

## Dispersal by means of the wind

A surprising statement is found in the **Yerushalmi** (7:2):

One who spits and the wind blows it is liable due to Winnowing.

Is a person who spat in the wind, and the wind dispersed the spittle, liable due to Winnowing? Ostensibly, this is not at all similar to Winnowing. In the case of Winnowing, the person **effects separation between the kernels and the shells**, i.e., between food and waste, while here, it is merely dispersal of the saliva, **with no separation between food and waste**.

It would appear that according to the **Yerushalmi**, Winnowing applies to **dispersing components by means of the wind**, even if they are all food or all waste. This understanding of the prohibited labor is ostensibly opposed to the conclusion of the **Bavli** (73b):

Winnowing is the same as Selecting, which is the same as Sifting.

According to the statement of the Gemara, the labor of Winnowing is similar in its essence to the labor of Selecting. Therefore, just as Selecting is defined as **separating waste from food**, so too, Winnowing should be similarly defined, with one difference: Selecting is by hand and Winnowing is by means of the wind.

One can conclude that there is a fundamental dispute regarding the definition of the labor of Winnowing: According to the **Bavli**, the definition of Winnowing is **separating waste from food by means of the wind**, whereas according to the **Yerushalmi**, the definition of Winnowing is **dispersing components by means of the wind**.

It appears that the ruling should be that it is permitted to spit in the wind, as this is the opinion of the Bavli. Nevertheless, the **Rema** (319:17) cites the ruling of the Yerushalmi as the *halakha*:

One who spits in the wind on Shabbat, and the wind disperses the spittle, is liable due to Winnowing.

This is difficult, as this *halakha* is **contrary to the ruling in the Bavli**. In fact **Rabbi Akiva Eiger** in his **Responsa** (1:20) disagrees

Yerushalmi: One who spits and the spittle is dispersed by the wind is liable

According to the Yerushalmi, Winnowing applies to any dispersal involving wind

The dispute between the Bavli and the Yerushalmi in defining the labor of Winnowing

The Rema rules in accordance with the Yerushalmi

Rabbi Akiva Eiger disagrees: It is permitted to pour water in a manner that the wind disperses it

with the ruling of the Rema, and permits spitting in the wind. He addresses a similar question: Is it permitted to pour water into the wind in a manner that the wind will disperse it? Rabbi Akiva Eiger explains at length why it is permitted:

There was an incident as I was walking in the courtyard of the synagogue on Shabbat, here in the holy community of Leszno, I saw a man pouring a small amount of water from a flask out of a window into a courtyard with an *eruv*. As I watched, it occurred to me that there is room for concern that this is prohibited, since the wind disperses the droplets, one going here and one going there. It is therefore comparable to what is cited in the Yerushalmi, in the chapter *Kelal Gadol*: “One who spits and the wind blows it is liable due to Winnowing” . . . If so, it would appear that if one poured a small amount of water, where there is no significant flow of water and the wind is able to disperse it, that person is liable due to Winnowing.

However, after further consideration, it appears that there is considerable room for leniency, as it is necessary to explain the fact that the early authorities, from whom no secret was concealed – they are the Rif, Rambam, *Semag*, Rosh and *Tur* – did not cite this Yerushalmi, which is a major halakhic innovation. It appears that their reason for omitting it is that they hold that it is not in accordance with this *halakha*, as the parallel discourse in our Talmud disagrees when it states: Winnowing is the same as Selecting, which is the same as Sifting. **This implies that the essence of the labor of Winnowing is like that of Selecting; the wind moves and separates waste from food.** However, where it is all waste, and one is not separating one from the other, but merely dividing it into smaller parts, it is not included in Winnowing . . .

Furthermore, in my humble opinion, even according to the aforementioned opinion of the Rema, there is room for leniency in this case . . . One may say that indeed **Winnowing is only with items that grow from the ground** . . . The fact that the Yerushalmi

deems a person who spits and the wind disperses the spittle liable, it must be either that it is in accordance with the opinion of Rabbi Yehuda, who holds that there is Threshing even with items that do not grow from the ground, and the same is true of Winnowing. Alternatively, this proves the opinion of the Rambam, who holds that people and animals are categorized as items that grow from the ground.

