed fat and the like. For example, Sephardim may heat chicken on Shabbat even if there is a lot of congealed sauce on it.[3]

On the other hand, Ashkenazic practice is generally to be stringent in accordance with the view of the Sefer Ha-teruma. As such, Ashkenazim should not put ice cubes in an empty cup, but only in a cup with a liquid in it, as Rav Neuwirth rules. However, this stringency does not apply when there is a Shabbat-related need, and thus in such cases one may thaw a frozen liquid (e.g., a container of milk[4]). It is permissible even to leave it near a heat source in order for it to thaw rapidly (on the condition that there is no problem of cooking, i.e., that it is placed in a position where it is impossible for it to reach the temperature at which one withdraws one's hand); this is because, as we noted, the matter is allowed according to most Rishonim, and the Rema rules that one may rely on their view in a time of need.[5]

According to all views, one may not crush ice by hand in order to turn it into water (OC 320:9). However, one may walk on snow even though one crushes it (ibid. 13), because one has no intent to liquefy it (Mishna Berura, 39), and it is unavoidable (Taz, 10).

MAKING ICE

Is one allowed to put water in the freezer so that it will turn into ice?

This is apparently a function of the argument of the Rishonim which we have seen: according to the Ramban and the Rashba, it is clear that the matter is permissible, because this is not comparable to squeezing produce (this is the opposite action!), and there is no prohibition of nolad; according to the Sefer Ha-teruma, there is good reason to forbid this because of nolad, since this action causes a new creation of ice. As such, this would be permissible for Sephardic Jews, while for Ashkenazic Jews, one can allow this only in a time of need.

However, the Dovev Meisharim (Vol. I, Ch. 55) writes that freezing water is forbidden even according to the Ramban and the Rashba. According to him, these Rishonim rule leniently only about ice which turns into water, since even when it is still ice, if the person thinks to use it for drinking, it is considered a liquid (according to the Gemara in Nidda 17a); consequently, in its melting, a new liquid is not created. On the other hand, when a person turns the water into ice — which is not being used as a drink right now — one takes something which is defined as a liquid and nullifies the status of liquid, and this act is forbidden because of nolad even according to the Ramban and the Rashba. According to this, even Sephardic Jews may not freeze water, even in a time of need.

However, in practice, it appears that freeing water is permissible even for Ashkenazim, at least in a time of need. First, it is logical that the Ramban and the Rashba dispute the very basis of the Sefer Ha-teruma's view, and they believe that there is no prohibition of nolad unless an entirely new entity is created, not if something merely changes its form. (Indeed, there are those who understand this in the view of the Sefer Ha-teruma himself, as we have seen above.) Beyond this, it may be that freezing water is less significant than thawing ice and is allowed even according to the Sefer Ha-teruma, since water's solid state is a temporary situation, not natural for it, and it requires extreme cooling in order to exist. Simply, it may be that the prohibition of nolad is not applicable to something which does not last.

Practically, it appears that one may be lenient about this, at least when there is a need for Shabbat. Many halakhic authorities of the recent generation rule accordingly, among them the Shevet Ha-levi (Vol. III, Ch. 55), Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhatah, Ch. 10, n. 14), the Tzitz Eliezer (Vol. VI, Ch. 34; Vol. VIII, Ch. 12), the Chelkat Yaakov (OC, Ch. 128-129) and the Minchat Yitzchak (Vol. VIII, Ch. 24).[6]

Summary

To conclude, one may not crush ice on Shabbat, but it is permissible to walk on snow. Sephardim can put ice or fat in a bowl so that it will melt (or heat it up in one of the permitted ways), and so too, they are allowed to freeze water in order to create ice. Ashkenazim are accustomed not to put ice cubes in an empty cup, but only in a vessel which contains a liquid; similarly, their custom is to prepare ice before Shabbat and not on Shabbat itself. However, when there is a need for Shabbat itself, Ashkenazim can also put ice in an empty vessel or thaw a milk container and the like, and they may also freeze water in order to create ice.

[1] From the abovementioned view of the Rosh, also found in the Or Zarua (Vol. II, Ch. 62), it appears that the prohibition is only on the action of holada, and in any case the water which is nolad is not forbidden, while according to the Magen Avraham (318:42), if one crushes ice in a forbidden way, the liquid created is forbidden.

[2] According to the Shevet Ha-levi, the rulings of the Magen Avraham (318:42) and the Mishna Berura (ibid. 106) prove that one is allowed to put fatty food in an oven which is off so that a non-Jew will turn on the oven, since the Jew does not cause the melting directly; the Jew puts the fat down, and it is the non-Jew who is the cause of the melting at a later point. Presumably Rav Neuwirth would explain this away by claiming that putting food into an oven which is shut off is not a significant act as long as the non-Jew does not turn the oven on (the fat will not melt if the oven remains off), and therefore it is possible to allow it. However, removing the ice from the freezer and putting it an empty vessel starts the process of defrosting immediately, similar to putting it in the sun, and therefore it should be prohibited.

[3] This allowance applies provided that there is no problem of cooking. We deal at length with both the prohibition of cooking, and the ban of nolad, as they apply to congealed sauce, in our shiurim on those topics.

[4] When it comes to milk, there is another reason to allow it, namely that milk is only used as a drink, and thus even when it is frozen it has the status of a mashkeh (liquid), in which case melting it is not molid of a mashkeh. Ice, on the other hand, does have the status of mashkeh as long as one does not explicitly think about using it for drinking (as explained in the Gemara, Nidda 17a, concerning snow), so that melting it creates a new mashkeh (Rav S.Z. Auerbach, cited in Shemirat Shabbat Ke-hilkhatah, Ch. 10, n. 15).

[5] In fact, even if one melts ice in a normal situation — i.e., not a situation of great need — one is allowed to drink the water, because the Mishna Berura (318:107) rules that after the fact one may rely on the lenient view here. However, Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhatah, Ch. 10, n. 10) writes that the Mishna Berura is only lenient when it comes to heating up sauce with congealed fat, but when it comes to defrosting ice, because there is no great need to drink specifically this water as opposed to any other liquid, one who has other drinking water should not drink the water produced from the melted ice.

[6] However, Rav J.B. Soloveitchik rules that in freezing water, when one turns a liquid into a solid, one must be concerned about a Torah prohibition of building (Mi-peninei Ha-Rav, p. 79).

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 14: TOCHEN (Part 1)

I) Defining the Melakha

The Primary Melakha and Its Subcategories

As we discussed, techina (grinding; the melakha is known as tochen) is part of the process of turning grain into flour. In the Mishkan (Tabernacle), techina was performed to break down plant extracts into water-soluble granules, which would then be mixed with boiling water to create dyes for the Mishkan's coverings. The definition of tochen is breaking down one body into smaller homogenous components. The Rambam (7:5) defines this melakha in order to demonstrate the difference between a primary melakha (av; plural — avot) and its subcategory (tolada; plural — toladot):

The tolada is a melakha which is similar to an av among these avot. How so? One who minces[1] a vegetable in order to cook it is liable, as this melakha is a tolada of techina, because one who grinds takes one body and divides into many bodies, and any action akin to this is a tolada of tochen. Similarly, taking a strip of metal and grinding it in order to use its filings — as goldsmiths do — is a tolada of tochen.

In other words, the av melakha of tochen is true tochen, turning a substance into tiny granules or a powder, while cutting up the substance into small pieces is a tolada of tochen.

The Maggid Mishneh ibid. (4) explains that only an action which is qualitatively equivalent to the primary melakha may be considered an av, but a melakha somewhat similar to the av is considered a tolada. He gives the example of the melakha of tochen:

Any melakha which is absolutely comparable to the av... is an av like it, but a melakha which is somewhat similar to it is called a tolada... for example, one who cuts up a vegetable. This is only similar to techina in terms of making many bodies from one body; because the techina changes the first body absolutely and cutting up [vegetables] does not, this is a tolada.

In other words, only actual techina, which changes the body of the substance, is an av, while splitting one body into many bodies is a tolada.

However, according to this, filing metal should be an av, because this is real techina, yet the Rambam writes that this is only a tolada! It may be that the definition of the av is preparing something for cooking through techina, and therefore filing metal, which is not designated for cooking, is not considered an av.

According to this, the definition of the av has two elements:[2] a) true techina, and b) preparing for cooking. In the classic examples of tochen, there are two elements: in the

Mishkan, the plant extracts were ground and then cooked (i.e., boiled in water); paralleling this, in the bread-making process, one grinds the wheat and ultimately bakes it. When only one of these two elements is present, this is a tolada of tochen.

Therefore, one who chops a vegetable in order to cook it is liable, because the first condition has been fulfilled here: preparing for cooking (naturally, the preparation must be specifically through chopping the food itself, not other general preparations). However, this is only the tolada, not the av, because the second condition has not been fulfilled, because one has not actually irrevocably altered a substance by splitting it into smaller pieces. Similarly, one who files metal is liable for tochen, since the second condition has been fulfilled, because there is actual techina here; nevertheless, it does not rise above the level of a tolada, since the first condition has not been fulfilled, because there is no preparation for cooking here. The same applies to someone who creates sawdust (Rambam 8:15).

While it is important to understand the theory of the melakha, there is no essential practical distinction between av and tolada, as both of them are Torah-level prohibitions.

II) Mincing Food

How does one prepare a salad on Shabbat? May one chop vegetables into small pieces?
As we have seen, according to the Rambam, mincing vegetables is a Torah prohibition, a tolada of tochen. The source of this is in the Gemara (74b), in which Rav Pappa rules that one is liable for tochen for an action known as "parim silka" (or, on an alternative version: "paris silka"). What does this mean?

The Rambam understands that "parim silka" means mincing a vegetable known as silka (in Modern Hebrew, a selek is a beet), and this is what Rashi explains ibid.

On the other hand, Rabbeinu Chananel (ibid.) writes that "parim" is "like crushing, not like cutting," implying that only true techina is forbidden by the Torah, not mincing. The Rosh (7:5) explains similarly and declares:

I am astounded by Rashi's explanation of "parim silka" as mincing vegetables. When it comes to cutting up what one eats into small pieces, techina is not applicable at all!

According to him, mincing is not forbidden because of tochen. The Korban Netanel ibid. (10) explains his reasoning according to the view of the Rashba which we will cite later: the Torah does not require a person to eat food only in large pieces.

In fact, the Rambam's words appear to suggest that he also limits the prohibition to mincing. The Rambam (21:18) writes that "One who minces a vegetable in order to cook it — this is a tolada of tochen, for which one is liable." This implies that only if the mincing is in preparation for cooking is one liable, not if one cuts up vegetables in order to eat them in small pieces. A similar view is cited by the Ritva (74b) in the name of the Ri and the Ramban:

One who is paris silka is liable because of tochen — the Ri explains that this only applies in a case like this one, where one does not eat it raw. But with bread and the like which can be eaten immediately it is permissible, and so our master ruled in the name of his great master [the Ramban].

In other words, there is no prohibition to mince foods which are edible in their current form. The prohibition only applies to cutting up foods (like vegetables) which require

cooking, in order to prepare them for cooking. This is also the view of the Remakh (Shevitat Asor 1:3, cited by the Kesef Mishneh, Shabbat 7:5).

However, the words of the Rashba in a responsum (Vol. IV, Ch. 75) indicate that any mincing should be forbidden because of tochen, even if the food is edible in its current form and there is no intention to cook it.[3]

The Shulchan Arukh (321:12) rules in accordance with this view of the Rashba, that this is forbidden by the Torah: "One who minces vegetables is liable because of tochen." Note that he does not distinguish between vegetables which must be cooked and those eaten raw, even though many Rishonim (such as the Rambam and the Ritva) are lenient about this, and even though there are Rishonim (such as Rabbeinu Chananel and the Rosh) who are lenient when it comes to cutting vegetables generally. Indeed, the Arukh Ha-shulchan (321:7) is confounded by this ruling of the Shulchan Arukh, given that it is against the majority view in the Rishonim.

In light of this, even though the custom is to be stringent when it comes to mincing, nevertheless it is certainly less serious than true techina, since many Rishonim are lenient regarding this case. Therefore, one may mince food when there are additional reasons to be lenient,[4] for example in a case where one is mincing vegetables in order to eat them right away, as we shall see shortly. (Similarly, there is a case to be made for leniency in the definition of "mincing," as we shall discuss below.)

Items Edible without Being Cut

There are those who understand that the Rema takes a more lenient view than the Shulchan Arukh on the issue of cutting up foods. In light of the words of the Shulchan Arukh, who forbids mincing absolutely, the Rema writes (ibid.): "The same applies to cut up dried figs or carobs before the elderly."

The concluding phrase of the Rema invites the following question: does the prohibition to cut up dried figs or carobs apply specifically when it is done "before the elderly?" The Magen Avraham (14) understands that this is indeed so: "It is implied that to do so before someone who can chew is allowed." In other words, this prohibition only applies to one preparing food for the elderly, because they are not able to chew the dried figs or carobs without cutting the fruit up first, but if this is done for a person who is able to chew these fruits without their being cut up, there is no element of tochen in this activity. The prohibition of tochen exists only with significant techina, which makes the food fit to eat, and thus it does not apply to items which can are edible in their current form, without techina.[5]

The Bei'ur Halakha (ibid. s.v. Lifnei) argues with this assertion of the Magen Avraham:

In my humble opinion, his view is not self-evident, because [the Rema] inserts "before the elderly" because this is the normal way; [since] they are not able to eat if the fruit is not minced [it is normal to cut the fruit for them]. However, when it comes to items which grow in the ground, techina is applicable in any case, and thus it appears from the words of the Vilna Gaon in his commentary... Note, that even according to the view of the Magen Avraham, who allows one to chop food up before one who is able to chew it regardless, this is only true of dried figs and carobs, which one does not need to cut up; but when it comes to mincing vegetables and the like... it must be done for the current meal, even according to his view.

According to the Bei'ur Halakha, there is no distinction between things which can be eaten without techina and things which must be cut up before being eaten; the Rema

simply cites a common example of a case where one would cut up carobs. Similarly, the Magen Avraham only allows, according to his view, cutting up carobs, because there is no great benefit in cutting them up for a person who can eat them as they are, but cutting the vegetable for a salad and the like is forbidden even according to the Magen Avraham, because this activity is significant, even for people who are capable of eating the vegetables in their whole state.

After the Fact

The Mishna Berura (ibid. 45) writes in the name of the Chayei Adam that one must be stringent, even about using vegetables that were already minced on Shabbat:
Mincing onions or radishes an hour or two before the meal is tantamount to incurring a liability to bring a sin-offering, and the onions must not be eaten.

However, one must point out that the Mishna Berura himself (318:2) writes elsewhere, in the name of the Peri Megadim, that in any case in which there a dispute among the halakhic authorities, the food is permitted after the fact. According to this, one should allow for the consumption of foods that were minced, since many Rishonim (Rambam, Ritva, Rosh, et al.), permit one to do so in the first place, as we have seen above. This is what the Livyat Chen (63) writes about the words of the Mishna Berura:

With all due respect, he has gone too far here, as the view of many Rishonim is to allow this in the first place... According to this, even though one who chops up onions an hour or more before the meal has certainly acted improperly, as he is acting leniently against the ruling of our master, the Shulchan Arukh... but in any case, after the fact one should not prohibit this food from being eaten on Shabbat.
Defining Chittukh Dak-Dak

What is the measure of chittukh dak-dak, mincing? The Yere'im (Ch. 274, 133b) writes that he is uncertain of the degree of fineness which would make one liable:

One must be careful not to crumble produce into small bits, but I do not known how to ascertain the measure of their fineness or granulation.

The Bei'ur Halakha (321:12, s.v. Ha-mechattekh) writes that indeed one is liable only for cutting food into tiny pieces, but when it comes to what is forbidden, one must be careful not to cut food into small pieces, even if they are not actually tiny.

A number of Acharonim have tried to define chittukh dak-dak. The Berit Olam (Tochen 20) writes that chittukh dak-dak is defined as the normal, weekday measure of fineness which people are accustomed to; therefore, on Shabbat, one should cut food into pieces larger than the norm. Rav S.Z. Auerbach (Minchat Shelomo 91:13; cited also in Shemirat Shabbat Ke-hilkhatah, Ch. 6, n. 5) proposes a more lenient approach:

The halakhic authorities have written that one who chops wood on Shabbat into small pieces is liable because of tochen... According to this, one must say that the reason that one is allowed to cut large fruits and vegetables on Shabbat into small pieces fit for immediate consumption is because one still needs to use one's teeth to grind them; this is different from chopping wood, in which the pieces are fit for their use immediately, without any [further] techina.

According to him, one must follow the function of the action. One who chops wood is liable even if the pieces of wood are still relatively large, since they are fit for use without any additional cutting. On the other hand, food that has been cut but must still be ground using one's teeth before being swallowed is still considered to be "unfit for its function,"

and thus the cutting is not considered chittukh dak-dak. According to this, chittukh dak-dak requires tiny pieces, almost to the level of techina.[6]

In my humble opinion, it appears that the definition lies between these approaches: from many sources, it appears that tochen is the creation of a new identity. Every fruit has its own identity; every piece has its own identity. When one cuts a fruit into small pieces, the pieces lose their independent identity, and they become part of the general mixture of small pieces. According to this, it may be that the definition of chittukh dak-dak is that one cuts in such a way that it is difficult to recognize the identity of the piece. According to this, cutting vegetables into very small pieces for a salad will be considered chittukh dak-dak because it is difficult to differentiate between a small cube of cucumber and a small cube of green pepper, or between a small piece of tomato and a small piece of red pepper, etc. However, if a salad is composed of larger pieces, though they may be small, there is no issue of tochen in its preparation. Nevertheless, it is appropriate to prepare a salad proximate to the meal, so that there will be an additional mitigating element of immediate use, which we will discuss later.

Vegetable Slices and Sticks

In any case (even not for immediate consumption), it is permissible to cut vegetables into slices; there is no prohibition of tochen in this. This is what Rav Moshe Feinstein indicates in a responsum (Iggerot Moshe, OC, Vol. IV, Ch. 74, Tochen 3):

Does the prohibition of techina for vegetables apply only when one cuts them finely lengthwise and widthwise, like grinding flour; or does it apply even when one cuts only lengthwise or only widthwise, as one does with carrots, cucumbers and tomatoes?

Answer: In my humble opinion, it is obvious [that there is no prohibition of cutting food into slices]... Were it not so, there would be no limit to this, because it would be forbidden to slice bread into small pieces, unless we would employ the principle that there is no tochen after tochen; [similarly, it would be forbidden to cut] a large fruit such as an apple into three or four pieces. Thus, it is obvious that with foods, tochen is applicable only when mincing, as the Shuchan Arukh's language indicates about vegetables.

In other words, were we to forbid slicing food, the prohibition would make eating on Shabbat quite difficult, and it would be forbidden to slice bread because of tochen (were it not for the allowance of "tochen after tochen" which we will address later on). Therefore, slicing is not considered tochen at all. In light of this, Rav Feinstein allows one to cut carrots and cucumbers into sticks or spears. This same conclusion could be reached based on the view of Rav S.Z. Auerbach cited above: since people need to grind these sticks with their teeth, there is no issue of tochen in it.

However, it appears that one must differentiate practically between different levels of cutting. Cutting thin slices of vegetables is always permissible.[7] However, when it comes to strips of vegetables, there is a distinction: julienning vegetables, i.e., cutting them into thin, narrow strips, such as those used in carrot salad, is clearly forbidden, since the strips are then mixed together and eaten as one piece (and this is the view of Rav Elyashiv, cited by the Orechot Shabbat, Ch. 5, n. 12); cutting thicker strips to be eaten individually — i.e., sticks or spears — should apparently be allowed, as this type of cutting is quite dissimilar to tochen. When these strips are made into a salad and are eaten in another way, there is a new creation, and every piece loses its independent identity;[8] therefore, this is forbidden because of tochen. However when these strips are eaten in the same way as the whole vegetable itself is, it is logical that there is no problem in this, because the strips maintain their independent identity; they are merely smaller.

[1] Translator's note: The Rambam's term is chittukh me'at-me'at, which is equivalent to the chittukh dak or chittukh dak-dak mentioned by other authorities. We use the term "mince" for this type of cutting, as opposed to the term "chop", which we use for the regular chittukh of produce. This subcategory of tochen should not be confused with the primary melakha of mechattekh, cutting to size, which is the final step in manufacturing leather.

[2] The view of the Rambam in defining the av and toladot of tochen requires further study. I have chosen the understanding which seems most reasonable to me.

[3] However, it should be noted that the Rashba advances a different leniency, writing that grinding or cutting for immediate use is not included in the prohibition. We will deal with this later.

[4] It is also possible to enlist the view of those who regard mincing as a tolada. Even though generally we do not differentiate between the primary melakha and the subcategory, and an action which is defined as a tolada is forbidden by the Torah despite its differentiation from the av, it may be that when there is an additional alteration and the action is differentiated even further from the primary melakha, there is room to be lenient.

[5] However, this is determined based on the individual on whose behalf the food is being cut, not according to the general custom; thus, even if most people are able to eat carobs uncut, and cutting carobs for them is permissible, there is no allowance to cut them for the elderly who are unable to eat the carobs uncut.

[6] See Chut Shani (by Rav Karelitz, Vol. I, p. 102) who rejects the words of Rav S.Z. Auerbach: "The measure of fineness is not dependent at all on the question of whether, after mincing, one must still grind it by chewing with one's mouth at the time of eating. Techina is defined as anything which prepares it for eating (or for other purposes which one requires) by cutting it into small pieces, and if one prepares it for eating in the way which people eat it, in small pieces, this definitely falls under tochen." According to him, while it is true that the prohibition of tochen is applicable only if the substance is fit for its function, the function of the food right now is to be edible in the form of a salad and the like. The fact that the teeth will take a part in making this food fit for swallowing is immaterial at this time. See ibid. (pp. 100-102) that the prohibition of tochen is dependent, according to him, on the type of use: when a person cuts something in order to use it in a manner which is unique to small pieces — e.g., one wants to eat a vegetable salad, not each piece on its own — there is a prohibition of tochen; however, when the manner of use is identical, but it is easier to eat it in small pieces — e.g., one wants to eat apple slices and not a whole apple — there is no prohibition of tochen in this.

[7] However Rashi (74b, s.v. Chayav Achat Esrei) writes that one who cuts a reed into two or three parts in order to manufacture a wicker hive is liable for tochen; however, it makes sense that the level of cutting which is forbidden depends on the function and manner of use. This is what Rav Feinstein and Rav S.Z. Auerbach write in their abovementioned rulings.

[8] However, when a salad is composed of different vegetables, every vegetable piece maintains its independence as long as its source can be identified; only if it is not possible to identify the source is this considered the creation of a different identity, as we explained above. When discussing a salad composed of one type of vegetable or fruit, there is no significance to identifying the source of the pieces, and the criterion for losing identity will be the way it is eaten: are the pieces eaten together or each one individually?

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 15: TOCHEN (Part 2)

III) Techina for Immediate Use

In our series on the melakha of borer, we learnt that an act of bereira (selection) is permitted for the sake of immediate use (le'altar), i.e., proximate to eating or proximate to the meal. Is this principle applicable to other melakhot? In his Responsa (Vol. IV, Ch. 75), the Rashba writes that this allowance is relevant to the melakha of tochen as well, thereby limiting the scope of the prohibition:

This is only when one minces food in order to eat it the next day, or even on that day but for a later hour... However, to eat it immediately, it is permissible, for they did not forbid one to eat one's food, whether in large pieces or small ones, just as they said when it comes to selecting... that "'One may select and eat' for immediate use, 'select and set aside' for immediate use"... Consequently, anything which is eaten immediately, in the way that people are accustomed to eat [one may prepare in the usual way], even though that very act would render one liable to bring a sin-offering were it performed in order to set the food aside for a later point.

On this approach, just as bereira le'altar is permissible, techina le'altar is allowed as well, for it is inconceivable that the Torah would demand that one eat food on Shabbat only in large chunks! This allowance is also cited by the Ran (32a, Rif, s.v. Amar Rav Pappa).

However, the Shiltei Ha-gibborim (ibid. 3) questions this:

I am astounded by his view: since the prohibition is because of tochen, what difference does it make whether it is tochen for later that day, for immediate use or for tomorrow? Are all of the melakhot permissible if one requires [the product of] that melakha for immediate use?! Do not challenge me from bereira — that they allowed one to select when one wants to eat immediately — because the reasoning in that case is that there is no bereira at all. Moreover, the Sages themselves explicitly stated this rule [the permit for immediate use] for selection, while here they clearly stated that mincing vegetables is tochen and they did not distinguish. What basis do we then have to make such a distinction based on our own logic, making comparisons which they never raised?

It may be that the argument springs from the following question: why is bereira le'altar allowed? We learned earlier that one may understand the issue in one of two ways:

a) Bereira le'altar is not considered bereira (the selection done among the wheat kernels is for the purpose of storing them for the long term).
b) Bereira le'altar is allowed because this is derekh akhila, the way of eating, and the Torah does not forbid eating on Shabbat in the normal manner.

According to the first understanding, this allowance is specific to the melakha of borer, and is not applicable to other melakhot, while according to the second understanding there is a general allowance for derekh akhila, which can lead us to permit other melakhot which are performed proximate to one's eating.[1]

Rav Yosef Karo, the Beit Yosef (Ch. 321), cites the words of the Rashba, and he writes that no one argues with it. However, he writes that it is appropriate to cut up food into "somewhat large pieces".

However, in the Shulchan Arukh (321:12), Rav Yosef Karo omits the law of le'altar, while the Rema does bring it:

This entire discussion addresses one who is cutting up food to set it aside, but if it is in order to eat the food immediately, it is all allowed, just as it is permissible to select in order to eat immediately, as [we saw] above in Chapter 319.

The Magen Avraham (15) notes that the Shiltei Ha-gibborim questions this allowance and that the Beit Yosef advises to cut food up into "somewhat large pieces". However he writes that in his area people regularly cut radishes up into small pieces, and they have support for this approach, but they should wait until just before the meal. The Mishna Berura (45) writes the same:

There are those who question this allowance, and the Beit Yosef has also written that even one who intends to eat immediately should still be careful to cut [the food into] "somewhat large pieces". From this reason, many Acharonim write also that it is correct to act according to what the Beit Yosef has written. In any case, one should not criticize those who are accustomed to mince onions and radishes, since they have on whom to rely, and in any case, it is forbidden to do so until one leaves the synagogue, because we need it to be close to the meal itself, as we wrote in Chapter 319 concerning borer.

On the other hand, the Chazon Ish (Ch. 57) questions permitting techina le'altar, and he limits it from different angles:

It appears that it is only cutting up into small pieces that the Rashba permits. Since the essence of cutting up food is derekh akhila, there is no difference between small and large pieces, and it is all called derekh akhila. However, crushing, i.e. pounding, is the way of actual grinding; this is not derekh akhila but fixing the food in a different way, so that eating it immediately accomplishes nothing [to mitigate the prohibition]...

Regarding the basic ruling of the Rashba, it appears that the Rashbam, Semag, Mordekhai and Re'em cited by the Hagahot Maimoniyot do not differentiate between that which is proximate to the meal and that which is not... According to this logic, one must differentiate between borer and tochen: [in the latter,] one changes the original form more, and it is also not derekh akhila...

Furthermore, the Rema concludes his words by noting that the allowance [of techina] in order to eat le'altar is limited to bread and vegetables; it does not refer to the [cutting of] dried figs or carobs before the elderly... This shows that we do not rely on the view of the Rashba to permit this unless we can enlist the view of those authorities who believe that there is no [prohibition of] techina for other foods or the view of the Rosh that there is no techina for foods. Proximate to the actual eating, their approach — that it is not called tochen — is more cogent, but all of this is when it is possible to eat it [even without techina]; however, when they cannot eat the food without crumbling it, tochen is applicable even in order to eat it le'altar.

The Chazon Ish notes that many Rishonim dispute the view of the Rashba and believe that there is no allowance of le'altar for tochen. This allowance is applicable only to borer, because there is no change in the object itself, and the permit based on derekh akhila is more pertinent there as well. Furthermore, he claims that the Rashba and the Rema are only lenient in a case of cutting into small pieces, which is derekh akhila, because in the act of eating itself one cuts the food into small pieces; however, actual grinding, which changes the form of the food, is forbidden even le'altar, and one who does so is liable to bring a sin-offering.[2] Similarly, the Chazon Ish claims, the Rema is not lenient about mincing le'altar unless one is cutting the food up for a person who is able to eat the food without it being cut up, which is not true of chopping up food for the elderly or children, which is a more significant activity, and so one may not do it even le'altar.[3]

On the other hand, Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Tochen 2) writes that the view of the Chazon Ish is to be considered a lone view:

In any case, the Rema and all of the halakhic authorities after him rule in accordance with the Rashba and the Ran that in order to eat le'altar, [techina] is permissible, and they write that this is their custom... It turns out that the Chazon Ish... is opposed to the Rema, Magen Avraham, Peri Megadim and Vilna Gaon, as well as Shulchan Arukh Ha-rav, Mishna Berura and Arukh Ha-shulchan... It is also opposed to the lenient custom to which the Magen Avraham testifies. Thus, the view of the Chazon Ish is a lone view and also against the custom, and one should not forbid it. Perhaps a fastidious person should be stringent not to mince food, as the Mishna Berura and Shulchan Arukh Ha-rav write, but in a case of great necessity, there is no need to be stringent...

According to him, it is basically permissible to mince food le'altar, because this is the view of the majority of halakhic authorities. And while it is appropriate for a fastidious person to be stringent and to cut the food into somewhat large pieces, as the Acharonim have written, when there is a significant need, even a fastidious person need not be stringent, since this is basically permissible, and there is no distinction between cutting the food up for an average person or cutting it up for the elderly or the young.

Rav Ovadya Yosef (Yechaveh Da'at, Vol. V, Ch. 27; see also Livyat Chen, 62) writes that one may mince food le'altar and that there is no distinction between chopping and actual grinding or between the elderly and children on the one hand and average people on the other hand, since techina le'altar is not forbidden at all. Similarly, one may enlist the views of the Rishonim who believe that there is no prohibition of tochen once a substance becomes food, or that there is no prohibition for produce which can be eaten without being cooked or which one currently has no intention of cooking. According to him, the Beit Yosef accepts the Rashba's leniency, but his suggestion of cutting food into "somewhat larger pieces" is only an added preference, not required by the letter of the law:

It is permissible to mash a banana or cooked vegetables with a fork for the sake of an infant or the like, in order to feed the child le'altar. It is also permissible to make a salad on Shabbat and to mince vegetables in order to eat le'altar. There are those who, as an act of piety, cut up the vegetables for the salad into somewhat large pieces. Even though this is not demanded by the letter of the law, in any case one who is stringent is praiseworthy.

Yet, Rav Neuwirth in Shemirat Shabbat Ke-hilkhatah (6:6) rules in accordance with the view of the Beit Yosef that even proximate to the meal one may not mince food; rather, one must cut up food in somewhat large pieces, and only if one is cutting up food for someone who has difficulty chewing may one rely on the lenient views in order to mince the food, provided that one does so proximate to the meal.

Summary

In conclusion, the halakhic authorities argue whether the allowance of "le'altar" applies to tochen as well. According to most Acharonim, this leniency is applicable to tochen as well, even though the Chazon Ish questions and limits this allowance. Rav Feinstein writes that by the letter of the law, one may even mince food proximate to the meal, but when there is no pressing need, it is better to suffice with larger pieces.

Practically, one who minces vegetables to put them in a salad has halakhic support, but one must be careful to prepare the salad close to the meal's start. However, it is preferable and desirable to cut up the vegetables into pieces that are not tiny, but rather of the size of a hastily-made salad — composed of pieces that are small, but not too small, so that one can easily differentiate between a tomato and a red pepper. Finally, one should prepare such a salad proximate to the meal.

IV) Mashing without Cutting

How may one make egg salad on Shabbat? Is one allowed to mash a banana or an avocado? Is it permissible to crumble a cookie or bread?

Is the prohibition of tochen applicable only when one body is divided into discrete bits, or is the very act of crushing forbidden, even if it remains as one mass?

The Tosefta (15:13) says that "Pressed or dried figs cannot be crushed before the elderly." The Chazon Ish (57, s.v. Le-inyan) writes that when pressed or dried figs are crushed, they remain one mass, and therefore even in such a case the prohibition of tochen is applicable.

In terms of the liability for tochen, there is no difference between a dry substance which is broken down into separate bits, and a moist substance which becomes thicker when it is broken down, because when one crushes the pressed or dried figs, they adhere to the mass, and nevertheless, there is an issue of tochen... and this is logical, because a cohesion which is made by moisture is not considered a cohesion.[4]

In light of this, the Chazon Ish writes that it is forbidden to mash a banana; even though it remains one mass, there is a prohibition of tochen. According to him, the abovementioned Tosefta indicates that an action such as mashing is forbidden even le'altar,[5] and one may not allow mashing a banana without an alteration.[6]

Rav Feinstein (OC, Vol. IV, Ch. 74, Tochen 2) disputes this and allows mashing bananas in the regular way. According to this, any techina le'altar is permissible; however, even if we will accept the view of the Chazon Ish that true techina is not allowed le'altar, there is still good reason to allow mashing bananas, because the prohibition of tochen is not relevant in this action at all. The prohibition of tochen is applicable only when one takes one body and turns it into small components; however, if one takes a substance and mashes it (while it remains one mass), there is no violation of tochen. Rav Feinstein explains this as follows:

However, when it comes to mashing bananas, it appears that there is no reason to forbid this, even according to the view of the Chazon Ish... because the issue of techina is when one produces small slivers and crumbs such as grinding flour and the like... [However, a banana] which becomes very soft with a lot of moisture, and the appearance does not change... it is not techina... And it seems logical that for this reason techina is not applicable in mashing bananas, and therefore it is difficult to understand that which

the Chazon Ish writes, that in mashing bananas for children on Shabbat there is a prohibition of techina.

The language of the Rambam in defining tochen (7:5) seems to lend support to Rav Feinstein's approach. "One who grinds takes one body and divides it into many bodies" — this implies that if there is one body or mass left after the mashing has been completed, there is no prohibition of tochen.[7]

The Tehilla Le'david explains this along similar lines (Hashmatot, Ch. 252):

When one mashes a baked apple or cooked potatoes, there is apparently no problem of tochen or kneading, because the substance starts as one body and ends as one body.

On this approach, if the substance remains one entity, there is no prohibition of tochen (though the Tehilla Le'david is talking about a cooked substance, with which we will deal in a later shiur, it appears from his words that the same approach applies equally to something which has not been cooked).

Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 6:7-8) forbids mashing a banana or an avocado even for immediate use. Rav Feinstein also writes, in his conclusion, that it is better to mash the banana with an alteration in order to take the view of the Chazon Ish into account, but he adds that if this is not possible, one may mash a banana or avocado in the normal way, as long as it does not break down into separate parts but remains one entity.[8]

I have heard from my teacher, Harav Aharon Lichtenstein, that it is permissible to mash an avocado directly onto bread, because in this there is certainly no issue of techina. One must explain that aside from the fact that mashing onto bread does not bring about the result of techina, mashing an avocado onto bread is derekh akhila and not the way of techina, and it may be that this would be permissible even according to the view of the Chazon Ish.

Practical Halakha

In practice, it is preferable to mash bananas or avocadoes with an alteration (e.g., mashing with a spoon or the handle of the fork), but one who mashes with a fork has support, though it is preferable for this to be done directly onto bread and proximate to eating. If the banana or avocado is so soft that when one holds part of the item the other part falls off, it is permissible according to everyone to mash it normally, because the fruit is considered already ground, and there is no issue of techina concerning a substance which has already undergone techina, as we will see in a future shiur (Rav S.Z. Auerbach, cited in Shemirat Shabbat Ke-hilkhatah 6:7).

[1] The Chazon Ish (61:1, s.v. U-ma she-katav Ha-Taz) indicates that even according to the Rashba, only bereira and techina are allowed for immediate use, because these are actions that a person always performs with one's mouth at the time of eating. We will deal with the application of this notion in future shiurim with regard to kneading.
[2] The Chazon Ish derives this from the Tosefta in Beitza (1:13), which states that "Pressed or dried figs cannot be crushed before the elderly" (which he understands as "before the elderly" who are sitting at the table; see the next note). However, the simple meaning of the Rema is to allow even actual techina for immediate use (on the condition that this is not done with a designated grinding utensil), which is also the implication of the Rivash's Responsa (Ch. 184) as well as the view of Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhatah, Ch. 6, n. 20): "The Rashba would even allow techina with a mill le'altar, were it not for the fact that this is a utensil. Similarly, the Mishna

Berura takes for granted repeatedly the fact that, according to the Rashba, even that which grows from the ground may be minced proximate to eating, so it is evident that he does not understand the view of the Magen Avraham as the Chazon Ish does, for he would forbid it."

[3] As we have already seen, the Rema rules that it is forbidden to cut dried figs and carobs before the elderly. The Chazon Ish explains that "before the elderly" means that the seniors are sitting down to eat and one is cutting on their behalf, and from this he concludes that one should not cut even le'altar on behalf of someone who is not able to eat the food without it being cut up; though the Rema goes on to allow cutting le'altar, this is only for a person who could eat the food even without it being cut up. However, the Peri Megadim (Eishel Avraham 321:140) understands that the Rema allows techina le'altar in every case, and "before the elderly" means that one cuts on behalf of seniors who will eat the pieces at a later point. This is the majority view among the Acharonim, as Rav Feinstein notes in the abovementioned responsum in the Iggerot Moshe.

[4] An additional proof brought by the Chazon Ish will be cited below.

[5] See above that, according to the Chazon Ish, only mincing is allowed le'altar, not true grinding, and see there that most Acharonim dispute this.

[6] We will deal with the issues relating to performing techina with an alteration in a future shiur.

[7] To defend the view of the Chazon Ish, he could explain that mashing a banana divides it into different parts; though they continue to adhere to each other because of the moisture, cohesion due to moisture is not cohesion, as the Chazon Ish states in the passage cited above. On the other hand, Rav Feinstein claims that he has done his own research and discovered that in fact pressed and dried figs are reduced to little bits which adhere to each other when they are "crushed" (in the words of the Tosefta), while a mashed banana remains one mass, merely becoming softer.

[8] Above we brought the view of Rav Ovadya Yosef in Yechaveh Da'at, permitting one to mash bananas for a child to eat immediately even using a fork, since any techina le'altar is allowed.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 16: TOCHEN (Part 3)

V) Techina with a Utensil

We saw in our previous shiur that the Rashba codifies an important principle of the melakha of tochen: techina for immediate use (le'altar) is permissible. The Rivash (Responsa, Ch. 184) deals with a resulting question: does the Rashba's view permit one to grind food le'altar even with a specifically-designed utensil? In particular, may one grate cheese on Shabbat with a grater? The Rivash responds that this should be forbidden even le'altar:

My inclination is to forbid it, because it calls to mind the ruling of Rav Pappa, making one liable for tochen for mincing vegetables. Even if we say that this is [prohibited only] for tomorrow or for [later] that very day, but le'altar it is allowed, according to the view of the Rashba, z"l, and we will say that he allows one to do so even with a utensil le'altar, this is with a utensil such as a knife, which is not specifically designed for techina. However, a grater is designed specifically for this techina, making it like a sieve or a sifter for purpose of borer... Furthermore, it is logical that one should be stringent and forbid grating cheese with this utensil even on Yom Tov, because it is designed for this techina, and it is like [grinding] peppers in their mill, which the Sages forbade... because it is comparable to weekday practices (uvdin de-chol).

The Sages banned uvdin (singular, uvda) de-chol on Shabbat or Yom Tov. The Mishna (Beitza 2:8) lists "grinding peppers in their mill" as one of the disputes between Rabbi Elazar ben Azarya (who permits) and his colleagues (who forbid), and the Rashba explains that the reason to ban it is uvdin de-chol — i.e., it does not fall under the heading of tochen or any other melakha per se, but the Sages decided that it is not an action appropriate for a day of rest.

Thus, the Rivash gives us two reasons to prohibit using a cheese grater:

1. The allowance of techina le'altar is derived from the melakha of borer, and just as the activity of that melakha is allowed only by hand and not with a utensil, the same applies to tochen.
2. Since we are talking about a utensil specifically designed for this techina, its use should be banned because of uvdin de-chol.

The Shulchan Arukh (321:10) rules in accordance with the Rivash. The Bei'ur Halakha (321:12, s.v. Midei) explains that one is prohibited from using a utensil which is designed specifically for techina; however, cutting with a knife for immediate consumption is permissible (as emerges from the words of the Rivash himself):

Did they not allow borer only by hand and not with a utensil, because [with a utensil] it is considered like borer in any case? Apparently, if so, we should have forbidden in our case when one cuts food with any utensil... However, the rulings of all of the halakhic

authorities imply that in our case, even when one cuts with a knife, it is permitted. The reason, as the Peri Megadim writes, is that just as, when it come to borer, it is considered derekh akhila when one selects by hand to eat le'altar, so too in our case, it is considered derekh akhila even when one cuts with a knife to eat le'altar, because derekh akhila is with a knife. The same does not apply when one cuts with a utensil which is specifically designed for techina, such as using a cheese grater and the like... because then it is like [using] a sieve or a sifter, in which case it is considered borer even if le'altar.

