

HALOCHOSCOPE ^{TOI}

A baby is asleep, lying on his mother. His mother wishes to get up to eat *Seuda Shlishis*, the third meal on Shabbos. Should she wake the baby up by getting up from her position, or should she remain in this position and satisfy herself with cookies for this meal? What would the ruling be if it was *Melave Malka*, the meal following Shabbos, that she wished to eat?

The issues:

(A) *Seuda Shlishis*

(B) *Melava Malka*

(C) Possible restrictions on waking up a sleeping person for personal benefit

(A) *Shalosh Seudos*

The Mitzvah to enjoy Shabbos obligates us to eat bread-based meals. The Torah refers to this regarding the double share of *Mohn* which fell on Erev Shabbos. Moshe Rabeinu tells the Jewish people “*Ichluhu Hayom*” — eat it today [Shabbos]. This is taken as a Mitzvah to eat on Shabbos. In the *Navi* (Yeshaya 58:13) the Mitzvah of *Oneg*, delighting in Shabbos, is mentioned. Some consider this Mitzvah Scriptural, or on a Scriptural level, explained by the *Navi*. Others consider it *Midivrei Kabala*, from the prophets, more serious than a Rabbinical Mitzvah, though not on quite the same level as a Scriptural one.

The reference to eating the *Mohn* on Shabbos uses the word *Hayom*, today, three times. The Talmud derives an obligation to eat three bread meals on Shabbos, at night, in the late morning, and a third one in the late afternoon. This *Seuda* became known as *Shalosh Seudos*, meaning three meals. The first two are usual. The third symbolizes the Mitzvah. Some say that the bountiful reward promised to one who keeps this Mitzvah is most applicable for the third meal. Some consider the obligation Scriptural, most consider it Rabbinical, and a minority view it as extra piety. *Kabalists* attach special significance to this *Seuda*. Most *Poskim* conclude that *Seuda Shlishis* must be eaten in the afternoon. Some maintain that it must follow *Mincha*, which is anyhow the ideal.

Since the bread requirement is based in part on the *Mohn*, the question is raised whether one fulfils his obligation to eat *Seudos* of Shabbos with *Mezonos* foods. The *Poskim* cite the language the Torah uses regarding the *Mohn* for

Shabbos, *Hu Halechem*, this is the bread, as proof that the Seuda should be made up of *Lechem*. The word used for the obligation for *Bircas Hamazon* is also *Lechem*. The two are thus compared. The Seuda eaten on Shabbos must be one for which one recites Bircas Hamazon. One commentary explains, the idea is to recite Bircas Hamazon, with special mention of Shabbos, because the Seuda is for Shabbos. Mention of the additional Shabbos insert in Bircas Hamazon is essential, such that its omission necessitates repeating the whole Bircas Hamazon. However, if omitted from Bircas Hamazon at Seuda Shlishis, it need not be repeated. This implies that bread at the third Seuda is not as compulsory as at the main two Seudos.

Lechem requiring Bircas Hamazon can include Mezonos foods, because they could actually be used in place of bread, with *Hamotzie* and Bircas Hamazon recited for them. However, this applies to a Seuda setting. Our question is whether their use as snacks fulfil the Seuda requirement. Their Brocha Acharona is *Me'ein Shalosh* with a mention of Shabbos in it. The Poskim discuss whether omission of this addition invalidates this Brocha Acharona as it does to Bircas Hamazon. They hinge the debate on whether this food is acceptable as Seuda for Shabbos. Some Poskim specifically permit cake, meat, or even fruit and other delicacies to be used in place of the third Seuda, since it is not the type of fancy food eaten during the week. [See Parshas Beshalach 16:25. Shabbos 117b-119a, (Mordechai, Bigdei Yesha) Poskim. Bechoros 2b. Brochos 44a (Tosafos) 49a-b. Rambam Hil. Shabbos 30:1, 9. Tur Shulchan Aruch Orach Chaim 243, 291 (Levush. 678, Taz 2). commentaries. Teshuvos Chasam Sofer O.C. 168. Kehilas Yaakov, Brochos, 16.]

(B) Melava Malka

Melava Malka means escorting the [Shabbos] queen as she leaves. This is part of *Kavod*, honoring, Shabbos. The Talmud says that one must "set his table" on Motzoei Shabbos. Special food must be reserved to be served at this meal, even if very little will actually be eaten, since people are full. There is a medicinal quality to hot food or drink and to hot bread eaten then. *Zemiros* should accompany this Seuda just as they do when Shabbos is ushered in. Some say that one may fulfil this Seuda as late as Tuesday, but most Poskim suggest eating it as close to Shabbos as possible, and to try to have it before midnight. Some Poskim point out that this Seuda is not obligatory, unlike the Seudos on Shabbos, (though all Rabbinically ordained). This one is not connected to a Passuk. Nonetheless, it is considered a Mitzvah. Many more Poskim consider other foods, including cake, acceptable for this Mitzvah. [See Shabbos 119b, Poskim Tur Sh. Ar. O.C. 300. Taamei Hamin-

hagim (Kuntres Acharon) 125. Teshuvos Vehanhagos II:166.]

