

HALOCHOSCOPE ^{TOI}

A slow cooker with chulent inside became unplugged. The food seems to have cooled down, when a small child plugged it in again. Assuming this was done with adult supervision or encouragement, may the hot chulent be eaten on Shabbos?

The issues:

In the last issue:

- (A) Bishul, cooking on Shabbos; Bishul Achar Bishul, re-cooking cooked food
- (B) Chazara, putting cooked food on to warm

In this issue:

- (C) Children doing Melachos; when these are done for adults
- (D) Maasei Shabbos, benefitting from Melacha done on Shabbos

So far ... The issues seem to be the following. Assuming that the electricity issue is not a Scriptural one, the child has not violated a Scriptural Melacha of kindling. This is based on the opinion of most Poskim that unless a glow is produced by the electricity there is no fire. Since the slow cooker does get hot, it is possible that the coils inside glow. If so, the issue is compounded. Even if there is no glow, one may not make an electric connection. This is assumed to be a Rabbinical form of kindling. Apart from the kindling issue there is an issue of cooking. If the food has liquid in it, some Poskim maintain that even though it is cooked once, reheating it is like cooking it again. Let us assume that we may rely on those who say that since it is mostly solid, we rule that Ain Bishul Achar Bishul. There is still an issue of Chazara. If the food had not yet cooled off completely, but was edible at that temperature, the pot could have been moved on to another permissible heat source. If it cooled down, one may not simply reheat it, especially in a fashion that could also serve as a normal manner of cooking. Now, the question is, the child having done all this, may the food be eaten hot by the adults?

(C) Children doing Melacha, especially for adults

The issue of benefitting from Melacha done by children is not discussed extensively. However, it is introduced in the discussion regarding asking children to do Melacha, and regarding preventing them from doing Melacha. A minor is not a *Bar Chiyuva*, old enough to be Scripturally obliged in Mitzvos. He could be old enough for *Chinuch*, training in Mitzvos. There could also be other restrictions on them, possibly even if they are very young. However, these could be Rabbinical in nature.

The first and obvious source is the Passuk directing one to observe the Shabbos

including his entire family. The Mechilta derives from this that one is commanded to stop his children from doing Melacha. This would be a restriction on a father. It would not mean that the child per se is forbidden, nor that one must stop any child other than his own. This source, however, is not cited by the Poskim.

The main sources are four Talmudic passages. In the first the Talmud debates preventing a child eating forbidden foods, and any other violation. In the second, a child wishes to extinguish a house fire. In the third, Kiddush is not said in Shul on Yom Kippur. Normally, a child would be given the wine to drink. A Child does not refrain from eating on Yom Kippur, but one does not wish to get him in the habit of drinking the wine of Kiddush on Yom Kippur in shul. The fourth is not cited as much. It concerns one stuck on the road as Shabbos begins. He may give his luggage to a gentile, or on a donkey. If a gentile is not available, but a deaf-mute and a minor are available, the Talmud cites two views on whom is the preferable one to carry it.

The classic case where the Poskim discuss using the services of a child is to carry something through the streets on Shabbos. This involves some other details, too complex for the discussion, such as which kind of domain the child is carrying through, into, or from. However, the discussion centers on one of the Talmudic passages. A case is introduced where a key was lost in the street. The Talmud debates whether a child may be sent out to "find" it and bring it inside. One view permits it, maintaining that one need not stop a child from doing the Melacha. The other view is undecided. In the course of the debate, the case of extinguishing is cited, where a father must stop his son from doing the Melacha. Here the Talmud suggests that if the child does it with the father's approval or to benefit him, the father must stop him. The Talmud also cites three apparently Scriptural cases where adults must prevent children from violation. However, in all of these the Talmud says that making the child do it, or actively helping him, is forbidden. The Poskim further qualify the passages, discussing differences between a father and other bystanders, and whether the children concerned are old enough for Chinuch. Some debate whether the Talmud allows for leniencies in cases of a Rabbinical violation as opposed to a Scriptural one. In addition, a major concern is whether the children do it for their own benefit or only for the benefit of the adults.

Some Poskim introduce the issue of Mitzvah needs, where one may apply certain leniencies with regard to the restrictions on asking a gentile to do Melacha. Most, however, forbid asking a child unless many reasons for leniency apply. For example, one may actually tell the child to take a Siddur to shul for his personal use, then when in shul the adult may also use it. In this case, the child is also doing something positive in terms of general Chinuch to daven. This would also only apply in streets that do not qualify as public places according to most Poskim.