The Rivash understands that the allowance of le'altar is based on the principle of derekh akhila (the way of eating), that the Torah allows one to eat food on Shabbat in the normal manner. Therefore, when one cuts with a knife, this is derekh akhila, while when one cuts with a specially-designed utensil, it is derekh techina (the way of grinding) and not derekh akhila.

Based on this understanding, the Mishna Berura (Bei'ur Halakha ibid.) raises a question: is one allowed to cut up onions with a large knife which is designed specifically for cutting (e.g., a cleaver)? He concludes (Mishna Berura, 45) that one should forbid the use of this utensil on Shabbat, because a) it may be considered a utensil specifically designed for techina, and b) its use may fall under the category of uvdin de-chol. On the other hand, the Arukh Ha-shulchan (321:9) allows using such a knife:

I have seen those who question this and forbid cutting onions with a cleaver. This does not seem logical to me at all, because this is also a knife. The Rivash is concerned about grating cheese with a utensil that it called a grater, because this is made to break down food into particles as fine as flour; consequently, this definitely falls under the melakha of tochen. However, the knife which is called a cleaver simply has a semicircular blade, and it is equivalent to a regular knife. Why should we say that Jewesses are acting against the law?

On the Arukh Ha-shulchan's understanding, a utensil such as this does not perform the melakha of techina but rather the permissible act of chittukh (chopping), so it is comparable to a kitchen knife, not a hand mill. He adds that this is the practical custom of Jewish homemakers, itself a significant indication of its permissibility.

An Egg Slicer

Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhata, Ch. 6, n. 12) asserts that even according to the stringent view prohibiting the use of a large knife designed for chittukh, one may allow the use of an egg slicer, a device which cuts a peeled, hard-boiled egg with a number of blades when it is closed. He does this by categorizing this utensil as a keli se'uda, a utensil normally used during the course of a meal, which is permissible.

It is not comparable to a cleaver... because [a cleaver] is not a keli se'uda; rather it is designated for techina. Alternatively, it is a utensil that storeowners are accustomed to use for their labor, and therefore it is forbidden because of uvdin de-chol. None of this is true of an egg slicer, which is composed of a number of normal blades, so that it is like any keli se'uda. According to this, it is possible that it is permissible to use this utensil also to cut a tomato, even though it is has the status of giddulei karka.

According to Rav Auerbach, an egg slicer is better than a cleaver, which the Mishna Berura treats stringently, because the two reasons to be stringent with a cleaver do not apply to it:

1. This is a utensil for domestic use, not a tool of the storekeepers' trade, and therefore the problem of uvdin de-chol is not applicable to it.
2. This utensil simply combines a number of normal blades, rendering it a utensil which is designed for chittukh, and not for techina.

Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Tochen 4) allows using a similar device for another reason:

Is it permissible to cut cheese or eggs with utensils which are designed for this purpose? In general, what are the principles of uvda de-chol?

Answer: According to what I have written, there is no prohibition in this, because this is only cutting into pieces, not dak-dak (tiny pieces). The problem of uvda de-chol is not relevant — is whatever one does to make an activity easier to implement considered uvda de-chol?! On Shabbat as well, there is good reason and a natural desire to make life easier. The uvda de-chol which the Rivash writes about is performing fine techina as one does on a weekday.

According to Rav Feinstein, since this utensil cuts food into slices, there is no prohibition to use it, because slicing food is not akin to chittukh dak-dak. It is only chittukh dak-dak (mincing), not regular chittukh, which can ever be defined as techina, as we explained above. Similarly, the problem of uvdin de-chol is not applicable here, because he believes that this ban is only applicable to actions which in some way conform to the basic standards of a melakha; it is not applicable to actions which do not fit into the essential outlines of a melakha at all.

Manual Vegetable Cutter

As implied above, Rav Feinstein applies this allowance only to chittukh which is not defined as "dak-dak". Therefore, one should not use a manual vegetable cutter which dices vegetables, to the degree that it becomes difficult to differentiate between red peppers and tomatoes, since chittukh such as this is considered "dak-dak". It is true that we have seen that there is good reason to allow even chittukh dak-dak proximate to eating; however, this allowance stems from the fact that this is derekh akhila, while the use of utensils of chittukh is considered derekh techina and not derekh akhila. Therefore, one should not allow it even proximate to eating.

However, with regard to cutting food into larger pieces, it appears that one may be lenient to use even a (domestic) manual vegetable cutter. When the utensil creates larger cubes of vegetables and one can still differentiate between red peppers and tomatoes, this is not considered chittukh dak-dak; this activity is not defined as techina, and even the problem of uvdin de-chol is not applicable. In particular, there is reason to be lenient in this proximate to the meal, because according to Rav S.Z. Auerbach, a vegetable cutter is not considered a utensil designated for techina, but a simple system of cutting blades. Therefore, one may be lenient le'altar, as it is appropriate to be lenient about chittukh into large pieces with a knife.

Nevertheless, this remains somewhat difficult to ascertain, as it may be that even the large pieces produced by a vegetable cutter are still considered "dak-dak"; it may be that this device is considered a utensil which is designated for techina, which one may not use even le'altar (as it appears from the words of Rav Feinstein, who is lenient only when it comes to slices). Therefore, though there is support for those who are lenient in this matter, it is preferable to cut up food with a knife.

Summary: How Can One Make a Salad on Shabbat?

In conclusion, to prepare salad with a regular knife, by the letter of the law, it is permissible to cut even very fine pieces, if one does this proximate to the meal. However, it is preferable to cut pieces that are a bit larger.

As for preparing salad with a manual vegetable cutter, one may not use small blades which create finely-cut pieces, but there is a room to justify the practice of those who are lenient to use blades which create larger pieces, because it is not clearly defined as "dak-dak". In any case, it is preferable to use a knife.[1]

Similarly, one may use an egg slicer or a device which cuts cheese into slices.

VI) Techina of Non-Giddulei karka

May one mash an egg on Shabbat? May one mince meat?

The melakhot of the bread-making process are classically associated with agricultural products. Are they only applicable to giddulei karka, that which grows from the ground? Furthermore, does the title of "giddulei karka" apply to natural resources which are not plants?

The Rambam's definition of tochen[2] (7:5) may help us answer this question. He writes that the prohibition of tochen applies to metal as well.

Similarly, taking a strip of metal and grinding it in order to use its filings — as goldsmiths do — is a tolada of tochen.

The Minchat Chinnukh (Musakh Ha-shabbat, Tochen 4) concludes based on the Rambam's example that techina applies to items which are not giddulei karka, and he adds that this is also the view of the Rashi (74b, s.v. Sheva), who writes that there is a prohibition of techina for clods of earth.

However, the Eglei Tal (Dash, 11) and the Peri Megadim (Mishbetzot Zahav 321:10) write that in terms of this issue, both dirt and metal may be considered giddulei karka (actual ground, or that which is extracted from the ground, respectively). It may also be that techina applies to items which are not defined as giddulei karka, if these items normally undergo a process of techina.

The question of grinding items that are not giddulei karka is addressed by the Terumat Ha-deshen (Ch. 56):

Question: If roasted meat, which is difficult to chew, is placed before one whose teeth do not chew well, is such a person allowed to mince the meat on Shabbat with a knife and eat it afterwards or not?

Answer: It appears that it is allowed in this case, and one should not forbid it because of tochen... It is not comparable to wood or produce or bread, because they all grow from the ground, and therefore techina applies to its kind — for example, grains and cereals, to which the essential nature of techina is relevant. However, one may say that with a food such as meat, which does not grow from the ground, according to everyone techina is not relevant to it... After all, Tosafot write explicitly that techina is not applicable to anything which is already edible. Similarly, the Asheri [the Rosh] writes that he is astounded by the idea that techina could be applicable to things which are already edible. One may not contradict their views from the words of the other greats unless we have

found that they argue with them explicitly; however, as long as we can differentiate and say that, in this case, these concede to those, we must say so.

However, this logic would imply that one may not mince raw meat in order to feed it to birds, since the meat is not truly edible — it is just that some people will gobble it down in this unusual manner. One must say that Tosafot allow grinding that which is already edible, because those foods do not really require techina; if one truly wanted to do so, one could eat it whole and chew it with one's teeth. However, without this reason, [one may] not [allow cutting it up].

And if you say: if so, someone who is not capable of chewing even cooked or roasted meat, it should be forbidden [to cut up cooked or roasted meat for such a person], this is not true; we follow the majority of the world, which is capable of chewing [prepared meat]. Therefore, techina is not applicable to [prepared meat], even for someone who cannot chew it; however, raw meat, which is not fit for any person... one should not allow [cutting it up].
According to the Terumat Ha-deshen, since according to many Rishonim there is no prohibition of tochen for foods which can be eaten as they are, as we have seen above, there is good reason to be lenient in any case with foods such as these as long as they are not giddulei karka. However, it may be that the Rishonim would not be lenient about foods which cannot be eaten without techina, and therefore one must forbid cutting them up even if they are not giddulei karka.

According to this, the Terumat Ha-deshen rules that one may cut cooked or roasted meat into small pieces, since one may eat it without chittukh (and "chop it up" with one's teeth), and it is permissible to do so even on behalf of a person who finds it difficult to eat it without chittukh, since we follow the majority of the world. One the other hand, one may not cut up raw meat for the sake of birds, even though it is not in the category of giddulei karka, since one is incapable of eating it without cutting it up.

The Shulchan Arukh (321:9) rules in accordance with the Terumat Ha-deshen: "It is permissible to mince cooked or roasted meat with a knife."

The Rema (ibid.) and the Mishna Berura (32) additionally cite the other cases of the Terumat Ha-deshen: one may chop up meat on behalf of the elderly or children, who cannot eat the meat without its being cut up, as long as one is speaking of meat that most people can eat it without its being cut up (Mishna Berura ibid.). However one many not mince raw meat for birds, since they are not able to eat it without its being cut up (Rema ibid.).[3]

The Mishna Berura (31, 33) mentions that the allowance to grind non-giddulei karka when most people can eat them without techina applies even if one grinds them to eat them at a later point. If one grinds for eating le'altar, one may be lenient and cut up even those things which cannot be eaten without techina. However, as we saw above, in any case, one may not grind with a utensil which is designed for techina (unless the device cuts into slices or large pieces).

[1] On Yom Tov, one may certainly be lenient about this, since the salad may deteriorate if prepared on the previous day. Consequently, one is allowed to cut the vegetables even with a special utensil. See Shulchan Arukh OC 504:3; Mishna Berura, 19.
[2] As we have seen above, according to many Rishonim, there is no prohibition of tochen for things that can be eaten as is, without cooking. However, the Terumat Ha-deshen raises the following doubt in this regard: perhaps even those Rishonim rule leniently only for items which can be eaten when they are whole (chopping them up, as it were, with one's teeth), but to items which require grinding or cutting, techina is applicable, even if

they do not require cooking. The logic is that when it is impossible to eat without techina, the techina changes the status of the item and turns it into food, and therefore it is more serious.

[3] The Rema writes that, since the birds cannot eat the meat without its being cut, by cutting it "one renders it food." The Magen Avraham (324:5) understands that his intent is to forbid it because of tochen, as we explained above. On the other hand, the Taz understands (ibid. 4) that the Rema does not forbid this act because of tochen, but because of the separate prohibition to manufacture animal feed on Shabbat (see Shabbat 155a), as the Terumat Ha-deshen himself points out later in that responsum. Accordingly, the Taz concludes that one should reject the Rema's ruling and allow cutting raw meat so that birds may eat it, since the conclusion of the Gemara (ibid.) is that there is no prohibition in this.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 17: TOCHEN (Part 4)

VII) Techina of a Cooked Food

The Rambam, in his Responsa (Blau Edition, Ch. 305, cited by the Beit Yosef, end of Ch. 321), raises the following question:

Question: A pot of grits is usually left on the stove over Shabbat [evening]. On the next morning, one takes the pot off of the stove, puts a wooden ladle in and stirs it a great deal, mixing it up and splashing it with the wooden ladle against the walls of the pot or in a bowl, until the meat, grits[1] and water have been thoroughly blended. At the end, [the mixture] becomes thick, as it all becomes one mass... Are all of these actions prohibited or permitted?

Answer: Certainly, this is all allowed. After all, the Mishna explicitly teaches (Eduyot 2:6): "If garlic, half-ripe grapes, or parched ears [of corn] were crushed before sunset, Rabbi Yishmael said: 'One may finish them at night.'" We have established (Shabbat 19b) that they argue about a case in which they require pulverizing, and the halakha follows Rabbi Yishmael. All the more so in this case: if one is allowed to finish preparing parched ears, which require pulverizing, [one may certainly finish preparing] grits, which have already been pulverized and fully cooked; all they are missing is mixing alone, so surely should it be permissible!... These grits do not require pounding, because they have already been thoroughly pounded in a mortar and fully cooked, and all they are missing is a bit of pulverizing and mixing...

The Rambam is addressing the issue of preparing a dish of grits and meat: after it has been removed from the fire, may one stir it while mashing the meat and the grits so that they dissolve and become blended? The Rambam responds that there is no prohibition in this, and he brings a proof from the Gemara. The Gemara (19b) discusses the extraction of liquid from garlic, half-ripe grapes and parched ears of grain, which requires three progressive levels of techina: rissuk (crushing), dikha (pounding) and shechika (pulverizing). The conclusion of the Gemara indicates that if the rissuk and dikha are done before Shabbat, it is permitted to complete the process and perform the shechika on Shabbat. In light of this, the Rambam argues, it appears that there is no prohibition of mashing grits, because they have already been crushed and pounded, and all they are missing is some minor shechika.

The Rambam's ruling in Mishneh Torah is along these same lines (21:13):

If garlic, half-ripe grapes or parched ears which were crushed before Shabbat still require dikha, it is forbidden to complete their dikha on Shabbat; however, if they are missing [only] shechika by hand, one is allowed to finish their shechika on Shabbat. Therefore, one is permitted on Shabbat to complete the shechika of the grits with a wooden ladle, in the pot, after it has been taken off the fire.

Thus, the words of the Rambam indicate that the prohibition of tochen is not applicable to an item which has already been cooked and softened.[2]

This law is cited by the Shulchan Arukh (321:19), and the Mishna Berura (82) adds: "To spread baked apples on bread is certainly permissible, and the same applies to fat and butter."
In other words, there is no prohibition of tochen for a baked apple (and there is also no prohibition of the melakha of memare'ach — also known as memachek, smoothing — in spreading it on the bread).

The Reason for the Allowance

What is the reasoning of this law? Why is there no prohibition of tochen when it comes to cooked foods? It appears that one may understand this in one of three ways:

1. The simple reading of the Rambam implies that the prohibition of tochen is not applicable here because the vegetable or fruit has been softened to such an extent that it is very close to being tachun, ground, and it is further techina is not considered grinding (analogous to the law of tochen achar tochen which we will see in our next shiur).[3] This is also the implication of the Tiferet Yisrael (Kalkalat Shabbat, Lamed-Tet Melakhot, Tochen).[4]
2. We learned previously that Rav Moshe Feinstein is of the opinion that the prohibition of tochen does not apply when the food is left as one mass and does not separate into small bits. According to this, it may be that the prohibition of tochen does not apply to cooked foods, since generally the rissuk of these vegetables creates a sort of agglomerated mass, not crumbs or grains. The Tehilla Le-David seems to take this approach (Hashmatot, Ch. 252):

When one mashes a baked apple or cooked potatoes, there is apparently no problem of tochen or kneading, because the substance starts as one body and ends as one body.[5]

3. It may be that by definition there is no prohibition of tochen for a cooked food. This arises from the words of the Chazon Ish (58:9, s.v. Siman), who writes: "Its being cooked removes it from the category of the melakha of techina; its techina is so effortless that it is not considered to be a melakha." On this approach, the prohibition of tochen includes only normal techina as was performed in the Mishkan (Tabernacle), while something which does not require a normal act of techina, such as a cooked food, is free of any concern of tochen.[6]

How Soft Must the Food Become?

A practical ramification of these different approaches is the following question: may one allow crushing any cooked fruit or vegetable, or must it be very soft or even disintegrating? The Acharonim dispute this point.

The Chazon Ish (58:9, s.v. Siman), as we have noted, writes: "Its being cooked removes it from the category of the melakha of techina; its techina is so effortless that it is not considered to be a melakha." This implies that the very fact that the item has been cooked, making it easy and convenient to mash it, removes the prohibition of tochen from it, even if it has not actually been pulped at all.

The Tiferet Yisrael (Kalkalat Shabbat, Kelalei Lamed-Tet Melakhot, Tochen) writes: "It is forbidden to mash cooked potatoes... because of tochen, but if they have been already somewhat pulped, one may complete their rissuk." According to him, it is not sufficient that the item is cooked; the cooking must cause the food to be softened somewhat, so that it will be possible to go further and mash it.

On the other hand, Rav Moshe Feinstein (OC, Vol. IV, Ch. 74, Tochen 5) writes that "they must be exceedingly softened, so that all they require is a bit of shechika." This is also the view of Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhata, Ch. 6, n. 21): one may complete the mashing process "only if they have already been crushed and only require a bit of shechika."

This argument can be explained based on the different understandings of the law. According to the third understanding above, it makes sense that one may crush every cooked fruit or vegetable, since cooked items are excluded from the prohibition of tochen. On the other hand, according to the first understanding, only if the fruit or vegetable has already been softened can one see it as tachun and allow a further act of techina; if it is stable and whole, there is no allowance to mash it. Furthermore, according to the second understanding, this is dependent on reality, and one is allowed to crush the fruit or vegetable only if it will create an agglomerated mass.

However, one may explain this differently. It may be that everyone agrees to the Rambam's logic — the allowance is based on the fact that the item is close to being tachun already, so that in mashing it, one is only putting the finishing touches on its techina — but they argue about applying this logic: to be considered already tachun, must a food actually be disintegrating, or is it sufficient for it to be cooked and soft? In other words, is it enough that it easy to perform techina, or does the techina need to have already begun?

Uncooked Soft Food

Conversely, does the allowance exist even for soft foods which have not been cooked? According to Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Tochen 5), the allowance is only for cooked foods, since the cooking process makes the food swell and softens it to a degree which one cannot reach without cooking. This is the implication of the abovementioned words of the Chazon Ish, limiting this allowance to things which have been cooked. On the other hand, Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhata, 6:7, n. 18) believes that if a food is so soft that it is falling apart — i.e., one cannot hold one end and thereby lift the other end — it is considered already tachun, and it is permissible to spread it on bread.

Practical Halakha

In practice, it is appropriate to mash only fruits or vegetables which are thoroughly cooked, so that they are very soft and easily crushed. It is preferable that they already be pulped. However, if one mashes them proximate to the meal, one may be lenient and allow mashing cooked, soft vegetables or fruits even if they have not been pulped, since one may enlist the views that even actual techina is allowed le'altar. Similarly, there is no prohibition to mash together a number of types of cooked, soft vegetables, even though it will create one mass, as we will, God willing, explain in our series on lash, kneading. One may also spread preserves made from fruit on top of bread, even if the preserves contain bits of fruits which have not been totally crushed.

VIII) Altered Techina

The Gemara (141a) cites a dispute about the issue of techina performed with an alteration (shinnui; plural — shinnuyim), i.e., in an unusual manner.

Rav Yehuda said: "To crush peppercorns one by one with a knife-handle is permitted; in twos, it is forbidden."
Rava said: "Since one does it in a different way, crushing even many [is permitted] too."

Rav Yehuda allows one to crush if two shinnuyim are done: each peppercorn must be crushed separately, and one does this with the knife-handle, not with a normal utensil. On the other hand, according to Rava, one shinnui is enough, and even a large quantity may be crushed with a knife-handle.
The simple meaning of the Tosefta (15:13) supports the view of Rava:

> Pressed or dried figs or carobs, cannot be crushed before the elderly on Shabbat, but one can crush with the handle of a knife or with a wooden ladle without being concerned.

This implies that one is allowed to crush even a large quantity of food with a shinnui.

Most Rishonim[7] rule according to the view of the Rava, that one may pound a great quantity, and both the Rambam (21:20) and Shulchan Arukh (321:7) rule accordingly.

How can it be that a shinnui makes the melakha permissible in our case, when all it usually does is turn a Torah prohibition into a rabbinic one? The Rid explains (Piskei Ha-Rid, 74a, cited by the Beit Yosef, Ch. 321) that crushing with a knife-handle is a major shinnui, and inherently the action is totally different from techina:

> You may ask: if [for doing this] in the normal way, one is liable because of tochen, should [doing the same act] with a shinnui not be forbidden [rabbinically], even if one is not liable?
>
> Answer: [Using] a knife-handle is an absolute shinnui, as choosing a wooden pestle over a stone pestle is already a shinnui, as we have learned in the mishna in the first chapter of Beitza (14a)... [Using] a knife-handle is an absolute shinnui, and therefore it is permissible in the first place. This is similar to what we have said concerning borer, that [for selecting] with a sieve or sifter, one is liable to bring a sin-offering; while [for selecting] with a reed-basket or a tray, which is a shinnui, one is not liable but it is forbidden; and [selecting] by hand, which is a total shinnui, is permissible in the first place.

The Rid explains, based on the mishna he references, that grinding is generally done with a stone pestle. When one uses a wooden pestle, this is considered a shinnui, so that the act is forbidden only rabbinically. When one does not use a pestle at all, just a knife-handle, this is considered a major shinnui, which makes the act permissible.[8]

The Rambam (21:20) writes that one must pound with a knife-handle and do this in a bowl (not a mortar). It is implied that one must have two shinnuyim: both a knife-handle and a bowl, not a regular vessel. This is also the view of the Shulchan Arukh (321:7).

The Magen Avraham (321:9) is astounded by the Rambam's ruling: why does he require two shinnuyim? The Gemara does not mention anything of the sort in Rava's view! Therefore, the Magen Avraham writes that even according to the Rambam, one shinnui is sufficient, and the Rambam's words should be understood as referring to "a knife or a bowl" — meaning that either one is enough.

However, the Taz (7) writes that both conditions are necessary. Why is this? The Matteh Yehuda (2) writes that indeed there is a need for two shinnuyim, but regular pounding with a knife is done directly on the table or in a bowl (and only pounding with a pestle is done in a mortar); therefore the Gemara does need to mention this.

However, most Acharonim seem to understand that a bowl is required for a different reason. The Taz (7) writes that one may not grind with a mortar because this is "similar to the weekday [practice]." The Mishna Berura (25) provides a similar explanation,

asserting that pounding in a mortar "appears like uvda de-chol, weekday practice."[9] According to this, one may understand that there are two different issues:

1. Pounding with a shinnui, so that one may avoid violating the prohibition of tochen. For this purpose, one shinnui is enough, e.g., grinding with a knife-handle.
2. One may not grind in a mortar because of uvdin de-chol.

Thus the requirement to grind in a bowl is not due to the law of shinnui; it relates to the idea that one should not use a vessel which is specialized for the act of techina on weekdays. By grinding in a bowl one avoids the appearance of a weekday activity. It turns out that there is no need for two shinnuyim, but there is a need for one shinnui (knife-handle or spoon) as well as a need that the techina not be done in a specially-designed vessel, but rather in a regular plate (because of uvdin de-chol).

Le'altar

Does one need to do this type of grinding le'altar, for immediate use — i.e., proximate to the meal? The Eglei Tal (Tochen, 12, 30) writes that techina may be done with a shinnui only le'altar, and this is how he explains why the shinnui here allows the act to be performed in the first place. However, other Acharonim do not write this, and they allow techina with a shinnui even not le'altar.

Even so, it is good to grind specifically le'altar because of another reason. The Chazon Ish (57, s.v. Nimtzinu) writes that, for children, one may grind bananas with a shinnui, using the handle of a fork. Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 6:8) understands that the Chazon Ish allows this only for children, but for adults, it is forbidden. This appears perplexing, because the allowance of techina by shinnui appears in the Gemara and Shulchan Arukh as a general rule which is not limited specifically to children. It may be that Rav Neuwirth understands that generally one must have two shinnuyim, but for children, one may be lenient and suffice with one shinnui, so that one mashes with a fork-handle. (However, he appears to forbid doing so for adults even with two shinnuyim.)

Nonetheless, in light of the view of the Taz and the Mishna Berura — that essentially one shinnui is enough and the use of the bowl is only necessary because of uvdin de-chol — if one grinds food with a fork-handle and inside a bowl or plate (rather than a specially-designed vessel) or on the table, one should be allowed to do even for adults. The Orechot Shabbat (5:18) rules accordingly and remains with an unresolved question on Rav Neuwirth (ibid. n. 31).

In any case, even though it appears that one should permit techina with one shinnui, it is best to do this proximate to the meal, so that one may enlist the views of the Rashba and the Rema that techina le'altar is always allowed.

In light of this, one may grind anything on Shabbat when one does so using a knife-handle, but one may not do so with a specialized vessel or utensil, just in a bowl or plate, on a table and the like. Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Tochen 2) writes that strictly speaking, one may also crush with a spoon,[10] and this is the view of Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhata, Ch. 6, n. 20). If possible, one should do so proximate to the meal.

Summary

In conclusion, even though it is forbidden to perform techina on Shabbat, it is permissible to do this with a shinnui, using the handle of the fork or a spoon. One should do this on

the table or in a plate or bowl, not in a vessel which is specially designed for techina (such as the receptacle of the blender).

[1] The Hebrew term ha-rifot occurs in II Shmuel (17:19): "And the woman took and spread the covering over the well's mouth, and she strewed ha-rifot on top; and nothing was known." The Radak explains that "crushed wheat is called grits".
[2] The Rambam seems to imply that the prohibition of lash, kneading, does not apply to cooked foods either. We will deal with this in our upcoming series dedicated to this topic.
[3] However, this not the same as the law of tochen achar tochen, regrinding. Tochen achar tochen is based on processes previously undertaken by this food, not its current status. (This rule is stated with regard to regrinding bread: even if it is currently hard enough to require grinding to be made into breadcrumbs, the fact that the grain was already ground means that regrinding it is not considered tochen.) In our case, on the other hand, the leniency is based on the status of the food now, when it is so soft that it is considered already tachun; nevertheless, techina of such an item is not considered an important, significant melakha, since it is already so close to being tachun.
[4] "It is forbidden to mash cooked potatoes... because of tochen, but if they have been already somewhat pulped, one may complete their rissuk." This implies that because they have already been pulped somewhat, they are considered "ground," and there is no prohibition in continuing their techina.
[5] However, the Chazon Ish (Ch. 57, s.v. Le-inyan Chiyuv Tochen) explicitly rejects this argument (as we explained concerning mashing a banana), and he writes that, on the contrary, the abovementioned words of the Rambam indicate the opposite, because he allows one to "grind" cooked foods only because they require a small amount of shechika, and it is implied that "because they adhere as one mass, the prohibition of techina is not lessened." Thus, while this is a valid explanation for the permit of grinding cooked foods, it is a questionable reading of the Rambam.
[6] According to this understanding, there is a formal law that the cooking removes the techina at the basic level. (According to this, even if a raw fruit has the same consistency as a cooked fruit, this will be totally irrelevant to the question of techina, since we require that the produce be cooked specifically; see next note). However, it is difficult to understand the Rambam's view in this way, because he discusses the cases of garlic, half-ripe grapes, and parched ears — which have not been cooked. In fact, it is possible to understand the view of the Chazon Ish differently. It may be that his intent is not to say that the very act of cooking removes the prohibition of techina, but that cooking brings it to the state in which "its techina is so effortless that it is not considered to be a melakha," in the view of the Rambam — i.e., it may be ground so easily that its techina is not a significant act, as we have explained above.
[7] Except for the Kol Bo (Ch. 31, p. 124), who rules like Rav Yehuda.
[8] However, the Mishna Berura (321:25) explains that only techina with a knife-handle and the like is considered a true shinnui which removes the name of techina from the act, while techina with a normal utensil but with a shinnui in the place of the techina — for example, grinding on top of the table instead of inside the vessel generally used for techina — is not allowed. A shinnui such as this is considered a regular shinnui, which is still forbidden rabbinically.
[9] The Mishna Berura writes that one may pound with a knife-handle on top of the table because "this makes two alterations." However, in light of what we have said about his view above, that the reason is because of uvdin de-chol, it appears that while he demands two alterations, only one of them is designed to prevent violating the prohibition of tochen (using the knife-handle), while the second one (using a bowl) is to avoid uvdin de-chol.
[10] "Note that the Chazon Ish also allows this with a shinnui, and the shinnui he discusses is using the handle of a knife, spoon or fork. It would seem that the bowl and the handle of the spoon are equivalent when it comes to the difficulty of shechika! However, is it not true that it is harder to pulverize with the bowl of the spoon than with

its handle? If so, what is the reason that he considers using the handle to be a shinnui? Perhaps because it is a shinnui in the very nature of its use — which is to use the bowl rather than the handle — it is preferable in his view [to use the handle]."

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 18: TOCHEN (Part 5)

IX) Tochen Achar Tochen

Our final question as we examine the melakha of tochen regards the nature of an item's status as tachun, ground. Once a substance has reached this point, does a further act of techina have any significance? In halakhic terminology, do we rule that ein tochen achar tochen (there is no grinding after grinding), i.e., once a substance has undergone techina, any additional crushing, chopping, grinding, milling, etc. is meaningless; or do we say that yesh tochen achar tochen (there is grinding after grinding), i.e., one may still violate a prohibition of tochen by breaking down that which is already tachun?

The Yere'im (Ch. 274, 133b) writes in the name of the Rashbam (Rabbeinu Shemuel ben Me'ir) that one may crumble bread on Shabbat, since the bread is made from flour, which has already been milled:

Crumbling bread is allowed, since it has already been ground, and we have no precedent of tochen achar tochen. This I have written in the name of Rabbeinu Yosef, from the commentary of Rabbeinu Shemuel, may the memory of both be a blessing.

This is cited also by the Semag (Prohibition 65, Tochen) in the name of the Rashbam, and the Ran (32a, Rif, s.v. Amar Rav Pappa) mentions the same ruling. On the other hand, in his Responsa (Vol. IV, Ch. 75), the Rashba implies that the prohibition of tochen is applicable to bread as well. To the question "May one crumble bread in order to give it to chickens on Shabbat?" he concludes, after some discussion:

This is only when one minces food in order to eat it the next day, or even on that day but an hour later... However, to eat it immediately, it is permissible, for they did not forbid one to eat his or her food in large pieces or small ones... Therefore, even to crumble it before chickens in order to feed them is permitted for immediate use; one is merely rendering it food.

The Rashba allows one to crumble bread before the chickens only if one does so proximate to their eating, since according to him, techina le'altar (for immediate use) is permissible, as we learned in previous shiurim. This implies that the fact that the bread has already been ground in the past is not a reason to allow its techina. The Mishneh La-melekh (Hilkhot Chametz U-matza 1:3) maintains that this is the view of the Rambam as well: there is a prohibition of tochen achar tochen.

The Rema (321:12) rules leniently, that ein tochen achar tochen:

It is permissible to crumble bread in front of chickens. Since it has already been ground, there is no need to be concerned, because ein tochen achar tochen.

Therefore, one may crumble bread, matza, cookies, etc. on Shabbat. However, as we have pointed out earlier, in any case it is forbidden to grind using a grater or another utensil specially designed for techina. (The Bei'ur Halakha writes the same, Ch. 321, s.v. Le-farer Lechem.)

The Reason for the Allowance

The Vilna Gaon (ibid.) writes that this allowance is derived from the view of Rabbi Eliezer in the Tosefta (15:14), who says that:

One may rub that which is rubbed, lay out that which is laid out, bake that which is baked or cook that which is cooked.

In other words, after parched ears of grain, which we have discussed in a previous shiur, have undergone the process of rubbing (to remove the husk), they may be subjected to it for a second time on Shabbat. This is similar to the permit to prepare a bed which has already been set up (without any problem of construction concerning the canopy), and to reheat cooked or baked food (without being worried about bishul, cooking). According to the Vilna Gaon, the Tosefta teaches us that the rule of ein tochen achar tochen is part of a general principle which states that carrying out the same act on the same object a second time does not constitute performing a melakha. Just as we say ein bishul achar bishul, that there is no significance to cooking a food which has already been cooked, the same is true of a food which has already been ground: there is no significance to the fact that one grinds it again. This view is also expressed by the Shevitat Ha-shabbat (Introduction to the Melakha of Tochen, 7).

The Chazon Ish (Ch. 57, s.v. Inyan) explains the rule in a different way:

The reason that there is no [prohibition of] techina upon bread is that there is no tochen unless one is breaking down a natural bond; breaking down a manmade bond is not within the category of tochen. This is true even when the bond holds together a substance which has never gone through the process of grinding, but which comes into the world discretely.

According to him, the allowance is not based on techina which has been done in the past, but the way in which the parts have been fused together. The prohibition of techina is applicable only when breaking down a natural bond, but by breaking a bond which was created by human action one does not violate the prohibition of tochen. It appears that according to him, only something which has been created in a natural way is considered one unit, and therefore one may not break it down; something which has been combined by people is not legally considered to be truly unitary, and therefore the prohibition of tochen is not applicable to it.

A Naturally Ground Substance

Does the rule of "ein tochen achar tochen" apply only to something which has passed through a process of techina in the past? What if an entity which is loosely connected or separated (equivalent to tachun) in its natural form but is later changed into one mass? Is it then permissible to return it to its “tachun” status?

According to the Chazon Ish, it is clear that it makes no difference how the item became separated — in any case, if the bond is created by human action, there is no prohibition of tochen is returning it to a separated state. The Chazon Ish writes this explicitly, stating that the prohibition of tochen is applicable "even when the bond holds together a

substance which has never gone through the process of grinding, but which comes into the world discretely."

However, according to the Vilna Gaon, the question arises: does this allowance exist only when an action of techina has been performed, because ein tochen achar tochen; or perhaps the allowance is for everything that is tachun — there is no significance to its being ground anew.

It is possible to resolve this question based on the words of the Rema. The Shulchan Arukh (321:8) rules that one may not grind clumps of salt unless one employs a shinnui, while the Rema limits his words. (His source is the view of Tosafot, Beitza 14a, s.v. Beit Hillel.)

It is specifically [grinding] coarse salt [which is prohibited], but salt which was originally fine and then was cooked and formed clumps — it is permissible to cut it with a knife as one cuts bread.

The Rema allows one to crush salt, which forms clumps after having been in the form of fine grains, since ein tochen achar tochen — just as we say concerning bread. From this, one may derive that the allowance is applicable even to something which starts out tachun: once something has once been in a tachun state, there is no prohibition to grind it and return it to this state.

The Mishna Berura (30) adds that sugar has the same status as salt for this purpose. Therefore, one may crumble a clump of sugar or a sugar cube, since the sugar was originally granular. However, it is forbidden to transform sugar into confectioner's (powdered) sugar, because this is a totally new techina; the grains of sugar had never been in the state of powder.

Can Techina Be Undone?

Is it permissible to crumble chocolate? At first glance, this should be permissible, since in the process of manufacturing chocolate, it is liquefied and then it solidifies again, so that one may apply the rule that ein tochen achar tochen. Specifically according to the view of the Chazon Ish, one should permit it, because the manufacturing of chocolate is done by human agency. This is how Rav Neuwirth (Shemirat Shabbat Ke-hilkhatah 6:11) rules.

However, this allowance is not clear. The Yerushalmi (7:2) states that one who grinds earthenware is liable because of tochen. This would seem to contradict our assumption: earthenware is made from dirt, which was originally granular, so why do we not say here that ein tochen achar tochen? The Shevitat Ha-shabbat (Introduction to the Melakha of Tochen, 7) answers this question, in the midst of expressing an important aspect of ein tochen achar tochen:

This is comparable to bishul. We have established that ein bishul achar bishul; nevertheless, if the first act has been undone, yesh bishul achar bishul — just as when one re-forges metal which has already been forged and has hardened... This is also true of liquids, according to the Shulchan Arukh... The same applies to techina, because when one mills wheat, it is this techina which makes it edible; therefore, techina of bread is meaningless, because one is milling milled flour. However, this is not true about earthenware which has been fired; in this case, the first techina has been nullified, and therefore there is a problem of tochen.

In other words, we must draw our analogy from the issue of bishul: there are situation in which the first act loses its significance, and in these cases we say that yesh bishul achar

bishul. For example, when a previously forged piece of metal is re-forged, one is liable; and according to many Rishonim, the same applies to boiled liquids which have cooled. The same applies to tochen — if the first act of techina has been nullified, someone who grinds the substance again is liable. Because of this, one who grinds earthenware is liable because of tochen: granted, earthenware is made from crumbly dirt, but whenever it is shaped and fired, the earthenware receives a new identity. In Talmudic parlance (Bava Kama 96b), "A new face [=entity] has arrived here." There is no sign of the first techina, and therefore the prohibition of tochen is applicable to it once again.

According to this, crumbling chocolate should be forbidden; after all of the processes which it undergoes, it returns to its original solid state, and there is no hint of the fact that it has been liquid previously, so that the first techina has been voided.

Practically, it seems that, even according to the Chazon Ish, who holds that it is permissible to crumble things which have been bonded by human actions, one must forbid crumbling chocolate. The view of the Chazon Ish is that the artificial cohesion created by human beings is not considered a true connection, and therefore there is no prohibition to undo it. However, in a case in which people create a chemical compound which is actually of one piece, it makes sense that even the Chazon Ish would concede that the substance is considered one body, and naturally it is forbidden to reduce it to crumbs. Beyond this, the hardening of the chocolate is not effected in an artificial manner; human beings merely reduce the high temperature and make it possible for the chocolate to solidify and harden in its natural way. Therefore it makes sense that that techina of chocolate is forbidden even according to the Chazon Ish (See the Orechot Shabbat {5:21, n. 35} who explains this matter along these lines).

However, as we have seen above, one may crumble chocolate with a shinnui (alteration), e.g., with a spoon or a knife-handle.

Tablets

May one crumble a tablet? It makes sense that this should be permissible, since the tablet is not a return to the compound's original state, as we say of chocolate; the compound is created initially in the form of a power, and only afterwards is it compressed into the shape of a tablet or pill. This is the ruling of Rav Neuwirth (Shemirat Shabbat Ke-hilkhatah 33:4).

Summary

In conclusion, the halakhic consensus is that ein tochen achar tochen, and therefore one is allowed to grind bread, cookies, etc. Similarly, one may crumble a clump of sugar, or salt or a tablet. Nevertheless, it is forbidden to create a totally new thing; therefore, it is prohibited to turn sugar into powdered sugar, and it seems that crumbling chocolate would also be forbidden.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 19: Lash, (Part 1)

May one pour water over flour without mixing? Is it permissible to wash one's hands over sand or dirt?

I) Defining the Melakha

The melakha of lash (kneading; the process is known as lisha) pertains to an action that has an opposite objective to that of the melakha of tochen (grinding), as well as the melakhot of dash (threshing), zoreh (winnowing), borer (selecting) and merakked (sifting). The other melakhot listed here are performed in order to separate substances. Dash, zoreh, borer and merakked separate between the wheat (or the flour) and various types of refuse, while tochen reduces the wheat kernels to grains of flour. Lisha, on the other hand, is a binding melakha. In the process of kneading, one fuses together separate, tiny parts and turns them into one unit. (Note that the definition of the melakha is a subject of debate as we shall see below.)

The melakha of lash is not limited to foods, e.g., the preparation of dough from flour and water; rather, it applies to other substances as well — for example, kneading water and dirt is forbidden by the Torah, as a subcategory of lash (Rambam 8:16, according to the Gemara, 18a).

It is not only lisha per se that is banned by the Torah; rolling the dough (with a rolling pin) is also forbidden by Torah law, since it is part of the greater process of the melakha. (Yerushalmi 7:2).

Before delving into the details of the melakha, certain terms need to be defined. A substance may or not be bar gibbul (kneadable), and the mass formed may be of two consistencies: belila ava (a thick mixture) or belila rakka (literally, a soft mixture, i.e., a thin one). Several questions need to be raised regarding these terms: Does lisha apply to that which is not bar gibbul? What is the difference between belila ava and belila rakka, practically and halakhically? What is prohibited by Torah law, what is prohibited by rabbinic law, and what is permissible? We will see the various views and the rulings as we continue.

The melakha of lash is an extremely complex one. We will try to first grasp its principles, and after that we will try to examine the practical halakhic ramifications.

II) Mixing Flour and Water Without Kneading

The Gemara (155b) cites a dispute among the Mishnaic authorities as to the question of when one can become liable for lash:

If one puts in the flour and another puts in the water, the latter is liable, according to Rabbi. Rabbi Yosei bar Yehuda says: "One is not liable without kneading."

Thus, according to Rabbi (Yehuda Ha-nasi), combining water and flour is enough to make one liable for lash, while according to Rabbi Yosei bar Yehuda, one cannot become liable until one actually kneads them together until they form dough.

