

HALOCHOSCOPE ^{TOI}

May crutches be adjusted on Shabbos or Yomtov? In cases where this would be forbidden, is one permitted to walk in the street with the crutch?

The issues:

(A) Boneh and Sosair Bekeilim, the *Melachos* of construction and demolishing with regard to utensils; **Makeh Bepatish**, the *Melacha* of completing the manufacture process of an item; **Tikun Kli**, fixing or repairing something

(B) Hotza'ah, carrying in public on Shabbos, with regard to crutches and shoes that do not fit exactly

(A) Boneh and Sosair on Keilim; Makeh Bepatish; Tikun Kli

Constructing a utensil always involves some activity forbidden on Shabbos. For example making a metal utensil involves melting iron, which in turn involves kindling fire, etc. In addition, Rabbinical prohibitions might apply. In some cases no *Melacha* is involved at all, and the adjustment might be permissible.

The first three issues in this section heading are Scriptural *Melachos* often involved in constructing utensils. *Boneh* and *Sosair*, building and demolishing, are normally associated with construction and demolishing anything. *Makeh Bepatish*, literally, banging a hammer, refers to the finishing touches put on an item, such as banging out the dents in a finished metal pot.

Boneh applies to building structures attached to the ground. *Sosair* applies to demolishing them. The *Melacha* applies to any amount of building. Even if one added a blow to a nail driven into a wall, or turned a screwdriver in a screw, this would involve the *Melacha*. According to some Poskim this involves a *Tolda*, sub-*Melacha*, called *Kodai'ach*, boring a hole. Others debate the definition of *Kodai'ach*, to determine whether it refers to boring a hole and leaving it empty, for later use, or to boring the hole with a nail, which will remain in the wall.

Sosair also applies to a small amount of demolishing, such as stripping some paint. *Sosair* is only considered a Scriptural *Melacha* if it involves a constructive purpose, usually to build in its place. Destructive *Melachos* are not forbidden Scripturally. Thus, if one simply demolished an old house, he would not be liable for the punishment or to offer the sin-offering. However, it is still forbidden Rabbinically. Real *Sosair* would involve removing some bricks from a wall to

make room for a window or door, and similar situations. Many commentaries point out that one need not have a constructive building motivation. If the Melacha is positive in another way, such as to access what is behind the wall, it is not *Mekalkel*, destructive, and is Scripturally forbidden.

With regard to *Keilim* the Talmud debates whether or not these Melachos apply. The conclusion is that Boneh and Sosair do not apply to Keilim. However, many Poskim qualify this. While Boneh and Sosair apply to structures attached to the ground in any small amount, they do not apply to Keilim in this amount. However, building or fashioning a total Kli does involve Boneh. Thus, finishing a Kli could involve both Boneh and Makeh Bepatish. Other Poskim maintain that Boneh and Sosair never apply to Keilim. An example of this debate surfaces in the case of screwing in a hinge to repair a door to a chest. The Talmud forbids repairing the door, *Shema Yiska*, lest one tighten the screw. One view considers *Tokel'a*, tightening, on a Kli, Makeh Bepatish. the other view considers it Boneh, though those who follow this view might agree that it also involves Makeh Bepatish.

According to this reasoning, Sosair should also apply to Keilim in this respect, i.e., to totally demolishing a Kli or to partially demolishing a complete Kli. However, Sosair only applies when there is a constructive result from the demolishing. In neither of these instances does a constructive purpose result. One could make a minor break in order to be able to perfect the Kli. This is not the finishing touch, and does not qualify as the type of Melacha that this view would include in Boneh. Nonetheless, many Poskim maintain that Sosair of a total Kli is Scripturally forbidden. Therefore, they consider breaking a whole Kli a Scriptural Melacha of Sosair. It would still be contingent on a constructive result from the break. Other Poskim maintain that Sosair can not apply to Keilim except where the act of demolishing would actually cause a Kli to be completed. This way, Sosair was definitely involved, and it is even possible that Boneh would be involved, albeit indirectly.

A case debated by the Talmud both illustrates the issue and relates it to the case under discussion here. A shovel handle is wedged into a shovel. It is then secured to the shovel by a little dowel or peg. Putting this peg in completes the Kli. One view considers it Boneh, the other, Makeh Bepatish. Some attribute the debate among the Poskim on building a complete Kli to which Talmudic opinion to follow in this debate. The commentaries also discuss whether or not the view considering it Boneh also makes the violator liable for Makeh Bepatish, as discussed earlier. The Poskim who consider demolishing a complete Kli a violation of Sosair, suggest that this would apply to removing the peg to replace it with a new one.

