

HALOCHOSCOPE

This week's question:

In light of current events in Pittsburgh, we will discuss a subject that has been partially covered in past issues. Much of the material here was covered in Volume II Number 10, Volume III Number 23, Volume V Number 7 and in Volume X Number 30. Due to different details, some new material was added. While we will try to address the issues, it is important to ask your own Rav for direction. In Halochoscope the discussion is mainly for informational purposes.

Someone requires electric power for cooking, and the power is off before *Shabbos* begins. May he leave a pot on the stove and wait for the power to come on on *Shabbos*, cooking the food during *Shabbos*? If the food is cooked, but left there to stay hot, may one rely on the power coming on during *Shabbos*?

The issues:

- A) *Bishul*, cooking on *Shabbos*; *Hav'arah*, kindling fire on *Shabbos*
 - B) *Shehiya* and *Hatmana*, Rabbinical ordinances forbidding processes before *Shabbos*, instituted to prevent intervention on *Shabbos*
 - C) *Maasei Shabos*, benefitting from forbidden activities done on *Shabbos*
 - D) *Bishul Akum*, is there an issue of food cooked by a gentile, since the power was turned on by a gentile worker?
 - E) *Sha'as Hadechak*, dispensations for emergency situations
- A) *Bishul and Hav'arah*

Cooking on *Shabbos* with fire or its secondary heat is a Scriptural *melacha*. While direct sun heat is permitted, secondary solar heat is forbidden Rabbinically. Thus, all electric heat would be forbidden to use for cooking on *Shabbos*. A glowing flame is not necessary for the *melacha*. A *kli rishon*, hot pot removed from its heat source, can still cause Scripturally forbidden cooking.

Kindling a fire involves *hav'arah*, including activating an electric appliance. Some maintain that an appliance that does not produce a glow does not qualify as Scriptural *hav'arah*, but as Rabbinical. Others maintain that there is a separate issue of *boneh*, construction, when the circuit is completed, despite the absence of *hav'arah*.

Cooking raw food to an edible state is forbidden. This is a third of its process, according to most poskim. The poskim debate whether food already cooked to this level can still be considered cooked further, and whether one who then cooked it the rest of the way is liable. Anyone involved in the initial process, including placing it on the heat, adjusting the flame, stirring it, bringing it closer or covering the pot, is liable.

Food that can be eaten raw is also forbidden to cook. However, there is a minority view that considers it a Rabbinical ordinance. Cooked food can not be cooked again. The constructive object of the *melacha* has been accomplished. Many poskim consider cooked liquids raw. Recooking them could be forbidden Scripturally. Rabbinically, one may not place fully cooked hot food on the stove on *Shabbos*. This is *chazarah*, accord-

ing to many a Rabbinical extension of *bishul*. If the heat source has been concealed and the food was removed with intent to return it, and is still in one's hands, it may be returned. [See Shabbos 36b-42b, Poskim. Tur Sh. Ar. OC 318. 253:2, etc, commentaries.]

B) Shehiya and Hatmana

A number of Rabbinical decrees were instituted to prevent unintentional *hav'arah*. Most notable are *shehiya* and *hatmanah*. *Shehiya* forbids uncooked or undercooked food on a stove right before *Shabbos*, without enough time to finish cooking by *Shabbos*. The food is needed for the evening meal. If left alone it will be ready in time. There is concern that '*shema yechateh*', one might be tempted to stoke the fire. *Hatmana* forbids wrapping fully cooked food before *Shabbos* in material that increases heat, such as certain types of hay. The concern is that one might use hot ash, which, in turn might lead to *shema yechateh* to maintain the temperature. *Hatmanah* in something that does not add but maintains heat, is forbidden on *Shabbos*. The concern is *shema yarsiach*, one might be tempted to heat the food first - *bishul*. This *hatmana* is permitted on *Erev Shabbos*. Other things were Rabbinically forbidden on *Erev Shabbos* out of concern that they might be done on *Shabbos*. We must determine whether this concern affects our case.