The Root of the Argument

What is the basis of this dispute? It may be that this argument stems from divergent understandings of the nature of the melakha of lisha. According to Rabbi, the essence of the melakha is the very blending of two different substances, while according to Rabbi Yosei bar Yehuda, the essence of the melakha is the fact that two substances stick to each other and agglomerate. This is the Eglei Tal's explanation of the dispute (Lash, 9:13). However, this explanation raises certain difficulties in the explanation of the melakha.[1]

Alternatively, it may be that according to all views, the essence of the melakha of lash is that the two substances adhere and form one mass, but according to Rabbi, one may be liable for any significant act which hastens this result, even if it has not yet been achieved. This principle emerges from the melakha of bishul (cooking), in which one may be liable for acts of partial cooking (anything above the minimal level of edibility).[2] On the other hand, according to Rabbi Yosei bar Yehuda, one may be liable only for an action which brings about the ultimate result of a single mass.[3]

Halakhic Ruling

The Rishonim and the Acharonim argue as to which view is followed in this dispute.

The Rif (67b), the Rambam (21:34) and the Rosh (24:3) rule in accordance with the view of Rabbi Yosei bar Yehuda (since the anonymous mishna on 155b follows his view), that there is a liability only for producing dough.

On the other hand, the Yere'im (Ch. 274, 133b), the Teruma (Ch. 220), the Semag (Prohibition 65, lash) and the Semak (Ch. 280) rule in accordance with the view of Rabbi (because of the general Talmudic principle that the halakha follows Rabbi Yehuda Ha-nasi when he has one opponent), so that one is liable for the very act of putting water into flour.

The Shulchan Arukh (321:16, 324:3) cites the lenient view (that of Rabbi Yosei bar Yehuda) without any comment, and after that he introduces the stringent view (that of Rabbi) with the words "There are those who say." The general principle is that the Shulchan Arukh endorses the view which he includes without attribution; this would suggest that the Shulchan Arukh rules leniently, that there is no Torah prohibition in putting water into flour without kneading it. And indeed this is the ruling of the Maamar Mordekhai (321:13), Rav Ovadya Yosef (Livyat Chen 67). And the Menuchat Ahava (Vol. II, Ch. 9, end n. 9).

On the other hand, the Rema (321:16) rules in accordance with the view of Rabbi, that putting water into flour is forbidden by the Torah. The Ben Ish Chai (Year 2, Mishpatim 18) indicates that Sefardim must also rule stringently in accordance with this view, and this is the ruling of the Kaf Ha-chayim (324:14) and the view of Rav Mordekhai Eliyahu.

We should note that Rabbi Yosei bar Yehuda, who believes that there is no Torah prohibition of pouring water on flour, would concede that there is a rabbinic prohibition,

because he says, "One is not liable without kneading" — but he does not say that it is permissible. This is noted by the Ritva (155b) and the Me'iri (18a) and cited by the Beit Yosef (Ch. 324, s.v. Aval).[4]

Thus, putting water into flour without lisha is forbidden for both Ashkenazim and Sefardim; however, while for Ashkenazim it is a Torah prohibition, for Sefardim it appears that it is prohibited rabbinically. (Nevertheless, even Ashkenazim rely on the lenient view in certain cases, as we will see below.)

This dispute has various practical ramifications, as we will see below.

III) Pouring Water on Sand or Dirt

CHILDREN IN THE SANDBOX

Children are allowed to play in a sandbox on Shabbat because it is designed for play and it is therefore not muktzeh (308:38). However, they are not allowed to play with sand on the beach or with dirt at a construction site, etc. because it is muktzeh on Shabbat, in the classic sense — i.e., it cannot be used because it lacks a recognized Shabbat use (Mishna Berura ibid. 144).

As we have seen, there is a prohibition (whether Torah-based or rabbinic in nature) to pour water on flour, and the same applies to sand. Therefore, while children are allowed to play in a sandbox, it is forbidden for them to pour water over it, even if they do not actively knead it by hand.

WASHING HANDS OR URINATING OVER SAND OR DIRT

This issue comes up frequently for people on hikes, in the army, or eating in the sukka — may one wash one's hands on the "floor" when it is dirt or sand? Watering the ground may fall under the melakhot of plowing or sowing at times, but when the ground in question has nothing planted in it and is not designated for cultivation, these melakhot are not a concern. However, one must investigate if there is a reason to prohibit this act because of lash. As we have seen, pouring water on sand (just like pouring it on flour) is forbidden according to everyone: according to Rabbi, by Torah law; and according to Rabbi Yosei bar Yehuda, by rabbinical law.

This question also arises in situations when one must urinate in the field. The Yere'im (Ch. 274, 133b) indicates that one may not urinate anywhere where there may be a problem of lisha (i.e., where the ground is not hard). However, the Acharonim debate this, as the Mishna Berura cites (321:57):

The Magen Avraham writes, "It appears to me that it is forbidden to urinate upon mud, because of kneading..."

The same would apply to loose dirt and sand. While it is true that one has no intention of lisha, it is an inevitable result. As for a spittoon or a basin sitting on fine or coarse sand, it requires further study if this should be permitted or prohibited, because it might be an inevitable result which one has no interest in [which is sometimes allowed]. However, I have found that in the book Beit Meir that he allows it for this reason, in a case of need, to urinate even upon mud.

It appears that one may rely on this [lenient view] when the mud does not belong to the one urinating, for in such a case one certainly has no interest in its lisha.

Thus, the Magen Avraham forbids urinating on mud because of lisha, and the Mishna Berura adds that according to this one may not urinate on loose dirt or sand. On the other hand, the Beit Meir allows this because the person does not intend to perform lisha, and the halakha essentially follows Rabbi Yosei bar Yehuda, who holds that pouring water on mud and the like is only prohibited rabbinically. Thus, the case is one of an undesired, inevitable result of a rabbinical prohibition, which is allowed in a case of need.

The Mishna Berura rules that one may rely on the Beit Meir in a case of need as long as the dirt is someone else's, because then we say that the one urinating certainly does not "desire" to change the consistency of another's dirt.

Therefore, one should be careful not to urinate on sand or on loose dirt, but when there is a great need (such as there is no other convenient place), one may be lenient. In any case, one may urinate on hard ground.

What about washing hands? Here too, it is best to look for a place in which the water will not be spilled on sand or soft dirt, but in a place of need, one may be lenient. However, there is a simpler solution. Rav S.Z. Auerbach allows using a sink which empties out among plants, as long as the water goes through a pipe first. This renders the act one of causation, and one may be lenient about this if one does not intend to water the plants. In a similar way, if one washes one's hands over metal or stone, even if the water flows down to sand or soft dirt, this is permitted, since this is considered causation and one has no interest in wetting the ground. (In a case where one is interested in watering the ground, the act would be forbidden.)

Thus, it is permissible to wash one's hands over stone, even if the water will flow afterward into sand or soil with plants in them. Even if the stone has some dirt on it, there is no problem, since the mixture formed will be primarily liquid, so there is no true blending. Similarly, it is permissible to wash one's hands into a sink which empties into sand or plants, as long as one does not own them, does not benefit from the irrigation and is not interested in it.

Summary

In conclusion, it is forbidden to pour water on sand, and therefore children who are playing in a sandbox may not pour water in it. To wash one's hands, or urinate, on the ground, one should look for a place free of sand or loose dirt. However, in a case of need, one may be lenient (especially when one needs to relieve oneself), and there is also room for leniency if the water will first flow onto stone or metal and only after that reach the ground.

[1] This approach can be questioned based on the fact that everyone agrees that there is no liability for making a belila rakka, as we shall se below. Consequently, Rabbi does not rule that one is liable for the very act of mixing. One might wish to suggest that everyone agrees that mixing flour and water is considered lisha, but according to Rabbi Yosei bar Yehuda, since the person only pours the water on the flour and the blending happens on its own, this would be considered causation, while one is only liable if one does an act of lisha by hand. However, beyond the fact that this argument is difficult, the Gemara in Zevachim (94b) states that one who puts water into flax-seed is liable according to everyone, because the water and the flax-seed adhere to each other and form one mass. This would indicate that even according to Rabbi Yosei bar Yehuda one may be liable for the melakha of lash without a manual act of lisha.

[2] There may be a practical ramification between the two understandings of Rabbi in a case in which water is put in flour before Shabbat — may this mixture be kneaded on Shabbat? According to the second understanding, it is clear that this is forbidden by the

Torah, because the lisha and the mixing of water and flour are the essence of the melakha. On the other hand, according to the first reading, it may be that this is permissible, since the essence of the melakha is the very mixing of the flour and the water, and once they have been blended, the melakha of lash is no longer applicable. However, it may be that even according to this understanding, kneading this mass must be forbidden on Shabbat, since one strengthens and improves the commingling of the flour and the water. The Bei'ur Halakha (321:14, s.v. Ein Megabbelin) writes that when one puts in the water before Shabbat, Rabbi concedes that kneading on Shabbat is forbidden by the Torah. He cites as a proof-text the aforementioned passage in the Yerushalmi, who says that even one who rolls the dough is liable. The implication is that once the lisha has already been done, anyone who beautifies and improves upon it is liable. This is connected to the question of lisha achar lisha, which we will deal with later.

[3] In the view of Rabbi Yosei bar Yehuda, we must ask: does the melakha of lisha relate only to the action of kneading, which blends the flour and the water and fuses them into one body? If so, pouring the water into the flour is not an integral part of lisha. Alternatively, does the melakha of lisha relate to the entire process, from the instant that the flour and water come into contact until they become one mass of dough? The practical ramification of this would be in a case in which one person pours in the water and another person kneads the mixture and creates dough — is the kneader liable, or is neither of them liable, since neither carries out the process in its entirety? Similarly, there is a ramification in a case in which the water is put in the flour before Shabbat and the actual kneading is done on Shabbat. See the Eglei Tal's analysis (Lash, 2) of these issues.

[4] It may be that the question of whether Rabbi Yosei bar Yehuda believes there is a rabbinic prohibition of adding water to flour depends on a question which we raised earlier. If he believes that the melakha of lisha relates to the entire process, but one only becomes liable upon its completion, there adding the water would be prohibited, because it initiates the act of lisha. However, if the action of the lisha is the kneading on its own, it may be that putting in water is not forbidden even rabbinically, since there is no lisha involved in it. (However, it may be that even according to this approach there is a rabbinic prohibition to add water to flour, since this is an act which allows lisha to occur, even if it is not considered part of the lisha.)

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 20: Lash, (Part 2)

In our previous shiur, we saw the dispute between Rabbi and Rabbi Yosei bar Yehuda in terms of defining lisha. This chart summarizes that dispute:

Up until this point we have dealt with substances which form an agglomerated mass when water is added to them: flour, sand, etc. Such a substance is called “bar gibbul”, kneadable. However, there are those substances which will not form such a mass when water is added to them, even after they undergo the process of kneading.[1] A substance such as this is defined as “not bar gibbul”, since it is not kneadable and does not become a truly agglomerated mass. This is true, for example, of ashes, which are defined by the Gemara (18a) as not bar gibbul, since even after being kneaded with water, they do not form stable dough.

The Gemara seems to indicate two opposite views of a non-bar gibbul when it comes to the prohibition of lash. On the one hand, Abbayei raises the possibility (ibid.) that the law of a non-bar gibbul is even more serious than that of a bar gibbul: “Perhaps Rabbi Yosei only said this [requirement to mix in order to be liable] about flour, which is bar gibbul, but for ink, which is not bar gibbul, one should be liable!”

In other words, according to Rabbi Yosei bar Yehuda, one who mixes flour and water is not liable for lash until one actually kneads them, as we have seen above. However, according to Abbayei, this is applicable only to that which is bar gibbul; since one could form them into a doughy compound, one is not liable for lash until such dough is formed. However, when it comes to that which is not bar gibbul, since in its very nature it is impossible to make a doughy compound out of it, even Rabbi Yosei bar Yehuda would concede that one is liable for lash for the simple act of putting in water!

On the other hand, the words of the Gemara elsewhere indicate the opposite view. The Gemara (155b) deals with adding water to bran (the wheat husk which is used as animal feed), which is not bar gibbul, and it raises a possibility in the view of Rabbi Yosei bar Yehuda that such as act is completely permissible, and indeed supports this suggestion with an explicit beraita: “One may not put water into bran, according to Rabbi. Rabbi Yosei bar Yehuda says: ‘One may put water into bran.’”

A number of Rishonim (Ritva, ibid.; Maggid Mishneh 8:16) explain that because the bran is not bar gibbul, kneading it is not forbidden by the Torah, but only rabbinically; thus, according to Rabbi Yosei bar Yehuda, adding water to it is indeed permissible. The Rabbis only forbid adding water to a substance which may not be kneaded by Torah law, because one may come to actually knead it. However, the Rabbis do not forbid adding water to a substance where the kneading is only prohibited on a rabbinic level, for there is no concern of a Torah violation even for actual kneading. According to this, the law of that which is not bar gibbul is less serious than the law of that which is bar gibbul.

In light of the conflicting evidence in the Gemara, the Rishonim dispute the matter. The Rif (Beitza 18a) and the Rambam imply that according to Rabbi Yosei bar Yehuda, putting water into something which is not bar gibbul, such as ashes or bran, is

permissible. On the other hand, Tosafot (18a, s.v. Aval), the Raavad (8:16), the Rashba (18a), the Me'iri (18a) and others rule in accordance with the view of Abbayei, who holds that putting water into something which is not bar gibbul, such as ashes, is forbidden by the Torah, even according to Rabbi Yosei bar Yehuda. According to them, the Gemara is lenient concerning bran only because, according to the conclusion of the Gemara, it is indeed considered to be bar gibbul. (An analysis of the legal status of bran in this regard is beyond the scope of this discussion.)

As for the practical halakha, the Shulchan Arukh (324:3) rules that one may add water to bran, in accordance with the view of Rabbi Yosei bar Yehuda (and afterwards he cites the view of Rabbi, who forbids this, as we have seen in our previous shiur); however, he does not note what the law is for something which clearly is not bar gibbul (such as ashes). The Mishna Berura (321:50) cites the two views regarding putting water into a substance which is not bar gibbul, and he does not decide among them explicitly. However, from his comments in the Bei'ur Halakha (324:3, s.v. Ein) it seems that he is concerned about the stringent view.[2]

In any case, this debate relates only to the view of Rabbi Yosei bar Yehuda, but according to the view of Rabbi, there is a Torah-level prohibition to put water into a substance which is not bar gibbul. This is what the Mishna Berura (324:10-11) writes: the Ashkenazic custom follows the stringent view of Rabbi, and according to this, one should not put water "in flour, in ashes or in anything." However, in cases of great need, the Mishna Berura (ibid.) allows this, according to the view of the Chayei Adam (19:1), who holds that one may have a non-Jew put water into bran (and after that one must knead in an altered way, as we shall see below).[3]

V) Belila Ava and Belila Rakka

How may one prepare porridge for a child on Shabbat? May one mix juice with mashed fruit? Is one allowed to mix tea-biscuit crumbs with cheese? Is there a prohibition of lash in preparing coffee?

The mass formed by an act of lisha may be of two consistencies: belila ava (a thick mixture) or belila rakka (literally, a soft mixture, i.e., a thin one). Naturally, there is also a third possibility when mixing two substances: that no true mixture is created at all. Respectively, these three types yield three different halakhic statuses:

1. By Torah law, it is forbidden to create a belila ava.
2. By rabbinic law, it is prohibited to create a belila rakka.
3. It is permissible to create a fully liquid or runny belila, as this is not considered a true belila at all. As the Chazon Ish points out (58:9): "Powders which dissolve in water may be mixed with water on Shabbat, and there is no problem of lisha in this." [4]

This distinction emerges from the Gemara (155b-156a). The Gemara indicates that Rabbi and Rabbi Yosei bar Yehuda argue whether one may prepare dough from flour made of parched grains with an alteration, but they agree that one may prepare the dough known as shatit[5] with an alteration. The Gemara attempts to resolve this apparent discrepancy as follows:

Yet they agree that shatit may be stirred on Shabbat… But you said that one may not mix? There is no difficulty: one case is ava, and the other is rakka.
Still, that is only if one does it in an unusual manner. How does one do it in an unusual manner?
Rav Yosef said: "During the week the vinegar is [first] poured in and then the shatit, whereas on Shabbat, the shatit is [first] poured in and then the vinegar."

In other words, dough made from parched-grain flour is a belila ava, and that is why Rabbi Yosei bar Yehuda and Rabbi dispute whether one may knead it with an alteration, shinnui (which we will deal with later). On the other hand, shatit dough is a belila rakka, and therefore, according to all views, it is permissible to knead it with a shinnui, e.g., stirring in the ingredients in the opposite order of the standard recipe.

Why is such a shinnui effective only for a belila rakka and not for a belila ava? Apparently, the prohibition of lisha of a belila ava is from the Torah, while the prohibition of lisha of a belila rakka is of rabbinic origin. This also seems to be the implication of the explanation in the Chiddushim Ha-meyuchasim La-Ran (156a), as well as the view of the Terumat Ha-deshen (Ch. 53): making a belila rakka is not considered lisha. (The Shevitat Ha-shabbat writes the same, in his Introduction to the Melakha of Lash, 7). The Chazon Ish writes something similar (58:2) as well:

And it appears that the shinnui of putting the shatit in first and then putting in the vinegar is not considered a true shinnui, and therefore they only allow it for rakka, because it is not in the category of lash by Torah law; but with ava, such a shinnui would not help [because thick dough may not be kneaded by Torah law].

Defining Belila Ava and Belila Rakka

What definition can be given to determine whether a mixture is considered to be a belila rakka or a belila ava?

The Chazon Ish writes (58:9, s.v. 156) writes:

It appears that rakka can be poured and emptied, but it is still a mass and not a liquid. But if there is so much water that it merely looks like cloudy water, it is not at all in the category of lash.

In other words, a belila rakka is a belila which can be poured. Even when there is a mass, if it can be poured and decanted from one vessel to another, this is a belila rakka, provided that the pouring is not in clumps, but rather "poured and emptied" — i.e., poured without interruption. If the mixture is a true liquid, the mixture is not a belila at all, but rather a suspension, solution or combination of two liquids, as we noted above. This approach is also taken by the Shevitat Ha-shabbat, Lash, Be'er Rechovot, Ch. 36.

The Ketzot Ha-shulchan (Ch. 130; Baddei Ha-shulchan, 3) provides a different distinction. According to him, a belila rakka is one which is thinner than its usual consistency:

It appears that the measure of the belila is not the same for all things; rather, for each substance, the way of its lisha makes one liable, and if one alters and makes it a bit thinner, it becomes a belila rakka…

The logic of this is that just as a shinnui in the order of putting in the ingredients is considered a shinnui, so too the making of a belila which is thinner than is customary is considered a shinnui. Thus, since it is defined as a shinnui, creating a belila rakka is only prohibited rabbinically, and where there is another shinnui (or two) its creation is permissible by the rules of shinnui.[6]

The underlying dispute between the Chazon Ish and the Ketzot Ha-shulchan is that according to the Ketzot Ha-shulchan, the allowance for belila rakka is based on the law of shinnui, and therefore one must check the ordinary consistency of each mixture, and from there one can extrapolate what is considered a shinnui. According to the Chazon

Ish, on the other hand, the allowance is not based on the law of shinnui but on the very definition of the melakha of lash: the Torah prohibition of lisha is limited to creating a thick mass such as dough. However, mixing the ingredients for a belila rakka is considered stirring, not kneading (as the Gemara notes that "shatit may be stirred"). Therefore, there is no significance to the question of what the normal way is; the measure of the liquidity of the mixture is the only meaningful issue.

Practical Halakha

In practice, the halakhic authorities follow the definition of the Chazon Ish, particularly since the definition of the Ketzot Ha-shulchan varies from food to food, and it is difficult to apply it pragmatically.

Therefore, a mixture which cannot be poured from one vessel to another is a belila ava, which may not be made by Torah law. This category includes pudding, instant mashed potatoes or thick porridge.

If it can be poured continuously from one vessel to another, it is a belila rakka, the making of which is only banned rabbinically. This category includes thin porridge.

If it is not a true mass, but a very liquid substance, this is not in the category of belila at all, and it is permissible to make it. This category includes coffee or any other liquid prepared with a powder or finely ground material.

The principles which we have seen here in terms of the different types of belila are very important in terms of the practical halakha, but first we must examine a final element, which we have already alluded to: belila with a shinnui. This will be addressed in our next shiur.

[1] See the Rambam's Commentary to the Mishna (Ohalot 2:2): "Its parts remain separate and discrete, and kneading will have no effect and will not make it into one body."
[2] In practice, there are not many ramifications of this law, because there is virtually no substance of which we can definitively say that it is not bar gibbul. However, it may be that, for example, a mixture of honey and cheese is not considered bar gibbul. Unlike flour, which consists of particles which adhere to each other and agglomerate when water is added, the bits of cheese do not stick to each other; they just stick to the honey (See Shevitat Ha-shabbat, Introduction to the Melakha of Lash, 4). If so, it may be that this case is dependent on a dispute among the Rishonim concerning a substance which is not bar gibbul, and according to those who are more lenient, it would be permissible to put honey into cheese and after that to mix it with a shinnui, as we shall see later on. See the Gemara (140a) and the Rambam (22:12) who discuss mixing honey with mustard and the like. This is what arises from the ruling of the Shulchan Arukh (321:15). However the Rema ibid. (16) rules stringently, according to the Sefer Ha-teruma's understanding of Rabbi's view. We should note that it may be that a mixture of cheese and honey is not considered dough at all, since there is not a mixture of small particles with a liquid, but rather the mixture of two semisolid substances, and the Acharonim argue about this, as we shall see below.
[3] In fact, the Chazon Ish is lenient about this act even if performed by a Jew, as we shall see later on.
[4] This can be seen in the Shulchan Arukh's ruling (321:17) that one may prepare yinomlin, a drink made of old wine, honey and pepper.
[5] The Rishonim dispute the nature of shatit; it will be addressed in a later shiur.
[6] One may suggest a third understanding, more stringent than the two we have mentioned. The Gemara in Berakhot (38a) says that on thick shatit, one makes the

blessing of Borei Minei Mezonot (the standard for grain products other than bread), but on thin shatit, one makes the blessing of Shehakol (the standard for drinks other than wine). The Rambam (Berakhot 3:3) writes "if it is thick, so that it is appropriate to eat it and chew it, one makes the blessing of Borei Minei Mezonot before it… but if it is so thin that one may drink it, one makes the blessing of Shehakol before it." This implies that thin shatit is something which can be drunk (this would be a tremendous stringency, to insist that only something which can be drunk may be considered a belila rakka). However, this innovative idea is not suggested in the halakhic literature and thus it appears that the halakhic authorities are concerned about it. (See the abovementioned words of the Shevitat Ha-shabbat and Ketzot Ha-shulchan; further elaboration on this matter is beyond the scope of this discussion).

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 21: Lash, (Part 3)

VI) Principles of Shinnui in Lisha

The Gemara (156a) explains that lisha can sometimes be allowed with a shinnui (alteration; plural, shinnuyim). In the course of the Gemara, a number of types of shinnui are mentioned:

1. When it comes to flour made from parched grain (kemach kali) the Gemara says that one may knead it "al yad al yad" — in other words, a bit each time.[1]
2. Concerning shatit,[2] the Gemara says that one may knead it using a shinnui in ingredient sequence: "During the week the vinegar is [first] poured in and then the shatit, whereas on Shabbat, the shatit is poured in [first] and then the vinegar [is added]."[3]
3. When it comes to bran (wheat husks used for animal feed), the Gemara says that one may knead it sheti va-erev (literally, warp and woof).[4] In other words, one must not mix the flour and water with a circular motion, as is normally done; rather, one alternates between stirring the mixture horizontally and vertically.[5] Other solutions include shaking the vessel and pouring the mixture from one vessel to another.
4. When it comes to mustard, garlic and cress, the Gemara gives the following directions: "One may not beat them, but one may mix them." This is explained in one of two ways: either one must mix it gently, but not vigorously (Rashi); or one must mix by hand instead of with a spoon (Mordekhai, Ch. 433).[6]

Thus, we find that a shinnui is halakhically effective whether in the order of adding the ingredients, in the form of lisha (sheti va-erev, shaking in a vessel) or in the quantity of lisha (al yad al yad).

However, the Gemara (156a) indicates that there are two differences between ingredient sequence and other shinnuyim. First of all, as we have already seen, the shinnui in ingredient sequence is effective only with a belila rakka (literally, a soft mixture, i.e., a thin one), not a belila ava (thick mixture). As we have already mentioned in the approach of the Chazon Ish, this shinnui is not a complete shinnui, and therefore it is only effective for a belila rakka, the kneading of which is prohibited only rabbinically, not for a belila ava, which may not be kneaded by Torah law.

On the other hand, the Gemara indicates that all of the shinnuyim are effective only according to the view of Rabbi Yosei bar Yehuda, while the shinnui of the sequence of ingredients is effective to permit lisha even according to the view of Rabbi. This is because according to Rabbi, even adding water is part of the lisha, and one is liable for it. Therefore, the shinnui cannot make the lisha permissible unless it is done at the stage of adding the water — e.g., adding the ingredients in a reversed order. The other shinnuyim are done later, at the stage of kneading, and they cannot retroactively change the status of adding the water, which has already been done.

Preparing a Belila Rakka with a Shinnui

As we have said, the Gemara allows one to prepare a belila rakka of shatit even according to Rabbi's view, as long as one alters the sequence of adding the ingredients — normally, one pours the shatit into the vinegar, but on Shabbat one pours the vinegar into the shatit. This is the ruling of the Shulchan Arukh (321:14):

One may knead with vinegar and the like a large quantity at one time, if it is soft; but if it is hard, it is forbidden, because it looks like lash. (And even if it soft), one must do it differently. How so? One puts in the shatita, and afterwards one puts in the vinegar.

If so, one may make a belila rakka on Shabbat if one changes the order of adding the ingredients: if one generally puts in the granules and then the liquid, one should put the liquid in first; and if one normally puts the liquid in first, one should put the granules in first on Shabbat.

When There Is No Set Order

What does one do in the case that there is no customary sequence? The words of the Taz (321:11) indicate that in this case one cannot prepare the belila at all, since however one chooses to put in the ingredients, it will not be considered a shinnui:

One is allowed to knead a [belila] rakka through a shinnui, because on a weekday one generally puts in the vinegar first and on Shabbat one puts in the flour first, so that the shinnui is obvious to everyone. However, with matza flour, there is no known way of what is put in first in order to know what the shinnui would be. Therefore, it is forbidden on Shabbat in any case.

On the other hand, the Terumat ha-Deshen (Ch. 53) writes that the shinnui mentioned in the Gemara, that one puts in the granules and then the liquid, is effective even in a case that there is no set order:

It appears that even for us, who have no set custom during the week as to which one to put in first, in any case the shinnui which is expressed in the Talmud suffices for our purposes.

In practice, the Mishna Berura (321:57) rules in accordance with the view of the Terumat ha-Deshen, that when there is no set order, one should first put in the granules and after that the liquid, while the Chazon Ish (58:5, s.v. U-le'da'at; ibid. 6, s.v. Ve-im) rules that in this case, a shinnui in the sequence of ingredients would not help, but one may permit preparing the mixture through a shinnui in the form of lisha, for example that one mixes it sheti va-erev.[7]

The Chazon Ish (ibid. 8, s.v. Ha) points out that if one puts in the granules first, one should dump in all of the liquid at one time, because if one were to do it in stages, it would first become a belila ava!

One Shinnui or Two Shinnuyim?

When we change the order of adding the ingredients, must one change the form of lisha (stirring it crosswise) as well, or may one stir it normally? The halakhic authorizes have different views on this issue.

First View

The first view is that one must change the sequence of the ingredients as well as the method of mixing. This is what the Terumat ha-Deshen writes in his Responsa (Ch. 53):

It seems that there is a permitted method according to all views… for example, one can make a belila rakka… and it also says there (Shabbat 156a), that, according to Rabbi, one needs to make a shinnui in the [order of] adding of liquids, for example to put food into the vessel first and after that the liquid… Furthermore, it appears that even with a belila rakka one must afterwards mix it up in the vessel itself or with one's finger, because according to the one who says that putting liquid is not considered kneading, it does not help to perform a shinnui by putting in the food first, because one does not execute a melakha until one kneads it, and we require a shinnui in the kneading itself.

According to him, one is allowed to knead (according to all views) on three conditions. First of all, one must do belila rakka. Aside from this, two shinnuyim are mandatory:

1. Shinnui of ingredient sequence — this shinnui enables the addition of water according to the view of Rabbi, who believes that there is a prohibition of lisha in adding liquid.
2. Shinnui of mixing (sheti va-erev, with one's finger, etc.) — this shinnui is to allow kneading according to the view of Rabbi Yosei bar Yehuda, who believes that putting the water in is not part of the lisha, and therefore the shinnui which is done with at that stage does not make the following lisha permissible. The melakha of lisha relates only to the act of kneading, and therefore one must introduce a shinnui specifically in the kneading process.

The Rema (321:16) seems to rule accordingly:

And if one puts the food in first and after that the vinegar or the wine and mixes it with his finger, it is allowed, because it is a shinnui, just as with shatita above. In this way, we are accustomed to allow it through a shinnui.

The Rema is talking about belila rakka (as he writes: "just as with shatita above"), but nevertheless one may see from his words that one must both change the sequence of ingredients and mix it with a finger, i.e., change the method of mixing.[8] This is how the Magen Avraham (24) explains his view, and it seems that the Mishna Berura (68)[9] and Ben Ish Chai (Year 2, Mishpatim 18) understood it this way as well.

Second View

Preparing a belila rakka only requires one shinnui — either in the sequence of ingredients or the method of mixing. This is the simple reading of the ruling of the Rambam (21:33), who mentions the shinnui in the sequence of ingredients only, and the same is implied in some other Rishonim (see Ritva and Me'iri, 156a). This is also the simple reading of the abovementioned ruling of the Shulchan Arukh (321:14), who talks about belila rakka and only mentions the shinnui of ingredient sequence. The Chazon Ish (58:5, s.v. U-mashma, s.v. Ve-im) rules in accordance with this view, and he argues that this is implied by the Gemara's phrasing.

And it is implied by the Gemara that with a [belila] rakka, it is enough to have the shinnui of putting in the flour first, and there is no need for a shinnui in the kneading, but the Terumat ha-Deshen writes that it seems that one needs a shinnui in the kneading as well… and the Derisha already disputes this.

However, the following difficulty arises with this position: the Rambam and the Shulchan Arukh rule in accordance with the view of Rabbi Yosei bar Yehuda, that one cannot be liable for lash unless one actually kneads something, not if one merely puts in water; if so, how can it be that the shinnui at the stage of putting in water makes the kneading permissible? The act of lisha itself is not done with a shinnui! It appears that, according to them, Rabbi Yosei bar Yehuda concedes that the process of lisha includes putting the water in as well, but nevertheless is not liable for lisha unless one executes the entire process. Therefore, even a shinnui at the stage of putting in the water is considered a shinnui for lisha (see Derisha, 321:4, s.v. U-ma She-katav Beit Yosef).[10]
Following this line of thinking, it turns out that, according to the Shulchan Arukh, who rules like Rabbi Yosei bar Yehuda, one can make a belila rakka with one shinnui, and one may choose whether to change the sequence of ingredients and mix normally or to put the substances together normally and change the method of mixing. According to the Ashkenazim, who are stringent in accord with the view of Rabbi, when one makes a belila rakka, one is obligated to change the sequence of ingredients (because according to the view of Rabbi, one must introduce a shinnui already at this stage), and once one has done so, there is no need to add an extra shinnui. The shinnui in the method of mixing is neither effective nor required, and it is useful only in a case in which the water was poured in before Shabbat (or for a belila ava under certain circumstances, as we will explain in the next shiur).

Summary

In conclusion, one is permitted to knead a belila rakka (that which can be poured continuously from one vessel to another) with a shinnui. Many Sefardim are lenient in accordance with the simple reading of the Shulchan Arukh's view, that one shinnui suffices, either in the sequence of ingredients or in the method of mixing. The Ashkenazic halakhic authorities have a dispute whether a shinnui in ingredient sequence suffices or whether one must also change the method of mixing (the Ben Ish Chai also cites this stringency).

In practice, when there is no great difficulty, it is preferable to change both the sequence of ingredients and the method of mixing (as the Mishna Berura's ruling indicates), in particular because it is often difficult to determine definitively whether a belila is rakka. However, when there is a pressing need, one may rely on the view of the Chazon Ish and suffice with a shinnui in the sequence of ingredients. Similarly, when one has a belila which is clearly rakka, so that there is no doubt about its thinness, one may be lenient in accordance with the view of the Chazon Ish, since the doubt is certainly only on the level of a rabbinical prohibition.

Similarly, the Minchat Yitzchak (Vol. I, Ch. 74) writes that since the shinnui in the method of mixing (after the shinnui in the sequence of ingredients) is a stringency which some people dismiss, there is no need to execute an extreme shinnui and mix it with one's finger, as it appears from the wording of the Rema. Rather, rather one may suffice with mixing it in a way other than the norm, and one should do so gently, not vigorously. Thus, for example, one who normally mixes with a spoon may mix with a knife gently, and one who prepares baby food for an infant in the bottle may prepare it in another vessel (reversing the sequence of ingredients) and mix it gently, transferring it to the bottle afterwards.

[1] According to the Magen Avraham (321:17), the allowance of al yad al yad only applies to kemach kali. The Mishna Berura (53) cites this view and explains it in his Bei'ur Halakha (321:14, s.v. Shema) as follows: the allowance of al yad al yad is only for something which is fit to be eaten even before the process of lisha, so that its lisha is defined as permitted tikkun okhel (food preparation), as we will discuss in a later shiur.

However, according to the Chazon Ish (58:1), the allowance exists for everything, and it is based on the concept of shinnui. According to him, this is allowed even for a thick mixture; apparently, he understands that this is considered a full and total shinnui.

[2] The Rishonim argue whether shatit is made out of kemach kali mixed with liquids (Rashi, Ramban, Rashba, Me'iri) or out of coarse flour made from grain which has not yet reached a third of it ripeness (Rambam 21:33).

[3] According to the view of Rashi et al. in the previous note, shatit is made from kemach kali as a belila rakka, and thus changing the order of ingredients is effective in such a case. According to the Rambam cited in the previous note, the permit to knead when changing the order may be limited to coarse flour, which cannot easily be kneaded, and may not apply to kemach kali or granulate substances which can be easily kneaded (see Taz, 321:11). However, from the words of the halakhic authorities (following the Terumat ha-Deshen which we will cite later), it emerges that the shinnui in the sequence of adding the ingredients is effective to allow lisha of any substance (within the limits which will be explained below), not only with coarse flour and the like. This indicates that we are not concerned about the Rambam's view.

[4] Even though the shinnui of sheti va-erev is mentioned in the Gemara only concerning bran, the Ritva writes (156a, s.v. Amar Rav Yehuda) that it makes sense that it is effective also for kemach kali. And indeed the halakhic authorities (see, for example, Chazon Ish 58:8) apply this permit to other cases as well.

[5] Rashi (s.v. Sheti) implies that one is limited to one time sheti and one time erev, but the Rambam himself (21:4) makes clear that it is permitted even many times, and so writes the Bei'ur Halakha (324:3, s.v. U-maavir).

[6] In terms of the practical ruling, the Shulchan Arukh (321:15) rules that it is permitted to mix mustard, garlic and cress gently even with a spoon, while the Rema (321:16) cites the view which limits the allowance to mixing by hand and not with a spoon.

The Bach (Ch. 321, s.v. U-ma She-katav Rabbeinu) understands that the Mechabber would allow one to mix only a small quantity gently. However, the Chafetz Chayim (Mishna Berura 58; Shaar Ha-tziyun 74) writes that according to the Mechabber one may mix gently even a great quantity. Nevertheless, he writes in Bei'ur Halakha (ibid. s.v. Yakhol Le-arvo) that he is flabbergasted by the idea: how is it possible to allow one to commit an act which would be kneading on a biblical level with a shinnui as small as this — whipping the mixture gently instead of vigorously?! He concludes that this shinnui is effective only for dough which has already been kneaded on Erev Shabbat. We will discuss in future shiurim the concept of lisha achar (after) lisha.

This shinnui works for pulped vegetables as well. However, the shinnui of mixing by hand, which is a more significant shinnui, is apparently effective in every case, as is implied by the words of the Rema (321:16) which apply it to shatit as well.

[7] The Chazon Ish explains that indeed we are stringent according to the view of Rabbi, and according to him one may be obligated to change the order of adding the ingredients, and changing the method of mixture would not accomplish anything. However, when it comes to a belila rakka, the lisha of which is only prohibited rabbinically, when we do not know what the sequence is in order to change it, one may rely on those who rule in accordance with Rabbi Yosei bar Yehuda, sufficing with a shinnui in the method of mixture.

[8] However, the Rema, in an earlier ruling there (14), does not dispute the view of the Shulchan Arukh on the issue of shatit, and this seems to imply that he concedes that the shinnui of ingredient sequence suffices — against his words here, that one must change the method of mixing as well. See the Shalmei Yehonatan 321, 14:41; ibid. 16:53.

[9] The Mishna Berura writes earlier (57) that when we do not know the normal sequence of ingredients, it is preferable to be stringent and alter the method of mixing as well, and it is implied that the need for two shinnuyim exists only in this case, and even then it is a mere stringency, not the letter of the law. However, from his words in section 68 it appears that one must always be stringent and employ two shinnuyim, at least in the first place.

[10] According to this, it may be that the question of whether we require two shinnuyim or one shinnui depends on the distinction we raised in our first shiur on lash regarding the view of Rabbi Yosei bar Yehuda. According to the Terumat ha-Deshen and the Rema, Rabbi Yosei bar Yehuda believes that kneading is lisha, while putting in water is not part of lisha, and therefore the shinnui of putting water in will not be effective to allow the subsequent kneading. On the other hand, the Shulchan Arukh believes that lisha includes the entire process, implying that one must mix the substances until they are made into one agglomerated mass (just that one is liable only on the conclusion of the process). Therefore, a shinnui in the method of mixing the substances is considered a shinnui in lisha, and one can allow the subsequent kneading.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 22: Lash, (Part 4)

VII) Preparing Belila Ava with a Shinnui

In our previous shiur, we examined the principles of using a shinnui (alteration) and how this affects the act of lisha and the melakha of lash, especially when it comes to kneading a belila rakka (thin mixture). Can a shinnui be effective when it comes to allowing one to knead a belila ava (thick mixture) on Shabbat as well?

As we have seen, the Gemara (156a) explains that the permissibility of preparing a belila ava with a shinnui depends on the fundamental dispute between Rabbi and Rabbi Yosei bar Yehuda.

Rabbi believes that putting in water is part of the lisha and prohibited by the Torah, and therefore the shinnui performed in one's kneading does not suffice to permit it. In order to allow the preparation of dough, one must make a shinnui at the stage of putting the water in. However, as we have already seen, the shinnui at this point is not a true shinnui, and it only allows one to prepare a belila rakka, which is only rabbinically banned, and not a belila ava which is forbidden by the Torah. Therefore, according to Rabbi, there is no permissible way to prepare thick dough on Shabbat itself, unless one puts in the water before Shabbat.

On the other hand, according to Rabbi Yosei bar Yehuda, who holds that one is not liable for the lisha until the kneading, one may allow mixing substances and preparing thick dough on Shabbat itself, if one performs a shinnui at the stage of kneading.[1]

In practice, the Shulchan Arukh rules in accordance with the view of Rabbi Yosei bar Yehuda, and according to this, one may allow preparing a belila ava on Shabbat if one alters the method of mixing, i.e., that one stirs by alternating between horizontally and vertically or with one's finger. On the other hand, the Rema rules (as does the Ben Ish Chai) that one should take into account the view of Rabbi, and according to this one may not prepare a belila ava on Shabbat even with a shinnui, unless one puts in the water before Shabbat.

However, there are situations in which Ashkenazi practice is to prepare a belila ava on Shabbat. The Taz (321:12) addresses some of these practices:

This requires further study even according to the view of the Rema… with regard to the practice on Shabbat to mince a radish and to mince cucumbers, and then to pour vinegar into it without performing any shinnui. It appears that here they are not stringent… since it is impossible to do this on Erev Shabbat, because the radish's taste would be ruined, and therefore we do not require a shinnui. Since there is good reason to prepare it on Shabbat, they follow the letter of the law, which, as we have established, follows the view of Rabbi Yosei bar Yehuda. If so, one must in any case not mix it vigorously or using a vessel, as I have written, and preferably one should put the vinegar in the vessel first.

The Taz claims that even the Rema concedes that the law follows Rabbi Yosei bar Yehuda, and the Rema adopts the view of Rabbi only as a stringency. Therefore, in a case of need — for example, if one cannot prepare certain foods before Shabbat because they will go bad before mealtime on Shabbat — one may prepare even a belila ava and change the method of mixing. As an added precaution, one should also alter the sequence of ingredients.[2]

This is how the Mishna Berura rules (68; Shaar ha-Tziyun 84): when there is no possibility to prepare a mixture on Erev Shabbat, one may prepare even a belila ava as long as one mixes it with a shinnui, e.g., mixing crosswise or by shaking the vessel. Nevertheless, it is preferable to be stringent and to change the sequence of ingredients as well.[3]

Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 8:11) rules accordingly and adds that the same applies in a situation that one forgets to prepare the food before Shabbat and one needs it: one may prepare on Shabbat a belila ava with a shinnui, changing the sequence of ingredients as well as the method of mixing.

