

# HALOCHOSCOPE

## This week's question:

Food from *nishloach manos* is often left over with too much to be eaten in a timely manner. Often people try to eat more than what is healthy. Others try to give it away to the poor, in many cases to non-Jews or to a non-Jewish food pantry. Some people just save it indefinitely, including selling the *chametz* products to a gentile before *Pesach*. Some people are uncomfortable with these arrangements. May one feed it to animals even if it is fit for humans? May one leave it to get old with the intent of burning or destroying it on *Erev Pesach*, or is this a form of *bal tashchis*? May one leave it to get old with the intention that if he has a need to eat it before it goes bad, he will?

## The issues:

- A) *Bal tashchis, bizuy vehefsed ochlin*
  - B) A discussion of some of the methods of disposal
  - C) *Biur chametz*; burning non-*chametz* that might be contaminated with *chametz*
- A) *Bal tashchis* [Excerpted from Halochoscope XXIII:38]

Wanton destruction of anything is forbidden. The Torah specifically forbids destroying a fruit-bearing tree. The Torah states a 'reason' for this prohibition: "For from it you will eat." The Torah adds another reason, that is interpreted in various ways: "For man is the tree of the field, to come before you in siege." The context of the passage is instructions on conduct while besieging an enemy. The trees might be used to build 'towers' to use in the siege. One explanation is to read this phrase rhetorically: "For is a tree a man, threatening you in the siege" or "... who should go before you to besiege?" Another explanation is to make an exception to the rule: "Unless the tree is used by men [presumably, to hide them], before you in the siege."

The Torah adds the words: "for from [the tree] you shall eat". Some consider this an additional positive *mitzvah*. One cannot be obliged to eat fruit if he is not hungry. The Torah must mean to add another violation when one destroys the tree. He makes it impossible to fulfill the commandment to eat from it.

The Talmud includes destruction of anything useful in the same prohibition. Many poskim maintain that they are all forbidden Scripturally. This includes hunting as a sport, destroying clothing to spite or in anger\*, wasteful use of resources, such as making a lamp burn more quickly than necessary, and the like. [\*There is a suggestion in the Talmud that anger provides a dispensation. The ripping allows the angry person to vent his fury without doing something worse.] Wasting or destroying edible food raises an additional issue of *bizuy vehefsed ochlin*, demeaning edibles. Trees are singled out such that even if the destruction is not wanton, it is forbidden. Thus, while one might have a purposeful reason to cut the tree down, such as the use of its wood, it is forbidden.

This *mitzvah* is based on an ideal that is fully understandable. Man draws his suste-

nance form the tree. Therefore, destroying it is foolish. It also displays a lack of appreciation and gratitude. It demonstrates a rejection of the kindness of Hashem, and counters the will of the Creator. It also reveals a lack of character refinement. When done in anger, it is likened to idolatry. Losing control to this point in a frustrating situation is a symptom of the lack of discipline, giving in to one's inclinations, that can lead to idolatry.

All methods of destruction, direct and indirect, are forbidden. One may not cut the water supply from a fruit-bearing tree, so that the tree will wither and dry up. The poskim discuss partial destruction. Some maintain that as long as one does not cut the tree down totally, it is not considered destruction.

**Derech hashchasa;** The Torah forbids *hashchasah*, destruction. The implication is that when the tree is cut down with a positive purpose the *mitzvah* does not apply. A practical case would be to remove a vine that is too close to other vines. It saps the nutrition of the others, and none of them can grow well. The Talmud also mentions a date palm growing in a vineyard. The dates taste better, but the productivity of the grapevines is reduced. The purpose of the vineyard is production of grapes. Thus, one may cut down the date palm. The Torah specifically refers to the permissibility of pruning a tree to improve its productivity during the first six years of the *shemita* cycle. It could be argued that failure to prune is a passive way to allow destruction of the fruit bearing capacity of the tree. A tree blocking a public thoroughfare, posing a hazard, must be cut back. This removal is a *mitzvah*. One may not usurp the right of the owner to cut it himself.

