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Shabbos Daf 38

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Mav the studing of the Daf Notes be a zechus for their neshamot and mav their souls find peace in Gan Eden and be bound up in the Bond of life

Eating Food Left on an Oven

They asked Rabbi Chiya bar Abba what the ruling is if one forgot a pot on the *kirah* – *double burner oven*, and it cooked on *Shabbos*. He didn’t answer, but the next day he taught that if one cooks on *Shabbos* the food is permitted if he did so by accident, but otherwise it is forbidden. He added that in the case of leaving a pot on the stove, the ruling is the same whether it was by accident or not.

The *Gemora* cites a dispute how it is the same. Rabbah and Rav Yosef say that it is permitted, since we only prohibit food that one actively cooked on *Shabbos*, but not food that was placed before and was passively cooked on *Shabbos*. Rav Nachman bar Yitzchak says that it is prohibited. Since the food is only passively cooked, we are more concerned that people will do it intentionally, and claim that they forgot it there. We therefore prohibit it even if it was forgotten.

The *Gemora* challenges these positions with a *braisa* which cites a dispute about one who forgot food on the stove, which then cooked on *Shabbos*. Rabbi Meir says that it is only prohibited if the food wasn’t fully cooked before, and it was placed intentionally. Rabbi Yehudah says that hot water that was fully cooked is permitted, since it gets worse as it cooks more, but a fully cooked food, like chopped meat, is prohibited, since it improves as it cooks more. If a food gets worse as it cooks more, it is permitted.

The *Gemora* says that Rav Nachman bar Yitzchak can explain that this *braisa* is before the Sages decreed a prohibition on food placed on the oven, but Rabbah and Rav Yosef cannot be resolved with this *braisa*, whether it is before or after the decree. If it is before the decree, it shouldn’t prohibit even if done intentionally, and if it is after, it should prohibit even if

the food was forgotten. The *Gemora* leaves this an unresolved question.

The *Gemora* cites a statement of Rav explaining the decree it is referencing. Originally, the Sages said that food left on the stove had the same rule as one who cooked food on *Shabbos*. When it became common for people to leave the food intentionally, but claim that they forgot, the Sages decreed that the food is prohibited even if forgotten on the stove.

The *Gemora* raises a contradiction in both Rabbi Meir’s and Rabbi Yehudah’s position as cited in this *braisa* and as cited in the earlier *braisa* earlier, in which Rabbi Meir said that one may only place hot water on a stove, and Rabbi Yehudah said that one may place both hot water and food.

The *Gemora* says that Rabbi Meir can be resolved since the first *braisa* was about what one may place on the stove, while this *braisa* is the rule when one already did place something on the stove. Rabbi Yehudah can be resolved since the first *braisa* was about a stove whose coals were cleared out, while this *braisa* is about a stove whose coals were not cleared out.

The *Gemora* asks whether the Sages prohibited food that one intentionally left on the stove.

The *Gemora* tries to resolve this from a Shmuel bar Nassan in the name of Rabbi Chanina, who says that when Rabbi Yosi went to Tzipori, he saw hot water left to heat on a stove, which he permitted, and well cooked eggs left to heat on a stove, which he prohibited.



The *Gemora* assumes that his ruling was about the food itself on that *Shabbos*, but the *Gemora* deflects this, saying that he was ruling for subsequent weeks about the act itself.

The *Gemora* asks whether we can learn from this story that fully cooked eggs are a food that improves as it cooks more.

The *Gemora* says that they are, as we see from Rav Chama bar Chanina, who said that he and Rebbe were once served well cooked eggs that were very small, and they ate many of them, since they were so tasty. (37b – 38a)

Putting Food Back on the Oven

The *Mishna* cited Beis Hillel saying that one may also put food back on the stove.

Rav Sheishes says that according to Beis Hillel, one may put the food back even on *Shabbos*.

The *Gemora* says that Rabbi Oshaya agrees, as he related that he was once serving Rabbi Chiya Rabbah on *Shabbos*. He brought up a kettle of hot water to pour for Rabbi Chiya and then put it back on the stove, and Rabbi Chiya didn't protest.