The Chazon Ish (58:8, s.v. Ke-shekkoteshin) adds that even when one wants to prepare food for an infant, one may rely on Rabbi Yosei bar Yehuda and prepare even a belila ava while mixing with a shinnui:

When one crushes produce with a knife handle in the appropriate way, and one wants afterwards to squeeze a lemon onto it… it is forbidden because of lash, according to those who are stringent following Rabbi. However, since one does so to make food for infants, one may be lenient and follow the view of most halakhic authorities. Still, one must mix it, not beat it.

However, in other cases — i.e., whenever a food could have been prepared before Shabbat and it is not designated for an infant and the like — one must not prepare a belila ava on Shabbat, even if one does so with a shinnui. When there is a case of great need, one may be lenient to have a non-Jew put the water in, and afterwards a Jew may take the next step and knead with a shinnui. This is how the Mishna Berura rules (324:11) in the name of the Chayei Adam, in the case of putting water into bran for the sake of an animal:

The Chayei Adam writes that, in extreme circumstances, one may have a non-Jew do this: the non-Jew will put the water in on Shabbat and a Jew will knead with the abovementioned shinnui.[4]

An Impermeable Substance

The Tosefta (12:14) rules that:

One may pour water into flour made from parched grain, as long as one does not knead; one may put sesame and nuts into honey, as long as one does not beat it to a pulp.

Whose view does this ruling follow? It appears that it may sometimes be permissible to prepare a belila ava on Shabbat even according to Rabbi, as the Shevitat ha-Shabbat indicates (Introduction to the Melakha of Lash, 6):

The Tosefta's teaching that one may put sesame and nuts into honey also accords with the view of Rabbi, because Rabbi only makes one liable for adding water alone if we are talking about flour and water, in which case the mixture is formed even by adding water alone. This is not true of sesame or mustard in honey.

In other words, the prohibition of adding water according to Rabbi applies specifically when one puts a liquid such as water into a solid such as flour, which is permeable and mixable with water from the beginning of the lisha. However, when one adds a liquid which is particularly viscous and does not interact with the solid particles on its own — e.g., honey or jelly on breadcrumbs or adds mayonnaise to a mixture — even Rabbi would concede that there is no prohibition upon the very addition, since it does initiate any process of lisha. Thus, even Ashkenazim can be lenient and prepare a mixture such as this by performing lisha with a shinnui (crosswise or by shaking the vessel). [5]
Summary

In conclusion, according to the Shulchan Arukh, one may be lenient and prepare a belila ava if one performs the lisha with a shinnui. Some authorities question the effectiveness of a shinnui in the sequence of ingredients, so one should preferably alter the form of lisha. On the other hand, according to the Rema (and some Sefardic halakhic authorities) there is no allowance to prepare a belila ava even if one does so with a shinnui, unless one puts the liquid in before Shabbat.

There are cases in which even Ashkenazim (and stringent Sefardim) allow one to prepare a belila ava with a shinnui:

1. One may do so when there had been no way to prepare it on Erev Shabbat. This applies to culinary considerations (the food would go bad) as well as practical ones (one forgot). Still, one should alter the form of lisha, and preferably the sequence of ingredients as well.
2. One may do so for the sake of an infant. In this case, changing the form of lisha is sufficient.
3. In a case of great need, one may be lenient when a non-Jew puts in the substances and a Jew kneads with a shinnui.
4. One may mix a solid with a semi-solid (i.e., a highly viscous liquid which does not permeate the particles of the solid on its own). The subsequent lisha must then be done with a shinnui of method.

VIII) Lisha Le'altar

In the Gemara (74a), it is explained that bereira (selection) is allowed in order to eat le'altar (immediately). In his Responsa (Vol. IV, Ch. 75), the Rashba permits techina (grinding) in order to eat le'altar. Is one also allowed to perform lisha on a food in order to eat it le'altar?

Logically, there is a reason to expand the allowance to lisha as well. One may recall that the view of the Rashba is that techina proximate to one's eating is considered derekh akhila (the way of eating), and the Torah does not force one to compromise the normal derekh akhila by eating only large pieces. Similarly, one may say that normally lisha is the preparation for baking or cooking, while creating a belila proximate to one's eating is not the melakha of lisha but rather tikkun okhel (food preparation) and derekh akhila.[6]

However, the Magen Avraham (321:24) writes that there is a prohibition of lash even le'altar. The Mishna Berura (ibid. 66) follows this approach, and in formulating the rules of the melakha of lash he writes: "In all of this, there is no distinction between [preparations] for that [immediately upcoming] meal or the next."

This is also the implication of the Chazon Ish (61:1, s.v. U-ma She-katav Ha-Taz). The Chazon Ish discusses the question of cutting a cake with letters on it. Normally, destroying writing comes under the rubric of mechika, erasing. Is derekh akhila

applicable to the melakha of mechika? He concludes that there is no place to be lenient in this:

And that which the Taz has written to allow derekh akhila, just as one may select and grind derekh akhila, this is perplexing. All eating involves separating and grinding, and when performing these actions in the course of eating it is not considered to be work or melakha at all. Therefore, even when one prepares proximate to the meal, it is not techina or bereira, but rather it is part of the process of eating. However, derekh mechika is not an immanent part of akhila…

According to this approach, the allowance of le'altar only applies to bereira and techina, since these are actions that a person performs in a routine way anytime he eats. For this reason, they are considered a part of the eating process, and they are not considered to be elements of melakha. Regarding other melakhot (for example, mechika or lisha) which are not integral to every act of eating, their performance is not considered part of akhila.

In addition, one should remember that even concerning tochen there are those who do not rely on the Rashba's allowance, as we explained there.

However, it may be that there is a case in which one may be lenient. Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhata, Ch. 8, n. 10) writes that indeed generally there is no allowance to perform lisha le'altar, but if a given mixture is always prepared proximate to akhila — e.g., formula for a baby — it may be that its preparation is considered derekh akhila, and there is no prohibition of lash in it:

It may be that, by Torah law, lisha is defined specifically as the lash which either makes a food ready for baking or permanently makes it fit for its purpose, such as lisha of mustard and the like. This is not so when it comes to the lisha which one performs to prepare baby formula, as its derekh akhila is only through lisha. This lisha is always done to eat le'altar; thus, it may be that it is only called a tikkun of food and not lash… It may very well be that, despite the fact that it is definitely forbidden to knead in order to eat immediately, the Torah does not forbid eating a food if its derekh akhila is only in this way and it is also evident that this is only tikkun okhel…

However, given that Rav Auerbach advances this approach with some hesitation, one should not rely on it alone. Nevertheless, one may enlist it in cases where additional doubts and reasons for leniency pertain, as we shall see in future shiurim.[7]

[1] The Beit Yosef (Ch. 321, s.v. Kemach) understands, following the view of the Maggid Mishneh (21:33), that according to Rabbi Yosei bar Yehuda even a shinnui in ingredient sequence makes kneading thick dough permissible, and there is no need for an additional shinnui (and only within the view of Rabbi does the Gemara state that a shinnui in the order of ingredients is not effective for a belila ava). However, the Chazon Ish (58:2, s.v. Be-Veit Yosef) disputes the view of the Beit Yosef and holds that the Maggid Mishneh indeed believes that according to Rabbi Yosei bar Yehuda a shinnui is effective even for thick dough — however, he aims to limit the shinnui specifically to the kneading, not the sequence of ingredients. This is implied by the Ramban and other Rishonim who state: only a shinnui in the act of kneading itself can allow one to prepare a belila ava on Shabbat.

[2] In the Gemara, it is indeed said explicitly that a shinnui in the sequence of ingredients only makes the lisha permissible for a belila rakka and not for a belila ava; however, the Taz apparently believes that even for a belila ava, a shinnui in the sequence of ingredients helps to lower the prohibition to the rabbinic level, and when even Rabbi agrees that the prohibition is only rabbinic, there is more room to rely on the view of

Rabbi Yosei bar Yehuda. In any case, this shinnui is only an added precaution, and when there is a need, one may rely on the Rishonim that rule like Rabbi Yosei bar Yehuda, altering only the lisha itself.

[3] However, when we are discussing a substance which is not kneadable, it is more difficult to be lenient, even if one could not have prepared the mixture before Shabbat, because according to the view of some Rishonim, Rabbi Yosei bar Yehuda concedes in a situation such as this that there is a Torah-level prohibition in the very addition of the water, as we have seen above. The Bei'ur Halakha (324:3, s.v. Ein) implies that one must be concerned about their view. However, the words of the Chazon Ish (56:3) indicate that one may be lenient even in this situation, as long as it was not possible to prepare the mixture before Shabbat or the mixture is needed for an infant.

[4] According to the view of the Chazon Ish (58:6, s.v. Nireh), if one needs to feed one's animals and there is no non-Jew available, a Jew may be lenient and put water into flour and bran and knead with a shinnui, even if one makes a belila ava, since in this place of loss and animal pain, one may rely on the view of most Rishonim who rule like Rabbi Yosei bar Yehuda. (In fact, it is a bit perplexing that the Mishna Berura requires a non-Jew's involvement, because he allows even a Jew to knead foods which cannot be prepared before Shabbat, in a case where the need is not particularly pressing — as one could always eat other foods. Yet, in this case, in which the animals do not have other options, he requires a non-Jew's involvement). Practically, one should preferably either mix the substance as a belila rakka or enlist a non-Jew's assistance, but if there is no other option, a Jew may make a belila ava.

[5] This is also what is written in the name of Rav S.Z. Auerbach (Orechot Shabbat, Ch. 6, n. 46).

[6] In fact, the Rashba himself, in that responsum, mentions the Gemara's discussion (140a) concerning lisha of mustard, and there are those who understand from his words that lisha is also allowed le'altar (see the Tefilla Le'Moshe, Vol. I, Ch. 50). However this is the not the only way to understand his statement there, and indeed some have understood it differently (see Eglei Tal, end of Melakha of Lash).

[7] For example, when preparing formula for a baby, one may be lenient and suffice with a shinnui in the sequence of ingredients (according to the view of the Chazon Ish concerning a belila rakka). Sometimes when the substance is very runny, one may be lenient and prepare it normally (as it may not even rise to the level of a belila rakka), and at the very least, one may do so when there it is difficult to change the sequence of ingredients. (This is because there is only a question of a question of a rabbinic prohibition: perhaps this is considered an actual liquid, which is even less problematic than a belila rakka, and there is no prohibition of lisha at all; and even if this is a belila rakka, perhaps the prohibition of lash is not applicable to any mixture which is always prepared proximate to akhila.)

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 23: Lash, (Part 5)

IX) Lisha Achar Lisha

Is one allowed to prepare tahini or dilute it on Shabbat? Is there any problem of lisha in adding oil to a salad made of finely-chopped pieces?

The halakhic consensus is that in the melakha of cooking, ein bishul achar bishul (literally, there is no cooking after cooking). Do we also rule that ein lisha achar lisha (there is no kneading after kneading), i.e., once a substance has undergone lisha, any additional kneading, mixing, stirring, whipping, beating, etc. is meaningless; or do we say that one violates the prohibition of lisha again?

Kneading Mustard-Seed in the Gemara

The Bei'ur Halakha (321:15, s.v. Yakhol Le'arvo) writes that indeed ein lisha achar lisha, and he cites the following passage from the Gemara (140a) to prove this:

If mustard is kneaded on Erev Shabbat, the next day one may mash it either by hand or with a utensil, and one may pour honey into it. One may not beat it, but one may mix it…

According to the Bei'ur Halakha, the Gemara is talking about mustard-seed which has been mixed with a liquid and kneaded on Erev Shabbat. The Gemara allows one, on Shabbat, to add a liquid to the mixture in order to dilute and soften it or to add honey to it, as long as one mixes gently and not vigorously.

According the Rif (58a), the Rambam (22:12) and most Rishonim, the Gemara deals with mustard which was crushed before Shabbat but not mixed with liquid or kneaded; nevertheless, the Gemara allows one to mix liquid in it on Shabbat and knead it, as long as one mixes gently and not vigorously. The phrasing in the Gemara, "If mustard is kneaded", refers not to the melakha of lisha itself, but rather to mustard that is "kneaded" with its natural juice (Peri Megadim, Mishbetzot Zahav, 319:13).

The Sefer Ha-teruma (Ch. 220) disputes this and understands that case as referring to a situation in which one puts in water before Shabbat but does not mix the mustard-seed and the water. The Terumat Ha-deshen (Ch. 53) explains that the Sefer Ha-teruma rules like Rabbi, and therefore he holds that in any case one may not allow putting in liquid on Shabbat, and the fact that one changes the method of mixing does not make adding liquid permissible, so that we have no choice but to say that the Gemara is talking about a case in which the liquid was put in before Shabbat.

However, the Bei'ur Halakha finds the approach of these Rishonim very difficult:

In truth, this requires a great deal of study: how did the Sages allow the very kneading, which is a Torah prohibition, on the basis of such as small shinnui, namely that one does not beat it vigorously?

In other words, given that kneading this mixture ordinarily would involve a Torah prohibition, how could it be that the Sages allowed it in the first place, even with a shinnui? Therefore, the Bei'ur Halakha suggests a third explanation (which he understands as the view of the Rambam as well): we are talking about mustard-seed to which a) a liquid was added, after which b) the mixture was kneaded on Erev Shabbat, as is the simple meaning of the Gemara's phrasing. Therefore one is allowed to knead the mixture once again on Shabbat, because ein lisha achar lisha; nevertheless, there is a rabbinic prohibition to beat it vigorously, because this action is similar to lisha.

The Bei'ur Halakha explains the logic behind this:

The mustard has been kneaded while it was still day… Therefore, in mashing it now on Shabbat, one is not doing an act of lisha at all… This mashing of the mustard merely makes it very soft, so that it can be drunk, and this act is not called lisha… Thus, mashing in water is the opposite, as one separates the parts which adhere through lisha. Consequently, there is no prohibition in this at all, except that beating it vigorously is a bit similar to lisha.

That is to say, the nature of the lisha is the binding of substances together. When the mass is kneaded before Shabbat, the parts are already fused, and another act of mixing does not connect them together any more. In fact, the adding of water is not forbidden because of lash because the water makes the mass more liquid and more separate — the reverse of the melakha of lash, which seeks to create attachment and adhesion. (The only issue is that if one mixes vigorously, the act is rabbinically prohibited, because it resembles lisha).

We should note that the Bei'ur Halakha's approach is very innovative and is against the simple understanding of the Rishonim cited. (As for his question about permitting a Torah prohibition if one merely does the act casually, we will raise the possibility below that this allowance is limited to pulped produce only, which does not adhere after lisha.) In any case, even though this interpretation is innovative, the basic principle which emerges from his words, that ein lisha achar lisha, is a matter of general agreement among the halakhic authorities. One should point out that even though the Bei'ur Halakha's words indicate that the principle of ein lisha achar lisha applies only when one mixes gently, other halakhic authorities do not require this, and even he does not mention this requirement in his Mishna Berura. (From a logical point of view, it is not obvious that one must mix it gently in a situation in which there is no prohibition of lisha at all.) This issue will be addressed further with regard to lisha of pulped fruits and vegetables.

Applying Ein Lisha Achar Lisha

The principle of ein lisha achar lisha is cited by additional halakhic authorities (Taz, 321:13, based on the Terumat Ha-deshen, Ch. 53;[1] Chazon Ish, 58:5, et al.) and it is similar to the principle we mentioned initially, ein bishul achar bishul.

As we have said, in addition to the allowance to knead an existing mass, one can add liquids to it or dilute it, because this is the opposite act of the melakha of lash. However, one must not add dry substances to the mass, even if the mass was formed before Shabbat, because one is binding dry substances to this mass on Shabbat, and this is an act of lisha. Therefore, it is clear that one must not, for example, add flour to existing dough.

According to this, it is permissible to mix on Shabbat tahini which was prepared before Shabbat, and one is allowed to add water to it. Similarly, one is allowed to mix the oil on top of a jar of peanut butter with the contents below. One may also mix the oil which floats on top of eggplant salad back into the mixture.

What about charoset, the paste made for the Pesach Seder? As long as it has been initially prepared before the holiday starts, one is allowed to add wine or another liquid (even when the Seder takes place on Friday night).

However, it is appropriate to avoid preparing unprocessed tahini on Shabbat. Though it has already been mixed during its processing in the factory long before this Shabbat, it has only been "kneaded" with its natural juices, and it is not clear that this is considered true lisha. In addition, the preparation of tahini improves the mixture and makes it thicker. However, some authorities are lenient and allow preparing tahini on Shabbat.[2] In any case, one is allowed to mix more thoroughly the raw tahini itself with the oil floating on it.

If the Second Lisha Enhances

When it comes to ein lisha achar lisha, we must ask: from an essential point of view, is it conceivable for there to be a prohibition of lisha once lisha has already been done? Perhaps ein lisha achar lisha applies only because there is no enhancement or innovation in the second lisha, but if there is any enhancement, it would be forbidden. A practical distinction will arise between these possibilities within the view of Rabbi, who believes that for putting water in one is liable for lash: can one be liable for the kneading as well, or perhaps after the water is put in and lisha has been accomplished, ein lisha achar lisha?

As we have seen above, according to the Bei'ur Halakha (321:14, s.v. Ein Megabbelin), even if the water has been put in on Erev Shabbat and only the kneading is done on Shabbat, one is liable even according to the view of Rabbi, and we do not say that this is lisha achar lisha, since the kneading improves the dough and makes the two substances better adhere to each other. The Bei'ur Halakha brings a proof from the Yerushalmi (7:2), which says that even one who rolls dough is liable, despite the fact that the dough has already been kneaded. This implies that one is liable even for improving existing dough. On the other hand, the Chazon Ish (58:5) writes that, according to Rabbi, one is not liable for kneading because ein lisha achar lisha, and one cannot bring a proof from the Yerushalmi, because rolling is a separate act from kneading.

It turns out that according to the Bei'ur Halakha, the entire rule of ein lisha achar lisha is only applicable when the second lisha adds nothing significant; however, if the second lisha enhances the mixture, one is liable for it. (According to him, it may be that the same applies even if one actually kneads before Shabbat — if the second lisha improves the attachment of the substances in the mass in a significant way, one is liable for it.) On the other hand, according to the Chazon Ish, we rule categorically that ein lisha achar lisha, and only for totally new actions (e.g., rolling) may one be liable after lisha.

Summary

In conclusion, the general principle is that ein lisha achar lisha. Therefore, if one mixes a solid with a liquid and kneads them before Shabbat, it is permissible to knead them more thoroughly on Shabbat. In this case, one can even add water and knead, since this act does not make the mass more cohesive; on the contrary, this act separates it. (Still, one cannot add dry substances to an agglomerated mass and knead the mixture). Therefore, it is permissible and to mix tahini which was prepared before Shabbat (though

it is inappropriate to prepare unprocessed tahini on Shabbat) or to mix the oil which floats on top of peanut butter with the rest and the like.

X) Lisha of Pulped Produce

The regular lisha is that of flour and water or other substances with liquids and the like. Does the prohibition of lash apply when one adds liquid to pulped vegetables? Is there a problem to add wine on Shabbat to crushed walnuts and apples which are designated for charoset?[3] Can one add oil to a finely-chopped salad?

The Gemara (140a) states:

If mustard is kneaded on Erev Shabbat, the next day one may mash it either by hand or with a utensil, and one may pour honey into it. One may not beat it, but one may mix it.

Cress which has been ground on Erev Shabbat, the next day one may put oil and vinegar into it… One may not beat it, but one may mix it.

Garlic which has been pressed on Erev Shabbat, the next day one may put beans or grits in it. One may not grind it, but one may mix it.

Rashi explains: "'One may not beat it' — as one beats eggs in a bowl with a spoon, in the way of beating, that one strikes it vigorously." The Gemara allows one to mix pulped vegetables with liquids or beans and grits with pressed garlic, as long as one mixes gently and not vigorously. As cited above, the Bei'ur Halakha (321:15, s.v. Yakhol le'arvo) is very perplexed by this allowance:

In truth, this requires a great deal of study: how did the Sages allow the very kneading, which is a Torah prohibition, on the basis of such as small shinnui, namely that one does not beat it vigorously?[4]

It may be that the answer is that generally one cannot allow lisha with a shinnui (alteration) such as this, however in the cases mentioned in the Gemara, there is no problem of lisha, or at least there is no prohibition of lisha from the Torah. The prohibition of lisha is fusing and binding substances. Pulped vegetables that are mixed with liquids do not turn into one unit, and thus the act of mixing them cannot be considered lisha; as such, one is allowed to mix it gently.

The Chazon Ish (58:4) explains why this is permitted along similar lines:

It is possible that even if one beats it vigorously, it is only [prohibited] rabbinically, and even if we say that beating it vigorously is [prohibited by] Torah [law], one must say that mixing it is not a full-fledged violation of lash. This is not based on shinnui: it is less cohesive than ashes, as they become like miry clay when mixed with water… but minced vegetables are not miry, but discrete. However, when one beats them vigorously, it may be considered lisha by Torah law.

The Chazon Ish deliberated here between two possible understandings. According to the first possibility, vigorously beating pulped vegetables is forbidden only rabbinically, since it does not create a true mass, and therefore when one makes a shinnui one can allow it to be mixed gently. On the other hand, according to the second possibility, beating pulped vegetables vigorously creates a true mass, and the act is forbidden by the Torah. However, mixing vegetables like these gently does not create an agglomerated mass at all, as the vegetables remain separate, and therefore the matter

is permissible. (According to this view, the allowance to mix gently is not based on the law of shinnui, and lisha is not at all applicable to a mixture such as this.)

Either way, the allowance to gently mix pulped vegetables with a liquid is based on the fact that one does not create a new single entity, and therefore there is no true lisha in this case.[5]

However, there are Rishonim who limit this allowance in a significant way.

The Sefer Ha-teruma (Ch. 220) writes that according to the Yerushalmi (7:2), that the allowance to knead pulped vegetables gently only applies if one puts in the water before Shabbat, but on Shabbat itself there is no allowance to add a liquid to pulped vegetables. The Semag also mentions this limitation (Prohibition 65, Lash).

In his Responsa (Ch. 53), the Terumat Ha-deshen explains that this view is based on the view of Rabbi, that putting in water is forbidden by the Torah because of lash, and the shinnui done with kneading does not help to permit putting in the water (unless one makes a belila rakka and mixes the substances in the reverse order, as we have explained in earlier shiurim).

As such, according to the Rif, the Rambam and the Rosh, who rule in accordance with the view of Rabbi Yosei bar Yehuda, there is no need to limit the words of the Gemara, and it is permissible to add liquids to pulped vegetables and to knead them gently on Shabbat itself. This is what the Yere'im (Ch. 274, 134a) and the Or Zarua (Vol. II, Ch. 61) write: the Gemara's allowance applies even to adding liquids to pulped vegetables on Shabbat itself.

Halakhically, the Shulchan Arukh (321:15-16) cites both views:

If mustard is kneaded on Erev Shabbat, the next day one may mash it either by hand or with a utensil, and one may pour honey into it. One may not beat it vigorously, but one may mix it bit by bit.

Cress which has been ground on Erev Shabbat, the next day one may put oil and vinegar into it. One may not beat it, but one may mix it. Garlic which has been pressed on Erev Shabbat, the next day one may put beans or grits in it. One may not grind it, but one may mix it…

There are those who say that it is only permissible to mix a liquid in mustard if it has been put in before Shabbat, but on Shabbat, it is forbidden to put liquids in crushed mustard or garlic because of lash.

Gloss [of the Rema]: If one puts in the food first and afterwards the vinegar or wine and mixes it with one's finger, it is permissible, because it is a shinnui, just as by shatita above. This is the custom: to allow this with a shinnui.

The Shulchan Arukh first quotes the view of most Rishonim, who allow one to put a liquid into vegetables and to mix it gently on Shabbat — following the view of Rabbi Yosei bar Yehuda — and after this, he cites the view of the Sefer Ha-teruma and the Semag as the second view ("those who say"). They limit the allowance to a case in which one puts in the liquid before Shabbat, following the view of Rabbi. Since he brings the lenient view without attribution and then the stringent view of "those who say," it appears that his essential inclination is to be lenient. We have already seen that this is the view of the Sefardic halakhic authorities — to rule in accordance with the view of Rabbi Yosei bar Yehuda.

From the words of the Rema, on the other hand, it appears that he is concerned about the view of "those who say", who follow Rabbi's view, and he does not allow mixing pulped vegetables unless one puts the liquid in on Erev Shabbat. We have already seen that a number of the Sefardic halakhic authorities also follow this approach, including the Ben Ish Chai and the Kaf Ha-chayim. However, the Rema notes that, even according to the stringent view, one may put the liquid in on Shabbat itself if one makes a belila rakka and changes the sequence of ingredients, as we have seen in our discussion of lisha with a shinnui.

It turns out that according to the mainstream view of the Sefardim, one may add a liquid to pulped vegetables and mix them gently on Shabbat, even though it creates a belila ava, while according to the Ashkenazim (and some of the Sefardim) one should not add a liquid to pulped vegetables and make a belila ava on Shabbat; rather one should add the liquid before Shabbat and mix it gently on Shabbat (or make a belila rakka with a shinnui in the ingredient sequence). Indeed, as we have already seen, if one could not have added the liquid before Shabbat (for example, the food would have gone bad or one had forgotten to do so), one may be lenient in accordance with the view of Rabbi Yosei bar Yehuda and add the liquid on Shabbat itself. In this case, one must mix with a shinnui or gently, and it is best to change the sequence of ingredients as well.

In fact, these laws relate to every belila ava, not only pulped vegetables; however, pulped vegetables have an added leniency of mixing gently (i.e., one mixes it normally — not vigorously, but rather with a slow, circular motion). Generally, this shinnui is not considered sufficient, with the requirement being either to whip it crosswise, to shake the vessel or to mix it bit-by-bit. However, one may be lenient and mix pulped vegetables normally and gently, since the Gemara explicitly states that this is permitted for them (see Chazon Ish 58:8, s.v. Ke-shekkoteshin).[6]

Lisha of Chopped Vegetables

Are these rules applicable only to pulped vegetables, or do they apply to chopped vegetables as well?

The Mishna Berura (321:68) writes, based on the Taz (321:12,) that in this respect, one must distinguish between two levels of chopping:

When it comes to lettuce, one need not be concerned about this, since it is never minced; however, when we mince a radish or pickled cucumbers, pour on vinegar or another liquid and then mix it all together, one must be careful not to mix it vigorously with a spoon, or to shake it in the vessel itself. Preferably, one should be stringent and put the vinegar in the vessel first and then the food.

According to him, if vegetables are chopped up very finely, so that mixing the liquid in causes them to adhere, one must treat them as stringently as pulped vegetables,[7] and therefore one should not add liquid on Shabbat itself. If it is impossible to prepare it on Erev Shabbat, one may add the liquid on Shabbat and mix it gently, but it is preferable to change the sequence of ingredients. However, if the pieces are somewhat larger, and they do not form one mass, there is no problem of lisha at all.

Practical Halakha

According to this, there is no problem to add liquid to a vegetable salad or fruit salad and to mix it normally, because the contents of the salad are not chopped very finely. (Even if they are chopped in such a way as to create a problem of tochen, they still do not adhere in the presence of a liquid). Similarly, it is permissible to add dressing to a lettuce

salad and mix it up, and one may add mayonnaise to small pieces of potatoes (since they are not cut very finely) and mix them normally. One may also be lenient about carrot salad and add orange juice and the like, because there is no real cohesion of different parts. (Still, the salad may at times be cut very finely, and it is appropriate to mix it gently).

Similarly, it is permissible to add cream to chopped strawberries. If the strawberries are pulped, and by putting in a bit of cream, one causes them to adhere, one should mix gently. However, if one puts a lot of cream in, the strawberries do not adhere and merely give a taste to the cream; consequently, one is able to mix it normally.

Similarly, it is permissible to mix leaves of spices in cheese or hummus, because this does not create an agglomerated mass (the leaves scatter and do not adhere to each other), but merely imparts taste.

[1] The Terumat Ha-deshen implies that, according to the view of Rabbi, if one puts in water before Shabbat, there is no Torah prohibition to knead the mixture on Shabbat (according to the view of the Chazon Ish mentioned at the end of the previous shiur), and therefore it is permissible to knead with a shinnui. The Taz derives from this that even if one puts in only a small amount of water before Shabbat, this suffices to render the dough "kneaded", so that on Shabbat one may add water and knead with a shinnui (as long as one has not added mere drops before Shabbat, but rather a significant quantity of water).

[2] The Menuchat Ahava (Vol. II, 9:17) allows preparing unprocessed tahini, since it has already been mixed in the factory. However, as we have said, the matter is not simple, and Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 8:26) forbids it. It may be that there is more of a reason to be lenient if one mixes it gently and prepares it proximate to the meal, and this is what the Menuchat Ahava writes there. However, it is better not to rely on this leniency, which is problematic, but rather to prepare the tahini before Shabbat.

[3] As we saw above, there is no problem with adding wine to charoset prepared before the holiday began.

[4] As we saw above, the Bei'ur Halakha himself answers that the Gemara talks about which have been kneaded on Erev Shabbat; thus, it is permissible to knead them on Shabbat, because ein lisha achar lisha. Even though the Gemara specifically speaks about mustard, the Bei'ur Halakha understands that even concerning cress, garlic and the like, the case is similar. However, as we have said above, the Bei'ur Halakha's approach does not accord with the words of the Rishonim, and the Chazon Ish challenges him (58:8, s.v. Ma she-katav ba-Mishna Berura). One should note that the Piskei ha-Rid (ibid.) distinguishes between mustard on one hand and cress and garlic on the other: specifically concerning mustard the Gemara says that one must knead it on Erev Shabbat, since there is no allowance to knead it on Shabbat even gently, as "its lisha is significant", while cress and garlic may be mixed on Shabbat gently, even if they have not been kneaded on Erev Shabbat. According to our approach, one may say that lisha of mustard creates one agglomerated mass more so than lisha of cress and garlic. It should also be pointed out that the Or Zarua (Vol. II, Ch. 61) and others explain the words of the Gemara "One may not beat them, but one may mix them" in a very different way from Rashi; they understood that the allowance is to mix with one's finger and not with a utensil. This is a significant shinnui, and thus one should not be surprised that it suffices to permit an act of kneading otherwise forbidden by Torah law, as we discussed above.

[5] It may be that there is yet another reason to be lenient about lisha of pulped vegetables. According to the view of the Bei'ur Halakha (321:14, s.v. Shema Yavo) which we will see later on, there is no prohibition of lisha from the Torah for something which is fit to eat as it is. The essence of the melakha of lisha is the preparation of food for cooking and baking; however the lisha of something which is edible as is may be

considered mere food preparation (tikkun okhel). However, it may be that there is still a rabbinic prohibition in such a case, and therefore one must also enlist the reason that vegetables do not become one unit.

[6] If one adds to the mixture items other than vegetables, such as bread crumbs and the like, one should mix with the customary shinnui of crosswise motion.

[7] See the Shevitat ha-Shabbat (Introduction to the Melakha of Lash, 20) who finds this ruling to be difficult.

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By Rabbi Yosef Ben David
Shuir 24: Lash, (Part 6)

XI) Lisha of Cooked Foods

Is one allowed to add sauce to rice and mix it up? May one mix breadcrumbs or matza meal with liquids? Is one permitted to do these actions normally, or does one need a shinnui (alteration) — and if so, what kind?

The Rambam, in his Responsa (Blau Edition, Ch. 305, cited by the Beit Yosef, end of Ch. 321), raises the following question:

Question: A pot of grits is usually left on the stove over Shabbat [evening]. On the next morning, one takes the pot off of the stove, puts a wooden ladle in and stirs it a great deal, mixing it up and splashing it with the wooden ladle against the walls of the pot or in a bowl, until the meat, grits and water have been thoroughly blended. At the end, [the mixture] becomes thick, as it all becomes one mass. Sometimes the water is removed from the top and after that it is mixed, and sometimes hot water is added, as much as is needed. Are all of these actions prohibited or permitted?

Answer: Certainly, this is all allowed… if one is allowed to finish preparing parched ears, which require pulverizing, [one may certainly finish preparing] grits, which have already been pulverized and fully cooked; all they are missing is mixing alone, so surely should it be permissible! …these grits do not require pounding, because they have already been thoroughly pounded in a mortar and fully cooked, and all they are missing is a bit of pulverizing and mixing. Putting the water into the pot is permitted as well…

The Rambam is addressing the issue of preparing a dish of grits and meat: after it has been removed from the fire, one may stir it while mashing the meat and the grits so that they dissolve and become blended, forming "one mass." One may also add hot water to the dish. This is how the Shulchan Arukh rules (321:19) as well.
In this question, there are different factors to consider: stirring, grinding (techina; the melakha is known as tochen) and kneading. As we have seen, the Rambam believes that mashing the grits is not forbidden because of tochen, since the grits are already crushed and mashed, and all they require is a bit of pulverizing. However, why is there no prohibition of lash?

Bishul Precludes the Prohibition of Lash

In fact, the Bach (end of Ch. 321) challenges this ruling of the Rambam, and he writes that halakhically one may not beat the food vigorously, as is implied by the Rambam; rather, he rules that one must mix it in gently, as we have seen above concerning pulped vegetables. The Magen Avraham (321:28) rules accordingly. The Taz (ibid. 14), on the other hand, disputes this and explains why one may act more leniently in this case, even beating the mixture vigorously:

In that case, there was no liquid originally, before Shabbat; this is not true in this case, since it was fully cooked before they were mixed.

In other words, since the meat and the grits have already been mixed with water and cooked before Shabbat, the prohibition of lisha is not applicable to them. This approach is explained more fully by the Chazon Ish (58:9):

Apparently, just as bishul precludes it from the melakha of techina, since its techina is easy and it is not considered to be a melakha, similarly it is not considered to be lisha. However, if the grits are dry, it may be that it is forbidden to put liquid on them and to mix them. However, if there is a bit of liquid before Shabbat, it appears that one may put in more on Shabbat.

According to this approach, just as the prohibition of tochen is not applicable to a cooked food, since the food is very soft and grinding it is no longer a significant act, so too the prohibition of lash is not applicable to items which have already been cooked together. The prohibition of lash addresses the binding of separate substances, each of which has previously stood on its own, while here the different substances in the pot have been mashed and softened and become part of one cooked food, so that the lisha which joins them together more thoroughly is not such a significant act.

The Chazon Ish goes further and explains that it may be that only if there is a bit of moisture in the cooked food is it permissible to knead it and even add more water to it, but if the cooked food has become totally dry (for example, if one wants to add water to dry rice and mix it up), this would perhaps be forbidden. The reasoning behind this is that when the cooked food dries up, every part of it stands on its own, and therefore mixing it is considered an important act of binding and kneading.

At the end of this passage, the Chazon Ish adds a point that may indicate a new direction or may fit in with his initial view:

However, when it comes to cooked food, even setting this aside, lisha can never be applicable, because the liquid does not fuse discrete elements together; on the contrary, it dilutes the thick.

In other words, the prohibition of lash exists when a person uses a liquid in order to combine and to bind items which are separate from each other; when it comes to a cooked food, one does not stick the different pieces to each other, but softens every element in its own right until it loses its identity, forming an agglomerated mass and becoming mixed with the other parts.

Mere Tikkun Okhel

Another reason for this allowance is provided by the Bei'ur Halakha (321:14, s.v. Shema). He explains that there is no Torah prohibition in kneading a cooked item, since it is fit for eating as it is, and its lisha is only tikkun okhel (food preparation) and derekh akhila (the way of eating):

It appears to me that the basis for this allowance lies in the view of Tosafot. Once the parched ears are dried in the oven and made fit for eating, they are considered like a baked or cooked item. Therefore, even though one adds water and then kneads it, this is not considered like the melakha of lisha; rather, it is mere tikkun okhel, because this is its derekh akhila. It is considered like sauce put on a cooked food, and this is not a melakha by Torah law.

The Bei'ur Halakha is discussing flour which comes from parched ears of grain (kemach kali, which is a bit like matza meal — see Taz, ibid. 11). The Rambam (21:33) and the Shulchan Arukh (321:14) imply that kneading flour such as this is not forbidden by the Torah.[1] What is the reason?[2] The Bei'ur Halakha explains that since the flour is baked and edible, kneading it is not considered a significant act but mere tikkun okhel, akin to pouring sauce on a cooked food, and there is no Torah prohibition in this. What arises from this explanation is that he understands that the essence of the melakha of lisha is the preparation of an agglomerated mass for cooking or baking, and when a mass is already edible as is, there is no Torah prohibition of lash in mixing it.

However, as the Gemara (156a) indicates, although there is no prohibition from the Torah to knead kemach kali, there is a rabbinic prohibition to do so; only kneading kemach kali bit-by-bit, i.e., in smaller quantities than that which one is accustomed to knead on weekdays, is actually permitted.[3] The Rambam (ibid.) writes that the reason for the prohibition is the concern that someone may come to knead regular flour. Aside from this, the Gemara indicates that this allowance follows the view of Rabbi Yosei bar Yehuda only, but in the view of Rabbi, there is no allowance to knead kemach kali (in a belila ava, thick mixture) even bit-by-bit, since the very adding of water is problematic in his view. This is how the Magen Avraham (321:18) and Mishna Berura (52) rule: halakhically, we are concerned with the view of Rabbi, and consequently one must not knead kemach kali.

Even so, the Shulchan Arukh (321:19) and the Mishna Berura (77) allow kneading cooked vegetables even in great quantities. It appears that only when dealing with a substance which is similar to flour, such as kemach kali (or matza meal), one must knead a small quantity only. (In any case, for those who rule like Rabbi, it is totally forbidden, because adding the water itself violates a Torah prohibition.) However, when it comes to cooked vegetables, which are not like flour at all, the Sages did not ban this, and it is permissible to knead them even in great quantities.[4]

Indeed, the Mishna Berura (ibid.) stresses, following the view of the Bach and the Magen Avraham which we mentioned above, that one should stir such a mixture gently. By contrast, the Chazon Ish (58:9, s.v. Siman) writes that one may even beat it vigorously, as the Rambam's responsum indicates.

Somewhat Hard Vegetables

It turns out that there are two different reasons to allow one to knead cooked vegetables. According to the Chazon Ish, after the vegetables are soft, their mixing is not considered an act of lisha. On the other hand, according to the Bei'ur Halakha, there is an act of lisha, but in terms of the result, no lisha exists in this case, because lisha is preparation for cooking and baking, while here the vegetables are already cooked and edible.[5] This question will be borne out in a practical ramification in the case of cooked vegetables which are still somewhat hard: according to the Chazon Ish, it may be that the allowance is only for very soft vegetables, but with hard vegetables there is a concern of lisha, while according to the Bei'ur Halakha, with every cooked food, there is no prohibition of lisha (but one should mix it gently).

However, we must recall that with vegetables such as these, it may be that there is also a problem of tochen. We learned previously that ideally only cooked vegetables that are pulped and soft should be mashed. Thus, even if in terms of the prohibition of lash one may be lenient when it comes to vegetables which are not soft, there remains a concern regarding the prohibition of tochen. However, if one prepares this proximate to eating, there is good reason to be lenient about the prohibition of tochen even with harder

vegetables; in this case, according to the Chazon Ish, there would still be a prohibition of lisha, while according to the Bei'ur Halakha, the prohibition of lash is not a problem at all.

Is it permissible to add sauce to rice and to mix it? From the abovementioned ruling of the Chazon Ish, it emerges that when the rice is dry and hard, there is a concern for the prohibition of lisha, and according to the Bei'ur Halakha, one may mix gently anything which is cooked. However, it may be that according to all the views, it is permissible to mix water with rice, since generally the water does not bind with the grains of rice; rather, it adds taste and moisture in them.

Summary
In conclusion, according to the Rambam, it is permissible to knead cooked vegetables. The halakhic authorities differ whether one can knead any cooked vegetable (this is what the Mishna Berura seems to indicate) or perhaps only if those which are very soft and moist (this is what appears to be the view of the Chazon Ish). Aside from the question of lisha, the question of the prohibition of tochen exists as well. Therefore, it is best to act leniently only with cooked, soft vegetables; in this case, it is permissible to grind them even with the tines of a fork. Similarly, one may mix them (and even add sauce), but it is preferable to mix gently (in accordance with the ruling of the Mishna Berura). Similarly, it is permissible to mash soft potatoes with the tines of a fork and even to add sauce and mix them.

If the vegetables are still a bit soft and one needs to grind them also, it is best to be stringent in this regard (though one may grind with a shinnui). However, one may be lenient if one does this proximate to the meal, and in this case there is good reason to be lenient as regards lisha as well, in accordance with the ruling of the Mishna Berura. (Even the Chazon Ish does not decisively take the stringent approach, and it makes sense that we are talking about a doubt regarding rabbinic prohibition, where there is generally room for leniency.) If one does not need to grind them (e.g., one wants to add sauce to rice), it appears that one may be lenient in this, as arises from the ruling of the Mishna Berura. (Furthermore, there is no clear lisha which combines disparate elements in this case, but rather the imparting of taste and moisture).