However, there do exist more liberal opinions that permit more situations than these. Accordingly, there arises an issue with regard to using the results of such carrying. Though one may not necessarily fault those who practice leniency in telling the child to do it, one should not do so himself. However, benefit might not be restricted after the fact. Nonetheless, a Baal Nefesh, one who feels able to adopt stricter standards for himself, should not rely on this. He should resist using the item transported in this way. [See Shabbos 121a 153a-b Eruvin 40b Yevamos 103b-104a, Poskim. Tur, Sh. Ar. O.C. 266:3-6, 334:25 343:1 346:Taz 6, commentaries. Teshuvos R. Akiva Eger I:115 Chasam Sofer VI:13 Ksav Sofer O.C. 47. Minchas Shabbos 82:2.]

(D) If Chazara was already done; Maasei Shabbos

Our case does not involve carrying in a semi-private domain. However, according to our presumptions, the issues have similarities. The violations are apparently Rabbinical. It could be argued that the hot food is a Mitzvah. And the child will probably eat some of the hot Chulent himself.

There are sometimes unusually stringent rules on using items produced through violation of Melacha on Shabbos, known as *Maasei Shabbos*. Benefiting from the results could lower appreciation for the gravity of the violation. It could even encourage the perpetrator, or others, to try it again in the future. Thus, even an unintentional violator is sometimes penalized by not being allowed to benefit from the results. A deliberate violator might claim to have been unintentional. An unintentional first time violator might be deliberate the second time, and still claim to have been unintentional. Rabbinic institutions are often more likely to be treated lightly, and are thus sometimes bolstered by stronger *Maasei Shabbos* regulations.

Leniencies may be applied to allow some people to eat food cooked inadvertently on Shabbos (Scriptural), but not to food left on the heat before Shabbos to finish cooking on Shabbos (Rabbinical). One is unlikely to violate a Scriptural Melacha intentionally and try to cover it up. However, Rabbinic regulations are taken less seriously, and are indeed open to a cover-up. Some Poskim distinguish between inadvertent violation due to forgetting or negligence, and one due to ignorance, which is more excusable. Practically, this is an additional reason for leniency when it is anyhow applicable.

In practice, if one inadvertently violated Shehiya on food that was partially cooked, the food is forbidden to eat on Shabbos. According to some Poskim, it is also forbidden after Shabbos for the duration necessary to have finished its cooking. If the food was cooked, but thickened and improved due to the Shehiya, it is permitted. If one intentionally violated Shehiya, the food is forbidden whether it was only partially cooked, or even fully cooked but improving and thickening.

If true Chazara (on an open flame) was violated, the rulings are as follows: If a

gentile returned the pot for a Jew, it is treated like inadvertent Shehiya. If a Jew returned it, even inadvertently, it is treated like intentional Shehiya. If the food was not only fully cooked, but was getting overcooked as a result of the Chazara, the food is permissible to eat. The reason Chazara is treated more stringently than Shehiya is that Shehiya does not involve an act done on Shabbos. The pot is left on Erev Shabbos, and as Shabbos comes in Shehiya automatically happens. Chazara involves an act done on Shabbos itself.

Two important factors must, however, be considered. First, some Poskim maintain that if the food was fully cooked, and the Chazara was unintentional, the food is permitted to anyone but the person who did it. It might also be forbidden to members of his household, since it was done for them. Second, the stringent penalties only apply if the Chazara was done in a manner considered forbidden according to all opinions. If there is a dissenting view, we would not penalize *Bide'aved*, at least not if it was done inadvertently.

Placing a cold pot of solids on the stove probably involves Chazara. [If the pot was in his hands all the time, but cooled off quickly the ruling is less stringent. However, if the contents were liquid, due to *Bishul Achar Bishul*, this does not help.] This is what was meant by *Chazara*, or *Moshiv Batchila*. If it was indeed done, some Poskim forbid the food as long as it is warm from the Chazara. If it cools down to the point that one is not significantly gaining from the extra heat, even if it is still warmer than at the outset, it may be eaten. It is possible that in our case, since the pot was not moved to a new location with a flame underneath, but the present location was reheated, this might not constitute *Moshiv Batechilah*.

Other cases of Chazara violation are not discussed. The probable reason for this is that it is usually hard to find a case where all Poskim would agree that it is forbidden to do the Chazara in the first place. The only such case would be when someone took a pot off the stove before Shabbos, and returned it on Shabbos. He must have put it down on the floor, with no intention of returning it to the stove. Even in such a case, the lack of discussion by the Poskim indicates that they do not penalize *Bide'aved*, when this type of Chazara was violated. [See Shabbos 36b-38b, Poskim. Tur, Shulchan Aruch Orach Chaim 253:1-2 318, commentaries.]

In conclusion, one must presume that no Scriptural Melacha was violated, that the child did it for personal benefit, preferably the child is too young for Chinuch, the results involve some kind of Mitzvah, and that the parent did not directly help the child do the Melacha, in order to permit the warmed up chulent.