The Talmud allows cutting down a fruit tree if its wood is more valuable as building material than its fruit is for eating. Based on this, the question arises whether one may destroy the tree for indirect constructive purposes. The best known case is destroying it for the space, rather than the wood. The Talmud also discusses balancing one manifestation of *bal tashchis* against another. One may burn expensive furniture to keep warm, because *bal tashchis* of the body is more serious than wasting an inanimate object. Since the purpose of the destruction is constructive, it is not called destruction.

Another Talmudic dictum applies, even if there is no outright violation: "One should not pour out water from his cistern if others could make use of it." Thus, rather than wasting a resource, one should allow those who have a use for it to take it. [See Shoftim 20:19, Sifri, Panim Yafos, Shabbos 37b 105b 129a 140b Psachim 74a Yevamos 44a Kidushin 32a Bava Kama 91b 115b Baba Basra 25b-26a 27b Makos 22a Chulin 7b etc., Poskim, Chinuch 529, Rambam, Isurei Mizbaiach 7:3, (Mishneh Lemelech) Melachim 6:8-10 etc. Tur Sh Ar OC 171 223:6 YD 116:TZ:6 Darkei Teshuva 51, 348:1 349:4 CM 155:25-29 382 417:4, commentaries. Shulchan Aruch Harav Shmiras Guf Venefesh Ubal Tashchis 15. Sefer Chasidim Tzavaah 44-45. Yavetz I:76. Binyan Tziyon I:61. Beer Moshe V:133-135. Shevet Halevi VI:112.]

#### **B) Methods suggested**

**Achila gasa; achila shelo letzorech.** The poskim say that when one overeats he violates *bal tashchis* in two ways. He is considered wasting the food, because it is unnecessary to eat it. He is also harming his body, which is *bal tashchis degufai*. Some say this is not included in the violation of *bal tashchis*, but is included in a separate violation of *chovel begufo*, harming oneself. [The Talmudic reference in section A is not to be taken

literally.] The poskim raise an interesting issue: There is a practice known as "*taanis ho-Raavad*" whereby people train themselves to curb their desires and temptations by intentionally not finishing their food. The question is whether this *chumra*, self-imposed stringency, constitutes *bal tashchis*. On the other hand, by filling oneself when he could easily be satisfied with less is also *bal tashchis*. Some say that one should rather take less food initially, or refrain from a second helping. Some say the extra bits left over should be donated to the poor. In our case, stuffing oneself to save the food from being wasted is just the same as wasting it. Therefore, it is not a solution.

**Feeding animals.** The Talmud says feeding animals food fit for humans is considered *bal tashchis*. However, the poskim debate whether we follow this opinion. Accordingly, if the choice is to feed it to animals or to give it away to other humans, one should opt to give it to humans. If the choice is to feed it to animals or to possibly eventually throw it away anyhow, one should feed it to the animals. It should be noted that the *halachic* view is that animals will eat food that is no longer desirable or even edible for humans. One could keep it for a while, hoping to eat it, before giving it to the birds and the squirrels. As we shall discuss, if the person hopes to eat it, it would not be considered active *bal tashchis*. Even without this intent, it is passive, known as *shev v'al ta'ase*.

**Giving it to a food pantry.** *Lo sechanem*, the Torah forbids allowing heathens to live in *Eretz Yisrael*. From here the Talmud derives a prohibition against giving a free gift to a *nochri*. There are various dispensations, based on the term 'free'. If there is an ulterior motive, it is not a free gift. Thus, if one hopes to gain a favor in return, or if one wishes to assuage potential *aiyah*, enmity, it is permitted. What if one gives it anonymously, so the aforementioned gains are not present, but he does so to avoid *bal tashchis*? From the gentile's perspective it is a free gift. From the perspective of the donor, the ulterior motive is to avoid *bal tashchis*. This would seem to be acceptable. In addition, there is a requirement to include the poor of the *nochrin* when distributing *tzedakah* to Jewish poor, to promote peace. This might even help when done anonymously. If the poor are hungry, they are more likely to resort to violence in general.