Matza meal, tea-biscuit crumbs or breadcrumbs, according to the Sefardim who rule like Rabbi Yosei bar Yehuda, may be poured into a liquid and kneaded in a smaller quantity than the usual (since they have already been baked and they are edible as they are, similar to kemach kali). According to the Ashkenazim (and some of the Sefardim) who rule like Rabbi, one should not be lenient in this, unless one puts the liquid in before Shabbat (and then one may add liquid and knead with a smaller quantity than the norm). Similarly, one may be lenient and knead with a shinnui according to the conditions explained in our previous shiurim.

[1] It should be noted that there are those who believe that kneading flour in this way is forbidden by Torah law, see Mishna Berura (321:52) in the name of the Peri Megadim.
[2] There are those who believe that flour such as this is not very kneadable and therefore there is no Torah prohibition here (Ritva, 155b; Magen Avraham, 321:18). However, as we have seen above, there are Rishonim who believe that the Torah prohibits the act of kneading even if the substance is not kneadable (i.e., even if it does not form a dough-like substance in the presence of a liquid). Thus, the Bei'ur Halakha must explain why, according to their view, there is no Torah prohibition of kneading kemach kali.
[3] If a given mixture is always kneaded in small quantities, one should not knead it in this way, since there is no shinnui in this (Chazon Ish 58:1). Thus, one must prepare it with the shinnui of crosswise motion.

[4] The Chazon Ish (58:7, s.v. Katav Od) challenges the Bei'ur Halakha, based on the Tosefta (13:12), which indicates that it is forbidden to knead breadcrumbs, and the view of the Taz (321:11), which indicates that it is forbidden to knead matza meal — even though we are talking about previously baked items. According to what we have said, this is not a problem, since the Bei'ur Halakha also concedes that lisha of cooked or baked flour-like items is prohibited rabbinically (lest one knead regular flour); it is only the kneading of cooked vegetables, which are not at all like flour, which is permitted altogether.

It should be noted that there are three significant characteristics of flour in this regard: a) it has not undergone a process of cooking or baking; b) it is inedible; c) the lisha prepares it for cooking or baking. The lisha of those items which share all of these qualities with flour is forbidden by the Torah. If they differ from flour in one aspect, their lisha is rabbinically forbidden, because one may come to knead regular flour. One may knead things which are different from flour in all respects, since they are not at all similar to flour. However, the mixing of kemach kali, matza meal, bread crumbs or biscuit crumbs is generally a preliminary act, and because they differ from flour in the first two aspects but not in the third, their lisha is rabbinically forbidden, and it is permitted only in small quantities. Also, the lisha of raw pulped vegetables, which are like flour in the first aspect, their lisha should be rabbinically forbidden (although there is an additional reason to allow it: they do not form an agglomerated mass, as we explained previously). The lisha of cooked vegetables, which are different from flour on all points, is permissible (although, according to the Mishna Berura, one should mix them gently).

[5] It may be that the question of whether one may beat the mixture vigorously is linked to this argument. According to the Bei'ur Halakha, we have an act of lisha here, but it is allowed because there is no result of lisha; since it looks like regular lisha, there is reason to forbid executing the act normally (vigorously), lest one knead regular flour. On the other hand, according to the Chazon Ish, in reality, there is no act of lisha, and therefore there is no reason to forbid whipping vigorously, as is customary.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 25: Lash, (Part 7)

XII) Variations on Lisha

Does lisha apply when the liquid is a fruit's natural juice? May one knead cooked tomatoes in their own natural juices? May one mix the whipped-cream topping of a pudding cup with the chocolate below?

LISHA OF A COOKED FRUIT IN ITS NATURAL JUICE

As we have already seen, mashing cooked produce does not carry a prohibition of lash; if it is soft, one can grind it even with the tines of a fork (and if it is not soft enough, one should mash it right before to the meal).

If a fruit or vegetable has not been cooked, we have seen that one should not grind it normally, but one may mash it with a shinnui (alteration) — for example with the handle of a fork or spoon. (Furthermore, if a banana or avocado has become very soft, one may be lenient and mash it even with the tines of a fork).

Once one has overcome the prohibition of tochen, grinding (for example, one has mashed it with a shinnui) and one has a pulped fruit — is it permissible to mix the fruit (or vegetable) with its own juice?

The Chazon Ish (58:8, s.v. Yesh) relates to this and writes:

It is possible that the act does not have the form of lisha unless one puts liquid into a dry substance; but when one crushes fruit, even though it coheres in its juices, there is no name of lash upon it. This appears correct.

According to this approach, there is no prohibition of lisha when one "kneads" a fruit in its own juice. There are two reasons for this: first of all, the prohibition of lisha is applicable only when one mixes liquid with a dry substance, whereas here the liquid is not being added but is already present naturally. Secondly, the prohibition of lash applies to an act in which the liquid gathers the parts of the dry substance and turns them into one; the lisha of a fruit, on the contrary, does not bind the parts together, but rather essentially degrades the form of the fruit, turning it into something softer.

Therefore, one may crush a fruit with a shinnui, and after that it is permissible to mix it in its natural juice (but not to add another liquid — Chazon Ish ibid. 9).

LISHA OF TWO SOLID MASSES

A great innovation of Rav S.Z. Auerbach as regards the definition of lash produces many stringent ramifications. According to him, the prohibition of lash includes the mixing of two solid masses. For example, one would violate the prohibition of lash by taking honey

and soft cheese and mixing them together. Rav Neuwirth cites his view in Shemirat Shabbat Ke-hilkhata (8:13-16):

It is forbidden to mix white cheese with honey, even if one's intent is to eat it immediately… It is forbidden to add sugar or even runny jam to soft cheese and to mix it.

However, it should be noted that this approach is not self-evident. Generally, the prohibition of lash applies to the mixing and binding of separate parts by liquid. The liquid makes the discrete parts form one body. However, when one mixes two solid masses, there is no one substance which binds the parts of the other substance; instead, there are two ingredients, each of which is already "kneaded" and cohesive. The mixing of these two masses serves only to integrate two tastes and the like (and as we have seen above, it is permissible to add liquids to an existing mass). Aside from this, we are talking about substances which are edible as is, so that the mixing is only mere tikkun okhel (food preparation) and not lisha, which is permissible, as we have seen previously in the words of the Bei'ur Halakha.

Indeed, Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Lash, 13) indicates that he is lenient about this:

Putting sour cream and the like into cottage cheese or cream cheese does not constitute lisha, and it is permissible.

Rav Karelitz (Orechot Shabbat, Ch. 6, n. 21) also writes that one is allowed to mix two solid masses. Furthermore, it is not clear in what circumstances Rav S.Z. Auerbach forbids this. His son, Rav Azriel Auerbach (cited by the Shalmei Yehonatan, 321:15 — 50, 6) believes that his father would forbid this only if the mixing creates an extremely high viscosity; however if the consistency remains unchanged, it would be permissible.

Practical Halakha

We must differentiate between kneading a belila ava (thick mixture), which is forbidden by Torah law, and kneading a belila rakka (thin mixture), which is rabbinically banned. If it is a belila ava, one should forbid the mixing of two masses, and therefore it is good to be stringent and not to mix honey in soft cheese (i.e., that which cannot be poured), but if it is a belila rakka, it appears that one may be lenient about this. Similarly, one may be lenient when there is no additional viscosity created, particularly when one does so proximate to the meal, as this may be considered tikkun okhel, not lisha. All the more so, one may be lenient when the mixing is done in the midst of eating, and particularly when the resulting mixture is no more viscous than its constituent ingredients. Therefore, one may mix the whipped-cream topping of a desert cup into the chocolate pudding on the bottom and the like.[1]

Similarly, one may be lenient and mix mayonnaise and ketchup in order to make salad dressing out of them, since we are talking about a belila rakka, particularly since the mixture is a more fluid belila, which can be used as a dressing. Clearly it is also permitted to add water in order to dilute it; as we have seen previously, one may add water even to dough, since this action is the opposite of lisha — it does not aim to bind and connect, but rather to loosen and separate.

Sugar or cocoa in yogurt or soft cheese: One may stir granular sugar or cocoa into yogurt, soft cheese and the like, because no solid mass is created here, nor is there any binding of parts. One only imparts taste to the yogurt. Even though Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 8:16) forbids mixing sugar with soft cheese, this is a perplexing

view. The Orechot Shabbat (6:43) disputes this and allows the practice; see the analysis of the Shalmei Yehonatan (321:15 — 50, 6).

Hummus and tahini: According to the lenient halakhic authorities, one may mix prepared hummus with prepared tahini, since this is the integration of two masses, each of which has already undergone lisha on its own. However, according to Rav S.Z. Auerbach, it would apparently be forbidden to mix them, since the tahini is made thicker as a result of the mixing. Nevertheless, according to his view, it would be permitted to put one on top of the other, since there is no mixture here, and the tahini does not permeate the hummus, so that there is no prohibition even according to the view of Rabbi. If one does not attempt to stir them, or if one merely dips bread into them, there would not be a problem according to any view, even if the tahini and hummus become mixed in the process.

XIII) A Case Study: Preparing Egg Salad

Having exhaustively analyzed the principles of the melakha of lash, we now must confront a common case that is seemingly problematic: how may one prepare egg salad on Shabbat? According to the basic rules we have learned for the melakha of lash, it would seem that preparing such a salad would be forbidden.

Before addressing the issues of lash, let us address the issues of borer (selecting) and tochen. In order to make egg salad, one must take hard-boiled eggs and break them down; to avoid problems of borer and tochen, one should peel the eggs close to mealtime, and one may then mash the eggs even with the tines of a fork. Then, one cuts an onion into small pieces; once again, to avoid the prohibition of tochen, one should do so proximate to mealtime, and it is better to cut the onion into somewhat large pieces.

After that, one adds oil or mayonnaise and mixes everything together. This would seem to involve a violation of lisha since the egg is broken down into very small pieces, and the mayonnaise or the oil make the pieces cohere as one solid mass.

Despite this, egg salad is a staple of many Shabbat tables. Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-Hilkhata, Ch. 8, n. 81) attempts to defend this custom:

One may say that since one only wants to mix, and one is careful not to make it into one mass, this is not considered by Torah law to be a belila ava…

The Mishna Berura, 68, is stringent even when it comes to a mixture of radishes or cucumbers together with vinegar, even though there as well one is careful that they will not stick together. Nevertheless, we must consider the fact that the egg is already cooked… and the onion and the oil are only a sort of garnish, as the Mishna Berura has written…

When it comes to grits, which are considered already baked and cooked, even if one puts in a liquid and kneads them, it is not considered like lash, only mere tikkun okhel, and the same is true here…

Other factors to consider are that this spoils [if prepared in advance] and that one generally prepares it only proximate to eating, so that it may be considered like al yad as a result… The reason that it is permitted is because it is derekh akhila (the way of eating) and not akin to lash.

Therefore, it appears that one cannot challenge the customary practice of so many who excel in Torah and piety.

Rav Auerbach thus enumerates a number of reasons to be lenient:
1. There is no aim of creating one mass, but only to mix and impart flavor.
2. The egg is already cooked, so that according to the Bei'ur Halakha there is no prohibition of lash upon it. The onion and the oil, which have not been cooked, are only a garnish for the egg, and therefore it is considered tikkun okhel and not akin to lisha.
3. This food spoils if it is prepared ahead of time, and it is always prepared proximate to the meal; this is another reason to see its preparation as tikkun okhel and not as lisha.

Rav Neuwirth adds (ibid.) that we may enlist those who believe that if the egg is not of the crumbly consistency of flour, there is no prohibition of lash in this (Eshel Avraham II, Ch. 321).

However since these explanations are not compellingly straightforward, it is best to prepare egg salad with a shinnui (this is the ruling of Rav Neuwirth, Shemirat Shabbat Ke-hilkhata ibid. 23). In other words, one should put the oil in first and then the egg; if one is using mayonnaise, there is no problem, because it does not permeate. Then, one should mix sheti ve-erev (crosswise), instead of using a circular motion. (In fact, it makes sense that in this case one may be lenient and mix normally, just gently, as many are lenient when it comes to pulped vegetables; even though the egg is not a vegetable, it has been cooked, and there are many other reasons to be lenient).

To summarize, many are lenient when it comes to preparing egg salad on Shabbat, and they have on whom to rely, but one should prepare it proximate to the meal (and one should preferably cut the onions into somewhat large pieces). However, if possible, it is best to mix with a shinnui (sheti ve-erev or gently).

[1] This mixing is done proximate to eating, and therefore one may enlist the view of Rav S.Z. Auerbach cited previously. This is in addition to the view of the Bei'ur Halakha concerning mere tikkun okhel, and it may be added to the question of mixing two masses, particularly in light of the fact that no alteration of consistency is noticeable.

The 39 Melakhot
By Rabbi Yosef Ben David
Shuir 26: Lash, (Part 8)

XIV) Instant Foods

Is one allowed to make instant soup, pasta or mashed potatoes on Shabbat? How may one prepare instant baby food or formula on Shabbat?

In this, our final shiur on the melakha of lash, we will examine the complex issue of how this prohibition relates to the increasingly pervasive phenomenon of the past half-century: instant food. Very often, preparing these foods means adding liquid to grains or powder and stirring the mixture. Is this lisha?

We must note that aside from the issue of lash, preparation of these foods needs to avoid the melakha of bishul (cooking). To summarize the conclusion of my analysis as pertinent to this discussion, one may not prepare these in a primary vessel (the one "on the fire") or in secondary vessel (which one pours into from the primary vessel), there is room to do so in a tertiary vessel (poured into from the secondary vessel). (Nevertheless, it is best not to do this regularly, since this resembles cooking on Shabbat.) In cases where the bishul issue has been overcome, the question then arises: is there a problem of lisha in preparing instant food?

To answer this, we must differentiate among three types:
1. If the instant food is a liquid, such as soup, or of similar consistency, there is generally no problem of lisha.
2. If the instant food consists of pasta with sauce and the like, it may be as liquid as soup; but at times, the mixture is more viscous, and the sauce makes the pasta cohere.
3. If the instant food consists of a powder, the water may sometimes turn the powder into a very thick mass; this is the case with instant mashed potatoes (potato puree). In this case of a belila ava (thick mixture), sometimes the very addition of water creates the belila, without any further action, and sometimes there is a need to stir it so that a mass will form.

In the second case — e.g., pasta with tomato sauce — the resultant mixture can be pourable and thus defined as a belila rakka (thin mixture), and sometimes it is defined as a belila ava. A belila rakka may be created with a shinnui (alteration), according to the rules we mentioned in our previous shiurim. In other words, one must alter the sequence of ingredients — instead of putting boiling water in a container of instant food, one should empty the contents into another vessel, pour hot water into the now-empty container and afterwards put the instant food back into its container. In addition, one should do the mixing with a shinnui, e.g., sheti ve-erev (crosswise).[1]

Nonetheless, even if the resultant mixture is a belila ava, one may be lenient and prepare it with a shinnui, because generally speaking, instant food cannot be prepared on Erev Shabbat, as it will be cold and unappetizing by mealtime on Shabbat. As we have explained in previous shiurim, one should stir the belila with a shinnui, and it is desirable to change the sequence of ingredients.

When Stirring is Unnecessary

If the instant food consists of a powder which becomes a thick mass on its own after hot water is added — e.g., potato puree — it is questionable whether a shinnui renders the lisha permissible. The Gemara in Zevachim (94b) discusses sowing flaxseed in water. In the Gemara, it is explained that there is a prohibition of lash, since the flaxseeds stick to each other. The Rambam (8:16) rules:

Whoever puts sesame seed, flaxseed and the like in water is liable because of lash, as they mix and adhere to each other.

It would stand to reason that this ruling is based on the view of Rabbi, who believes that the very act of putting flour into water makes one liable because of lash. According to Rabbi Yosei bar Yehuda, who believes that one is liable only for actual kneading, even one who puts flaxseed in water would not be liable. However, we have not found in the Gemara or in the writings of the Rishonim that Rabbi Yosei bar Yehuda challenges this law, and the implication is that it applies according to all views. Similarly, the Rambam and other Rishonim rule in according with the view of Rabbi Yosei bar Yehuda, yet they also rule that one is liable for putting flaxseed into water. This is also the view of the Shulchan Arukh (340:12).

In light of this, it seems that all agree that if by adding water alone a true mass is created, this constitutes a violation of the melakha of lash. When one puts flour into water, a true mass is not created; therefore, according to the view of Rabbi Yosei bar Yehuda, one is not liable until one kneads the mixture. However, putting flaxseed into water creates a fully blended mixture and a true mass, and there is no need for additional kneading or stirring; therefore, this act is viewed as an act of lisha — on a Torah level — according to all views.

This case would seem to be similar to instant foods which do not require stirring to form a mass. Here too, the very act of adding liquid to the powder creates an agglomerated mass. As we have said, creating a mass in this way is forbidden by the Torah according to all views. Does a shinnui help here?

The Gemara does not explicitly address whether, in the case of putting flaxseed into water, a shinnui makes the act permissible. From a logical point of view, it appears that a shinnui in mixing will certainly not suffice here, because the mass is created before the stirring, and only a shinnui in ingredient sequence would be effective. As we have seen, this shinnui, which is not a total shinnui, is effective only for a belila rakka, which is rabbinically prohibited, and not for a belila ava, which may not be kneaded by Torah law. However, is this shinnui effective also according to the view of Rabbi Yosei bar Yehuda (whose view is considered authoritative by the letter of the law)?

In a previous shiur, we saw an argument of the Acharonim as to whether a shinnui in ingredient sequence is effective only according to the view of Rabbi, or even according to the view of Rabbi Yosei bar Yehuda. According to the view of the Terumat Ha-deshen (Ch. 53) and the Rema (321:16), this shinnui is not effective according to the view of Rabbi Yosei bar Yehuda, and only a shinnui of kneading is effective according to his view. The Mishna Berura (68) seems to confirm this. The Shulchan Arukh (321:14), on the other hand, indicates that a shinnui in ingredient sequence is effective even according to the view of Rabbi Yosei bar Yehuda, and this is the view of the Chazon Ish (58:5, s.v. U-mashma).

Yet, it stands to reason that in the case of putting flaxseed into water, all will agree that a shinnui in ingredient sequence would help, even according to the view of Rabbi Yosei bar Yehuda. Only when the mass is created at the time of kneading is there an argument to say that a shinnui at the stage of adding ingredients is not effective, because this stage is not part of the lisha, and this is what the Terumat Ha-deshen and the Rema maintain. However, when the mass is created on its own by putting in water, and the very act of adding water makes one liable for lash according to all views, as explained above, it makes sense that Rabbi Yosei bar Yehuda would concede that a shinnui at this stage is effective, because this is a stage which makes one liable for lash.

According to this, one may be lenient and add hot water to a powder which will then form a mass on its own if one changes the ingredient sequence, and on the condition that we are talking about a belila rakka. This is what Rav Moshe Feinstein (Iggerot Moshe, OC, Vol. IV, Ch. 74, Lash, 12) indicates:[2]

Is it permissible to prepare instant potatoes or instant pudding by a shinnui of putting in the water afterwards and a shinnui of the mixing?

Answer: Instant potatoes are forbidden in any case, but one may prepare instant pudding as a belila rakka if one puts in the water afterwards and mixes it with a shinnui. For a belila ava, it is forbidden in every way.

According to this view, one may prepare pudding on Shabbat, even though it forms on its own after the addition of water, on the condition that it will be made as a very fluid pudding, so that it will be considered a belila rakka. Furthermore, one must alter the sequence of adding ingredients (if one wants to stir, one should stir with a shinnui).

On the other hand, Rav Feinstein forbids preparing potato puree from a powder, since the belila is created on its own without stirring, and this belila is ava. In this case, a shinnui in the method of mixing will not be effective, since the mass is created before the stirring occurs, and a shinnui of ingredient sequence will not be effective, since this shinnui is not effective for a belila ava.

However, if it is impossible to prepare the puree before Shabbat, and one wants to prepare it on Shabbat itself, (for example, one is stuck for Shabbat in a place with no prepared meals), one should prepare the puree with a lot of water, so that it will be runny and considered a belila rakka. In this case, one may be lenient on the condition that one puts the water in first and afterwards the powder (the reverse order from the weekday) and if one wants to stir, one should stir with a shinnui, i.e., sheti ve-erev instead of a circular motion.

Gelatin Desserts

Gelatin desserts would apparently be similar to instant potato puree, in that it hardens on its own and becomes a belila ava, so that it would be forbidden to make them on Shabbat. This is what the Shevet Ha-levi writes (Vol. VII, Ch. 41). However, it may be that the case of a gelatin dessert is different, since there is no mass per se (as with pudding); rather the powder dissolves in its entirety and becomes fluid, and after that it congeals on its own, so that there may be no prohibition of lash at all. This is what the Orechot Shabbat (Ch. 6, n. 83) writes; nevertheless, he indicates that it should be forbidden because of uvdin de-chol (a weekday practice — something inappropriate for Shabbat but not falling under the rubric of any particular melakha). Practically, allowing this is very questionable, and therefore one should not make gelatin desserts on Shabbat. However, in a case of great need, if one prepares the gelatin desserts with a

very soft consistency and also alters the sequence of ingredients, there are opinions on which one may rely in order to prepare it.

Baby Food

When one prepares instant cereal for infants, one is often dealing with a powder which forms a mass on its own, and if so one may prepare it as a belila rakka (pourable) if one changes the ingredient sequence, and this is the preferable practice. However, many times we are dealing with a granular substance which requires additional stirring; therefore, the law will be that of a regular belila: one may prepare it for an infant with a shinnui even if the belila is ava (as we explained previously).

When one is preparing formula for a baby — i.e., powdered milk — generally it is very fluid (even if it is a bit thicker than coffee or chocolate milk). Therefore, it does not even rise to the level of a belila rakka, and one may prepare it on Shabbat normally, without any shinnui (one should first put in the hot water and afterwards the powder, to avoid a concern of bishul). If the liquid is more viscous and defined as a belila rakka, one should prepare it with a shinnui.[3]

This is our final shiur on lash. We will resume our course of study by going back to the beginning — to the melakha of zoreia (sowing).

[1] As we have explained above, according to the Sefardim one shinnui suffices — in either ingredient sequence or mixing, while according to the Ashkenazim, one should first change both the ingredient sequence and the mixing. However, in cases where this is difficult or for a very thin mixture, a shinnui in ingredient sequence suffices.
[2] See also Shevet Ha-levi, Vol. VII, Ch. 105; Vol. IX, Ch. 73. See Shalmei Yehonatan, 321:16, 55 as well.
[3] When there is a doubt as to whether a mixture is a true liquid or a belila rakka, it is appropriate to change the ingredient sequence; however, if this proves to be difficult, one may be lenient, as we have explained previously.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 27: Zoreia, (Part 1)

I) The First Melakha

Is one allowed to throw seeds or pits into the yard? May one put flowers in water? Is it permitted to wash one's hand over plants or dirt? Is one allowed to raise or move a flowerpot? May one open a window or blinds next to flowerpots?

What Does Zoreia Encompass?

The first in the list of the thirty-nine melakhot is zoreia.[1] The Gemara (73b) determines that this melakha includes not only the action of sowing (zeria — not to be confused with zeriya, winnowing) per se, i.e., putting in the ground so that they will sprout, but also other similar actions: planting (a sapling in the ground), pruning (cutting off pieces of a plant[2] so that it will grow better), grafting (attaching a piece of one plant to another plant so that they will grow together), and sinking (bending a branch or vine so that it enters the ground and a new shoot grows from it):[3]

We have learnt in a beraita: "Sowing, pruning, planting, sinking and grafting — they are all one and the same melakha."

Logically, it is understandable why sowing, planting, sinking and grafting are all one melakha, because all of them cause a new growth to sprout. However, pruning seems out of place on this list, as one does not bring about any new growth through this action!

Rashi (s.v. Kulan) in fact writes that we must differentiate between the primary melakha (av, plural: avot) and its subcategories (tolada, plural: toladot). Sowing, planting, sinking and grafting are have the status of avot (akin to cooking and baking), while pruning is a tolada. According to him, pruning is a tolada of zoreia, because it also improves the growth of the tree. Any act which brings about growth is thus included in the category of the melakha of zoreia, even if it does not involve the creation of a new plant.[4]

There are additional acts which improve the plant and are considered to be toladot of zoreia — such as watering (Rambam 8:2).[5] Furthermore, acts which prevent damage to the plant, such as weeding,[6] are forbidden because of zoreia, as are other acts which help to improve the produce.[7]

The Acharonim raise some fundamental questions regarding the principles of the unique melakha of zoreia. The discussion is based on the fact that the person who plants does not create the plant; he simply puts a seed in the ground. The subsequent growth of the plant will take place without his involvement, and will take place mostly after Shabbat. Nevertheless, the person who puts the seed in is liable. This matter prompts the Acharonim to investigate: what is the law of a person who sows on Shabbat, but removes the seed from the ground after Shabbat? What renders one liable: putting the seed in

the ground or its taking root?[8] We will not elaborate on these questions, but we will relate to the conceptual significance of the matters.

The Conceptual Significance of the Melakha of Zoreia

The Gemara in Ta'anit (4a) quotes the following statement from Rava: "A Talmudic scholar is like a seed beneath the ground; once it sprouts, it sprouts." In other words, a seed in the ground, once it has begun to sprout, continually rises higher and higher. This is analogous to Torah study: once one begins to grasp the concepts, continuous growth is only natural. The seed in the ground is thus characterized by a minor act on the part of humans, from which God naturally develops a much greater creation.

Zoreia, despite its seeming insignificance, is considered one of the thirty-nine melakhot. This teaches us that sowing is creation! The things which seem to be small, undeveloped, superficially simple and perhaps not so impressive are in fact the very focus of creation. Through this, it becomes clear that we human beings are able to reach far beyond that which is readily apparent in the natural form. The action of zoreia is relatively small compared to the result of the growth which comes from it.

One who knows how to start from the basics, who knows how to sow the fundamentals of the Torah, the fundamentals of ethics, the fundamentals of kindness and the fundamentals of love will in the end see growth, will in the end harvest good and significant produce. Our role is not to worry; instead, we must believe in zeria — believe in the powers that God gives us to sow and to create even things which seem at first glance to be far beyond our natural powers.

II) Putting Seeds on the Ground or in Water

THROWING SEEDS ON THE GROUND

It is clear that zeria on Shabbat is forbidden. However, what is the halakhic status of throwing seeds or pits into the yard, without any intention of zeria? Is this allowed?

The Yere'im (Ch. 274, 131b) writes:

This bit of wisdom I have received from the elders: one must be careful not to cast seeds into the courtyard in a place where it may rain, because they will eventually sprout.

According to this, even if a person does not intend to perform zeria, there is a prohibition in this, "because they will eventually sprout." If the ground is wet, there is concern for the violation of a Torah prohibition. If the ground is dry, but it will be watered or rain may fall on it, it is still forbidden at least rabbinically (see Shevitat ha-Shabbat, Zoreia, 5, and in Be'er Rechovot, 3). The Shulchan Arukh (336:4) rules in accordance with this view:

One must be careful to avoid throwing seeds in a place where it may rain, because they will eventually sprout… But if it is in a place where people [walk and are likely to] trample [them], this is permitted, because they will presumably not sprout.

The Shulchan Arukh adds that if it is likely that the seeds will not take root, one may throw them (because then it is not a pesik reisha, an inevitable result, but merely an unintentional act which may have the result of a melakha, which is permitted). Therefore, if the ground is hard and it is at a time in which no precipitation is expected (such as the summer in Israel), there is no prohibition in throwing away seeds on the ground.

In conclusion, it is forbidden to throw pits or seeds into the backyard or garden, unless the ground is so hard and rainfall so unlikely that it is logical to assume that they will never sprout.

CAUSING SEEDS TO SPROUT IN WATER

It is common for people to soak seeds in water in order to make them sprout. Generally, the aim is to eat them as sprouts (these are occasionally planted). Is it permissible to do this on Shabbat?
The Rambam (8:2) writes: "One who soaks wheat or barley and the like, this is a subcategory of zoreia, and one is liable for any amount." It is clear from his formulation that there is a Torah prohibition to soak seeds in water.[9] The Shulchan Arukh (336:11) rules accordingly. What is the reason for liability in this case?

Preparation for Zeria

In the Radbaz's Responsa (Ch. 1611), he deals with the following question:

You asked about what the master wrote in Chapter 8 of Hilkhot Shabbat: "Similarly, one who soaks wheat or barley and the like, this is a subcategory of zoreia, and one is liable for any amount." And you asked: "What is his source for this law and what is its reasoning? Even if they will stand there for many days, they will not sprout, because there is no dirt!"

Answer: What case is he addressing? One who soaks them for a long time so that they will be susceptible to zeria and will sprout quickly, making this a subcategory of zoreia.

According to this approach, the basis of the prohibition is that the soaking of seeds in water prepares them for zeria. According to this, the melakha of zoreia applies not only to actions applied to the ground, but also when one prepares the seeds for future zeria in the ground. It should be noted, however, that according to this explanation of the Radbaz, this prohibition would presumably apply only when the person indeed intends to perform zeria. When one has no such intent, one may not regard the activity as a preparation for zeria, and the melakha of zoreia is not applicable in such a case.

Prohibition of the Actual Sprouting

Another view is brought by the Mishna Berura (336:51) in the name of the Chayei Adam (11:2):

The same applies to one who soaks grain to make malt for beer: one is liable, because it is known that his intent is to make it sprout.

According to the Chayei Adam, there is a Torah prohibition to cause seeds to sprout in water even where there is no intention to sow and one's sole intent is to eat them. The very sprouting of the seeds is considered a process of growth, and thus putting the seeds in water in order to make them sprout is considered an act of zeria which causes growth. According to this, it is prohibited to put an avocado pit in water in order to make it sprout, even though there is no intention to sow it afterwards in the ground.

Indeed, the Mishna Berura (ibid.) adds in the name of the Chayei Adam (ibid.) that putting the seeds in water for a short time, when one does not intend to make them sprout, but only to soften them, is permitted:

One may soak grain for his animal, because his intent is not to make it sprout but to soften the seeds; in addition, it will not lead to growth, because before they will grow, the animals will eat them.

Therefore, it is permitted to put pits and seeds in water for a short time in order to soften them for the sake of eating.

Summary

In conclusion, according to the ruling of the Mishna Berura, the melakha of zoreia is applicable to causing seeds to sprout, not merely to an act of zeria which leads an actual plant. Therefore, it is forbidden to soak seeds or legumes in water in order to make them sprout, even if one intends to eat them and not to sow them afterwards. If one's aim is only to soften them, this is permissible, on the condition that one puts them in water only for a short time.

III) Putting Flowers in Water

The Mishna in Sukka (42a) states:

A woman may receive [the lulav] from the hand of her son or the hand of her husband, and she may return it to water on Shabbat. Rabbi Yehuda says: "On Shabbat, one may return [it to water from which it was removed]; on Yom Tov, one may add…"

The mishna makes clear that one is permitted to return a lulav to water on Shabbat. In other words, there is no prohibition of zoreia for putting detached branches in water. On the other hand, one may not add new water on Shabbat (but only on Yom Tov). Why do we not add water? Rashi explains (ad loc.) that there is an issue of tircha, exertion: "one toils to improve something."[10]
May one put flowers that have never been in water into a water-filled vase on Shabbat? Presumably, this case cannot be defined as "returning," since the flowers have never been in water, but it also cannot be defined as "adding", since one does not add water, but rather only utilizes a vase which already has water in it. The Mishna Berura (336:54) brings a dispute of the Acharonim in the matter:

According to the Tosefet ha-Shabbat and the Chayei Adam, the allowance only extends to returning flowers to the water they had been in, but for any plant which was not in water, putting it in water is defined as "adding" and is forbidden.

On the other hand, according to the Peri Megadim and the Shulchan Arukh ha-Rav, the prohibition is limited to filling an empty vessel with water or adding water to a vessel which has water in it, since there is tircha in the matter. However, as long as one does not add water, there is no prohibition to put flowers in a water-filled vessel, even if they were not in the vessel earlier, and even if before this they were not in water at all.

In practice, the Mishna Berura rules (Shaar ha-Tziyun, ibid., 48) that in a case in which one forgets to put the flowers in water before Shabbat, there is adequate basis to rely on the lenient view and to put the flowers on Shabbat into a vase which has water in it, since the issue is one of doubt regarding a rabbinic prohibition.

Blooming Flowers

The Maharil (Hilkhot Shabbat, 19) puts forth an innovative view that the allowance of the mishna is meant to be only for branches or sticks of spices that do not have flowers which are going to open in the future. However, if there are flowers which are going to open in

the future, one may not put them in water or even put them back in water. The Rema rules accordingly (336:11):

One may place tree branches in water on Shabbat, as long as there will not be flowers and roses which open up from the moisture of the water.

What is the reason for prohibiting this? We have seen above that, in the view of the Rambam, one who causes seeds to sprout in water is liable because of zoreia. The Maharil and the Rema apparently believe that if the water will cause the flowers to open, the act is similar to causing seeds to sprout, and therefore this is prohibited.[11] The Mishna Berura (ibid.) stresses that in this case it is forbidden even to put the flowers back into the same water in which they had previously been placed.

In conclusion, branches which do not have buds or blossoms that are going to open may be returned to the same water in which they had previously been placed. In a case of great need, it is permissible to put them in a water-filled vessel even if they were not in water previously; however, one should not add water to the vessel or put water in an empty vessel because of tircha. On the other hand, flowers which have yet to open cannot be put in water, and it is forbidden even to put them back in the vase in which they sat previously, due to a concern of violating the melakha of zoreia.

[1] This is the order of the Mishna (73a); the Rambam (8:1-2) reverses it and puts choresh (plowing) before zoreia. This is not the place to elaborate.
[2] Translator's note: We use "plant" here for any living item from that kingdom, be it wheat, roses or sycamores, etc.
[3] For more on the nature of these activities, see my book, Shemitta: From the Sources to Practical Halakha, pp. 201-203, 533-535 (English edition).
[4] The Rambam (8:2) argues with Rashi and understands that pruning is part of the primary melakha of zoreia.
[5] Actually, there is a dispute in the Gemara (Mo'ed Katan 2b) as to whether watering is a subcategory of choresh or of zoreia. We will deal with this issue in a later shiur.
[6] The Gemara (Mo'ed Katan ibid.) cites a three-way dispute as to the status of weeding. One view (Rabba) is that weeding is a subcategory of choresh, since when one weeds, the dirt crumbles. A second view (Rav Yosef) is that it is a subcategory of zoreia, since removing the weeds causes the plants to grow better. A third view (Abbayei) asserts that one is liable on both counts: choresh and zoreia.
[7] An exploration and explication of the various subcategories of the melakha of zoreia appear in my book, Shemitta — From the Sources to Practical Halakha, pp. 182-216 (English edition). In this context, we will not expand on this issue, as it has limited practical application regarding the laws of Shabbat.
[8] See, regarding this topic: the Rashash (73a); Eglei Tal (Zoreia, 8); Minchat Chinukh (298:14); Shevitat Ha-Shabbat (Zoreia, Be'er Rechovot, 9); Halakhot Ketanot (responsa of Rav Yaakov Hagiz, Vol. II, Ch. 36).
[9] What is the Rambam's source here? The Maggid Mishneh and the Kesef Mishneh (ibid.) write that the source is the Gemara in Zevachim (94b). However, the Magen Avraham (336:12) and others challenge this, claiming that the passage there indicates the opposite, that one is liable only for soaking flax in water, since the flaxseeds cling to each other and become an agglomerated mass, so that one is liable for lash (as we discussed in our series on that melakha), while for soaking wheat and barley in water one is not liable. The Magen Avraham answers that the intent of the Gemara is to say that for flaxseeds one is liable immediately by throwing them into the water because of lash. However, lisha is not applicable to wheat and barley; they fall under zeria only, so that the liability is only if one soaks them for some time. It should be noted that the Magen Avraham is left with an unanswered question; for even if the Gemara does not contradict the Rambam's view, there is still not a proof from there. The Chida (Machazik

Berakha 336:9) writes in the name of the Mahari Corcos that the Rambam has a different explanation for the Gemara there, according to which there is a proof from the Gemara there. See there for further elaboration.
In any case, the Peirush Kadmon mi-Mitzrayim (on the Rambam ibid.) notes that Rabbeinu Shemuel Rosh ha-Yeshiva argues with the Rambam on this point.
[10] Indeed, in the Responsa of the Rashba (Vol. IV, Ch. 73), it is explained that only with a lulav is it forbidden to add water, since the lulav is muktzeh, set aside as unfit for Shabbat use; when it comes to things which are not muktzeh, one is allowed even to add water. The Menuchat Ahava (Vol. II, Ch. 3, 6) rules leniently in accordance with this view. However, most Acharonim rule stringently in this case, allowing this only with prepared water, and this is the ruling of the Mishna Berura (336:54).
[11] Note that one could differentiate between these two cases: when it comes to sprouting seeds, there is a new thing which emerges, while here the flower exists and it only opens. Indeed, the Birkei Yosef (336:7) cites the Maharikash, who allows putting water into flowers which are in the process of opening, since there is not anything truly new being introduced. In any case, the Rema forbids this, and the Mishna Berura rules accordingly; thus, this is the halakha in practice.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 28: Zoreia, (Part 2)

IV) Pouring Water on the Ground

Watering a plant on Shabbat is forbidden by Torah law. In Mo'ed Katan (2b), the Talmudic sages argue about the nature of the prohibition in terms of the appropriate warning to give one who is about to violate the prohibition (in which the relevant melakha must be specified):

What warning do we give to one who waters seeds on Shabbat?
Rabba said: "Because of choresh;" Rav Yosef said, "Because of zoreia."
Rabba said: "My view makes sense: just as the way of choresh is to soften the ground, here too one softens the ground."
Rav Yosef said: "My view makes sense: just as the way of zoreia is to make produce grow, here too one makes produce grow."

According to Rav Yosef, irrigation is forbidden as a tolada (subcategory) of zoreia, since it is promoting plant growth, while according to Rabba, watering is forbidden as a tolada of choresh (plowing), since the water makes the ground softer. In the continuation of this passage, the Gemara brings the view of Abbayei: watering is forbidden because of both choresh and zoreia.

The Rishonim have a dispute as to the halakhic ruling here: according to the Rambam (8:2) and the Or Zarua (Vol. II, Ch. 54), the prohibition falls under zoreia, while according to the view of the Yere'im (Ch. 274, 131a) and the Semag (Prohibition 65, Choresh), the prohibition falls under both zoreia and choresh.

Unplanted Ground

The Or Zarua (ibid.) points out that there is a practical difference that emerges between the two views:

Now, according to Rav Yosef, it is permitted to pour water on unsown ground, and according to Rabba, it is forbidden… Therefore, now that we have explained that the law follows Rav Yosef, it is permitted to pour water on unsown ground, and even on ground which is normally plowed… and it is forbidden to pour water on sown ground and on top of grass.

In other words, if irrigation is forbidden because of zoreia, one is allowed to water ground which has no plants on it, but if the irrigation is forbidden because of choresh, one is forbidden to water even ground such as this, since this softens the ground.

Halakhically, the Mishna Berura rules (336:26) according to the view of the Yere'im and the Semag, that one is liable because of zoreia and because of choresh; consequently,

he writes (Sha'ar ha-Tziyun, 18) that one should be careful not to pour water even on ground which has no plants on it:

See the Or Zarua, whose view is in accordance with that of the Rambam: one is not liable because of zoreia, and he writes there that according to this, one is allowed to urinate on unsown ground even though it is designated for threshing. Indeed, the views of the Semag and the Hagahot Maimoniyot follow the conclusion of Abbayei, and the Rokeiach seems to concur, for he cites this law under both the melakha of choresh and the melakha of zoreia. It seems that the Vilna Gaon also concurs in his commentary. Consequently, one should be careful also about unsown ground, if it is destined for plowing.

However, it appears that if the ground is unsown and not designated for plowing (for example, one has no intent to sow it in the future, and thus there is no reason to plow it), there is no prohibition to pour water on it, since neither choresh nor zoreia is applicable here. Nevertheless, sometimes there is a problem of lash with pouring water on dirt, as we discussed in our analysis of that melakha.

With No Intent of Propagation

The Yere'im writes (ibid.) that one may not wash one's hands over grass, as by doing so one causes the grass to grow. The Shulchan Arukh rules accordingly (336:3):

Those who eat in gardens may not wash their hands over grass, because they irrigate it; even though they do not intend, it is a pesik reisheih. Yet, one may urinate on it or pour out other liquids that are not conducive to growth.

In other words, one cannot wash one's hands over plants, even if one does not intend to make them grow, since this action will certainly help them to do so. Thus, it is included in the category of pesik reisha or pesik reisheih — the inevitable result of an unintentional action.[1] However, the Shulchan Arukh adds that if one is talking about a liquid which damages plants, there is no problem in pouring it on them, and therefore it is permissible to urinate on plants[2] or pour wine on them (but it is forbidden to pour liquids which contain water).

Indirect Irrigation

May one use a sink from which water flows onto plants?