The Talmud discusses placing wool in dye to continue dyeing on *Shabbos*. Having avoided *shehiya*, there is a second concern of *shema yagis*, one might be tempted to stir it. This is part of the cooking (and dyeing, a separate *melacha* in its own right) process. According to some it applies even to fully cooked food. Some explain, this is because it is a valid *melacha* in its own right, a sub-category of *bishul*. It also applies when removing some material from the pot while it is on the stove.

The standard remedy to avoid these decrees is to cover or remove the coals. Some say that reducing the effectiveness of the heat makes it less like *hatmana*. Most consider it a *heker*, reminder. It reminds one that it is *Shabbos* and stoking the fire is forbidden, or it shows that the one placing the pot knew of the issue. He made a conscious decision to leave everything alone. Thus, partially cooked food could be left on this way. *Hagasah* does not seem to arise, probably due to the *heker*. There is a Talmudic debate on whether *shehiya* applies after the food is minimally edible (cooked a third). Ashkenazim follow the lenient view, presumably because there will be no temptation to stoke it anymore.

If the food will be raw at the onset of *Shabbos*, and will be cooked by the fire coming on during *Shabbos*, the above concerns arise. A precedent was set before electricity, by the scholars of Frankfurt. They devised a way to brew coffee on *Shabbos* morning by lighting a long fuse before *Shabbos*. In the ensuing controversy, some permitted this. Later commentators theorized on the measures taken to avoid the problems. They include possibility of a '*blech*'-type *heker*, or the elaborate nature of the arrangement. In any event, a *heker* would be required. This would be the only way to prevent adjusting the flame or removing food before it is cooked. [See Shabbos 18b 34a-b 36b-38b, Poskim. Tur Sh. Ar. OC 253-4 257 318, commentaries. Chazon Ish 38:2. Tzitz Eliezer II:6 VII:16-18 XII:91. Igros Moshe OC IV:60 74:23.]

C) Maasei Shabbos

One may not benefit from positive results of a forbidden activity on *Shabbos*. For the violator or the intended beneficiary it is forbidden for a longer period. If done intentionally, the benefit is forbidden to them forever, and to others until *Motzai Shabbos*. If it

was unintentional it is permitted to them after *Shabbos* and to others immediately. If one asked a gentile to do a *melacha* it is forbidden until enough time elapses for the result to be achieved after *Shabbos*. Our case should be problematic.

A gentile may reheat an oven for people who are cold. When he does so, one may ask him to place a cooled down pot next to the oven beforehand. Indirectly, he heats the food. In our case, the electricity is being turned on for many other uses. However, the food is using the electricity as a primary user, and the food might be raw.

The Talmud discusses the contraption of the men of Teveryah. They fed a cold water pipe through the hot springs and used the water heated on *Shabbos*. The Rabbis forbade use of the hot water as part of the prohibition against *chamin shehuchmu beshabbos*, water heated on *Shabbos*. This is generally understood to be *maasei Shabbos*. However, there is some indication that it was only forbidden due to the additional Rabbinical ban on bathing. This was, in turn, based on the concern for freshly heated water. Some say that this would only be forbidden because it involves *hatmana*. Ironically, by placing the food directly on the element before *Shabbos*, one avoids this aspect.

Some poskim forbid using timers to arrange to cook food on *Shabbos*, based on the aforementioned sources. However, in those cases, one made clear and definite arrangements. In our case, no arrangements could be made. It is unknown when the electricity will be restored. This might mitigate the issues. [See Shabbos 38a-39b, Chulin 14-15, Poskim. Tur Sh. Ar. 318: 1 3 (MA 10) 253:5, commentaries. Tzitz Eliezer VII:17:2.]

D) Bishul Akum

[*Nochri* means gentile. *Akum* is the acronym in Hebrew for '*ovaid kochavim umazalos*' one who worships stars and constellations. This was the self-censoring term used by Jewish printers to avoid having a passage expunged. It would look as though the Talmud really referred to ancient pagans, rather than a non-Jew. Thus, the two terms are used interchangeably, and most modern literature uses them both.] *Bishul akum*, food cooked by a gentile, is Rabbinically forbidden. Two reasons are given for this prohibition: (i) It is a precaution against eating non-kosher foods that a gentile might mix in with the kosher foods; (ii) It is a preventive measure against socializing with gentiles, that could lead to intermarriage.