In addition, if in our case it is not an inevitable consequence, it is certainly permitted, as there is no intent to perform a prohibited labor. Even if it is an inevitable consequence, according to the opinion of the *Arukh*, who holds that an inevitable consequence from which one does not benefit is not prohibited even by rabbinic law, our case is one of an inevitable consequence that does not benefit him. Why would one care whether or not it is dispersed by the wind? Even according to *Tosafot*, who disagree, it is prohibited only by rabbinic law . . . One may rely on the aforementioned leniencies based on the fact that the authorities omitted the Yerushalmi, as well as the fact that even according to the Rema there is a significant difference between spitting and Winnowing. So it appears in my humble opinion.

The leniency of **Rabbi Akiva Eiger** is based on several reasons:

The Bavli disagrees with the Yerushalmi and permits it, and in those cases, the *halakha* is in accordance with the Bavli.

The rulings of the major *Rishonim*, e.g., the **Rif** and the **Rambam**, were not in accordance with the Yerushalmi.

The person has no intent to disperse the water.

It is reasonable to assume that Winnowing applies only in the case of items that grow from the ground (see p. 810), and water is not an item that grows from the ground. Still, perhaps spittle could be considered an item that grows from the ground, since there are those who hold that a person is categorized as an item that grows from the ground.

The *Beur Halakha* (319:17, s.v. *mefazer*) cites a responsum of **Rabbi Akiva Eiger**, and appears to accept his opinion. The *Beur*

*Beur Halakha:*  
Perhaps even the  
Yerushalmi does  
not intend to  
prohibit it

*Halakha* proceeds to cite *Alfei Menashe*, who suggests that even the Yerushalmi did not intend to prohibit it:

*Alfei Menashe* explains that the Yerushalmi is referring to Carrying four cubits in the public domain by means of the wind, and it is mentioned as an example. Meaning, that just as in Winnowing, one is liable despite the fact that the action is assisted by the wind, so too, in the case of spitting, where moving the spittle is accomplished with the assistance of the wind, one is also liable. This is correct.

In other words, the Yerushalmi prohibits spitting only in a place **without an *eruv***; and what is novel here is that despite the fact that the person did not propel the spittle beyond four cubits on his own, but rather with the assistance of the wind, the person is liable, **as we found in the labor of Winnowing**. However, in the case of the spittle, the liability is not due to Winnowing, but rather due to Carrying from domain to domain.

Similarly, the *Arukh HaShulhan* (319:42) questions the ruling of the Rema; he writes that perhaps there is a misprint in his statement, and that instead of “liable due to Winnowing [*zoreh*],” it should be “liable due to **Throwing** [*zorek*].” The reference, then, is to a person who spits in the wind in a place with no *eruv*, and the wind disperses the spittle beyond four cubits.<sup>2</sup>

Even so, according to several *Aḥaronim*, although spitting in the wind is not prohibited by Torah law, there is a **prohibition by rabbinic law**. This is the ruling of the *Ḥayei Adam* (15:1; and in the *Nishmat Adam*):

A person who winnows into the wind is liable. It is therefore prohibited to spit in the wind, as the wind will disperse it, and it is **comparable to Winnowing**.<sup>3</sup>

2. However, this interpretation is not entirely clear in the Rema; were the reference to the labor of Carrying out from the private to the public domain, the Rema would have cited it in the section that addresses those *halakhot* (346) and not in the *halakhot* of Selecting (319).

3. The *Tiferet Yisrael* (*Kalkalat HaShabbat, Kelalei Lamed-Tet Melakhot*,

Several *Aḥaronim*:  
Spitting in the  
wind is prohibited  
by rabbinic law.