Three other cases discussed by the Talmud could apply in our situation. The Talmud permits returning removeable shutters of a cupboard in certain instances (such as when no screwing is involved). The dictum that no concept of Boneh applies to Keilim is cited. Assembling a lamp made of parts is permitted for the same reasons. Both of these Keilim are meant to be taken apart and reassembled. the Talmud also discusses portable cots that require assembly. While filling a pillow or threading laces on a shoe poses a problem of Makeh Bepatish, if these fell out on Shabbos they may be returned.

Rabbinically, demolishing a structure with no intent to build is also forbidden. This could be included in one of two categories. It could be viewed as a Rabbinical form of Sosair, or, as part of the general prohibition against Mekalkel. The Poskim conclude that even if one includes destructive demolishing in a Rabbinical form of Sosair, this would never apply to Keilim. Since Boneh can only apply to a complete Kli, Sosair, even Rabbinically, could not be applied to partially demolishing a Kli.

Tikun Kli means fixing a minor defect or break in a Kli. It could be a Scriptural Tolda of Makeh Bepatish, or, sometimes, a Rabbinical prohibition of *Nireh Kimesaken*, extended from the Scriptural one.

In our case, the issues are whether unscrewing the pegs on a wooden crutch touch on Sosair; whether screwing them back in a different position involve Boneh or Makeh Bepatish; whether these activities involve Rabbinically forbidden Tikun Kli; and whether the same would apply to metal crutches, which are not adjusted with screws but with pegs on a spring.

With regard to unscrewing the pegs on a wooden crutch, it would appear that this does not demolish the entire crutch, even though it is done to repair the crutch. Therefore, it can not involve Scriptural Sosair. Since nothing constructive results from the simple activity, it would not involve Tikun Kli either. However, screwing it back into the crutch is *Tokeia* in quite a pure form. This involves Boneh according to one view, and Makeh Bepatish according to the other. It is practically identical to securing a shovel handle. The only possible dispensation is that the crutch is made to be adjusted, with many holes. The shovel handle is not meant to be adjusted. However, the crutch is only adjusted to size, and not made to be dismantled. The portable lamp and bed are regularly dismantled. A collapsible cane would be similar to the items the Talmud permits reassembling.

The metal crutch seems to be less serious. There is no screwing of pegs, and they are not wedged in tightly. They are held in place by a spring, and can easily be pushed back into the hole. The adjustable part of the crutch slides up and down,

but is not meant to be removed at any time. Thus, while the adjustment is not part of its regular use, it should not involve Boneh, (or Sosair), or Makeh Bepatish. However, since the adjustment is made for the long term, it should resemble tuning a musical instrument. Though this is not forbidden Scripturally, it is forbidden Rabbinically as Tikun Kli. Nonetheless, one could argue that the graduations are made on the crutch so that one can adjust them as they are used. This would make the crutch resemble a Kli made to be dismantled and assembled regularly. The lamp made of pieces is also left intact while used. Yet assembling it does not involve any of the aforementioned Melachos.

Accordingly, it is advisable to adjust a metal crutch in an unusual manner if this is necessary. [See Shabbos 31b 47a-48b 74b 102b-103a 122b 146a-b eruvin 35b-36a Beitza 10a 11b 22a 33b, Poskim. Rambam Shabbos 10:13, commentaries. Tur Shulchan Aruch Orach Chaim 314:1, commentaries.]

(B) Hotza'ah on the unadjusted crutch

Two presumptions are necessary to permit the use of crutches outdoors. First one must ascertain whether removing them from his private domain to the street involves the Scriptural form of *Hotza'ah*, i.e., lifting something up in a private domain and putting it down in a public domain. This could even apply if one does not let go of it in the public domain. In addition, moving it within the public domain for short distances involves Rabbinical *Hotza'ah*. Second, if the crutch could be considered similar to one's shoes, because they are indispensable for walking and are like clothing, one may use them outdoors.

In our case a new issue arises. One may not walk outdoors wearing a shoe that is too big. It might fall off and he will carry it home. Does the badly adjusted crutch fit the same category? We have already presumed that the patient can not walk without the crutch, or he would not be permitted outdoors with it in the first place. Thus, whether it is too small or too big, he will use it anyhow, preferring to risk getting sore in other parts of his body. Accordingly, there is no concern that he will stop leaning on it and carry it home. [See references to *Halochoscope* IV:6 B. Shabbos 141b, Tur Sh. Ar. O.C. 301:7.]

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