The prohibition is limited to foods that were not edible before being processed by the gentile, such as raw fish. The food must also be fancy enough to be used at a royal table. This is the type of food that one might serve when inviting a friend. This excludes cereals and some very plain foods, such as beans. According to some, the food must also be the type that would be used as a dish to be eaten with bread. This excludes fancy snacks and desserts. These three conditions are known as: *aino ne'echal kemos shehu chai, oleh al shulchan melachim, lelafais bo es hapas*.

Bishul akum is forbidden even when cooked for commercial purposes. Many contemporary poskim permit *bishul akum* on mass-produced items. The factory is far less personal than even a professional chef or food service. In our situation, there is even less contact with the gentile causing the food to cook. Furthermore, the gentile restoring power has no intent to cook the food. The Talmud says that if a gentile heated with no intent to cook, and a Jew had left food that got cooked, it is permissible. If the gentile knew about the food, some versions of the text indicate that the food is forbidden. The poskim debate whether one must follow the stringent view when there is no major loss. However,

some poskim point out that this only applies when the Jew left the food with no intent to cook it. If the Jew had such intent, even if he knew that the gentile would be kindling the flame, it is permitted. There is no difference between the Jew placing the food there before or after the flame was kindled by the gentile. Accordingly, there is no issue of *bishul akum* in our situation. [See Avoda Zara 35b-38b, Poskim. Tur, B.Y. Sh. Ar. YD 113:5-11, Mateh Yehonasan, Ar. Hash. 113:6-7 29, Darkei Teshuva 42 43, commentaries.]

E) Sha'as Hadechak

Halachic decisions are based on a view that is considered the majority or consensus. The Talmud permits relying on minority lenient opinions in certain special situations. The usual two such instances are *hefsek merubeh* and *sha'as hadechak*. A common example of *sha'as hadechak* is preparations for *Shabbos* that have raised a *halachic* concern. Some poskim rely on these only after the fact. They do not permit doing something initially based on these dispensations. However, when *Shabbos* is involved in situations such as ours, some poskim maintain that it is considered a *bide'eved* situation. Accordingly, minority views and leniencies could be invoked in our case. [See *Shabbos* 154b, *Nidah* 6b 9b, Poskim. E.g. MA 161:4.]

The first would be the view of the scholars of Frankfurt. In their case, totally raw coffee is cooked from scratch on *Shabbos*. True, the fire is kindled beforehand, but this was only because there was no other way to do it. There was no actual *maasei Shabbos*, activity done on *Shabbos* itself. In our case, the consumer is not asking the gentile to restore the power, and certainly not to cook. The Talmud permits using a ramp built by a gentile on *Shabbos* for his own use. Accordingly, it is possible that our case is even more permissible than Frankfurt. Second, it might be permitted to ask the gentile to restore the power. Some of the uses could be the needs of the ill or the public. The cooking appliance comes on as an indirect result. Third, assuming that the power can not be relied on for the evening meal, the food will only be prepared in time for the day meal. In such instances, *shehiya* does not apply. To avoid *shema yechateh* and *shema yagis* one should make a clear *heker*, such as taping over the lid and the controls.

On the Parsha ... *And it shall not cleave to your hand, anything of the condemned property, in order that Hashem's anger is turned back, and He will give you mercy and have mercy on you and increase you, as he swore to your forefathers ... [13:18]* The verse connects the prohibition to benefit from the condemned city to the ability to have mercy. The commentaries explain, the result of having to kill off an entire city are a loss of mercy. While the simple reasons to forbid benefit are that it would then leave some connection to the evil, there might be another reason. If one were permitted to benefit from the 'spoils' of the city, he might entertain the thought that there is 'profit' to be made from this. The entire attitude towards punishing the city would no longer be *leshaim shamayim*. Hashem's anger would not abate. People might get a mean streak and look forward to doing it again. People will not try to prevent it from happening to another city. Forbidding benefit ensures that it will not happen again, and people will have mercy.

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