That is also the ruling of the *Shulḥan Arukh HaRav* (446:5; and in *Kuntres Aharon*) regarding a person who finds leavened bread in his house on the festival of Passover:

So too, **by Torah law** it is permitted to crumble and scatter it in the wind, and they stated that Winnowing is one of the primary categories of prohibited labor only in the case of winnowing grain to remove the chaff from it. In this case, one is selecting waste from food. However, when scattering all the food to the wind, **there is no Torah prohibition.**

It may be inferred that scattering crumbs of unleavened bread in the wind is not prohibited by Torah law, but it is prohibited by rabbinic law. However, it is permitted to violate the rabbinic prohibition to avoid violating the Torah prohibitions of “it shall not be seen” (*bal yirah*) and “it shall not be found (*bal yimatzeḥ*).”

The *Mishna Berura* also writes, in the *halakhot* of Passover (*Shaar HaTziyun* 446:7), that scattering crumbs to the wind “is not a labor prohibited by Torah law,” and cites the statement of *Shulḥan Arukh HaRav*. It sounds as though he agrees that it is prohibited by rabbinic law. On the other hand, the *Mishna Berura* (319:67) rules that it is permitted to spit in the wind:

We have not seen anyone who is concerned about this, as there is no intent to do so, and all the more so since it is not the manner of Winnowing.

It may be that in his opinion there is room to prohibit scattering in the wind by rabbinic law when the person **intends** to do so, but when one does **not intend** to disperse, even though what the person throws is scattered in the wind, it is possible to permit doing so.<sup>4</sup>

It is possible that it is prohibited only when the intent is to disperse it

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*Zoreh*) agrees. In his opinion, the Yerushalmi should be understood this way as well. See *Eglei Tal* (*Zoreh* 1:8).

4. This can also be understood from the statement of **Rabbi Akiva Eiger** at the end of the aforementioned responsum that there is room to take into account the opinion of the Yerushalmi when the intent is to disperse, but when there is no intent, there is room for leniency. On this basis, there is

Practical *halakha*

Accordingly, it is permitted to spit or urinate in a place where there is wind, provided there is no intent for the wind to disperse it. Similarly, it is permitted to shake crumbs from a tablecloth in a place where there is wind, when the person is indifferent where the crumbs will land. However, if the person is interested in controlling the manner in which the crumbs will land, e.g., if one shakes the crumbs from the tablecloth, in a place with an *eruv*, with specific intent for the wind to scatter the crumbs so that they do not collect in one place, then it is appropriate to rule stringently. In the case of items that do not grow from the ground, there is more room for leniency. Regarding shaking crumbs from a tablecloth in a place where there is no wind, see below.

Some authorities prohibit use of sprays

An important practical ramification of this discussion is the **use of sprays** on Shabbat. Ostensibly, this is precisely the case addressed in the Yerushalmi – dispersing a substance in the air. In this case, contrary to the case of the spittle, the person is actually interested in the dispersal of the substance, and apparently, according to the *Mishna Berura* it is prohibited. In fact, **Responsa Kinyan Torah** (5:23) writes that it is prohibited.

Practical *halakha*: Use of sprays is permitted, as the dispersal is effected by the person

Nevertheless, **the *halakha* permits the use of sprays**. First, there are authorities who reject the ruling of the Yerushalmi entirely, and hold that the labor of Winnowing applies only to separation of food and waste. Even if one takes into account the ruling of the Yerushalmi that Winnowing applies, at least by rabbinic law, to dispersal of components by means of the wind, in



Using spray bottles is permitted.

room for leniency even in a case of an inevitable consequence (*pesik reisha*), as some rule leniently in the case of an undesired inevitable consequence (*pesik reisha delo niha lei*). Even according to those who prohibit it in this case, it is only by rabbinic law. Since it is a matter of uncertainty regarding rabbinic law, there is room for leniency in accordance with the opinion of those authorities who reject the opinion of the Yerushalmi.

the case of sprays, the dispersal is effected **by the person**, not by the wind, and conceivably, that action is totally unrelated to the prohibition of Winnowing.<sup>5</sup> This leniency appears in **Responsa Minḥat Yitzḥak** (6:26):

Regarding women's...perfume that comes from a bottle with a mechanism at its mouth, and which one disperses into the air by squeezing it between two fingers...is it permitted to do so on Shabbat and festivals? The aforementioned Gaon wrote that it would appear appropriate to prohibit it on Shabbat and festivals, in accordance with what the Rema writes...as although some questioned his opinion that it is prohibited by Torah law, they agree that it nevertheless is prohibited by rabbinic law... However, in cases like the one under consideration, where the wind plays no role, rather everything is the result of his action, it appears that everyone would agree that there is not even a prohibition by rabbinic law due to Winnowing...since if he himself effects the dispersal without assistance from the wind, there is no room to say that it is prohibited due to Winnowing.