Rabbi Zreika quotes Rabbi Abba in the name of Rabbi Tadaï saying that one may only put the food back if it remained in his hands, but not if he put it on the ground.

Rabbi Ami says that Rabbi Tadaï is an individual opinion, but Rabbi Chiya quoted Rabbi Yochanan saying that even if he put it on the ground, he may put it back.

Rav Dimi and Rav Shmuel bar Abba differ on this, both quoting Rabbi Elazar. One says that he may only put it back if it's still in his hands, but not if it's on the ground, while the other says that he may put it back in either case.

Chizkiyah quotes Abaye saying that even while it's still in his hands, he may only put it back if he planned to do so, implying that if it's on the ground, he may not put it back in any case. Another version is that he said that even if he placed it on the ground, he may put it back if he planned to do so, implying that if it's still in his hands, he may put it back in any case.

Rabbi Yirmiyah asked whether hanging it on a stick or placing it on a bed is like placing it on the ground or not.

Rav Ashi asked whether one may put it back if he moved it from one oven to another. (38a – 38b)

Other Ovens

The *Mishna* says that if one fueled a *tanur* – concentrated oven with straw or stubble, he may not place food inside it or on top of it. If one fueled a *kupach* – single burner oven with straw or stubble, it is like a *kirah* – two burner oven, but if he fueled it with olive refuse or wood, it is like a *tanur*. (38b)

Placing Food next to a Tanur

Rav Yosef thought that the *Mishna* about *tanur* means that one may not place it inside it or on top of it, but one may place food next to it.

Abaye challenged this from the case of *kupach* fueled with wood or olive refuse, which is like a *tanur*, implying that if it would be like a *kirah*, one may place food on it. If the *Mishna* is referring to placing it on top and when the fuel wasn't cleared out, one may not do so on a *kirah* either.

Rather, the *Mishna* must be referring to placing food next to it, when the fuel wasn't cleared. In this case, the *Mishna* compares it to *tanur*, implying that one may not place food next to a *tanur*.

Rav Ada bar Ahava challenges this, saying the *Mishna* is referring to a *kupach* whose fuel was cleared. Since it is like a *tanur*, one may not place food on top, but if it would be like a *kirah*, one could place food on top.

The *Gemora* cites a *braisa* supporting Abaye's reading of the *Mishna*. The *braisa* says that if one fueled a *tanur* with straw or stubble, one may not place food next to it, and certainly not on top of it, and certainly not in it, and certainly not if it was fueled with wood or olive refuse. If a *kupach* was fueled with straw or stubble, one may place food next to it, but not on top. If it was fueled with wood or olive refuse, one may not place food next to it. (38b)



Construction of a Kupach

Rav Acha the son of Rava asked Rav Ashi why a *kupach* is sometimes like a *tanur*, and sometimes like a *kirah*.

He answered that it is more concentrated than a *kirah*, but less concentrated than a *tanur*, and it therefore its status depends on what fuel is used.

Rabbi Yosi bar Chinena explains that a *kupach* is big enough for one pot, while a *kirah* is big enough for two.

Abaye (or Rav Yirmiyah) supports this from a *Mishna* which says that if a *kirah* that is split only remains a utensil if it was split widthwise, while a *kupach* that is split is never a utensil. This implies that if a *kirah* is wide enough for two pots, making it usable even if split widthwise. (38b)

Cooking on Shabbos

The *Mishna* says that one may not place an egg next to a water heater to cook it. One may not break an egg onto a hot cloth, while Rabbi Yossi permits this. One may not dig it into hot sand or dust of the road in order to roast it.

The *Mishna* relates the story of the people of Tverya who brought a pipe of cold water into a stream of hot water. The Sages told them that this is tantamount to heating the water. If it was done on *Shabbos*, it is tantamount to water heated on *Shabbos*, which one may not drink or wash with. If it occurred on *Yom Tov*, one may drink it, but not wash with it.

The *Gemora* asks whether one may eat an egg that one did heat next to a water heater.

Rav Yosef says that this is a bona fide act of cooking, and one who did this accidentally is liable for a chatas sacrifice.