Leaving it to rot. Passively leaving it to go bad does not seem to be included in *bizuy ochlin*. In terms of *bal tashchis*, it would appear to be excluded from *derech hashchasa*. However, whereas this works for trees, it does not necessarily work for food. It would mean that one never needs to preserve food. The Talmud debates what to do when a situation arises where *terumah*, priestly tithes, will be defiled. Should one actively defile a smaller amount, thereby saving it from passively defiling a larger amount. For *terumah* there is a specific Scriptural prohibition to forbid causing it to be wasted. The poskim maintain that cutting the water supply refers to actively diverting it, rather than refraining from watering it. Accordingly, the poskim maintain that there is no actual *bal tashchis* when passively allowing food to rot. There is still a midas *chasidus*, pious practice, to prevent this, similar to *tzadikim* who make the effort to save small jars. [See refs to section A. Terumos 8:8-9 Psachim 15a Taanis 20b Gitin 61a Baba Kama 90b-91b Avoda Zara 20a Chulin 92b, Poskim, Tur Sh Ar OC 171:1 MB11 (Dirshu 14) YD 151:11-12 251, commentaries. Aitz Hasadeh 13:1 6-7 16 14:1 15:1 notes 1-2 18:esp. 10-11 27:1-2 36:14 38:1 3 10. Bal Tashchis (R. Y.D. Cohen) 22:8.]

### C) *Biur chametz*

While wasting or destroying *tzorech mitzvah* can be debated, *biur chametz* is a clear *mitzvah* to destroy food. In other cases of *tzorech mitzvah* one might be able to fulfill the *mitzvah* without destroying the resource. In the case of *biur chametz*, there is no alternative. Some suggest that one could sell the *chametz* to a gentile. One could even give it away to a *nochri*. However, as we have explained, this does not always avoid the violation of *bal tashchis*. Furthermore, selling it might not fulfill the *mitzvah*. While it is true that one need not acquire *chametz* in order to destroy it, if one has *chametz*, he has a *mitzvah* to destroy it. Furthermore, by the time one destroys it, it is already forbidden to benefit from it. Therefore, one is not destroying something useful.


The Talmud appears to allow *biur chametz* before the time it is forbidden. A person traveling before *Yomtov* destroys it before he leaves. The poskim debate whether one who is able to burn it at the correct time may burn it early. Would this violate *bal tashchis*? Some say that if one can find people to eat it, destroying it early violates *hefsed ochlin* and *bal tashchis*. The Talmud even implies that one should feed it to animals after *zman achila*, before *zman biur*. This might not be a requirement or advice, but seems ideal. Others maintain that if one intends to burn it anyhow, he need not wait until the *zman biur*. Nonetheless, other reasons are given to wait for *zman biur*.

In our case, by waiting until *Erev Pesach*, one can indeed destroy the *chametz* without concern for *bal tashchis* – at that moment. However, in accordance with our discussion, he should seek out people who can eat it before it gets to this point. Therefore, he might not be avoiding it in the right ways. However, if one does not wish to throw it away directly, nor to scout around for people to eat it, he could keep it in his home. He could wait for opportunities to give it to others to eat. When it goes bad, he may throw it away. If it is still edible on *Erev Pesach* at the *zman biur*, he may burn it.

What about non-*chametz* foodstuffs? This is really a general question. May one burn with his *chametz* food that is not *chametz*? It might have been around *chametz* and one does not wish to eat it on *Pesach*. It could be put away and taken out after *Pesach*. Any crumbs of *chametz* would be *batel*, nullified, especially if he did *bitul chametz*. There is no need to burn it. If it will last over *Pesach*, but he burns it, it would appear from the discussion about *chametz gamur*, true *chametz*, that he violates *bal tashchis*. [See *Psachim* 6a-7a 21a etc., *Poskim*. *Tur Sh Ar OC* 436:1-2 (MB, *Dirshu*, 3), commentaries. *Tzitz Eliezer* XX:51:2. *Shevet Halevi* IX:120. *Aitz Hasadeh* 24:1-2, notes.]

In conclusion, overeating is not acceptable, and might violate *bal tashchis*. Feeding the poor is acceptable. Feeding gentile poor to generate goodwill is acceptable. Feeding it to animals should only be done when it is not going to be eaten by any humans. One may keep *chametz* with the intent that it be eaten, until *Erev Pesach*, and may then burn it.

*On the parsha ... What remains of the offering on the third day shall be burned in a fire. [7:17]* It is not considered wasteful to burn it, if it could have been eaten earlier at the right time. The one who neglected to eat it on time caused the wastefulness.

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