5. The essence of the labor of Winnowing is **separating waste and food by means of the wind**. When a person **separates waste from food, not by means of the wind, but rather by means of his direct force**, it is similar to Winnowing in terms of **the result**, despite the fact that **the action** is not identical. Therefore, there is room to prohibit it due to Winnowing. In general, the prohibition would be due to Selecting. However, when the action somewhat resembles Winnowing, e.g., when the separation is accomplished by blowing, it is prohibited due to Winnowing, as explained above. On the other hand, when a person **disperses by means of the wind**, it resembles Winnowing in terms of **the action**, even though it is not similar to the essence of the labor of Winnowing in terms of **the result**, as there is no separation of food from waste. Therefore, there is room to hold the person liable due to Winnowing, and this is the opinion of the Yerushalmi. But when the **dispersal is performed by the person**, it is not at all similar to Winnowing, **neither in terms of the action**, as the wind is not utilized, **nor in terms of the result**, as there is no separation of waste. Therefore, the *Minḥat Yitzḥak* holds that it is completely unrelated to the labor of Winnowing (Rav Matan Gelidai).

Shaking crumbs from a tablecloth in a place where there is no wind is permitted

This leniency also appears in **Responsa Yehaveh Daat** (6:25), and this is the opinion of **Rav Elyashiv** (*Kovetz Teshuvot MeHaRav Elyashiv*, 1:36); it is also the practical *halakha*. Accordingly, it is permitted to shake crumbs from a tablecloth in a place where there is no wind, even if the intention is to disperse the crumbs, since the prohibition against Winnowing is not applicable in a case where the dispersal is effected by a person.

Adding water to a cold humidifier

Likewise, it is permitted **to add water to a cold humidifier**.<sup>6</sup> This device separates

the water into droplets that are dispersed throughout the room like steam. There is no element of Cooking entailed in use of this device. According to what we have just determined, there is also no element of Winnowing, as it involves dispersal of water and not separation of food and waste. Moreover, the dispersal is effected mechanically, and not by means of the wind. Some prohibit it due to the prohibition of bringing a new entity into being (**Responsa Minhat Yitzhak** 7:28). However, the more compelling approach is to rule leniently in this matter, especially on behalf of one who is ill or a child, just as **the Rema** (318:16) rules leniently in cases of bringing into being when there is a need. **Rav Moshe Feinstein** also rules leniently (cited in *Hilkhos Shabbat, Zoreh*, note 64).



It is permitted to add water to a cold humidifier provided that this does not activate the humidifier.

Of course, adding water is permitted only if doing so does not activate the humidifier. There are some humidifiers that continue to operate even without water, whereas others stop operating when the water runs out, and replenishing the water restarts them.

6. It has recently come to light that using a cold humidifier could be unhealthy; one should ascertain whether this is correct before using such a device.

The Yerushalmi prohibits spitting in the wind due to the prohibition of Winnowing. **The Rema** rules accordingly, but most authorities disagree and maintain that the prohibition of Winnowing applies only when separating between food and waste. The *Mishna Berura* rules leniently, at least when the intent is not to disperse the item that one is throwing in the wind. However, it is appropriate to rule stringently in a case where the intent is for the wind to disperse what one is throwing.

Likewise, it is permitted to **use sprays** on Shabbat, and there is no concern regarding Winnowing. The reason is that there is no separation of waste and food, only dispersal, and that dispersal is effected by the person and not by means of the wind. Similarly, **it is permitted to add water to a cold humidifier**, provided that the humidifier is operating and that adding water does not activate it.