It would seem that this should be forbidden, since there is a pesik reisha here; the plants will inevitably benefit from the sink water. However, Rav S.Z. Auerbach (cited in Shemirat Shabbat Ke-hilkhata, Ch. 12, 18) allows this:

If a sink has a pipe which transports the wastewater and empties it onto sown land, one may nevertheless wash one's hands in this sink on Shabbat. Thus, it is permissible to pour water into it for any other reason, and there is no concern of irrigating plants by doing this, as long as one has no intent for it.

In a note there (51), he explains his view:

…Here one may be lenient even more so, since one does not intend to remove water in order to irrigate with it. Even though it is a pesik reisha, in any case, since one does so only by a secondary action, it is also considered a gerama, and there is no need to forbid it even in this case of pesik reisha.

In other words, since the water does not directly reach the plants, but rather travels initially through a pipe, and this is done through gerama (causation), it is allowed — one may be lenient with a pesik reisha accomplished through gerama. Naturally, all of this applies when there is a pipe, but if the water empties directly onto the plants, one may not use such a sink on Shabbat.

Similarly, one may wash one's hands over a stone or tile surface, even if the water will flow from the stone to the plants, since this is considered to be gerama; thus, in this case, they allow it if one does not intend to cause the plants to grow. However, if one owns the yard, and one benefits from its being watered, one should find another way to wash one's hands, because this is a pesik reisha de-neicha leih (which benefits the person doing it). However, if there is no other way, one may wash one's hands in this manner, since one may be lenient in a case of gerama even for a pesik reisha de-neicha leih.[3]

During the rainy season, when the ground is saturated with water, one may be more lenient in spilling water on plants (for example, by sweeping rainwater into the yard), since this exercise does not seem to encourage additional growth of the plants, and the person does not intend to make them grow (see Rav Karelitz's Chut Shani, Vol. I, p. 89). In any case, one should take care to ensure that the water hits the tiles first and then reaches the yard (not watering as a direct result of one's actions).

Summary

To conclude, one may not wash one's hands over plants, even if one does not intend to make them grow. One may not wash one's hands over land which does not have plants in it if it is designated for plowing. However, one may urinate on plants, and it is permissible to pour regular water on plants (when one does not intend to make plants grow), if one pours it on stone or tiles and the water gets to the plants on its own. Similarly, it is permissible to use a sink which has a pipe which empties out over plants.

V) The Laws of Flowerpots on Shabbat

An atzitz (literally, flowerpot) is a vessel which contains a growing plant in soil. Halakha differentiates between a perforated pot and an unperforated pot: the former is considered to be attached to the ground on a Torah level if it sitting on the ground, since it draws nourishment through the holes, while the latter is considered attached to the ground on a rabbinic level. This is what the Mishna (95a) states:

One who detaches from a perforated pot is liable; from an unperforated [pot], one is not liable.[4]

While there is much discussion as to the defining characteristics of what makes an atzitz perforated or not, this debate is more significant for questions of tithes, shemitta (the sabbatical year) and the like, so we will not elaborate in this context.

Suffice it to say that the above source makes it clear that one may not plant in an atzitz on Shabbat, whether it is perforated or not. Similarly, if the atzitz falls on Shabbat and the soil spills out, there is no way to allow putting the soil back in it.

Lifting a Flowerpot

May one pick up a flowerpot on Shabbat?

If an atzitz is perforated, one may not lift it up off the ground, since this interrupts its nourishment, and this entails a violation of the melakha of kotzer (harvesting).[5]

Similarly, if an atzitz is suspended in the air or sitting on a table, etc., one may not take it and put it down in the ground, since one brings it to a place where it can draw nourishment from the ground, and thus the matter is forbidden because of zoreia (Shulchan Arukh, OC 336:8).

The language of the Shulchan Arukh (ibid.) suggests that one should be stringent even when it comes to an unperforated pot, i.e., one should not pick it up off the ground or put it down on the ground. However, the Acharonim explain (Bei'ur Halakha ibid., s.v. Afillu; Shaar ha-Tziyun, 37, in the name of the Vilna Gaon; Rabbi Akiva Eger, ibid.) that the Shulchan Arukh's stringency applies to an atzitz made from earthenware or wood, because there are Rishonim who believe that it is always considered perforated (due to its porous nature). However, if an unperforated pot is made from plastic or metal (or has a bottom made from these materials), there is no prohibition to lift it off the ground or put it down on the ground, since in any case it does not draw sustenance from the ground.[6]

However, there are those who hold that even if the atzitz itself is not perforated or has a solid bottom, if there is overhanging vegetation (nof) which protrudes beyond the perimeter of the atzitz, it is drawing sustenance from the ground through the air, and thus the receptacle is considered to be a perforated pot.[7] However, when the atzitz is on a tile floor and has a bottom, one may be lenient and consider it like an unperforated pot, even if the nof goes beyond the perimeter of the receptacle. While it is true that some do not consider flooring to be an interruption, by the letter of the law we are lenient about this, certainly when one is not talking about the ground floor, and particularly when the atzitz itself has a bottom and the problem is only relevant to the nof.[8]

There are some who are stringent and do not raise any atzitz on Shabbat, unless it has a solid bottom (made of something other than wood or earthenware) and has no protruding nof (see Orechot Shabbat, Ch. 18, 26-27). However, even according to this view, it is permitted to move the atzitz on the floor without picking it up, since this act does not interrupt the nourishment (ibid., 28).

Aside from issues of sowing and harvesting, one must analyze lifting an atzitz because of the rabbinic prohibition of muktzeh (that which set aside as unfit for Shabbat use). The Sages banned the moving of items which are considered not necessary or appropriate for Shabbat. Without getting into all the detail of muktzeh here, there are three possible muktzeh classifications for an atzitz. Some believe that an atzitz is muktzeh mechamat gufo (set aside by its very nature, like sticks and stones) and should not be moved by hand at all. Others believe that it a keli she-melakhto le-issur (utensil designed for prohibited use, like a hammer), and one may move it le-tzorekh gufo (to utilize the item itself for a permitted use, such as to weigh down a tablecloth) or le-tzorekh mekomo (to use its place, to sit in the place where it is placed). Finally, there are those who believe it is a keli she-melakhto le-hetter (a utensil designed for permitted use, like a challa knife) in which case it may be moved as necessary.

Summary

To conclude, it is best not to pick up flowerpots or planters on Shabbat, because of the issues of kotzer (or zoreia) and muktzeh. However, one may move an atzitz with one's foot to another place, and there is no issue of zoreia, kotzer or muktzeh in this action. If the atzitz has a solid bottom (made of something other than earthenware or wood) and it is on a tiled floor, there are sources upon which one may rely to allow lifting it from the ground or putting it down on the ground (even if the nof protrudes beyond the atzitz).

Moving Flowers

We should note that all of these rules apply to an atzitz, but there is no prohibition to move flowers that are in water on Shabbat, and it is permissible to move even a vase full of flowers on Shabbat (Shemirat Shabbat Ke-hilkhata 26:25, following Rema 336:11). One is also allowed to remove the flowers from the vase (Rav S.Z. Auerbach, cited in Shemirat Shabbat Ke-hilkhata 26:26) as long as they have not taken root in the water, and there is no problem of kotzer. The prohibition which we have mentioned in the previous shiur is limited only to putting flowers into water.

[1] Therefore, it is forbidden to wash one's hands even in his neighbor's field, since a pesik reisha that is unwanted is still forbidden, certainly when the resulting action violates a Torah prohibition. (See Mishna Berura 336:27, according to Tosafot 103a, s.v. Lo, et al.) We have dealt with the general rules of pesik reisha in our analysis of the concept of melakha on Shabbat.

[2] The Yere'im (Ch. 274, 131a) forbids urinating on plants. The Sefer ha-Teruma (end of Ch. 235) disputes this, since urine damages plants; as mentioned above, the Shulchan Arukh rules in accordance with this position. However, the Tiferet Yisrael (Kalkalat Shabbat, Kelalei Lamed-Tet Melakhot, Zoreia) writes that today agronomists are of the opinion that urine is excellent for fertilizing agricultural land, and therefore it should be forbidden. The Bei'ur Halakha (336:3, s.v. Oh) cites the Tiferet Yisrael's view, but he writes that people are not concerned about this at all. Furthermore, he brings a proof to allow it from Shabbat 81b. In any case, if one can choose a place from which the urine will not land directly on the plants, it is preferable to do this, though by the letter of the law, we rule that it is permissible to urinate even directly onto plants.

[3] In order to avoid a question of irrigation, it is preferable for one who is eating outside, and is also interested in drinking, to be careful to eat only on paved stones or in a place which has no plants (one must especially careful to avoid such action in one's own garden, which one has a vested interest in seeing irrigated). The Rema writes (336:3): "And therefore it is good to be stringent and not to eat in gardens if one will use water there, because it is difficult to be careful that water will not fall there." However, in terms of the letter of the law, it is permissible to eat even on one's own grass, even if drinks are served during the meal.

[4] Whatever grows in an unperforated flowerpot is subject to tithes on a rabbinic level (Rambam, Hilkhot Terumot 5:16), and the prohibition of crossbreeding is also applicable on a rabbinic level (Rambam, Kilayim 1:2). As for application of the issue of shemita to potted plants, see my book, Shemita: From the Sources to Practical Halakha, pp. 106-110.

[5] The Rishonim (Shabbat 81b) argue about raising a perforated pot from the ground to the air above: does this involve a prohibition of kotzer from the Torah, or is the prohibition is only rabbinic, since the perforated pot continues feeding off the ground even when it is in the air. The Shulchan Arukh (312:3), seems to rule that the prohibition in this case is rabbinic (see Magen Avraham ibid., 3). In any case, if one raises the pot from the ground and puts it on a table and the like, one is liable on a Torah level according to all views.

[6] Indeed, with regard to many areas of Halakha, the Sages decreed that an unperforated pot should be treated as stringently as a perforated pot. However, when it comes to lifting up a pot, the Shulchan Arukh holds that even for a perforated pot, the prohibition is only rabbinic, as explained in the previous note; therefore, the Sages did not ban moving an unperforated pot at all.

[7] This arises from the Mishna in Uktzin (2:9) as explained by Rashi (Chullin 128a), the Rash, the Rosh and most Rishonim. According to the view of the Rambam (Commentary to the Mishna ad loc., as well as Hilkhot Tumat Okhalin 2:9), it appears that the nof does not give the plant the status of being attached to the ground.

[8] In his Responsa (Vol. VI, Ch. 167), the Shevet ha-Levi writes that the Chazon Ish rules that modern flooring is not considered a barrier. According to him, a perforated pot which stands on the floor is considered a perforated pot even on the upper floors (Shevet ha-Levi, Vol. VII, Ch. 184). However, we must analyze whether the Chazon Ish is talking about today's reality, in which the tiles do not sit on dirt, but rather over a concrete foundation, and there is full isolation from the floor to the ground. The simple approach is that our modern floors do constitute a barrier, and a perforated pot upon them is not considered to be in contact with the ground. However, to determine this question requires clarifying the rationale for the stringency regarding a pot on the floor. If those who are stringent floor believe that there is some sustenance from the ground, it stands to reason that this would not be applicable to the floor of today where there is no sustenance derived at all. Alternatively, if they see the floor and the ground as legally contiguous regardless of sustenance, then one would have to be stringent nowadays as well, at least regarding the ground floor. This topic deserves elaboration at great length on in light of the words of the Rosh (Responsa 2:4, and see Chiddushim U-vei'urim, Demai, 9:8), but in any case the simple understanding is that modern floors are considered a barrier and turn the pot into an unperforated one. Particularly, one may be lenient in a case in which the pot is unperforated and only the nof protrudes, because the notion that the nof gives the plant the status of being attached to the ground is subject to dispute.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 29: Zoreia, (Part 3)

VI) Opening Windows or Blinds Next to a Plant

In our previous shiurim, we have explored the melakha of zoreia in terms of adding seeds to soil or water to plants. What about adding less tangible elements to promote plant growth, e.g., light and air? Rav S.Z. Auerbach (Minchat Shlomo, Vol. I, 10:8) cites an issue raised by Rav Dr. Avraham Steinberg (Machazeh Avraham, OC, Ch. 52):

He had been asked, concerning a garden which has a glass roof, whether it would be permissible to open the roof on Shabbat so that the sun's rays, which help the plants grow, may enter. He responds that since one does not manually act upon the sun or the plants at all, rather one merely removes the barrier which intervenes between the sun and the plants, it is only a gerama…
However, in my humble opinion, this issue requires further study, based on what is explicitly stated on Shabbat 120b: one may not open a door facing a torch even at a time of normal wind conditions [which would not extinguish the flame], so that one will not come to do so at a time of abnormal wind conditions [which would extinguish the flame]. The logical implication is that if one were to open the door at a time of abnormal wind conditions, it would be a full melakha on a Torah level.

Thus, Rav S.Z. Auerbach believes that someone who opens windows so that the sun will cast light on the plants and improve their growth violates the prohibition of zoreia on a Torah level. He argues with Rav Steinberg, who sees in this only an act of gerama (causation). In light of his words, one should forbid rolling up the walls of the greenhouse so that plants will receive more light or more air.

Removing Impediments to Growth

What about removing elements which impede growth? In fact, Rav Auerbach (cited in Shemirat Shabbat Ke-hilkhata, Ch. 26, n. 30) himself allows rolling up the walls of the greenhouse if it is overheating, with the potential to harm plants and people; in this case, one wants to shed the heat. Since one does not seek an improvement to plant growth, but rather one removes the obstacle which may impede growth, there is room for leniency (provided that this is a one-time action and not a routine action in the maintenance of the greenhouse, see there).

However, the Yerushalmi (7:2) implies that the removal of elements which may impede growth, e.g., spraying operations to chase away worms (fumigation, chemical extermination, etc.), are forbidden on Shabbat on a Torah level. (Similarly, the Gemara on Mo'ed Katan 3a indicates that fumigating is a tolada of zoreia.)

The Shevitat ha-Shabbat (Zoreia, 10) writes:

While it is true that, when it comes to many laws of the Torah, “chasing away a lion” — i.e., the removal of a hazard — is not considered an action, when it comes to Shabbat and the sabbatical year, we have found that “chasing away a lion” is considered an essential action.

In any case, even according to this view, the prohibition is only to remove extant dangers; there is no prohibition to perform actions which protect the plants from nascent dangers. Therefore, one may roll up the walls of the greenhouse before the temperature gets too high. (See Shemirat Shabbat Ke-hilkhata ibid.)

When One Does Not Intend to Improve Plant Growth

Until this point, we have dealt with a person who consciously intends to improve plant growth. What if one is not thinking about the plants? What if one simply wants to air out the room and the like? Is one allowed to open the window or the blinds? It would seem that this should be forbidden, because there is a pesik reisha, an inevitable result, that this act will benefit the plants, even if one does not intend to do so. However, Rav Tzvi Pesach Frank (Har Tzvi, OC, Ch. 133) rules that this is permissible, as does Rav Ovadya Yosef (Yechaveh Daat, Vol. V, Ch. 29):

Question: If one has seeds or flowers planted in pots in an apartment or on a windowsill, should it be halakhically forbidden to open the blinds or the windows of the apartment on Shabbat because the fresh air and heat from the sun’s rays will then help the plants grow? Or, despite this concern, should it be allowed?

Answer: There is reason to make a distinction and to allow this based on what the Rashba writes in his Chiddushim to Shabbat (107a) in the name of the Yerushalmi (13:6): one may lock his house on Shabbat in order to safeguard the house while the deer is inside, and there is no concern of trapping on Shabbat in this act, as long as one does not intend solely to keep the deer…

The Avnei Nezer (OC, Ch. 194) explains the abovementioned words of the Rashba in the following way: closing the door alone one does not do anything to the body of the deer; it is a mere gerama… Therefore, as they have said… that the Torah forbids “thoughtful labor”… it is only when one intends to trap the deer by the closing of the door that one is liable. This is not the case if one does not intend to trap a deer; it is considered a mere gerama, and the pesik reisha does not grant the gerama the status of an action…

Even according to the Ran (38a, Rif), who writes that he rejects the abovementioned words of the Rashba… in our case, one should be lenient, because opening the blinds or the windows is only removing an impediment. The fresh air and the heat of the sun’s rays are already present, and the blinds and the windows, when they are closed, prevent their penetrating into the apartment. Thus, opening them is the removal of an impediment, and consequently, one is not doing an action, but a mere gerama… Adding the fact that one does intend for the seedlings to sprout, one should allow it…

Furthermore, one may add another reason to be lenient… that there is enough air in the apartment already, and by opening the blinds and the windows, one only adds air to it. Even without opening them on Shabbat, the seedlings would still sprout; and since there was no melakha like this in the Mishkan, to cause seedlings to sprout by opening blinds and windows, there is no prohibition from the Torah. The fact is that many of the halakhic authorities allow a pesik reisha of a rabbinic prohibition… even though generally we

follow the halakhic view of the Magen Avraham (314:5) and his camp, who forbid a pesik reisha of a rabbinic prohibition. Nevertheless, we have the view of the Rashba to be lenient; furthermore, there is nothing more than mere gerama in this case, as one does not make contact with the body of the seedling at all and everything is done by the removal of the impediment. Thus, there is great cause to be lenient…

In conclusion, one may open the blinds or the windows of an apartment on Shabbat in order to let fresh air enter, even though there are pots in the apartment containing seeds or roses. (By the letter of the law, there is good reason to be lenient even in a case in which the pots are left on the windowsill itself, but nonetheless it is good to be stringent about this.) In any case, it is forbidden to open on Shabbat the glass covers of the greenhouses in which seeds and flowers grow when one's sole aim and intent is to benefit the seeds and flowers themselves, in order to promote their growth. May peace increase like a river for those who caution and those who are cautious.

According to this ruling, one may allow opening the window or the blinds as long as one does not intend to benefit the plants, since one can combine a number of reasons to be lenient:

1. According to the Rashba, one who locks his house and incidentally traps a deer inside violates no prohibition, as long as one has no interest in the deer and only seeks to protect the house. The reasoning of the matter is that one does not perform any action upon the body of the deer, and the act is considered a gerama. Even though if one were to lock the house with the aim of trapping the deer, this would be considered true trapping on a Torah level, and not gerama, this is only because "the Torah forbids thoughtful labor (melekhet machshevet)," and when a person plans that the closing of the door will help in trapping the deer, one's intent gives that action the status of trapping by hand. However, when a person has no specific intention of trapping, closing the door should not be seen as an action of trapping, but mere gerama. Similarly, since the person who opens the window does not do any action to the plants, and one does not intend at all to benefit them, one cannot see in his action an act of zeria, even if in practice, one's actions promote plant growth.
2. Even the Ran, who usually argues with the Rashba, can concede in our case, since the person does not bring the light or the air into the room in a proactive way, but rather removes the impediment preventing their entrance (windows or blinds). This matter is considered a mere gerama.[1]
3. When the plant can grow in any case, and the person only improves its growth a bit, this does not constitute a Torah prohibition (except for the melakhot done in the Mishkan, such as watering) but rather only a rabbinic one (according to the Eglei Tal, Zoreia, 22). There are Acharonim who are lenient when it comes to the pesik reisha of a rabbinic prohibition.

Summary

In conclusion, it is forbidden to open windows or blinds in order to improve plant growth. However, it is permitted to open them if one's intention is to air out the house and the like, even if the matter will help the plant grow, because when one does not intend to make plants grow, an act such as this is not considered at all part of the melakha of zoreia.

[1] However, we have seen that in the view of Rav S.Z. Auerbach, this act is not considered causation, but rather direct action, however it appears that also according to his view, one may be lenient about this when one has no intent to improve the plants, since there are additional reasons to be lenient, as Rav Neuwirth (Shemirat Shabbat Ke-hilkhata 26:9) and the Orechot Shabbat (Ch. 18, n. 48) write.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 30: Choresh, (Part 1)

May children play in a sandbox on Shabbat? Is there any problem in pulling a wagon over dirt? May one sweep the floor of a house or a yard? May one wash a floor that has become dirty?

I) Defining the Melakha

The Mishna (73a) counts the melakha of choresh (plowing; the action is known as charisha) as one of the thirty-nine melakhot: "The primary labors are forty less one: sowing, plowing…" One would have thought that the order should have been reversed – first choresh and then zoreia, since plowing generally precedes sowing. The Gemara (73b) explains that the Mishna is dealing with the land of Israel, where the practice is to plow twice: once before sowing (zeria), and another time after sowing, in order to cover the seeds with dirt. The Mishna teaches us that even the charisha which comes after zeria is forbidden because of choresh.

The Gemara continues and says: "Plowing, digging, and trenching are all the same melakha." Rashi explains: "All of them serve to soften the ground." According to this explanation, choresh includes every act which comes to loosen the soil and soften the ground; consequently, digging and trenching, which also break up the ground, make one liable because of choresh.

It appears that Rashi derives this definition from the words of the Gemara in Mo'ed Katan (2b). In the Gemara there, Rabba determines that one who waters seeds on Shabbat is liable because of choresh: "Just as the way of plowing is to soften the ground, these too soften the ground." According to him, the irrigation causes a loosening of the soil, and this is precisely the essence of choresh, to soften the ground. (Rav Yosef, on the other hand, argues and believes that one who waters is liable because of zoreia, since the irrigation promotes plant growth; see our series on the melakha of zoreia).
Later on in the passage in Shabbat, the Gemara states that the classification of removing a mound (a protrusion from the surface of the ground) varies: in a house (i.e., the dirt floor of a dwelling), one is liable for boneh (building); in a field, one is liable for choresh. Rashi explains here as well that one is liable for choresh in a field because this act softens the ground.

The continuation of the Gemara states that the classification of sealing a hole in the ground also varies: in a house, one is liable for boneh; in a field, one is liable for choresh. This apparently has no connection to softening the ground. Rashi explains:

If one has a hole and fills it with dirt, this is choresh, because the dirt with which one fills it is loose and good for sowing, and one smoothes the patch and makes it level with the ground which is to be sown in the field.

In other words, the essence of the melakha of choresh is preparing the ground for sowing, and the condition for this is that the ground must be soft, because only such ground accommodates sowing. Therefore, whether one makes the ground soft or whether one puts loose dirt into a hole in the ground, one is liable because of choresh.

Another approach to the definition of the melakha of choresh emerges from Rabbeinu Chananel (74a), based on the Yerushalmi (7:2). Rabbeinu Chananel writes as follows:

Plowing, trenching and digging are all the same melakha… Anything which serves to improve the terrain in the field renders one liable because of choresh, and anything which is done in the house in order to level [the floor] renders one liable because of boneh. [That which is done] in order to level the terrain of a field renders one liable because of choresh, as it says (Yeshayahu 28:25) "When he has leveled the surface…" And anything which serves to benefit of the terrain renders one liable because of choresh, as is explicitly mentioned in the Yerushalmi. This is similar to what Rabba says about filling in a hole; this too is smoothing the surface of the ground.

According to this approach, the melakha of choresh does not relate specifically to softening and loosening the dirt, but rather to every action which beautifies and improves the ground.[1] Filling a hole does not soften the ground, but it does cause the surface to be level, and this improves the terrain, as can be seen from the verses referenced from Yeshayahu (28:24-25): "When a farmer plows for planting, does he plow continually?… When he has leveled the surface, does he not sow caraway and scatter cumin?"
In other words, smoothing the surface of the ground is one of the actions of charisha, and afterwards it is possible to start the act of zeria and to scatter seeds (such as caraway and cumin) on the ground.[2]

A similar approach emerges from the Rambam (8:1):

One who plows any amount is liable. One who weeds at the roots of trees… in order to improve the terrain, this is a subcategory of choresh… Similarly, one who levels the surface of a field by knocking down and smoothing out a hillock or filling up a dell is liable because of choresh.

In any case, according to Rabbeinu Chananel and the Rambam, it is clear that not every activity which improves the terrain is included in the prohibition of choresh, but only something which prepares the ground for zeria. The Or Zarua (Vol. II, Ch. 55) writes the same: "Anything which is for the benefit of the ground and improves it for the purposes of sowing renders one liable because of choresh," and the Acharonim rule accordingly.

To sum up this section, according to Rashi, the definition of charisha is specifically softening the ground to prepare it for zeria, while according to Rabbeinu Chananel and the Rambam, charisha includes any actions which beautify and improve the terrain in preparation for zeria.

When One Does Not Intend to Sow

Does the prohibition of choresh exist only when the person actually intends to sow in that ground? The Gemara simply states that "in a field, one is liable for choresh," and it is implied that this matter does not depend on one's intent. The Chiddushim Ha-meyuchasim La-Ran writes (ad loc.):

"If a person has a mound… in a field, one is liable for a choresh" — because many times a person plows with the sole intent of turning over the soil to improve the field, not for sowing. Thus, any improvement (tikkun) of the field is significant because of choresh.

However, if the terrain is totally unfit for sowing, the prohibition of choresh does not apply. The Gemara in Pesachim (47b) indicates that the prohibition of choresh is not applicable to rocky ground, which cannot be sown, and the Or Zarua (cited above) and others write the same.

What is the rule for ground which is fit for zeria if it is not designated for sowing and there is no intent to sow it (for example, regular dirt in public spaces)? The Gemara says, as we have noted, that one who levels the ground in a field is liable for choresh, while one who does so in a house is liable for boneh. From the words of the Magen Avraham (526:10), it appears that in a place which is neither a field nor a house there is no prohibition from the Torah of choresh. The Eglei Tal (Choresh, 16) believes that every place falls into the category of either "field" or "house:"

It is clear that the "house" is not a house per se, but any place of residence… The "field" denotes any place which is fit to be sown and is not designated as a residential area or a public thoroughfare. In an area which is designated for residence, one is not liable for choresh, because if one were to sow in it, one would negate its residential status… If so, it is not considered improvement to prepare the place for sowing, because if one sows there, it will ruin its current purpose… According to this, every place must necessarily be one of the two, house or field, that if it is a residential area or a public thoroughfare, it is considered a house, and one is liable for boneh; if it is not residential, one is liable for choresh.

According to him, if a tract of land is fit for zeria, even if it is not specifically designated as agricultural land, preparing it for zeria constitutes a tikkun, and such an act is included in the melakha of choresh. Only when the ground is designated for residential use do we say that there is no issue of choresh in making it ready for zeria, as it were, since this is an act of kilkul (ruination), as the zeria precludes any residential use. (Nevertheless, smoothing the surface of the ground is forbidden with this type of land as well because of boneh, since level ground is also better for residential purposes).

Halakhically, it makes sense to adopt the view of the Eglei Tal, that the prohibition of choresh applies also to ground which is not designated for zeria, because the Rishonim and Acharonim discuss various questions pertaining to incidental acts of choresh — e.g., dragging furniture, pulling wagons or playing marbles and the like, as we shall see below — but none of them notes that this melakha applies only to a field designated for agricultural use, which is not common in settled areas. This silence indicates that the prohibition is applicable to normal dirt in a public place as well, since it is fit for zeria, even if it is not designated for this.[3]

II) Trenching

One of the actions mentioned by the Gemara (73b) is trenching, making a rut in the ground. This prepares the ground for sowing, and is forbidden by the Torah because of choresh. Making a furrow in a house's dirt floor, on the other hand, is generally forbidden rabbinically, since this is considered kilkul and not tikkun. However, one who makes a rut or depression in the ground of the house in order to use it for any purpose is liable for boneh (Rashi, 73b, s.v. Patur, following the Gemara, 102b).

Dragging Objects

Is it permissible to drag objects on unpaved ground, which is likely to cause the creation of a trench in the dirt? Since in this situation the person does not intend to make a furrow, this depends on a Tannaitic dispute about whether an unintentional act (davar she-eino

mitkavven) is permitted. In fact, this is exactly the situation of the Tannaitic dispute, as explained in the Mishna and Gemara, Beitza 23b:

Rabbi Yehuda says: "One may not drag any object, except for a wagon, because it compacts [the earth]…"

Rabbi Shimon says: "One may drag a bed, chair or bench, as long as one does intend to make a trench."

Rabbi Shimon's view is accepted halakhically: a davar she-eino mitkavven is allowed, and therefore one is allowed to drag objects on the ground, if one has no intention to make a trench.

However, the Gemara notes in a number of places (75a, 103a, et al.) that Rabbi Shimon concedes that such an act is forbidden in a case of pesik reisha, i.e., when there is certainty that the act done will bring about the result of a forbidden melakha. Therefore, one should not drag objects in the dirt if this will definitely cause the making of a rut in the dirt. This is how the Shulchan Arukh rules (337:1):

A davar she-eino mitkavven is allowed, as long as it is not a pesik reisha. Therefore, one may drag a bed, chair or bench, whether large or small, as long as one does not intend to make a trench.

The Magen Avraham (ad loc., 1) points out that the allowance of the Shulchan Arukh to drag even large objects does not relate to particularly heavy objects, since these objects certainly make a trench in the ground. This is what the Mishna Berura (ad loc., 4) writes in his name:

The Magen Avraham writes that the especially large objects may not be dragged on the ground, because it is a pesik reisha — they will certainly create a trench.

One should note that making a trench in this situation is not forbidden on a Torah level, because it is not done normally, with a hoe and the like, but rather "backhandedly" (Rashi, 46b, s.v. Issura). This is particularly true when this is done in the house, because then the act is considered kilkul (Rabbeinu Tam, Sefer Ha-yashar 233; Shaar Ha-tziyun 337:1); however, the law of pesik reisha applies even to labors forbidden only rabbinically (Magen Avraham, ad loc. 1).

Similarly, one should not sit on a chair which stands on the ground if sitting on it will definitely cause the legs to make a trench in the ground. However, it is permissible to remove an object which is stuck in the ground, since the trench existed even before the removal of the object (Gemara, 113a; Mishna Berura 498:91).

On Paved Ground

Is one allowed to drag heavy objects on paved ground? From the words of the Gemara (29b), it would appear that dragging objects is even forbidden on such surfaces:

In an upper room with marble floors, Abin of Sepphoris dragged a bench before Rabbi Yitzchak ben Elazar, who said to him, "If I hold my peace… a disaster will result: there is a decree in a marble room because of an ordinary room."

In other words, it is forbidden to drag heavy objects over a paved floor because of a rabbinical decree, lest one come to drag them over unpaved ground.[4]

However, as we shall see at length in our next shiur, there is an argument among the Rishonim about whether this decree is applicable in a locale in which all of the houses have paved floors. According to Tosafot (29b, s.v. Gezeira), this decree only applies in a place where some houses are not paved, in which there is a concern that a person may come to drag objects even in these houses, but in a place in which all of the houses have paved floors, there is no reason to forbid it. On the other hand, the Ramban (95a, s.v. Hakha) rules that one should not distinguish between different locales.

Halakhically, the Mishna Berura rules (Shaar Ha-tziyun 337:2) leniently in accordance with the view of Tosafot, taking into account additional factors that favor this leniency:

It makes sense that if the entire town is paved with stone or paneled with wood, one should be lenient about this… bearing in mind that even when it is not paved, there is no true dragging on a Torah level for many reasons. First, the trench that one will make in this is digging backhandedly. Furthermore, one damages the house by making ruts in it; one does not improve it. Above all, one has no intention for this, and it is only an unwanted pesik reisha… As is explained above in the gloss to 316:3, the view of the Rema is clear: he holds, generally, that with regard to a doubly rabbinic prohibition [two mitigating factors that would each reduce the severity to rabbinic], an unwanted pesik reisha is allowed, even though here we are stringent about this…. In any case, if the whole town is paved, one should enlist the view of the Tosafot as well… that we do not make a decree in such a case because of that which is not paved…

His reasoning is as follows: Logically, one should have been lenient even in a case of unpaved ground, since this is an unwanted pesik reisha at the confluence of two mitigating factors that would reduce the severity of the act to a rabbinic prohibition (backhanded acts and acts of kilkul). Though generally in such a case we are stringent, this confluence makes room to rely on Tosafot and to be lenient in a place that all of the houses are paved.

Dragging a Wagon over Dirt

From the abovementioned Mishna in Beitza, it is clear that, even according to Rabbi Yehuda, who forbids dragging objects even if there is no certainty that this act will make a ditch (since a davar she-eino mitkavven is forbidden), it is permitted to drag a wagon over dirt, “because it compacts [the earth]”. This is because the wagon does not create a ditch by moving the dirt to the side, like the leg of a chair or a table; rather, it compresses and consolidates the earth under it. Creating a rut in such a way is not forbidden because of choresh.

What is the significance of the manner in which a trench is formed? According to Rashi’s approach, this is easily explained. As cited above, Rashi explains that the basis of the melakha of choresh is softening the ground. Thus, when one digs in the ground and moves the dirt to the side, the dirt crumbles and becomes soft; however, when one compacts and compresses the dirt below, there is no softening of the ground.

The explanation of the Rambam’s view seems to be that since the normal way of preparing the ground for zeria is by digging, the making of a trench by compaction is not derekh charisha, the normal way of plowing. As such, the tracks created bear no similarity to the standard furrow or ditch, and this is not included in the melakha of choresh, particularly when a person is not at all interested in the creation of a trench.

However, the Gemara indicates that this rule of pulling a wagon on top of dirt is subject to a later Tannaitic dispute: there are those who say that Rabbi Yehuda allows dragging a wagon on dirt because it compacts the earth, but there are those who say that Rabbi

Yehuda is stringent about this. However, according to Rashi ibid. (s.v. Trei), the dispute relates to a side question:

One believes that the wagon is like any other object in that one may make a trench by dragging it, as sometimes the wheels do not turn, and it is dragged and digs [into the ground]. The other one believe that this is uncommon, and it only compacts [the earth] as it rolls.

In other words, according to all views, the making of a trench through compaction is not forbidden because of choresh, and the dispute is about the question of whether one must be concerned about a situation in which the wheels of the wagon will become stuck and will make a rut in the manner of digging.

This statement of Rashi is very significant. As mentioned, the halakhic consensus follows the view of Rabbi Shimon, that a davar she-eino mitkavven is allowed, and we do not forbid the dragging of objects unless there is certainty that they will make a trench. Is it permitted to move a heavy wagon through dirt, when it is certain that this will create tracks in the ground? In light of this Rashi, this should be permitted, as according to all views, making a trench by way of compaction is not forbidden because of choresh. The Tannaitic dispute in the view of Rabbi Yehuda relates to a concern that the wagon will make a rut in the way of digging, and since this concern is not in the category of a pesik reisha, then halakhically, in accordance with the view of Rabbi Shimon, we need pay no attention to it.

Indeed a number of halakhic authorities have ruled in accordance with this approach (Kaf Ha-chayim 337:4; Chut Shani, Vol. I, p. 95, in the name of the Chazon Ish): one may move a heavy wagon over unpaved ground, since the wagon does not excavate the dirt but merely compacts it, and there is no act of choresh in this. This lenient view can be taken as authoritative, especially given that this is, in any case, a rabbinic prohibition, since the charisha is backhanded, and generally also falls into the category of kilkul.[5]

A Sandbox

Unlike normal rocks, twigs or dirt, which would have the status of muktze and a rabbinic ban against moving them on Shabbat, the sand in a sandbox is not muktze, as this is designated for child's play. (Nevertheless, beach sand or construction sand and the like are forbidden because of muktze.) However, one should warn children not to build or dig in the sand, as this would fall under boneh or choresh respectively.

If the sand is very soft, so much so that if one digs a hole, the sand falls back into it and fills it, there is no prohibition to build in it (Mishna Berura 308:143, following Tosafot 39a, s.v. Ikka). In any case, one should warn children not to add water to a sandbox, since there may then be a problem of kneading. Moreover, this will help stabilize the sand and prevent it from collapsing, and as such playing with it would then be forbidden because of boneh or choresh.

These laws apply equally to a sandbox which has a solid bottom and is thus not attached to the ground, since the prohibition of making a depression applies equally to dirt detached from the ground and in a vessel (Mishna Berura 498:91).

[1] This approach finds support in the Gemara's ruling (103a) that one who plucks endives is liable even for a small quantity, if one intends to improve the terrain. While the Ramban (111a) raises the possibility that the liability there is for harvesting, not for plowing, nevertheless, in his conclusion, he writes, following the Tosefta, that the liability is also because of choresh. This is what the Me'iri (103a) writes as well.

[2] The Yerushalmi (7:2) counts many other acts which improve the terrain as forbidden because of choresh: fertilizing the ground, removing stones from it, etc.

[3] Nevertheless, the Mishna Berura indicates otherwise. In the Shaar Ha-tziyun (336:18), he rules that it is forbidden to pour water only in a field which is designated for charisha, implying that if it is not designated for charisha, the prohibition of choresh is not applicable. We have cited this in his name about zoreia as well. (The source is the words of the Or Zarua, Vol. II, Ch. 54; however he does not say "designated for plowing", but rather "normally plowed", and his intent may be that it is fit for plowing).

It may be that the Mishna Berura follows the view of the Magen Avraham mentioned here, not the view of the Eglei Tal; if so, there is more room for leniency in this regard.

However, the Orechot Shabbat (Ch. 18, n. 8) writes that it may be possible to integrate their views by distinguishing between different acts: acts which are characteristically part of charisha, such as leveling the surface, are forbidden even in a field which is not designated for charisha, while irrigation, which is not characteristically associated with charisha, is forbidden only in a field which is designated for charisha. This answer is somewhat innovative, but because the Mishna Berura does not explain himself in the context of choresh, and since one may distinguish between irrigation and plowing, we have brought here the words of the Eglei Tal for the practical ruling.

[4] In fact, while the Gemara addresses the view of Rabbi Yehuda, who forbids a davar she-eino mitkavven, the same should apply according to the view of Rabbi Shimon regarding heavy objects since there is a pesik reisha of making a groove if it is dragged over unpaved ground. Indeed the Magen Avraham (337:1) and the Mishna Berura (337:4) rule accordingly.

[5] The Az Nidberu (Vol. V, Ch. 21) writes that even if the wagon for some reason digs up the ground instead of flattening it, it is permissible to move it over roads, sidewalks, etc., since in our time the entire town is paved, and therefore one has no reason to be stringent about paved ground, as the Mishna Berura rules above.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 31: Choresh, (Part 2)

Sweeping the House

Is one allowed to sweep a house or a yard? May one wash a floor which has become filthy?

The Gemara (95a) cites a Tannaitic dispute as to the issue of sweeping the floor or sprinkling water on it (in order to weigh down the dirt):

The Rabbis taught… one who sweeps or sprinkles… inadvertently on Shabbat is liable to bring a sin-offering… according to Rabbi Eliezer. The Sages say: Either of these only violates a rabbinic law.

In other words, if one sweeps or sprinkles the floor, according to Rabbi Eliezer one violates a Torah prohibition; while according to the Chakhamim, doing so violates a rabbinic prohibition. Rabbi Eliezer understands that these acts are forbidden by Torah law, either because there is a pesik reisha (inevitable result) that one will fill holes in the ground and violate the prohibition of boneh, building (Tosafot, s.v. Ha-mekhabed), or because these acts themselves beautify the house and are forbidden because of boneh or because of makkeh ba-pattish, the melakha of striking the final hammer blow (Ramban and Rashba ibid.). On the other hand, the Chakhamim believe that there is no pesik reisha that one will fill holes, and there is no separate prohibition of sweeping and sprinkling; hence there is only a rabbinic prohibition.

The reason for the rabbinic prohibition, at least regarding sprinkling, appears in the continuation of the Gemara there. The Gemara explains that the sprinkling is forbidden rabbinically because it might result in the filling of holes. It is true that the cleaner does not have this intention; however, the Chakhamim believe, apparently, that a davar she-eino mitkaven, an act which unintentionally brings about the result of a melakha, is rabbinically forbidden. Given this explanation, the Gemara concludes that since we following Rabbi Shimon's view, sprinkling is permissible altogether.

The Rishonim dispute whether this conclusion applies equally to sprinkling and sweeping. According to the Behag (Ba'al Halakhot Gedolot, quoted in the Tosafot 95a, s.v. Ve-ha'idna), Rabbeinu Chananel (96b), the Rif (48a in his pagination), the Ramban (124b), the Rashba (95a) and others, the Gemara relates to sweeping as well. The Chakhamim forbid rabbinically the sweeping of the house because of a concern of filling holes, but once Rabbi Shimon's view has been accepted, there is no reason to forbid the sweeping.

However, in the view of Rashi (124b, s.v. Shel Temara) Tosafot (95a, s.v. Ve-ha'idna), the Rosh (10:3) and others, the conclusion of the Gemara relates only to sprinkling, while sweeping the house is forbidden even according to Rabbi Shimon. Their main proof is

the Gemara later on there (124b), which says that palm branches used as brooms are considered a keli she-melakhto le-issur (utensil designed for prohibited use, like a hammer).[1]

What is the reason for the prohibition to sweep the house according to this view?

Rashi (ibid.) explains that the prohibition is based on the there being a pesik reisha that one will fill holes in the ground. According to him, sweeping the house definitely makes the ground level and is forbidden because of boneh. A number of Rishonim write, in explaining the view of Rashi (Baal Ha-maor, 48a, Rif; Rashba ibid.), that this is indeed a Torah prohibition, and when the Chakhamim say that one violates a rabbinic prohibition, this refers only to sprinkling, not to sweeping. Others explain that even according to Rashi, the prohibition is only rabbinic in nature, since filling holes is done backhandedly and not in the way of building; in addition, this is a temporary structure which will not last long (Ramban, Milchamot Hashem, 48b in Rif pagination; Shaar ha-Tziyun 337:4).