Mar the son of Ravina supports this from the *Mishna* which says that if something was placed in hot water before *Shabbos*, one may place it in hot water on *Shabbos*, but if it wasn't placed before *Shabbos*, one may only rinse it with hot water. However, one may not rinse aged salted fish or the kulyas ispanin fish, as these are prepared by rinsing,

indicating that one is liable for cooking once it is fully prepared. (38b – 39a)

INSIGHTS TO THE DAF

Leaving Food on the Oven

The *Gemora* discusses whether food that was forgotten on an oven is permitted. Later, the *Gemora* discusses what the rule is when one transgressed and left food on an oven.

The Rishonim differ on what each case of the *Gemora* is, and therefore what the ultimate ruling is.

Tosfos (38a Shachach, avar) says that the first question was about food which isn't raw, but is not yet cooked the amount of *ben drosa'i*. Such food may not be placed on the oven, even according to Chananya. The second question is about food which was fully cooked, but improves with cooking. Although Chananya allows one to place this on the oven (and Tosfos rules like him), the *Gemora* is asking according to those who prohibit it.

The Rosh says both questions are about food that isn't cooked the amount of *ben drosa'i*. Although the *Gemora* resolved the first question by saying that it was prohibited, the second question is whether it is prohibited only for the person who left it, or also for his household.

The Rif say the first question is when the food isn't fully cooked, while the second is when it is fully cooked. Furthermore, the Rif's version of the second question was "if one transgressed and forgot it."

The Rif and Rambam rule leniently on the second question, but only if one forgot the food on the oven.

The Shulcan Aruch (253:1) rules like the Rif and the Rambam. He also cites the explanation of Tosfos, which the Rama says is the prevalent custom.

Putting Food Back on the Oven

The *Gemora* says that Beis Hillel, who allow one to put food back on the oven, allow it even on *Shabbos*.



Rashi explains that the *Gemora* means that even on the day of *Shabbos* one may put it back. At night, it is obvious that he planned to put it back for the next day, but in the day, we may have thought that putting it back looks like a new placement on the oven.

Tosfos (38b afilu) says that the *Gemora* means *Shabbos* itself, as the dispute about putting it back applies even before *Shabbos*.

Tosfos earlier (35b Ubais Hillel) offered two possible times before *Shabbos* when placing food on an oven may be prohibited: when there isn't enough time for the food to heat up before *Shabbos*, or when there isn't enough time to heat it up if it would be cold.

The *Gemora* discusses the conditions under which one may put food back on the oven, depending on whether or where one put it down, and what his intention was when removing the food.

The *Gemora* also leaves unresolved the question of whether placing the food on a bed or hook is like placing it on the ground.

The Rif and Rambam rule strictly, prohibiting one from putting the food back if he placed it on the ground.

The Ran explains that the Rif ruled like the stricter version of Abaye's statement, since putting it back can potentially lead to a Torah prohibition of cooking.

However, on the question of whether a bed or hook is like the ground, the Rambam rules leniently. He omits any mention of the need for intention to put the food back.

The Beis Yosef (OH 253) explains that this requirement is only introduced by later amora'im, so the Rambam did not rule like them.

Based on the Yerushalmi, the Ran says that the whole discussion of the *Gemora* is only when one took the food off

before *Shabbos*, and is putting it back once *Shabbos* has begun. However, if he took it off on *Shabbos*, he may put it back without any of the requirements the *Gemora* discusses.

The Beis Yosef says that this is a minority opinion, which we do not rule like.

The Shulchan Aruch (253:2) rules like the Rambam.

The Rama adds that one must have intention to put it back, and keep the pot in his hand.

The Rama also cites the opinion of the Ran, saying that people are lenient like his opinion. He also cites the position of Tosfos about placing food on the oven shortly before *Shabbos*, but says the custom is to be lenient.

A Guest who Removed the Wrong Pot from the Stove

The material covered in this week's Daf HaYomi focuses primarily on the preparation of hot food for *Shabbos*. There are two distinct prohibitions that must be avoided when preparing hot food: *shehiyah* – “waiting,” even if food is placed on the fire before *Shabbos*, certain conditions must be fulfilled when leaving food to “wait” on the fire. *Chazarah* – “returning:” when food is removed from the fire and then returned, certain conditions must be fulfilled to avoid the prohibition of “returning.”

