

Summary: In this shiur, we will explore the definition of the melakha of borer. Is borer defined as the removal of "waste" from "food," or is it defined as an act of separation? We will discuss a number of practical ramifications of this question.

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Shiur #02: Defining the *Melakha of Borer*: Separation or Waste Removal

The *melakha* of *borer* is usually defined as removing waste material from edible food (*pesolet* from *okhel*). It differs from *dash*, which also entails waste removal, in that it processes waste or inedible food that is **not** attached to the food.

The Yeshuot Ya'akov (cited by the *Biur Halacha*) asks an interesting question about *borer*, and his answer dramatically alters the definition of this *melakha*. Typically, a *melakha* is only violated if the primary action is performed upon an object whose inherent utility is valuable. If the *melakha* is performed on an item that does not provide inherent utility, it is referred to as *eina tzerikha le-gufa* and it is not Biblically prohibited (according to many opinions). The classic example relates to a pit that was dug (in violation of the *melakha* of *boneh*, construction) because dirt was required. The *melakha* is performed upon the newly formed pit, but the pit provides no utility, since the digging was performed solely for the purpose of extracting dirt. Accordingly, the Yeshuot Ya'akov questions the entire basis of the prohibition of *borer*. After all, the act of waste removal is performed upon an object – the waste – that provides no utility! Why should *borer* be a Biblical violation if, in fact, it is a *melakha she-eina tzerikha le-gufa*?

The Yeshuot Ya'akov responds by redefining the prohibition of *borer*. *Borer* is not defined as waste removal, but rather as separation between two mingled substances. There are several *melakhot* that are defined as "separation" – for example, cutting hair and nails, which violates the *melakha* of *gozez* – and they are all considered classic *melakhot*. Since the act of separation is executed upon the entire bundled/connected item, utility from **either** part that is ultimately separated suffices to define the act as *tzerikha le-gufa*. In the example of cutting hair, there is no utility provided by the cut hair. The only utility relates to the person's head, which is neater. Since the act of cutting is defined as separation, however, it was performed on **both** the head and the hair. Since the head receives improvement, this is considered a *melakha* that provides utility to one of the objects it was performed upon. Similarly, in the case of *borer*, the act is not defined as targeting the waste. Rather, it is performed on the **mixture** of waste and food. Since the food is endowed with newfound benefit, *borer* is considered a *melakha* that provides benefit to [one of] the item[s] upon which it is performed.

This new definition of *borer* may lead to several interesting *nafka minot*. Firstly, does *borer* apply to separating two different edible foods? The simple reading of *Shabbat 75a* implies that it would, but Rashi changes the reading of the *gemara*, and several commentaries have suggested that he denies that there is a prohibition of *borer* when separating two types of food. This issue is actually a debate between Chizkiya and R. Yochanan in the Yerushalmi, with the latter claiming that *borer* does not apply. The best manner of explaining the permissibility of separating two types of food would be to define *borer* as an act of **waste** removal. If neither substance is defined as waste (since they are each edible), the *melakha* cannot be violated.

In contrast, the mainstream opinions that do apply *borer* to separation of two edible substances may define *borer* as an act of **separation**, in which case removing waste or separating two different food stuffs are equally banned. The Ritva (*Shabbat 74a*) asserts that *borer* **does** apply to separating two forms of edible food, defining the *melakha* as an act of separation.

Alternatively, those who apply *borer* to separating two forms of edible *okhel* may agree that *borer* is defined as waste removal, but maintain that waste is not an **objective** definition. If a person desires one of the food substances and not the other, the desirable substance is defined as food, while the less preferred item is defined as waste. By selecting one from another, waste has been removed and *borer* has been violated. Even, if *borer* is defined as waste removal it may still obtain to separating two foods!

An interesting *nafka mina* between **these two logics** justifying the prohibition even for the separation of two edible products would be the application of *borer* to the separation of edible substances of the **same** variety. Is separating large pieces of chicken from smaller pieces a violation of *borer*? What about separating fried meat from cooked meat? The continuation of the Yerushalmi suggests that *borer* **does** apply in these cases, whereas the Terumat Ha-Deshen (*siman 57*) and the Maggid Mishnah (in his comments to *Hilkhos Shevitat Assor 1:3*) each suggest that it would not. If *borer* entails the separation of waste from desired food, perhaps it can only be applied to **two types of different food** – one of which is currently desired and one which is not. It would be difficult to envision *borer* regarding the exact same food that is only different in its size or form of preparation. If *borer* is defined as separating substances, however, it may well apply to **any selection** process, provided there is some disparity between the substances being separated. Even if the foods are identical, as long as there is some logic to their separation (large pieces from small pieces), *borer* has been violated.

An additional question relates to the minimum quantity (*shiur*) of food that has to be processed in order for *borer* to be violated. The *gemara* (95a) describes the scenario of curdling milk into cheese and defines this as a form of *borer*. The *gemara* describes the minimum *shiur* of this type of *borer* as a *grogeret*, which is about a 1/3 of a *beitza*. What is unclear is whether the edible food from which the waste is separated must be this quantity or if the entire mixture can be this quantity in order for the *melakha* to have been violated. The Minchat Chinukh claims that the **food itself** must be this

quantity for *borer* to be violated; the mass of the waste does not contribute to this *shiur*. Consistent with his earlier statement, the Yeshuot Ya'akov claims that the entire mixture can add up to this minimum quantity. Even if a large mass of waste is separated from a small trace of food, the *borer* violation has taken place. If *borer* is an act of waste removal from "food," the resulting food must be of a minimum quantity. However, the Yeshuot Ya'akov consistently views the prohibition as an act of separation; the *melakha* is executed upon the entire bundle. If this bundle comprises the requisite *shiur*, the *melakha* has been violated.

This description of *borer* as an act of separating two species would affect an interesting leniency of *borer*. The *gemara* concludes that selecting the edible product **from** the waste is permissible (provided two additional conditions apply – it is for immediate use and it is not performed with an instrument, but by hand). If *borer* is defined as removing waste, this leniency is logical. By selecting the food proper (under the two additional conditions), no act of waste removal has been perpetrated. If, however, *borer* prohibits any selection and separation (even between two different types of edible foods, as noted above), why is separating food from waste permitted? Evidently, a new logic must be proffered to explain this permissibility.

The Ramban explains that selecting food from waste is not an act of separation, but rather a **form of eating**. When people eat, they necessarily separate foodstuffs. Any separation that occurs as part of that experience is permitted, since it is integrated into eating. (This allowance will be examined in a future *shiur*.) This alternate logic is **necessary** if *borer* is defined as selection. If *borer* is defined as waste removal, however, the selection of food from waste can be justified even if it is not part of the **eating process**.