The Ramban (Milchamot Hashem, 48a, Rif) disagrees with Rashi, explaining that there is no pesik reisha: “Sweeping the house does not always fill holes — not even most of the time.” At first glance, it seems that they dispute the likelihood of whether sweeping a dirt floor inevitably leads to filling holes.

However, it may be that the dispute is not about how likely it is that holes will be filled. All views agree that there is no certainty that holes will be filled, but there is a high chance that this result will happen. Rather, the dispute may relate to a situation such as this that is “close to a pesik reisha” — do we forbid davar she-eino mitkaven only when there is absolute certainty that the unintended result will come about, or does a likely result, without actual certainty, suffice?[2]

The Ran (36a in the Rif’s pagination, s.v. Ve-ha’idna) cites an intermediate view in the name of the Ra’avad: if one swept the house before Shabbat, there is a doubt if there are now ruts in the floor of the house, and therefore there is no pesik reisha that one will fill the holes, and it is permitted to sweep the house on Shabbat; however, if one did not sweep the house before Shabbat, there are certainly depressions which will be filled, and therefore sweeping the house is forbidden.

Other Rishonim explain the prohibition of sweeping the house differently. Tosafot and the Rosh (ibid.) explain that sweeping is forbidden rabbinically, even according to Rabbi Shimon, “because one moves the dirt from its place,” and they are apparently speaking of the prohibition of muktze, the rabbinic prohibition to move items which have no use on Shabbat.[3] This is also the view of the Ra’avya (Ch. 761) in the name of the Riva, as well as the Mordekhai (Ch. 414) and others: that it is rabbinically forbidden to sweep the house because one moves the dirt and violates the prohibition of muktze.

The Ramban (Milchamot Hashem, 48b, Rif) provides to reasons to reject this approach: A) since the dirt bothers him, it is considered like a chamber pot (a halakhic category of something considered so objectionable that one is allowed to remove it even though it is muktze). B) This is not normal tiltul (moving an object), but rather tiltul min ha-tzad (from the side, i.e., indirect) — specifically, it is tiltul with a utensil. Tiltul min ha-tzad is allowed when it is done for the sake of something permissible, and not for the sake of the muktze object itself (OC 311:8), and here the tiltul is designed “to make their home nice in honor of Shabbat”.[4]

Tiled Floor

According to the Rishonim who forbid sweeping the house, does this prohibition even apply to a tiled (paved, paneled, etc.) floor? This question will vary in accordance with the different explanations of the prohibition. If the prohibition springs from the concern of filling holes, presumably one should be allowed to sweep a tiled floor, where this concern does not exist. This position is set forth by Ameimar in the Gemara (95a), who states that even those who forbid sprinkling the floor, this should not apply to a tiled floor: "What is the reason that the rabbis said this? Lest one come to fill holes — here there are no holes!"

The Rambam (21:3) also rules in accordance with this position, explaining that the prohibition springs from the concern of filling holes, and is therefore allowed on tiled ground: "One may not sweep the ground, lest one fill the holes, unless it is paved with stones."

However, Tosafot (ibid., s.v. Shara) imply that sweeping should be forbidden even on a tiled floor, lest one come to sweep a dirt floor. This is also what the Tur (337) cites in the name of the Ri, as well as the Sefer Ha-teruma (Ch. 254), who writes as follows:

Sweeping the house, however, is forbidden, as one may come to fill holes, even according to Rabbi Shimon… Even a house which has a stone floor may not be swept… It is a decree because of a house which has no floor, as we say in Chapter 2 about dragging a chair or a bench: there is a decree in an upper room with marble floors because of a normal floor, which is not marble.

On this approach, the source of the decree is in the passage (29b) that we mentioned in our previous shiur, which forbids dragging heavy objects (which make a rut in the ground) even on a marble floor, lest one come to drag them on unpaved floors.

In order to understand the dispute between Tosafot and the Rambam, we should first take note of the relationship between the two passages: why, when it comes to dragging objects, does the Gemara determine that one should be stringent also for hard ground, because one may come to do the same on a dirt floor, while for sprinkling we do not have this concern?

The Rishonim offer two answers for this:

Tosafot (29b, s.v. Gezeira) answer that the passage that deals with dragging objects is talking about a town in which some houses have tiled floors while others do not, and in such a town there is a reason to ban sweeping tiled floors, lest one come to sweep dirt floors as well. Ameimar, on the other hand, talks about a town which has no dirt floors, and in such a town there is no concern of a mistake and there is no reason to make such a decree. This is also what Rashi (95a, s.v. Zilecha) indicates, stressing that in the case of Ameimar, "The entire city had stone floored [homes]." According to this approach, it appears that every act which is forbidden on a dirt floor is forbidden also on a hard floor, as long as dirt floors exist in the town.

The Ramban (95a, s.v. Hakha), on the other hand, rejects this distinction; rather, on his understanding, there is no contradiction at all. The Sages have different considerations which lead them to decree against more cases in one context and against less in another. Thus, there is no basis for comparison between sprinkling and dragging objects:

And I say that that the prohibitions of Shabbat are not similar to each other, because the Torah gave it [the delineation of rabbinic prohibitions] over to the Sages, and they

prohibited in a given case because it is a common melakha, and in another case which is less common they made no decree. Alternatively, one who drags is likely to make a ditch, while sprinkling is less likely to fill holes. Therefore, they decreed in the former case but not in the latter.

On this approach, if the Sages have decreed regarding a specific act upon a tiled floor, this decree applies even if all the houses in the town have tiled floors. Nevertheless, the Sages did not ban every act on a tiled floor which is forbidden on a dirt floor, but rather they used their judgment in every case, based on the seriousness of the concern, taking into account various considerations.

As such, it is reasonable for some of the prohibitions regarding unpaved floors to apply to paved floors and for some of them not to apply. According to the Ramban, the distinction is between different prohibitions, while according to Tosafot the distinction is between different locales.

Against this background, one can better understand the dispute between Tosafot and the Rambam concerning sweeping a tiled floor. The Rambam follows the Ramban's approach: one should not compare one decree to another, and just because dragging objects is forbidden on paved ground does not mean that there a prohibition to sweep tiled ground. Tosafot, on the other hand, following their view cited above, understand that every act which is forbidden on ground which is not paved is forbidden also on paved ground, and therefore one must be stringent concerning sweeping as well.

In light of this, it seems that even if one may not sweep a hard floor, as Tosafot hold, this stringency should only apply in a locale where there are some dirt floors, not in a place in which all the houses have hard floors, because in such a place even Tosafot concede that this is permitted. The Sefer Ha-teruma (ibid.) rules accordingly: one should not forbid sweeping in a place where all the houses in the town have hard floors. The Rivash (Responsa, Ch. 394) extends this leniency is a bit more, writing that it is permitted to sweep even in a place in which most (but not all) of the houses have tiled floors, because one should not issue a decree upon the majority due to a minority.

Up until now, we have talked about hard floors, according to the view of those who believe that the prohibition of sweeping is related to the concern of filling holes. If the decree stems from the issue of moving dirt and violates the prohibition of muktze, there would appear to be no reason to forbid sweeping a hard floor not made of dirt. Nonetheless, one must consider the moving of other types of refuse which are found on the floor. The Ran (36a in the Rif's pagination, s.v. Ve-ha'idna) writes in the name of the Ra'avad that one should not sweep a floor unless there are items there which are fit for an animal to eat, such as crumbs or bones, but if there items on the floor which are not fit for an animal, e.g., walnut shells or pomegranate seeds, one may not move them by sweeping the house.[5] However, later on, the Ran writes in the name of the Rashba that one is allowed to sweep the house even if there are items on the floor which may not be moved, because they are considered like a chamber pot. In another place (Beitza 12a in the Rif's pagination, s.v. Ve-katav), the Ran allows this for another reason, because this is considered tiltul min ha-tzad for the sake of a permitted object (as we seen earlier in the Ramban's explanation).

Halakhic Ruling

In practice, the Shulchan Arukh (337:2) brings as the standard, unattributed view, the position of the Rambam, stating that it is forbidden to sweep an unpaved floor, but it is permissible to sweep a paved floor. After that, he cites the view of the Behag, that one may sweep even a dirt floor, introducing it with the words "There are those who allow".

On the other hand, the Rema follows the Ri and the Sefer Ha-teruma, ruling that one should be stringent even with hard floors:

It is forbidden to sweep the house, unless the ground is paved. There are those who allow even if it is unpaved.

Gloss [Rema]: There are those who are stringent even if it is paved, and this is the custom which should not be altered. However, via a non-Jew it is permitted, as well as with a cloth or rag or goose's wing, which are light and do not fill holes. It is forbidden to brush clothing with brushes made out of bristles, lest the bristles break.

Thus, the Shulchan Arukh rules that one should not sweep unpaved ground, but one may sweep paved ground, while the Rema forbids even this. However, in both cases, the Rema concedes that one may be lenient, even on a dirt floor, under the following conditions:

a) When one cleans the ground with a cloth or rag, since one does not clean with them vigorously, there is no concern of filling holes.
b) When a gentile does the cleaning, because the general decree against asking a gentile to do a melakha does not apply to a davar she-eino mitkaven, even when it is a pesik reisha (Mishna Berura, 10).

The Bei'ur Halakha (s.v. Ve-yesh Machmirin) points out that the Rema's solution of sweeping the house with a cloth or a rag shows that he is not concerned about moving the refuse but rather about filling the holes. The prohibition of muktze is not applicable here, since the refuse has the status of a chamber pot; furthermore, this is tiltul min ha-tzad for the sake of something permissible, and the prohibition to sweep is only because of the concern that there is a pesik reisha of filling in holes, leading on to violate the melakha of boneh. Naturally, the Bei'ur Halakha rules, one may sweep a hard floor in a town which is mostly paved, in accordance with the words of the Rivash above, and particularly one may be lenient if one swept the house before Shabbat, in accordance with the Ra'avad (ibid.). The Bei'ur Halakha writes as follows:

The reason is that we decree upon paved floors because of unpaved floors…

Behold, according to this, if all the houses of the town, or in any case most of them (Rivash), are paved with stones or bricks… it is possible that one is allowed to sweep, because they did not make a decree upon the majority because of the minority, and not on this town because of another town…

And particularly if it has been swept before Shabbat, one may also enlist the view of the Raavad… because he believes that even if it is unpaved, it is not a pesik reisha.

Still, in any case, this remains unclear, because it is possible that the custom that the Rema brings, that we are accustomed to be stringent in this about the prohibition of sweeping, has its basis in days of yore, when they were concerned about the prohibition of tiltul muktze, because it was common to find on the ground bones and shells which were not fit for animal feed…

According to this, in every situation it is forbidden. However, the fact that the Rema finishes with the reason to be lenient with a goose's wing because it is light and does not fill in holes implies that the reason for the custom to be stringent is because of filling holes. According to this, one need not be stringent when all the houses in the town are tiled, particularly if the house has been swept before Shabbat, as we have said.

Furthermore, there is no concern of the prohibition of muktze, primarily because of what the Rashba writes, that one may clear it out because it is like a chamber pot; moreover, it is tiltul from the side using another object for the sake of Shabbat, as the Acharonim have written.

The Bei'ur Halakha adds that it is desirable to use a broom containing no hard bristles which normally break in the process of sweeping (in accordance with the Rema), but one should not protest if another uses a broom with such bristles.

Thus, in our time, when most houses are tiled, it is permissible for both Ashkenazim and Sefardim to sweep the floor on Shabbat.

A Tiled Yard

May one sweep a tiled yard? According to the Shulchan Arukh, this should be allowed, because one is allowed to sweep paved ground. On the other hand, according to the Bei'ur Halakha, who allows sweeping only in a place that most floors are hard, presumably this should be prohibited, because most yards are not tiled. However, Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhata, Ch. 23, n. 10) writes that there is good reason to allow it, for it is reasonable to claim that the tiled yard is viewed as an extension of the house. It is worth adding, that indeed it may be that most yards are not tiled, but most patios which extend from the house are tiled! Furthermore, it is uncommon nowadays to sweep dirt floors with a broom at all (unless it is totally smooth, in which case it has no depressions in it). Therefore it appears that practically, even Ashkenazim can be lenient and sweep a tiled yard which is adjacent to the house.

Summary

In conclusion: nowadays it is permitted to sweep tiled floors both in the house and in the adjacent yard, but one should not sweep unpaved floors. (One must be careful about this when one builds a sukka on ground such as this).

[1] However, the Rishonim who allow this explain that this Gemara follows the view of Rabbi Yehuda, who forbids davar she-eino mitkaven, and there are indeed versions in which this is in fact stated explicitly, as explained in the Hagahot Ha-Gra ibid.
[2] This latter approach seems to emerge from the Ra'avya (Ch. 761), who writes that "even according to Rabbi Shimon we are concerned about filling holes, and the matter is nearly certain… however, it is not a pesik reisha." Nevertheless, the Ramban himself writes, as we have noted, that holes do not become filled even a majority of the time, so that the situation here does not even approach a pesik reisha. Based on this formulation, it appears that there is a dispute regarding likelihood.
Alternatively, one could explain that the dispute pertains to the question of a "possible pesik reisha." Namely, if there are holes, it is clear that sweeping will fill them in, but there is a doubt as to whether there are holes to fill. Thus it may be that Rashi forbids a possible pesik reisha, while the Ramban allows it. This is how the Shulchan Arukh Ha-Rav (277, Kunteres Acharon 1) explains the view of the Rambam (21:3), that one may not sweep the house because of a concern of filling holes.
[3] This also emerges from Rabbeinu Yerucham's explanation of the view of Tosafot: "For sweeping is forbidden because of the dirt and bones that are moved from their place" (12:13).
[4] Other reasons to forbid sweeping are mentioned by the Rishonim, but we will mention them only briefly. The Semag (Prohibition 65, Choresh) writes in the name of the Ri, that the Sages banned this least one become preoccupied with improving the ground, forget that it is Shabbat, and fill in the holes intentionally. The Or Zarua (Vol. II, Ch. 78), on the other hand, understands in the view of the Ri that the suspicion is that in

the process of sweeping the house, one will uproot dirt attached to the ground and thus dig a hole.

[5] However, Rabbeinu Yerucham (n. 3) indicates that even if there is no dirt on the ground, there is a problem of moving bones and other types of refuse.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 32: Choresh, (Part 3)

IV) Washing the Floor

The Gemara (151b) indicates that it is forbidden to wash a tiled floor or pour oil on it:

It once happened that a student of Rabbi Meir entered the bathhouse. He wanted to wash the floor, but he said to him: "We do not wash it." To oil the floor — he said to him: "We do not oil it; ground can be confused with ground."

In other words, washing and oiling a floor which is not tiled is forbidden because of filling holes (Rashi),[1] and therefore the Sages forbid washing and oiling tiled floors, because one may confuse them and come to wash or oil an unpaved floor.

The Rambam (21:3) and the Shulchan Arukh (337:3) rule accordingly:
"One may neither oil the ground nor wash it, even if it is tiled."

Why are we stringent when it comes to washing tiled floors, while the Rambam and the Shulchan Arukh themselves are lenient when it comes to sweeping them, as we saw in our previous shiur? The Maggid Mishneh (ad loc.) explains that washing the floor is not as necessary an act as sweeping, and therefore the Sages are more prepared to ban it:

One may not oil… or wash the floor… Even though sweeping is allowed on tiles, this matter is forbidden; they decreed against it, as there is not as great a need as there is for sweeping.

The Mishna Berura (17) writes to this effect as well.

When All the Houses are Tiled

What is the rule when all of the houses in town are tiled? The halakha here depends apparently on the dispute among the Rishonim which we saw in our previous shiur. According to Rashi and Tosafot, the Sages only banned sweeping hard floors because of dirt floors in the same locale, but if all of the houses in the town are tiled, there is no reason to ban this. According to the Ramban, on the other hand, there is no difference between one place and another. The Sages did not always decree against tiled floors, but in an area in which they did decide to make a decree — e.g., washing the floors — this decree is relevant even in a place in which all of the houses have tiled floors. This is also what the Rambam (21:3) indicates, as he writes simply that oiling or washing the ground is forbidden even if it paved, and he does not distinguish between different locales.

In practice, the Bei'ur Halakha, as we have mentioned, endorses the lenient view when it comes to sweeping the house in a town in which most of the houses have tiled floors;

however when it comes to washing the floor, he gives no hint that he is prepared to be lenient about it. It is possible to explain this simply: sweeping the house is allowed by the Rambam upon any tiled ground (and the Ramban would say the same about a dirt floor), and the reason we are stringent is in accordance with the view of Tosafot, who compare the prohibition of sweeping to the one against dragging heavy objects; consequently, we should not be more stringent than Tosafot themselves, who are lenient in a locale in which all of the houses have hard floors. When it comes to washing the floor, on the other hand, the prohibition upon tiled ground is stated explicitly in the Gemara, and therefore it is more difficult to be lenient in a dispute among Rishonim and to allow washing the floor, even in a locale in which all of the houses have hard floors.

In fact, the Ketzot Ha-shulchan (146; Baddei Ha-shulchan, 59) is inclined to allow washing the floor in a locale in which all of the houses have tiled floors; nevertheless, Rav Neuwirth writes (Shemirat Shabbat Ke-hilkhata 23:6) that one should be stringent about this, and this is the view of most Acharonim.

Leniencies for Washing Floors

However, Rav Neuwirth adds (ibid.) that in extreme cases, e.g., in hospitals, in which one must be very strict about hygiene and cleanliness, one may be lenient about washing the floor on Shabbat. (Apparently, the same would apply in an army dining hall when there is a great deal of dirt on the floor: hygienic concerns should make it permissible to be lenient about this.)
One may not wash the floor even if it is tiled, neither with a rag nor with a squeegee… However, in extreme cases — for example, in hospitals, in which hygiene is particularly important — one may be lenient and permit washing the tiled floor, as long as one will use a squeegee alone.

In a note, he cites the justification:

See the Mishna Berura (ibid.), that sweeping is more important than washing, and therefore it is allowed upon tiles; if so, one may say that, in cases of extreme need, the rule of washing is like the rule of sweeping, particularly in a place where there are individuals in ill health.

In other words, we are lenient when it comes to sweeping a tiled floor, and the reason for being stringent about washing is that it is not as urgent as sweeping, as we saw in the abovementioned words of the Maggid Mishneh. Therefore, in a place in which the washing is particularly necessary, it is possible to be as lenient about it as we are about sweeping. We should add that one may enlist the view of Rashi and Tosafot that one should not forbid washing a tiled floor in a locale in which all the floors are tiled.

When there is a danger that someone will slip and fall, it is certainly permissible to wash the floor, since the prohibition is only rabbinic in nature, and in a place in which there is a concern of personal injury, the Sages did not make their decrees (Gemara 42a, Shulchan Arukh OC 334:27).

Naturally, in any case in which we are lenient about washing floors, the intent is only to allow moving water about with a squeegee, not using a rag, because this raises problems of squeezing and laundering (Mishna Berura 337:17).

Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhata 23:7, n. 27) is cited to the effect that in a case in which water has been spilled on the floor, one may mop the water and remove it using a squeegee. According to him, the prohibition of washing the floor is

applicable only when water is put on the floor in order to wash it, not when one is removing water which has been spilled.

Rav Auerbach adds (ibid.) that one may even be permitted to spill water on a dirty spot and then remove the water with a squeegee, because cleaning one spot in this manner is not included in the ban. This is also the ruling of the Or le-Tziyon (Vol. II, Ch. 43, n. 8) and the Yalkut Yosef (Vol. V, p. 65).

Summary
In conclusion, one may not wash a floor, whether its surface is made of dirt or tiles. Even in our times, when all of the houses have tiled floors, one should still be stringent about this. Nevertheless, one may be lenient in certain cases, as long as one uses a squeegee without a cloth:

1. If there is a case of great need, e.g., in hospitals or in a place in which a spilled substance seriously threatens hygiene or the honor of Shabbat, one may be lenient and wash the floor (with a squeegee).

2. When there is a need (even not as great as in #1), one may spill water on the ground and after that mop it with a squeegee.

3. If water spills on its own, it may be removed in any case.

V) Playing with Marbles

In the Gemara in Eruvin (104a), the Sages argue about the prohibition of making loud noise on Shabbat: does this include all noisemaking (Ulla) or only "a musical sound" (Rabba), i.e., producing a sound which is pleasant to the ear? The Gemara there notes a prohibition to play with walnuts on Shabbat:

Rav Yehuda says in the name of Rav: "It is forbidden for women to play with walnuts."

What is the reason? Is it not because one produces a sound, and it is forbidden to produce any sound?

No, it is lest one come to fill holes. Were you not to say so, what would you say about what Rav Yehuda said, "It is forbidden for woman to play with apples" — what sound is produced there? Rather, it is lest one come to fill holes.

The Gemara considers the possibility that the prohibition is based on the fact that it is forbidden to produce sounds on Shabbat, and it brings proof to the view of Ulla that every production of sound is forbidden. However, the Gemara rejects the proof: it may be that only "a musical sound" is forbidden, following the view of Rabba, and the walnut game is forbidden because of a different reason — one may come to smooth out the ground and fill depressions in it. This stands to reason, given that playing with apples is also forbidden, even though one makes no inappropriate noise while playing it.

According to Rabbeinu Yerucham (12:7), there is a difference between the two approaches when it comes to the question of whether may play the walnut game on top of a mat, upon which filling holes is not applicable:

When it comes to playing with walnuts or almonds on Shabbat, for those who rule in accordance with Ulla, it is forbidden even on a mat; for those who rule in accordance with Rabba, this is allowed on a mat, because there is no filling of holes.

In practice, we rule in accordance with the view of Rabba, as there is no prohibition of producing a sound unless it is “a musical sound” (Shulchan Arukh OC 338:1). As such, the Shulchan Arukh and Rema (338:5) rule that the prohibition to play with walnuts is based solely on the concern of filling holes, which does not exist in a place in which there is no issue of smoothing out the ground:

One may not play with walnuts or apples and the like, because one may fill holes.

Gloss [Rema]: This is only upon the ground, but on top of a table it is allowed, as there is no need to ban it because of holes.

May one play on top of tiled ground? This depends apparently on the dispute of the Rishonim which we have seen: does one apply a ban to paved ground even if the Gemara does not explicitly say so, as is the case with sweeping the house? According to this, just as the Rema rules stringently concerning sweeping a tiled floor, the same should apply to a game of marbles on a hard floor. This is how the Mishna Berura (ad loc., 20; Shaar Ha-tziyun, 23) rules, and he adds that this is implied by the Rema: the allowance is limited to the table, but it would not apply to the floor.

What is the rule in our time, when all of the houses have tiled floors? May one play marbles on a hard floor? Apparently, one should be lenient about this, as the Bei’ur Halakha is lenient concerning sweeping the house, and this is what Rav Neuwirth writes (Shemirat Shabbat Ke-hilkhata 16:5). However, there is good reason to be more stringent about a game of marbles, as the Ketzot Ha-shulchan writes (Baddei Ha-shulchan 146:60, end):

This applies only to sweeping, because one does not sweep the courtyard and the alley on Shabbat, only the house; therefore, since all of the houses have tiled floors, it is allowed. However, a game of walnuts is played also in the courtyard or the alley, and they are not tiled; therefore, it is forbidden even in houses with tiled floors.

In other words, sweeping is done specifically inside the house. Therefore, as the entire reason to forbid sweeping a tiled house is a concern that one may come to sweep a dirt floor, in a place in which there is practically no house such as this, there is no reason for the ban. However, a game of walnuts and the like is played outside as well, not only inside, and therefore one should prohibit doing so even in a house with tiled floors, lest one come to play outside in an unpaved area. Thus, it makes no difference whether the houses in the town have tiled floors or dirt floors, because the concern has nothing to do with houses. The Shevitat Ha-shabbat (Choresh 28) also writes to this effect.

According to this, the halakha varies from game to game. A game which is always played upon a hard floor may be played on Shabbat on the floor of the house. A game which is played inside the house as well as outside the house, on the ground, should not be played on the floor on Shabbat, following the stringent view. When it comes to marbles, in the past it was very common to play with them outside, and therefore it was appropriate to be stringent even inside the house and confine it to the table, but in places in which we are accustomed nowadays to play only inside the house, there is good reason to be lenient.

Summary

In conclusion, the Sages banned playing games with walnuts and the like which require smooth ground, lest one come to fill in holes while playing the game. Today, one may be lenient about games which are always played on a hard floor and play them on the floor of the house on Shabbat, but not outside (not even on pavement).

[1] The Mishna Berura (337:16) explains that even the Rishonim who believe that sweeping the ground should not be forbidden because of filling holes concede apparently that washing it should be forbidden, since in cleaning one is more interested in improving the ground than one is in sweeping; therefore, there is a greater concern that one may fill in holes intentionally.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 33: Kotzer, (Part 1)

Is taking flowers out of a vase filled with water permissible? Is there a problem with walking or sitting on grass? May one sniff a fruit or plant which is still attached to the ground? Can one retrieve a ball which is stuck in a tree or a bush?

I) Defining the Melakha

The term ketzira (reaping; the melakha is known as kotzer) refers specifically to harvesting grain. What about collecting other produce? The Gemara (73b) says:

Reaping, vintaging, date-gathering, olive-picking, and fig-plucking are all the same melakha.

The examples mentioned all involve removing giddulei karka (things which grow in the ground) from the ground itself or a plant attached to it. Is the prohibition of kotzer applicable also to plants which are not attached to the ground? Is one allowed to pluck a leaf from a severed branch or from a flowerpot? The rule in this follows the following statement from the Gemara (107b-108a), which formulates the prohibition as oker davar mi-giddulo, uprooting something from the place of its growth.

Abbayei said: "One who pulls fungus from the handle of a pitcher is liable on account of oker davar mi-giddulo."
Rav Oshaya cited a disproof: "If one plucks from a perforated pot, one is liable, but if it is unperforated, one is not liable"!
There, that is not its growth; but here, this is its growth.

In other words, the prohibition of kotzer does not relate specifically to telisha (detachment) from the ground, but to uprooting something from the place of its growth. A fungus grows on the handle of a vessel, so its telisha from that spot constitutes kotzer, since this is the place of its growth. On the other hand, if a plant grows in an unperforated pot, telisha of its parts is not forbidden by Torah law because of kotzer; the pot is not considered its place of growth, as generally one does not sow seeds in a pot such as this (Rashi).[1]

According to this, there is no prohibition of detaching fruits or leaves from a severed branch, since the fruit and the leaves already have already been uprooted from the place of their growth by the chopping off of the branch; and indeed the Rema rules accordingly (336:8).

Breaking the Connection or Interrupting the Nourishment?

One may ask whether the prohibition is linked to the severing of the physical connection of the produce to its place of growth or its being detached from its point of sustenance.

The ramification would be, for example, for a plant which is attached to the ground but no longer is being nourished by it. The Rishonim debated this question, based on the Gemara in Chullin (127b). The Gemara there rules that fruit which have dried-up while on the tree are still considered attached to it and thereby to the ground, and the prohibition of kotzer is applicable to them. However, Rashi (ad loc., s.v. l De-yaveshu) indicates that a fruit which is so desiccated that its stem has dried-up is considered detached, and the prohibition of kotzer does not apply to it. On the other hand, the Rambam (8:4) writes that the prohibition of kotzer applies to a tree with dried-up fruits, and the Magen Avraham (336:1) understands his view to be that even if the stem is totally dried-up, one is liable for kotzer if one picks the fruit.[2]

The dispute ostensibly depends on the question we have mentioned: according to Rashi, the prohibition of kotzer relates to uprooting something from the point of its sustenance, and therefore if the fruit does not draw nourishment from the ground, there is no prohibition in detaching it; according to the Rambam, on the other hand, the prohibition relates to severing the physical connection of the plant to the ground, and there is no significance to the question of whether the plant draws nourishment from the ground at all.[3]

II) The Prohibition of Kotzer for Animals

We have seen a debate regarding the applicability of kotzer to items which are technically attached to their place of growth but not drawing sustenance from it. What about the inverse case? What is the law regarding things which draw nourishment from a certain place but are not attached to it? In this context, the Yerushalmi (7:2) cites the following ruling on this matter:
The rabbis of Caesarea say: “One who fishes or removes anything from its sustenance is liable because of kotzer.”

In other words, one who catches a fish and takes it out of the water has violated the melakha of kotzer because one has removed the fish from its place of sustenance.[4] According to the Yerushalmi, removing something from the point of its growth is not limited to plants; it applies to any living thing which is being removed from its point of sustenance.

The Bavli (107b) seems to dispute this:

Shmuel said: “If one removes a fish from the sea, as soon as the size of a sela thereof becomes dry, he is liable.”

In other words, one is not liable immediately for removing a fish from the sea; one is liable only once a portion of the fish’s body, of the diameter of a shekel (sela in Talmudic terminology), becomes dry. Rashi (s.v. Chayav), Tosafot (Taanit 24a, s.v. Ha-sholeh), and most Rishonim explain that the liability is for a different Shabbat prohibition, taking a life (netilat neshama), and the assumption is that after a spot on the fish’s body of the diameter of a sela dries up, it has no chance to live, even were it to be thrown back into the water. From the Gemara, it appears that if the fisherman catches and releases the fish back into the water before it has dried out to this extent, he does not violate a Torah prohibition. This goes against the implication of the Yerushalmi, that someone who takes a fish out of the water is liable immediately because of kotzer, even if one returns the fish to water later.[5]

What is the basis of the dispute between the Bavli and Yerushalmi?

It is possible that the dispute depends on the question which we discussed above. According to the Bavli, the prohibition of kotzer focuses on the severing of a physical connection, and since the fish is not actually attached to the water, there is no prohibition to remove it from the water because of kotzer. The Yerushalmi, on the other hand, believes that the prohibition is focused on separating something from its point of sustenance, and naturally the prohibition is applicable also to the removal of fish from water, as this is its point of sustenance.

On this understanding, the Bavli concedes that the prohibition of kotzer may apply to animals, as long as one is talking about the severing of a physical connection. Indeed, the Gemara states that someone who births an animal by manually entering the birth canal and pulling out the fetus is liable. The simple meaning of the Gemara is that one is liable for kotzer, and this is how the Me'iri explains it. In this case, there is the severing of an actual connection, not only a removal of a living thing from its point of sustenance, and therefore the prohibition of kotzer is applicable even according to the Bavli, even though we are talking about animals.

However, the Ramban and the Rashba (ad loc., s.v. Ha de-amrinan) explain the dispute in a different way. According to them, the Bavli believes that the prohibition of kotzer does not apply to animals at all, even if one is severing an actual connection, as removing hairs or cutting nails makes one liable for the melakha of gozez (shearing), not kotzer.[6] The Ramban explains this as follows:

If one shears [an animal] or plucks a bird's wing while they are alive (74b), this does not render one doubly liable, one count being for oker davar mi-giddulo. So too, if one cuts hair or nails or one trims his mustache (94b), there is no law of oker davar mi-giddulo rendering one doubly liable. Thus, we see that there is no law of oker davar mi-giddulo as a subcategory of kotzer except for giddulei karka…

Furthermore, reaping and threshing are certainly derived in the same way from the Mishkan (Tabernacle); just as the rabbis (75a) rule that threshing applies only to giddulei karka, so we should certainly say that ketzira applies only to giddulei karka…

As for what they said in the Yerushalmi… this does not accord with the view of our Gemara.

The Ramban and the Rashba understand the view of the Bavli in the following way: just as there is no prohibition of threshing except as it applies to giddulei karka, as it was in the Mishkan, so too there is no prohibition of kotzer except as it applies to giddulei karka.[7] Based on this understanding, the Ramban and the Rashba explain the Gemara that says that one who uproots a fetus is liable as referring to netilat neshama, not to kotzer, because kotzer applies only to giddulei karka.[8]

In other words, the view of the Yerushalmi, that one who removes a fish from the water is liable for kotzer, is based on two assumptions about the prohibition of kotzer — that it is a) based on severing something from the point of its sustenance; b) not limited to giddulei karka, but applicable to animals as well. In parallel, the view of the Bavli is that one who removes the fish from the water is liable because of netilat neshama and not because of kotzer, which may be understood in two ways:

a) Me'iri — The Bavli disputes the first assumption, and holds that the prohibition of kotzer applies only to severing a physical connection.

b) Ramban, Rashba — The Bavli disputes the second assumption, and holds that the prohibition of kotzer applies to giddulei karka alone.

Summary

In conclusion, on Shabbat it is forbidden by Torah law to detach produce, flowers, leaves and the like from a plant attached to the ground; similarly, it is forbidden to detach plants or fungi from the place in which they grow, even if they are not attached to the ground.

It is forbidden to detach produce or branches even from a desiccated tree (OC 336:12). According to the Rambam, it may be that there is a Torah prohibition involved, while according to Rashi and Tosafot, this is forbidden rabbinically (Bei'ur Halakha ad loc., s.v. Chayav).

It is forbidden to remove a fish from water; however there is a dispute as to whether the prohibition is because of kotzer (Yerushalmi) or because of netilat neshama (simple reading of the Bavli; Ramban and Rashba).

It is forbidden to detach anything from a plant growing in a pot. Detaching anything from a plant growing in a perforated pot is forbidden by Torah law, while detaching from a plant growing in a unperforated pot is rabbinically prohibited (OC 336:7).

It is permitted to detach fruit or leaves from a branch that was chopped off before Shabbat (Rema 336:8).[9] However, if it is an action which is regularly performed in the field, one must be careful to avoid violating the melakha of dash (see our shiurim on that topic).

It is permissible to remove flowers or branches from a water-filled vase, and there is no prohibition of kotzer (Shemirat Shabbat Ke-hilkhata, 3rd ed., Ch. 26, n. 96, in the name of Rav S.Z. Auerbach), as it is permissible to put them back in the water; the prohibition of zoreia does not apply to these actions (Rema 336:11), as we saw in our shiurim on that topic.

[1] However, telisha of part of a plant growing in an unperforated pot is forbidden rabbinically (OC 336:7). For additional details of the laws of flowerpots on Shabbat, see our analysis of the melakha of zoreia.

[2] There are other ramifications of this dispute pertaining to a tree which dries up. The Sages forbid the use of a tree on Shabbat, lest one come to detach something from it, as we shall see below; however in the Gemara (Eruvin 100b), it appears that one may use a dried-out tree in the summer. Rashi explains that a dried-out tree is not considered attached to the ground, and the prohibition of kotzer is not applicable to it; therefore, there is no reason to prohibit its use. (Nevertheless, during the winter they forbid it because of marit ayin, the appearance of impropriety, since during this season it is difficult to determine whether a tree is dried-out or not). Rashi is consistent with the approach presented above, that the prohibition of kotzer does not apply to a plant which is totally dry. On the other hand, the Rambam (21:6) rules that it is forbidden to use a dried-out tree, and the Magen Avraham (ibid.) explains that the Rambam, consistent with his view cited above, believes that the prohibition of kotzer applies to a dried-out tree as well on a Torah level; therefore, one even using a tree of this type is prohibited.
However there are those who dispute the Magen Avraham's understanding of the Rambam. From the words of the Maggid Mishneh (ibid.), it appears that he believes that the Rambam would concede that there is no prohibition of kotzer from the Torah upon a dried-out tree, and in any case it is forbidden to use a dried-out tree because of a precaution. Similarly, there are those who understand that the Rambam concedes to Rashi that there is no prohibition of kotzer for picking desiccated fruit if the stem has dried out (see Bei'ur Halakha 336:12, s.v. Chayav).

[3] Based on this principle, one can explain another dispute between Rashi and the Rambam. The Gemara (81b) says that one who raises a perforated pot from the ground and leaves it in the air (on top of pegs) is liable because of kotzer. Rashi (s.v. Chayav)

and Tosafot (s.v. Ve-hinnicho) explain that the Gemara should not be taken to mean that actually liable (in violation of a Torah prohibition); rather, it is a rabbinic prohibition, because the pot continues to draw sustenance when it is still in the air, and thus its nourishment has not been interrupted. Opposing this, the Rambam (8:4) writes that this is indeed a Torah prohibition and one is liable. The Rambam may concede that the pot draws sustenance when it is still in the air, as appears from the Gemara in Gittin 7b; however, his understanding is that the prohibition of kotzer does not depend on drawing sustenance but on a physical connection, and therefore one who picks the pot off of the ground is liable even though it continues to draw sustenance (see Chiddushei Ha-Gram Ha-Levi of Rav Mosheh Soloveitchik zt"l on the Rambam ad loc.).

This dispute would have the opposite ramification of detaching leaves from a pot suspended in the air: according to Rashi and Tosafot, telisha such as this is forbidden by the Torah, since the pot is considered to be attached to the ground, while according to the Rambam, telisha such as this is forbidden at most rabbinically, since this pot is considered detached.

[4] We are speaking, apparently, about fish that do not need to be caught per se — i.e., in a small pool, in which there is no difficulty to catch them; therefore, there is no separate liability for the melakha of trapping.

[5] It makes sense that the Yerushalmi would concede that if one leaves the fish outside of the water until it can no longer be returned and survive, one violates the prohibition of netilat neshama. The novelty of the Yerushalmi is that even one who does not keep the fish out of the water to such an extent is liable for kotzer immediately upon removing the fish from the water.

[6] One should note that the words of Yere'im (Ch. 274, 135b) indicate that cutting fingernails, hair, etc. is indeed forbidden because of kotzer and not just because of gozez.

[7] Indeed, the category of giddulei karka may include things which are not attached to the ground and do not draw sustenance from it directly, because the Gemara says that there is a prohibition of kotzer also if one pulls fungus from the handle of a pitcher, as we saw above. It may be that fungi are considered, for these purposes, like giddulei karka, since they grow with a certain assistance of the ground, as arises from the words of the Gemara in Berakhot 40b ("They certainly grow from the ground") and Rashi ad loc. ("They grow from the moisture of the ground").

[8] The Gemara equates the detaching of the fetus to detaching dodder (hops) from thorny bushes. Dodder is a parasitic plant; it draws its nourishment from the bushes and not from the ground. The Gemara sets out that just as one who detaches dodder is liable for uprooting something from its place of growth, even though the dodder is not attached to the ground, so too one who detaches the fetus from the animal is liable because of uprooting something from where it grows. The Gemara seems to say explicitly that the liability is because of oker davar mi-giddulo, and this is how the Me'iri understands it; however, the Ramban and the Rashba explain that the comparison the Gemara makes is not to be taken narrowly, and the intent is only to compare different melakhot: there is a prohibition of kotzer on dodder, even though it cannot live on its own, but only by way of the bushes upon which it grows; similarly, there is a prohibition of netilat neshama on the fetus, even though it has no life of its own in utero, but survives only through its mother.

[9] Indeed, the Sha'arei Teshuva (651:3) cites authorities who rule that one should not remove leaves from the lulav on Yom Tov, even though it is detached, and therefore one who wants to bind a lulav using some of its leaves must remove the leaves from the lulav before the holiday (see Shemirat Shabbat Ke-hilkhata, 3rd ed., Ch. 26, n. 38).

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 34: Kotzer, (Part 2)

III) Rabbinic Decrees: Using a Tree

CLIMBING A TREE

The Sages made a number of decrees lest one come to detach a fruit or branch from a tree. The Mishna in Beitza (36b) states:

The following are forbidden as a shevut: one may not climb a tree; one may not ride an animal…

In other words, the Sages banned climbing a tree or riding an animal on Shabbat lest one come to violate an actual melakha, a type of decree known as a shevut. The Gemara (ibid.) explains the reason for the prohibition:

"One may not climb a tree" — this was banned lest one detach.
"One may not ride an animal…" — this was banned lest one remove a branch.

In other words, it is forbidden to climb a tree lest one come to detach a branch or leaf (see OC 336:1).[1] Similarly, it is forbidden to ride on an animal, lest one come to remove a branch to direct and guide the animal (OC 305:18).

From the Gemara in Eruvin (100a), it arises that the rabbinic prohibition extends beyond climbing a tree or riding an animal to using them in other ways:

The roots of the tree that are three handbreadths above the ground… one may not sit on them, because one may not climb a tree; one may not be suspended from a tree; one may not lean on a tree; and one may not climb a tree while it is still day [Friday] and sit there throughout the entire day. The same applies to a tree or any animal.

If so, one should not make any use of a tree or other plant with a height of three handbreadths (about 24 centimeters or 9.4 inches) or more: one may not lean on it or be suspended from it, one may not leave objects on it (Mishna Berura ad loc. 3, according to Rashi and Tosafot, Shabbat 154b), and one may not tie an animal to it (Mishna Berura ibid., according to the Gemara in Eruvin 63a). Only a plant which is lower than three handbreadths — e.g., a stump or roots protruding from the ground — may be used, since they are considered like the contours of the ground itself (Eruvin 100a).

We must emphasize that the problem is not in moving or shaking the plant, but rather in the very fact of making use of it, and therefore these actions are forbidden even if the tree is very strong and there is no concern that it will move.