Students of Daf HaYomi will certainly be familiar with these concepts, having examined them in depth over the course of the *Gemara's* discussions. Yet, we will review them briefly here. The five conditions for returning food to the fire are: 1. The fire must be covered, making it clearly recognizable that it is meant to merely preserve heat, and not to cook. 2. The food must be fully cooked. 3. The food must still be hot. 4. When one removes the food from the fire, he must intend to return it. 5. The pot must not be placed on the floor in the interim.

A pot placed on the counter: It is important to note the *Mishna* Berurah's ruling (253, s.k. 56), that when a pot is placed anywhere other than the floor, i.e. the counter, a chair or a table, even if he released it from his grip, if he intended



to return it he may rely on the lenient Poskim to do so, if the need arises.

This article will examine the fourth condition of *chazarah*, that one may return the pot to the fire only if he intended to do so when he removed it. This condition may be interpreted to mean that when a person removes food from the fire, he concludes the original *shehiyah* – “waiting” that had kept the food warm heretofore. Ostensibly, returning food to the fire should be no better than placing new food on the fire, which is forbidden. However, when a person removes a pot with the express intention of returning it, he creates a link, making the *chazarah* a continuation of the original *shehiyah*. It is therefore his intention that permits him to return the pot to the fire.

Or perhaps, we can explain that simply removing a pot from the fire is no reason to forbid returning it. Rather, it is his express intention **not** to return the pot that concludes the original *shehiyah*, and precludes returning the pot.

The practical difference between these interpretations can be seen in a common occurrence that could transpire in any home:

The guest removed the wrong pot: A helpful *Shabbos* evening guest accompanied his host to the kitchen, to help him serve the *Shabbos* food. With the good intention of removing the soup pot from the fire, he accidentally removed the chulent pot instead, meant for tomorrow's meal, and placed it on the countertop. May the host now return the chulent pot to the fire?

Let us begin with the assumption that although the guest's **act** of removal could cause a prohibition to return the pot, his **intention** or non-intention does not cause a prohibition, but rather the host's. We have a general principle that one cannot render another's possessions forbidden with his thoughts. Now, if returning the pot to the fire depends on the express intent to do so when removing it, the pot may not be returned (assuming that the guest surely had no such intention). The host certainly did not intend to return it, since he did not even realize that it was removed. But if removing

in itself is not the sole cause of the prohibition to return, but only if combined with an express intent **not** to return, the host may indeed return it. Again, since he did not even realize that it was removed, he had no intention either way.

From the words of Rabbi Akiva Eiger *zt"l* (Hagahos Shulchan Aruch 253) it emerges that it is the intention **not** to return the pot that forbids returning it. One need not have the positive intention to return it. Therefore, in the above case the pot may be returned to the fire. Rav Shach *zt"l* (Avi Ezri, Hilchos *Shabbos* ch. 3) challenges this conclusion. He asserts that the mere action of removing a pot from the fire concludes the original *shehiyah*, and it is one's positive intent to return it that allows him to do so. Without this positive intent, we cannot consider the *chazarah* a continuation of the original *shehiyah*. Rav Shach compares this to a tallis that falls off one's shoulders. Although it fell off accidentally, the original act of wearing it was terminated, and a new *berachah* must be recited. Only when one removes the tallis with the positive intention of returning it can we consider this a continuation of the original act of donning the tallis. (See *Orchos Shabbos* ch. 2, footnote 78).

DAILY MASHAL

In advance of Pesach each year, Rav Avraham Pam joined a distinguished group of Torah Vodaath alumni in overseeing the baking of the matzos which they would use for the Seder. One year, a new bakery opened which employed a number of *hiddurim* (halachic stringencies) in the baking process. Some members of the group thought that it would be an excellent idea to use the new bakery for their baking. They presented the suggestion to Rav Pain who said, “just as there is a mitzvah to be *mehader* (make use of stringencies) in the matzos, so too, is it a mitzvah to be *mehader* in helping another Jew to earn a livelihood.” They remained at their original bakery. (Rav Pam, By Rabbi Shimon Finkelman, Published by Artscroll Mesorah)