

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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Shiur #03: *Borer* for Immediate Consumption

The *gemara* in *Shabbat* (74a) presents multiple scenarios in which an act of *borer*, separating edible produce from non-edible waste, may be performed. One of these allowances is presented by Abbaye, who allows separating waste if the food is intended for immediate consumption. The *halakha* follows Abbaye and – under certain conditions – *borer* may be performed for immediate consumption. Most opinions assert that in addition to enabling immediate consumption, *borer* is permissible only if it is performed manually (as opposed to with a vessel of some sort) and the edible part of the mixture must be separated from the waste, and not vice versa. In this *shiur*, we will analyze the variable of **immediacy** and why it permits a *borer* action that would otherwise be forbidden.

Many *Rishonim* claim that **any** separating of food performed immediately before actually consuming that food is not considered *borer*, but rather a subsidiary of **eating**. At all levels, the act of eating includes selection. Discarding pits of fruits, peeling skins, ejecting bones, and cutting meat from fat are just a few of the common forms of separating waste that are integrated into the act of eating. The eating **process** can be extended to include the immediate preparations for a meal. Preparations are made in advance to expedite the **actual** consumption process. For all intents and purposes, those same activities could take place at the dining table. Since preparations for the immediate meal are part of the eating process, they do not violate *borer*.

Rabbeinu Chananel suggests a related but slightly different basis for the allowance. The *gemara* in *Beitza* (13b) asserts that common activities are not forbidden on Shabbat unless they are constructive and creative. The *gemara* permits making heaps of grain because doing so does not alter the grain and does not constitute *melekheth machshevet*, loosely translated as “transformative activity.” Many *Rishonim* apply this requirement very broadly to explain a range of different acts that are permissible at the Biblical level. If a *melakha* was performed without full intent, it may not qualify as *melekheth machshevet*. Similarly, Rabbeinu Chananel asserts, if the *melakha* is not performed industrially, but rather for personal benefit, it does not qualify as a *melekheth machshevet* and is not forbidden. *Borer* for immediate consumption is a benefit-provider and not industrial, and is therefore not forbidden.

We previously suggested that *borer* for immediate use is not truly a selection process, but rather a consumption process. Rabbeinu Chananel maintains that *borer* for immediate use is not part of the eating process.

However, since it yields immediate benefit, it does not qualify as the industrial caliber of *melakha* that is forbidden on Shabbat.

These two explanations for why immediate *borer* is permissible may lead to some interesting differences. Most prominently, they relate to how **immediate** the consumption must be to create this allowance. Rabbeinu Chananel claims that **any** preparations for a meal are permitted. Even if the meal will unfold slowly, *borer* activities for that meal are allowable. The *Beit Yosef* stretches this allowance even further, allowing *borer* activities for the **upcoming** meal. If lunch has concluded, *borer* may be performed in preparation for *seuda shelishit*, even though that meal has not commenced and will not for a few hours. By stark contrast, the *Hagahot HaMordechai* (*Shabbat*, beginning of the 7th *perek*) allows *borer* only for **absolutely** immediate consumption. He forbids *borer* for the meal that is presently being prepared.

Perhaps this technical debate mirrors the fundamental question of why immediate *borer* is allowable. If immediate *borer* is cast as an integrated part of the eating process (rather than a process of selection), perhaps the *Hagahot HaMordechai* is correct that only absolutely immediate *borer* is allowable. Preparing food for delayed ingestion cannot be conceptualized as part of the eating process and is therefore not acceptable. By contrast, Rabbeinu Chananel permits immediate *borer* because of the benefit it yields and lack of *melekheth machshevet* designation. Potentially, any benefit derived from this process would negate *melekheth machshevet* status and allow *borer*. As long as the meal has commenced, the *borer* produces direct benefit and cannot be forbidden as *melekheth machshevet*.

A second interesting issue pertains to preparing for someone else's immediate consumption. Would this scenario permit *borer*? The *gemara* (74a) that permits immediate *borer* employs a double language, which Tosafot interpret to mean that immediate *borer* is permissible for the benefit of others, and this is stated clearly by the Yerushalmi as well. Rashi, however, changes the text of our *gemara*, and some (see *Be'er Heitev*, section 2) interpret Rashi as denying this permit for another's benefit. If Rabbeinu Chananel is correct and *borer* that yields immediate eating benefit is not considered industrial *melekheth machshevet*, it would make little difference whether *borer* yields eating opportunity for the person who performed the selection or for another person. Perhaps the only way to justify this position – which limits the allowance to *borer* for **personal** benefit - is to claim that pre-eating *borer* is an integrated part of the eating process and an extension of the meal. This would explain why we limit the permit only to the person who will actually eat. A person can stretch **his** act of eating to an immediately prior act of selection and integrate the two phases. This integration may be less feasible when one person is performing *borer* while a different person is eating.

An intriguing position emerges from a peculiar language in the *Beit Yosef*. In *siman* 319, he claims that if *borer* was originally performed in order to prepare food for immediate consumption but the food was alternately not eaten, the *melakha* is retroactively violated. This position is almost roundly rejected by

other authorities, who maintain that if the original *borer* was performed to enable immediate eating, it cannot be retroactively illegalized.

If *borer* for immediate eating is not considered selection, but rather part of the eating process, the Beit Yosef's limitation would indeed not be logical. Once the *borer* was **intended** for eating, it is defined as part of that process. Even if a person ultimately defers from eating, the *melakha* cannot be illegal. However, according to Rabbeinu Chananel, *borer* for immediate eating is **still** considered an act of *borer*/selection and not eating. The yield of eating/benefit exempts the act from Shabbat violation. If that benefit never materializes, perhaps the original act of *borer* is never exempted. Clearly, however, this position remains difficult; once an act was performed under legal mechanisms, it is difficult to envision a subsequent change redefining it as forbidden. However, the best way to explain the Beit Yosef appears to be the logic of Rabbeinu Chananel.

Perhaps the most far reaching issue that stems from these two approaches is the applicability of this permit to other *melakhot*. Are other Shabbat *melakhot* permitted if they are performed to enable immediate eating? This question is subject to much discussion. The Rashba initiated the discussion by applying the permit to *tochen*, grinding. The Taz (*siman* 340) broadened the parameters of this permit by allowing erasure of letters of a cake immediately prior to its consumption. Many *Poskim* disagree, however, and limit this permit to the *melakha* of *borer*.

Clearly, Rabbeinu Chananel's logic would extend the permit to all *melakhot*. The immediate benefit of eating disqualifies the act from being industrial and a *melakha* has not been violated. By contrast, if the immediate consumption incorporates the act as part of eating rather than an act of selection, it may very well be a *borer*-specific allowance. Selection and eating are two antithetical activities. Incorporating *borer* immediately prior to eating as part of the consumption process eliminates the identity of *borer*. However, incorporation within the eating process may not disqualify other *melakhot* from constituting a Shabbat violation.