However, the Gemara in Chagiga (16b) indicates that the prohibition to lean on animals or trees applies only when one leans with all one's strength, but gentle leaning is not considered to be making use of them. This is also indicated by the Yerushalmi (Beitza 5:2), which says specifically that a weak person may not lean, since such a person leans with all of his or her strength, and this is cited by the Or Zarua (Vol. II, Ch. 366) and the Me'iri (Shabbat 154b). The Mishna Berura (336:63, Bei'ur Halakha ibid. 13, s.v. U-muttar) rules accordingly:

One may lean on a tree if one is healthy, but for a weakened person, this is forbidden. The reason is that a healthy person only leans on it a bit, so that it is not considered to be making use of something attached to the ground, but one who is weakened must lean on it with all of his or her strength, and this is called using something which is attached to the ground and is therefore forbidden. This applies even when one does not cause it to move. Indeed, this is forbidden even for a healthy person if one causes it to move, as this is considered to be use [of the tree].

If so, a healthy person may lean lightly on a tree, as long as he or she does not move it all.

DESCENDING FROM A TREE

The aforementioned Gemara in Eruvin (100a) discusses the case of someone who climbs a tree before or on Shabbat and then wants to climb down on Shabbat. This situation is problematic because in the midst of climbing down, the person is using the tree; at the same time, remaining in the tree also constitutes making use of it. The Gemara's conclusion is that one who climbs a tree purposely on Shabbat is punished by the Sages and compelled to remain there until the end of Shabbat; however if one climbs the tree while it is still daytime on Friday or on Shabbat itself inadvertently (i.e., without realizing that this act is forbidden or forgetting that today is Shabbat), one may come down. The Shulchan Arukh (336:1) rules accordingly:

If one climbs a tree inadvertently on Shabbat, one may climb down; if one does this on purpose, it is forbidden to climb down. If one climbs a tree while it still day [on Friday], in any case it one may climb down once it has grown dark.

The Eglei Tal (Kotzer 24) writes that one who climbs inadvertently or before Shabbat is not only allowed to descend, but in fact obligated to do so immediately, because remaining there would constitute use of a tree. Rav S.Z. Auerbach adds (Shemirat Shabbat Ke-hilkhata, Ch. 26, n. 42) that even one who climbs a tree on purpose on Shabbat itself, if he or she can make it down from the tree with a single jump, that person should do so, because one does not use the tree in climbing down, while in remaining there, one is using the tree.

FREEING AN OBJECT FROM A TREE

The Gemara (45a) says that one may not put a lamp on a palm tree before Yom Tov, since there is a concern that after it goes out (on Yom Tov itself), one may remove the lamp and violate the prohibition of using a tree. Rashi (ad loc., s.v. Al Gabbei Dekel) indicates that the very removal of the lamp is considered using the tree, while the Rosh (5:2) writes that taking an object out of a tree is not in itself considered a use of a tree, and the decree is based on a concern that someone may climb the tree in order to remove the object.

The Rashba (Eruvin 100a) explains that we only allow descending from a tree for a person who has actively climbed it, as every moment that he or she remains there, the

tree is being utilized; but when it comes to an object left on a tree before Shabbat, one should not bring it down from there on Shabbat, since leaving an object there is not considered making use of the tree. The Rema (336:1) rules in accordance with this view:

This applies only to a person who climbs up there, but if one leaves an object there while it is still day [Friday], one may not take it on Shabbat.

Therefore, if a ball or other object lands in a tree or bush higher than three handbreadths from the ground, whether the object falls there before Shabbat or on Shabbat itself, one may not get it down on Shabbat, either manually or with a pole.[2]

As we have said, the Sages also forbid leaving an object on a tree before Shabbat lest one come to take it down on Shabbat. Therefore, it is forbidden, for example, to hang a towel on a tree before Shabbat. However, one may put on the tree before Shabbat objects which have the status of muktze, as it is forbidden to move them on Shabbat, so there is no concern that one may take them down from the tree (Gemara 45a; OC 277:4). Similarly, one may put on a tree items which usually remain upon it before Shabbat, as there is no concern that one may come to remove them on Shabbat (Tehilla Le-David 277:7).

IV) Rabbinic Decrees: Indirect Use of Trees and Plants

ITEMS SUPPORTED BY THE TREE OR ITS SIDES

The Gemara (155a) addresses the question of whether one may use the sides of the tree, i.e., things which are attached to the tree or are supported by it. The Gemara concludes by distinguishing between different cases:

The law is that the sides (tzedadin) are forbidden, but the sides of the sides (tziddei tzedadin) are permitted.

Rav Ashi said: “Now that you have ruled that the sides are forbidden, one must not rest a ladder on a palm tree, because that is like the sides; one must rest it on pegs extruding from the tree, and when one ascends, one must place the foot not on the pegs, but on the rungs.”

Thus, the prohibition of use does not relate solely to the plant itself. It is also forbidden to make us of items which are attached to or supported by plants in the ground (OC 336:13). Therefore, it is forbidden to climb a ladder which is leaning on a tree or to climb pegs which are stuck in a tree, even if one will not touch or move the tree at all. Similarly, one may not hang a garment on a nail stuck in a tree or leave a vessel on a shelf which is attached to the tree. In addition, one may not take down objects which are located on the sides of a tree (e.g., a coat which is hanging on a nail stuck in a tree), just as one may not take objects down from the tree itself (Mishna Berura 336:63).

However, one may use on Shabbat what is defined as “tziddei tzedadin,” i.e., items attached to or supported by the sides of plants (OC ibid.). If, for example, a string is attached to a nail and the nail is stuck in a tree, it is permissible to hang an object on the string. According to this, it would be forbidden to hang a basket on a nail which is attached to a tree, but if the basket was already hanging on the nail before Shabbat, one may put things in the basket or take things out from it on Shabbat. Similarly, it is indeed forbidden to hang a towel on a string which is attached to a tree, but if the towel is hanging on a string such as this before Shabbat, one may dry one’s hands on it (but one may not take the towel itself down, as then one is using the string, as the Mishna Berura ibid. states).

Similarly, it is forbidden to swing on a hammock which is tied to a tree directly, but one may swing in a hammock which is tied to a nail which is stuck in the tree. However, use such as this is allowed only on the condition that during the time of using the hammock, the tree itself does not shake (Mishna Berura ibid.).

USING GRASS OR SOFT BRANCHES

The prohibition of using plants attached to the ground applies only to plants as hard as trees; soft branches or vegetables and the like may be used while they are attached to the ground. This distinction is cited by the Rema:
This is all true about a tree and the like, but branches which are as soft as vegetables may be used even though they are attached to the ground; there is no prohibition to use a vegetable.

The Taz (4) disputes this and rules stringently about every attached plant; however, most Acharonim accept the Rema's ruling, including the Mishna Berura (15). Therefore, it is permitted to sit or lie down on grass, even if it is longer than three handbreadths. It is also permissible to move the grass with one's hand, if it is attached (Mishna Berura 312:17, 19); however, once the grass has been uprooted, it is muktze mechamat gufo (set aside due to its lack of designated permitted use, like sticks and stones) and one may not move it.

It is also permitted to walk on grass on Shabbat, even though it may be that some blades will become detached, since one has no intention for thus, and there is no inevitability (i.e., no pesik reisha) that one will uproot grass (OC 336:3). However, if the grass is long, one should walk gingerly and not run, in order to avoid a situation in which some blades of grass will certainly be detached (Mishna Berura ad loc. 25).[3]

SMELLING A PLANT WHICH IS ATTACHED

The Sages forbid sniffing a fruit which is attached to a tree lest one make a mistake and pick it on Shabbat in order to eat it. The Gemara in Sukka (37b) states in this regard:

Rabba said: "An attached myrtle may be sniffed, but an attached citron may not be sniffed."
What is the reason? A myrtle is destined to be sniffed, so if one is allowed to sniff it, one will not come to pick it; a citron is destined to be eaten, so if one is allowed to sniff it, one will come to pick it.

In other words, an edible fruit may not be sniffed while it is attached lest one come to pluck it in order to eat it, while flowers or aromatic plants which are not edible may be smelled while they are attached, because we have no concern that one may pick it; one is able to enjoy their scent in the same measure without picking them. The Shulchan Arukh (336:10) rules accordingly. The Mishna Berura (ad loc. 48; Shaar Ha-tziyun 42) adds that one is even allowed to touch these plants and move them if there is no concern that one may come to detach, disputing the views of two Acharonim who forbid this: the Taz (ad loc. 10), who rules stringently about this because one is making use of the tree (according to his above-mentioned view, that the prohibition applies also to soft branches), and the Magen Avraham (312:6), who rules stringently about this because of the prohibition of muktze. The view advanced by the Mishna Berura has a precedent in the Me'iri (ibid.), who allows touching the myrtle and moving it while one smells it, and this approach is also followed by Rav Ovadya Yosef (Yabbia Omer, Vol. V, OC, 26:2).

A Final Philosophical Note:

There is a famous story about Rav Yaakov Yisrael Kanievsky, known as the Steipler Gaon or simply "the Steipler", who was forced to serve in the Russian Red Army as a young man. One time he had guard duty on Shabbat, and he realized that the soldier who had the watch before him had hung his coat on a tree. Though it was viciously cold, the Steipler decided that there was no threat to his life and he should leave the coat on the tree, as the Sages forbade taking objects down from a tree on Shabbat. He served his watch in cold and misery. Later in his life, it become clear that his ears had been savaged by the frigid weather, and this caused him to be hard of hearing.

When I went to visit him in his final years, one could not speak with him directly. I wrote my questions on a piece of paper, and the Steipler voiced his responses. The Steipler was a great Torah scholar who wrote about the entirety of the Talmud. When I spoke with him, it was easy to see the powerful love and unique holiness radiated by this great righteous man.

[1] What about climbing a tree that is completely dried out? As we have noted in our previous shiur, the Rishonim dispute whether the rabbinic prohibition applies to such a tree, which depends, among other factors, on the question of whether the Torah prohibition of kotzer is relevant to such a tree. Halakhically, the Shulchan Arukh (OC 336:1) rules, following the Rambam, that one must not climb any tree, and we have already mentioned there that there are differing views about this question: does the Rambam understand that the prohibition of kotzer applies to a desiccated tree, or does he rule stringently about climbing such a tree only because of a precaution, even though the prohibition of kotzer does not apply to it?

[2] What about using a ball which falls from a tree? If the ball falls out of the tree on its own after getting stuck in the tree on Shabbat itself, one is permitted to use it after it falls to the ground (Shemirat Shabbat Ke-hilkhata, Ch. 16, n. 20, in the name of Rav S.Z. Auerbach). However, if it lands in the tree before Shabbat, it becomes muktze for all of Shabbat at sunset, and even if it falls afterward to the ground, one should not use it (ibid. 26:15).

[3] We should consider what the law would be if it is clear to one that some grass will be uprooted in the course of one's walking, but not by each step. Rav S.Z. Auerbach (Shemirat Shabbat Ke-hilkhata, Ch. 26, n. 62, as well as Tikkunim u-Millu'im ibid.) writes that this should be allowed because in each step there is no pesik reisha that grass will be pulled out. However, combing with a comb or a thick brush is forbidden on Shabbat, even though the certainty that one will pull out hairs is not in every sweep, but rather in the overall process of combing. Rav Auerbach explains that combing is forbidden because the result may be seen as intentional. However, the Rivash (Responsa, Ch. 394) explains that combing is forbidden because we see all of it as one prolonged action. It may be that concerning walking on grass there is more of a reason to be lenient, because the detachment is done in an irregular way, and is also considered to be an act of kilkul (ruination); beyond this, it is a pesik reisha which one is not interested in, and if so, naturally there is good reason to argue to allow it (the confluence of a pesik reisha which one is not interested and two separate mitigating rabbinic factors, because it is both irregular and ruinous). Indeed, the Mishna Berura forbids running on grass when there is a pesik reisha that one will detach some blades, perhaps because of the suspicion that one will get stuck on a blade of grass and the detachment will fall into the category of desirable (Rav S.Z. Auerbach ibid., n. 64). However, practically speaking, as it is not clear that something will be uprooted in each step, the tendency is to be lenient about this.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 35: Me'ammer, (Part 1)

I) Defining the Melakha

We began this series by looking at the latter melakhot of the bread-making process. We now come full circle by looking at the final step of producing grain, immur (bundling); the melakha is known as me'ammer. Both terms come from the word omer, meaning "sheaf." After ketzira (reaping), the cut stalks of grain are collected and tied in sheaves; fruits, on the other hand, are gathered into baskets and boxes. Regardless of the species, these actions fall under the heading of me'ammer.

The Mishna (73a) counts me'ammer as one of the thirty-nine melakhot. The Me'iri (ad loc.) explains:

Me'ammer — this is gathering the sheaves after the harvesters have left them in their place, piling them in one place and binding them; the same applies if one gathers stalks one-by-one and makes sheaves of them. This is true of all similar actions.

Thus, one who gathers stalks into sheaves is liable because of me'ammer.

At first glance, this melakha is puzzling. Generally, a melakha is defined solely as an action which is creative or improves the item itself. With me'ammer, no new action is done to the item; one only moves things from one place to another, gathering them into one spot.[1] In order to grasp the basis of the prohibition of me'ammer, we will delve into the different aspects of this melakha.

GIDDULEI KARKA

The Gemara (73b) quotes a dispute as to whether the prohibition of me'ammer is limited to items which grow in the ground, known as giddulei karka.

Rava said: "He who collects salt out of a salina is liable because of bundling."

Abbayei said: "Bundling applies only to that which grows in the ground (giddulei karka)."

In this case, a person gathers salt from a salina, an area of land encrusted with crystalline salt, the result of the evaporation of seawater. Rava is of the opinion that one who does so on Shabbat is liable because of me'ammer, while Abbayei believes that the prohibition of me'ammer applies only to giddulei karka. Abbayei holds, apparently, that since the melakha of immur in the Mishkan was specifically performed on giddulei karka, one is only liable because of me'ammer only when working with giddulei karka.

Halakhically, the Or Zarua (Vol. II, Ch. 57) and the Me'iri (73b) follow the view of Rava, that one is liable for the melakha of me'ammer even when not dealing with giddulei karka; the Rambam (8:5) and the Rosh (7:2), on the other hand, follow the view of Abbayei, that

immur of non-giddulei karka is not forbidden on a Torah level.[2] However, the Rambam (21:11) notes that Abbayei concedes that immur of non-giddulei karka is rabbinically forbidden, since this act is similar to me'ammer.

The Shulchan Arukh (340:9) rules in accordance with the Rambam, that immur of non-giddulei karka is rabbinically forbidden:

It is forbidden to gather salt from the salt works, as this is similar to me'ammer.

Therefore, it is rabbinically forbidden to gather eggs from the chicken coop and put them in a vessel (Eglei Tal, Me'ammer 6; Ketzot Ha-shulchan Ch. 146, Baddei ha-Shulchan 49:22).[3]

MEKOM GIDDUL

Many Rishonim add another condition for liability: one cannot violate me'ammer unless one collects the items in their mekom giddul, literally the place where they "grew" (this may be figurative if we apply me'ammer to materials other than plants). Some bring a proof to this from the Mishna in Beitza (31a):

One may bring in wood from that which is gathered in the field, and even from that which is scattered in the enclosure.

In other words, on Yom Tov, one may bring firewood in from the field only if it had been previously gathered, before the holiday; while from the enclosure (karpef), which is an outdoor fenced-in area, it is permissible to bring in wood on Yom Tov even if it is scattered. Tosafot (s.v. Min ha-karpef) question this: why is gathering wood from the enclosure not forbidden because of me'ammer? They explain that the prohibition of me'ammer is applicable only in the mekom giddul of the items:

This is perplexing, as this should be me'ammer, which is a primary melakha!

One may say that immur is only applicable in the place in which they grow.

This limitation is also cited by the Rashba (Beitza 33b, s.v. U-vilvad) the Ritva (73b, s.v. Abbayei) and the Ran (Beitza 19a, Rif, s.v. U-mi'kol Makom); they add that because of this concern, the above-mentioned passage in Shabbat talks about one who gathers salt from a salina, i.e., the place in which salt is naturally dried, its mekom giddul, and not from another place.[4]

Why should the melakha of me'ammer apply only in the mekom giddul? An answer may be derived based on the Gemara in Beitza (13b). There the Gemara deals with another type of melakha — not the forbidden labor of Shabbat, but the act which renders produce "done" for the purposes of taking tithes.

What is their completion for tithes? …it is once one raises a heap.

However, for Shabbat, one is not liable for raising a heap… It is thoughtful labor (melekhet machshevet) which the Torah forbids.

The Gemara determines that gathering produce into a heap is considered pivotal and decisive for the purposes of tithes, but this action is not forbidden on Shabbat by Torah law, since this is not considered melekhet machshevet. Rashi (s.v. Ela Mai) explains:

Even though this is considered melakha for tithes, for Shabbat, it is melekhet machshevet which the Torah forbids — namely, skillful labor. This is because of the juxtaposition of Shabbat to the construction of the Mishkan in Vayakhel, and regarding the latter it says "melekhet machshevet."

In other words, the juxtaposition of the passage of Shabbat and the passage of the construction of the Mishkan (Shemot 35:1-3 and 35:4 ff. respectively) teaches us that one is liable on Shabbat only for acts of creation and skill. Piling things in a heap is not an act of skill or creation, and therefore it is not forbidden on Shabbat.

However, it would appear that raising a heap is exactly what is done in the melakha of me'ammer — what is the difference between the melakha of me'ammer, which is forbidden by the Torah, and raising a heap of produce, which is not forbidden, since there is no improvement or creation in it?

Rashi (ad loc.) adds a phrase to resolve this difficulty:

For the issue of Shabbat, once one has brought the onions into the house, there is no melakha in raising a heap.

In other words, the melakha of immur is done in the field, and it is there that raising a heap is considered a melakha, while the Gemara in Beitza deals with someone who gathers fruits or vegetables in the house, and there raising a heap is not considered a melakha. Rashi accepts the view of Tosafot which we mentioned, that there is no liability for me'ammer except in the mekom giddul, and from his words it arises that immur not in the mekom giddul is not included in the prohibition, since there is no improvement or alteration of the produce itself.[5]

However, this very distinction still requires some explanation: if raising a heap in the house is not considered melekhet machshevet, since there is no improvement or alteration of the produce itself, why is raising a heap in the field considered melekhet machshevet? How does gathering produce in the field constitute an act of creation or improvement?

One may explain that immur in the mekom giddul has greater significance, since it constitutes the completion of the melakha of ketzira. True, the scythe has severed the connection of the stalks to the ground; however, as long as they are scattered throughout the field one cannot do anything significant with them. Only after the gathering may one move the stalks on to threshing, milling, etc. This is true of other produce: the harvesting becomes more significant after one gathers the produce into one place.

If so, the basis of the melakha of me'ammer is gathering produce after ketzira, which completes the harvesting and gives it significance.[6] As such, the prohibition applies only when the produce is located in its mekom giddul, right after the ketzira. If the produce was harvested and gathered previously and then scattered after reaching the house, the re-gathering is not deemed significant and is not included in the melakha of me'ammer.

ME'AMMER ACHAR ME'AMMER

The Tosafot Rid (73b) writes:

Me'ammer — this means gathering stalks behind the harvester and making them into a sheaf… You may find it difficult: if so, should one be liable, because of me'ammer, for collecting scattered fruits in one's own courtyard?!

Answer: There is no me'ammer except at the time that it is detached from the ground, which is at the beginning of its collection; gathering fruit which has already been collected and later scattered is not me'ammer.

This statement implies that even if fruits are still in their mekom giddul, if they have already been collected and are then scattered again, there is no act of me'ammer in collecting them again. (This stands opposed to the implication of Rashi, that only in the house is there no prohibition of me'ammer, but in the field there remains a prohibition of me'ammer, even if the fruits had been already gathered and were then scattered again.)

What is the reason? The Eglei Tal (Me'ammer 2:3) understands that just as ein tochen achar tochen (literally, "there is no grinding after grinding" — i.e., once a substance has been ground, there is no significance to breaking it down again) similarly ein me'ammer achar me'ammer.

However, this understanding is unprecedented. When it comes to tochen, we can understand that once something attains the status of tachun (ground), even should it later become a mass again, it does not return to its initial state, and the prohibition of tochen is not applicable to it. (If the original act is totally voided, and the matter actually returns to its original state, there may indeed be a prohibition of tochen; see our shiur on this topic.) When it comes to me'ammer, on the other hand, when fruits are gathered and then scattered, the scattering presumably nullifies the previous immur entirely!
It makes sense that the view of the Rid is based on the conceptualization of the melakha of me'ammer as the conclusion of the act of ketzira; therefore the prohibition only applies at the initial collection of the fruits, following the ketzira. After the fruits have already been gathered, the melakha of ketzira is complete, and from this point onward, even if they may be scattered and collected again, this is not conceived as a continuation of the ketzira, even if the fruits are still in the field. (The Eglei Tal himself suggests a similar approach, ibid. 8; see the Shevitat Ha-shabbat, Ma'aseh Choshev, 14b, who proposes a somewhat different approach.)

PROCESSED ITEMS

The Arukh Ha-shulchan (340:3) adds that there is no prohibition of me'ammer for items which have already been processed — i.e., ground or cooked:

It is obvious that me'ammer applies only to grain or produce which has been neither baked nor cooked, nor have they been ground, so that they are still in the state in which they were harvested or detached. Were this not true, it would be forbidden on Shabbat to leave loaves together in a given spot or to leave a number of fruits next to each other! Certainly, this prohibition applies only when they are being picked from the field, the gardens or the trees — not when they are in the house, and all the more so not after grinding, baking or cooking.

The innovation here is that even if a person, for example, cooks the fruits in their mekom giddul, there is no prohibition in gathering them after cooking. In light of what we have written above, the logic is that the prohibition of me'ammer applies only to immur which comes after the ketzira and completes it; clearly, we cannot speak of completing the ketzira after the produce has already been ground or cooked.

[1] The melakha of hotza'a (transporting) also does not change the body of the object, merely its location; indeed, the Gemara (96b) seeks out a separate source for this melakha and does not derive it from the acts of constructing the Mishkan, and the Rishonim explained that the Mishkan serves as a source only for creative, constructive melakhot, while hotza'a is an "inferior melakha" which yields no lasting alteration or

improvement, and therefore it requires an explicit source (Tosafot 2a, s.v. Pashat is one source for this notion).

[2] The Or Zarua rules like Rava, because in every dispute between Abbayei and Rava, the halakha follows Rava, except for six specific named cases. The Maggid Mishneh and Kesef Mishneh (ad loc.) explain the view of the Rambam in the following way: his text read "Rabba" instead of "Rava", and thus he rules like Abbayei against Rabba. (Nevertheless, there are those who believe that even in a dispute of Rabba and Abbayei, the halakha follows Rabba, as he was Abbayei's teacher, and the halakha does not follow a student against his master).

[3] However, in a case of significant loss, the Shevet Ha-Levi (Vol. IV, Ch. 39) allows a Jew to have a non-Jew collect eggs, since the prohibition is only rabbinic in nature, and a Jew is allowed to ask a non-Jew to violate a rabbinic prohibition on Shabbat in order to prevent significant financial loss.

[4] The Maharach Or Zarua (Responsa, Ch. 214) rejects the proof from this Gemara: "Perhaps collecting stubble in a courtyard is not immur, as it must be akin to immur of stalks, that one gathers them together and binds them; alternatively, they lie together so that the wind will not scatter them and so that people and animals will not scatter them — this happens when they are loose, and they are easily lost in various ways when the stalks are separate. However, sticks in the courtyard, which are gathered solely for immediate kindling, are not gathered per se; it is simply burdensome to kindle every stick and throw every stick individually into the flames, and it is not for the sake of improving and maintaining the sticks that one gathers them. Thus, this is not me'ammer."

In other words, the melakha of me'ammer applies only when the gathering helps to keep the stalks from being lost and the like, but when one gathers fruits or sticks together only because it is convenient to use them en masse, such an act is not included in the prohibition of me'ammer (Rav Mordecai Benet writes the same in his analysis of the melakha of me'ammer in his work Magen Avot). According to this, the basis of the prohibition of me'ammer is the improvement of the produce by gathering it; this act of collection allows them to be better preserved.

However, the other Rishonim apparently do not understand it in this way. These Rishonim allow gathering wood from an enclosure on Yom Tov only because this is not their mekom giddul, and it is implied that were it not for this reason, we would forbid it because of me'ammer, even though one does not improve the wood by gathering it.

[5] This is how the Ketzot Ha-shulchan (Ch. 146; Baddei Ha-shulchan, 49) explains why the melakha of me'ammer specifically is limited to its mekom giddul, while the act of disha (threshing) or the melakhot of zoreh, borer and merakked (winnowing, selecting and sifting) are not limited in this way: "Disha and borer are actions which are done to the grain itself; disha causes the husks to come apart, and through zoreh and borer and merakked, the refuse is separated and the item undergoes a change. This is not true of me'ammer, in which one does not do any action to the item itself and one does not alter it, and which melakha should it be? …rather, all melakhot which were done for the Mishkan are forbidden on Shabbat; as it is the way of the harvester to do immur afterwards, and this is what was done for the Mishkan, the immur is considered a melakha which is forbidden on Shabbat. Therefore, we need it to be specifically similar to the act which was done for the Mishkan, in which the immur was at its mekom giddul, as is the way of the harvesters. However, gathering scattered fruits outside their mekom giddul is not similar to what was done for the Mishkan, so it is not in the category of the melakha at all."

[6] This explanation fits with Abbayei's view, that me'ammer applies only to giddulei karka. According to the view of Rava, that there is a prohibition of me'ammer in gathering salt and other items as well, but only in their mekom giddul ("from a salina"), the melakha of me'ammer is not specifically a completion of the act of ketzira, but every gathering of something from its mekom giddul, which completes its gathering and furthers its utilization.

The 39 Melakhot
By Rabbi Yosef Ben David
Shiur 36: Me'ammer, (Part 2)

II) Joining Items into One Mass

In our previous shiur, we explored the principles of the melakha of me'ammer. In its classic form, the act of immur involves gathering detached giddulei karka (items which grow from the ground) from their mekom giddul (place of growth). However, the melakha may encompass more than this. May one also become liable outside the mekom giddul?

This question is more complex than it may appear. The Rambam (8:6) rules:

Gathering figs and making a ring of them or perforating figs and stringing them together falls under a subcategory of me'ammer and renders one liable. The same applies to every act like this.

In other words, if a person gathers figs and attaches them with a string, transforming them into one unit, one is liable because of me'ammer. The Rambam notes that this is a subcategory (tolada) — but a tolada is forbidden by Torah law just like as a primary melakha. The simple meaning of the words of the Rambam is that even though the figs are not being gathered in their mekom giddul, one is liable because of me'ammer.

There are those who understand that the Rambam argues with the Rishonim mentioned in the previous shiur and holds that the prohibition of me'ammer applies even outside the mekom giddul (Ohel Mo'ed, Shaar ha-Shabbat, Derekh Revi'i, 6; Eglei Tal, Me'ammer, 2). The Shulchan Arukh (340:9) rules that the prohibition of me'ammer applies only in the mekom giddul; nevertheless, he cites the Rambam, prohibiting the fig rings, implying that this action is prohibited even where me'ammer is permitted.

It may be that the Rambam believes that one is exempt for performing actions of collection in the house that are normally done in the field; however, making a ring of figs is done sometimes in the house and not in the field, and therefore one is liable for it also in the house. This is how the Mishna Berura (340:38) explains in the name of the Maaseh Rokeiach.

However, the words of the Rambam (21:11) indicate that this law does not apply only to figs; any joining of a number of fruits as one mass is forbidden because of me'ammer, even if this is done in the house.

Based on this reading, several Acharonim have written that the Rambam differentiates between two types of immur: gathering fruits into a heap, which is forbidden only if it is done in the mekom giddul, while joining fruits into one mass is forbidden regardless of where it is done.[1] So, for example, the Shulchan Arukh Ha-Rav writes (340:15):

Immur applies only in the mekom giddul; for example, the stalks of reaped grain are bundled into sheaves in the place where they grow… Similarly, one who collects fruits

gathers them together in the place where they land when they fall from the tree. However, if they are scattered in another place, it is permissible to gather them…

There are those who say that one who joins fruits together until they becomes one mass is liable because of me'ammer even outside their mekom giddul. For example, gathering figs and pressing them together in a ring or perforating and stringing them together in one mass constitutes a tolada of me'ammer, and one is liable for it.

The Nishmat Adam (13:1) writes the same lines.

What would the logic be to differentiate between gathering fruit into a heap and joining them to each other? This distinction can be understood in light of our explanation above. As we have seen, the gathering of produce outside its mekom giddul is not forbidden, since this act is not one of creation or improvement. Raising a heap in the mekom giddul is considered a significant act, since it completes the melakha of ketzira and imparts meaning to it, while raising a heap in another place is merely moving fruits from one place to another: there is no improvement or alteration of the fruits. However, when a person takes a number of figs and makes a necklace, this is the creation of a new entity, and this is an important and significant act,[2] even if it is not done at the mekom giddul.[3]

If so, the primary melakha of me'ammer is the completion of the ketzira by gathering the produce which has been severed from the ground into one heap, while the tolada of this melakha is joining produce together into one mass in a way which creates a new entity, even if the produce is no longer located in the place where it grew.

While joining fruits together into one mass is forbidden even outside their mekom giddul, not every binding — and not even every binding of produce — would be considered me'ammer. The other limitations of the melakha of me'ammer apply also to this act: the prohibition to join items applies only to giddulei karka, and only if they have not undergone any processing or alteration. It is clear that the prohibition of me'ammer is not applicable to joining pieces of paper together or joining pieces of cheese together, to putting together a salad of little pieces of vegetables or preparing dough. In terms of these acts, there are issues of boneh (building) and lash (kneading), but the melakha of me'ammer is certainly not applicable, since it does not relate to anything other than unprocessed giddulei karka. (See Shevitat ha-Shabbat, Me'ammer, Be'er Rechovot, 9. Also see Ketzot ha-Shulchan, Ch. 146; Baddei ha-Shulchan 49:24.)

MAKING A NECKLACE

In light of the Rambam, one cannot take dried fruit and run a string through it, making a necklace. The Shevitat ha-Shabbat (Me'ammer 5) adds that it may be that it is also forbidden to make a necklace from gems, since they are considered giddulei karka. On the other hand, making a necklace out of non-giddulei karka, e.g., candies, beads and the like, is not forbidden. Clearly one cannot make a real, permanent necklace on Shabbat or fix a necklace which has broken, because this is a problem of tikkun keli, fixing (i.e., either repairing or creating) a utensil (Ketzot ha-Shulchan, Ch. 146; Baddei ha-Shulchan 49:25), however there is no prohibition to create a temporary necklace for children, as long as one ties the string in a way that avoids problems of the melakha of kosheir (knotting).

To summarize, it is forbidden by Torah law to gather grain, fruits or vegetables in the field in one place, even if one does not tie or stick them to each other (e.g., collecting fruit in a basket or box[4]). It is also forbidden by Torah law to join figs and the like together on a string or to press a number of fruits together — even in the house. However, if one gathers scattered fruit in the house, there is no Torah prohibition in this, even if one puts

them in a vessel. Below, we will analyze the issue of whether a rabbinic ban applies to such a case.

III) Gathering Scattered Produce at Home

As we have seen, there is no problem, by Torah law, of collecting produce scattered inside the house or in the courtyard. However, the Gemara (143b) does indicate that, at times, there may be a rabbinic prohibition in doing so:

Our Rabbis taught: "If one's produce is scattered in the courtyard, one may collect a bit each time and eat it, but one may not use a basket or a box, so that one will not act in the way which one does during the week."

If so, one may gather scattered fruits in the courtyard one-by-one (the Gemara's term is, "al yad al yad", a term we encountered in our series on lash) and eat each fruit, but one may not gather them all into one vessel. What is the reason for the prohibition?

The Rambam (21:11) writes that the prohibition stems from a concern that one may come to violate me'ammer:

One who joins fruits together until they become one mass is liable because of me'ammer. Therefore, one who has fruits scattered in the courtyard may collect a bit each time and eat it. However, one may not put it in a basket or box as one does on a weekday, because if one does it in the way of the weekday, one may come to press them in one's hand and perform immur.

According to this, one who joins fruits together until they become one mass is liable because of me'ammer, even if one does not do so in the mekom giddul, as we have seen above; therefore the Sages made a decree about the collection of fruits into one vessel as well, lest one come to stick them together and violate me'ammer.

However, the Maggid Mishneh (ad loc.) questions this explanation of the Rambam; the concern that a person collecting fruit will come to press them together seems quite farfetched. Indeed, most of the Rishonim explain the prohibition in other ways. The Ramban (Shabbat 143b) states that the prohibition applies solely when the fruits fall into dirt, as their collection has the appearance of borer (which, in its classic form, involves picking out dirt and pebbles from grain):

It appears that we are talking about their being scattered in a place of dirt and pebbles, and one may not collect them and put them in a basket because it looks like borer… For this reason, the text in the Gemara reads "in the courtyard," not in the house, because a regular courtyard has dust and pebbles and presents a problem of borer, which is not true in a house, which is swept out every day.
On this approach, even when the Torah prohibition of borer is not applicable (e.g., the fruits are large and are not considered to be mixed in with the dirt, or one wants them to eat immediately), the separation of fruits from dirt looks like borer and is rabbinically forbidden. The Ramban adds that the Gemara speaks specifically about fruits being scattered "in the courtyard," not in the house, because in the house, generally speaking, there is little dirt.

Another explanation is cited by the Rashba (ad loc.) in the name of Rabbeinu Yona:

"If one's produce is scattered in the courtyard, one may collect a bit each time and eat it, but one may not use a basket or a box" — my teacher the master wrote in his laws that

this is in a case in which they were scattered in the courtyard, one here and one there; however, in one place, one may collect in the basket…

In other words, the prohibition applies only when the fruits are very scattered and distant from each other, so that there is a great inconvenience (tircha) in their gathering. In such a case, the aspect of uvdin de-chol (weekday practice) becomes significant; however, when the fruits are not dispersed to such a great extent, there is no prohibition to collect them.

The ruling of the Shulchan Arukh (335:5) combines the view of the Ramban and the view of the Rabbeinu Yona:

If produce is scattered in the courtyard, one here and one there, one must collect bit-by-bit and eat, and one must not put it in a basket or in a box. If they fall in one place, one may even put them in the basket, unless they have fallen into pebbles or dirt in the courtyard, because then one must collect one-by-one and eat, and one must not put it in a basket or in a box.

In other words, one may not collect fruits which are scattered in the courtyard over a great area, following the view of Rabbeinu Yona; in addition, one may not pick fruits which have become mixed in the dirt, as the Ramban says. However, if fruits are scattered in one place and not mixed with dirt, there is no prohibition to gather them into a vessel, and we do not take into account the view of the Rambam that there may be an issue of me'ammer.

According to this, when fruits are scattered inside the house, there is no problem to gather them, assuming they are scattered in one room, not in a large area. This is the implication of the Mishna Berura (340:37), who seeks to explain why the Shulchan Arukh (340:9) describes collecting items in their mekom giddul as "forbidden" (a term usually employed for rabbinic prohibitions) instead of noting that one is "liable" for the act (the term used for Torah prohibitions):

The reason that the Shulchan Arukh uses the terminology of "forbidden" is to indicate that when they are not in their mekom giddul, e.g., fruits scattered in the house, there is not even a [rabbinic] prohibition to gather them together.

Indeed, if the produce is scattered in the house over a large area, there is a problem to gather them normally. In this case, if the produce disrupts the order and cleanliness of the house, it appears that it is possible to gather it with a squeegee or a broom. In this case, the gathering is not done for the produce, but in order to clean the house, and there is no reason to forbid it. After the fruits have been gathered and centralized in one place, it would be permissible to gather them together into a vessel, since now they are no longer scattered.

COLLECTING CANDIES IN THE SYNAGOGUE

In many communities, the custom is to shower a groom or bar mitzva boy with nuts, candies and the like after he is called up to the Torah on Shabbat. Some communities have a similar practice on Simchat Torah. As the treats are sometimes scattered over a large area, collecting them may raise an issue of me'ammer. Nevertheless, the Eliya Rabba (335:5) advocates allowing the practice:

On Simchat Torah, we are accustomed to scatter fruits, and the children collect them and put them in baskets and boxes; since we do it for joy, there is no objection.

In other words, the prohibition is essentially because of tircha, and since gathering the candies is part of the celebration, and children view it as a happy activity rather than a chore, there is no reason to forbid it.

Therefore, one is allowed to collect candies or nuts which are thrown in the synagogue at a groom or bar mitzva boy.

Conclusion

We may summarize the principles of the melakha, as we have seen them over the past two shiurim, as follows:

1. The Torah prohibition of me'ammer applies when one gathers grain, produce or various giddulei karka in their mekom giddul (field, orchard, garden, etc.), and this is the completion of the melakha of ketzira.
2. The Sages forbid gathering non-giddulei karka in their mekom giddul as well, because this seems like me'ammer. Therefore, it is rabbinically forbidden to gather salt from a salina and turn it into one mass or to gather eggs from the chicken coop.
3. In terms of the melakha of me'ammer, there is no prohibition to gather things which are scattered if they are no longer found in their mekom giddul or if they have been changed from their natural state — for example, by grinding or cooking.
4. It is forbidden by Torah law to take fruits and press them together into one mass, e.g., to string figs together or to gather them in one mass. This prohibition is the tolada of me'ammer; it extends beyond the mekom giddul, since there is the creation of a new entity. However, the prohibition relates only to giddulei karka in their natural state.
5. It is forbidden to make a necklace from gems or from other giddulei karka; however it is permissible to make a bead necklace for children out of non-giddulei karka or cooked sweets and the like, if it is done in a playful, non-professional way and the strings are tied in a permitted manner. If a regular necklace has come apart, one may not re-string the parts, even without tying the ends, because of tikkun keli.
6. There is a rabbinic prohibition to gather produce scattered over a great area in a yard or garden, since this raises issues of tircha and uvdin de-chol. However, one may gather the produce one-by-one and eat it.
7. One may gather produce which is scattered within the house. If the produce is scattered throughout a number of rooms, one must clean the house using a broom. Thus all of the fruits will be gathered in one place, and it will be allowed to gather them into a vessel.
8. It is permissible for children to gather candies or nuts which are thrown at a groom or a bar mitzva boy, and one need be concerned neither about me'ammer (because this is not their mekom giddul) nor about tircha (as this is joy for the children).

[1] There are those who understand the view of the Rambam as follows: there is never any liability for the melakha of me'ammer unless one joins the fruit together as one mass. Thus, for example, the Maharach Or Zarua writes (Responsa, Ch. 214): "Me'ammer — I do not know how to define it! Does it mean only gathering stalks together, even without tying them as one bundle — is that me'ammer? Or is it not me'ammer until one ties them together as one bundle? The language of omer seems to imply that it cannot be called an omer until it is tied… and this is what the language of the Rambam indicates… And according to this, if one gathers fruits together and does not make them into one mass, this is not me'ammer, and gathering eggs together is also not immur… As for Rava's statement, 'One who collects salt out of a salina is liable because of me'ammer,' I believe that the way is to gather salt from where the water evaporates and then press it together so that it forms one piece; it may be that even without pressure, just by piling a large quantity together, it becomes one piece."

Indeed, the simple meaning of the Rambam's words is that only by actions akin to sticking figs to each other do we require the creation of one mass; gathering stalks in their mekom giddul is forbidden, on the other hand, even if one does not tie them as one bundle, as noted above.

[2] The Ma'aseh Rokeiach has an additional approach, aside from the one cited above, which is more in keeping with the Rambam's ruling (8:6): "One who gathers figs and the like… because this is not like the other examples of me'ammer; here one needs to have intent for the melakha in order to make a ring or to make holes in the figs and string them together, because this is skillful work, and there is no logical reason to distinguish" between mekom giddul and elsewhere. In other words, this act is considered melekhet machshevet and skillful work whether it is done in the mekom giddul or not, since it requires intent and attention, and it is not simply the transportation of fruit from one place to another.

[3] According to this approach, the Torah prohibition of me'ammer applies to any case in which one binds a number of plants together by forging a significant connection; according to the explanation of the Mishna Berura cited above, the prohibition applies only to items which are usually strung together in the house, such as figs, but not to other species. There may be a difference between the views in a case in which one joins fruits or vegetables together in one mass with a significant connection, but it is not very common to do this in the house. Yet, this is an uncommon occurrence, as it is rare that one binds fruits or vegetables together in the house in such a manner.

[4] If one holds a number of fruits in one's hand, it makes sense that there is no prohibition in this, because there is nothing which truly unites them; they are merely being held temporarily in one's hand, as explained by the Ketzot ha-Shulchan (Ch. 146, Baddei ha-Shulchan, 49:17). Indeed, we will see below that the Rambam (21:11) rules that there is a rabbinic prohibition to use a basket to collect scattered fruits in the yard, lest one come to press them together with one's hands. This implies that one violates me'ammer by using one's hands alone. However, it is clear that the concern is that one may press the fruits together with one's hands until they form one mass; there is no problem in the very fact that the fruits are held in one's hands.

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.