(C) Depriving others of their sleep

Apart from the general directives of *Derech Eretz*, common decency, there is a specific problem with depriving others of their sleep. In recent times this has come to be known as *Gezel Sheina*, stealing sleep. If one steals from his fellow, he will have to repay him later. Repayment gives one recourse to correcting his wrongdoing. The sin will still require repentance for true atonement. However, the element of *Avaira Bain Adam Lachavairo*, civil injustice, can be righted. The Talmud describes forms of theft that can not be righted in this way, such as *Geneivas Daas*, tricking or deceiving, which can not be repaid. If one considers sleep disturbance as theft of an intangible commodity, there is no repayment. Adults can forgive a monetary obligation. There is a question whether a non-monetary wrong has the same degree of forgiveness. A minor can not forgive even a monetary obligation.

However, the Talmud discusses sleep disturbance in other categories. One refers to the rights neighbors have to restrict the activities done in their neighborhood. If they can show that the activity produces too much noise, disturbing them from their own activities, including sleep, they have a right to object to it. This is partly based on the idea that the neighbor doing such activity is thus preventing his neighbors from their own normal use of their property. This is akin to stealing their property from them. The Talmud distinguishes between the noise of customers from another neighborhood, which is restricted, and noise of manufacture, which is insufficient cause for objection. Some say that this applies only if it was done at first without the neighbors' protest. Others maintain that this applies even over an initial protest, since one has a right to do these activities in his own home. An ill neighbor who is harmed due to the noise always has a right to protest. Some point out that there is a Talmudic precedent for payment for pain, though it is not enforceable in modern times. Accordingly, one could try to put a value on the pain and to appease the victims for tolerating it. If the activity is Torah study with children from other neighborhoods, there is no right of protest. Many Poskim extend this to any Mitzvah activity.

A second instance of disturbing sleep occurs in the case of respect for one's father. The Talmud relates how a gentile exemplified this Mitzvah, not disturbing his father's sleep, thus incurring a monetary loss. The Poskim maintain that the Talmud refers to a case of loss of profit, rather than loss of capital. Furthermore, it is due to the potential pain of the parent that one should absorb this loss. This

implies that for one's own loss, he may disturb another person, unless he is required to honor the person he would be disturbing. Yet it also makes it clear that this action is considered inflicting pain. One may not even cause himself pain, and certainly may never cause it to others.

However, in regard to a Mitzvah, we find that the Poskim suggest waking members of one's household to kindle *Chanukah* lights in their presence. [It appears that this applies even if they have fulfilled their own obligations already. They may be awoken to help the latecomer fulfill his obligation.] It is also recommended that if one member of a Minyan is sleeping, he should be awoken, despite the possibility of counting him in while asleep. [See Kidushin 31b Baba Kama 90b-91b Baba Basra 20b Shabbos 29b, Poskim. Tur Sh. Ar. O.C. 55:6, 278, Yoreh Deah 240:8 (Taz 10, Gr'o, Ar. Hash. 29) Choshen Mishpat 156:2-5 (Ar. Hash., Kesef Hakodoshim). Sh. Ar. Harav, Nizkei Guf Vanefesh 4.]

Accordingly, the polite thing is certainly not to cause deprive another of sleep. This might even be considered causing him pain. Though not punishable, this is forbidden. However, if the disturber is within his rights (such as in his own home), unless the issue is one of causing sickness, the sleeper does not seem to have a right to object to being woken up. Thus, it becomes a matter of proper behavior. Furthermore, to fulfil a Mitzvah one may actively wake another person up. Regarding some applications, a baby is considered on the same level as a sick person. However, sickness in our case applies to one who will get sick specifically due to noise or sleep deprivation. Neither apply to a baby.

Seuda Shlishis and Melava Malka are considered Mitzvos. One could argue that the urgency to eat Seuda Shlishis at the last minute is negligence on the mother's part. The baby should not lose out because of it. However, one is not expected to eat Seuda Shlishis early. Late afternoon is normal timing for this Mitzvah. Therefore, to eat a proper bread meal for Seuda Shlishis one may wake the baby up. The same is probably true of Melava Malka. Though eating cookies for Melava Malka is not the same as eating them for Seuda Shlishis, if one has the practice of eating bread, he should certainly continue it. However, the urgency to eat it immediately after Shabbos is not universally agreed. Furthermore, one could eat the cookies to satisfy this view. When the baby wakes up later one could wash for bread.