

Additional handout

Fundamental concepts in the Laws of Shabbat – an exploration (Jeremy Conway)

N.B. Many of these sources are also useful for my other session

1. Heading to Chapter 318 – Code of Jewish Law, Orach Chaim (“Chapter 318”)

The law regarding someone who cooks on Shabbat, containing 19 paragraphs

2. Chapter 318, paragraph 1

If someone cooks on Shabbat (Rama – or performs any of the other melachot – biblically prohibited categories of work) b’meizid (in wilful violation of Shabbat), he/she is forbidden to derive benefit from it forever, but others are permitted to derive benefit immediately after Shabbat.

If someone performs a melacha on Shabbat b’shogeig (“accidentally”), it is also forbidden for others to derive benefit from it on Shabbat itself, but it is also permitted for the perpetrator to derive benefit immediately after Shabbat.

3. Mishna Berurah, Chapter 318, sub-section 6

B’shogeig – The person erred in halacha or forgot that it was Shabbat or that the action was forbidden on Shabbat.

4. Ba-er Heiteiv, Chapter 318(3)

Reliance on an incorrect halachic ruling is considered to be b’shogeig.

5. Mishna Berurah, Chapter 318, sub-section 3

If the action is rabbinically prohibited, see the Gra, who establishes at length that according to all opinions, if the action was performed b’shogeig, there is no reason to prohibit benefit (on Shabbat) from the action b’di’avad (after it was done).

6. Biur Halacha, Chapter 318 (Ham’vasheil)

If the action is rabbinically prohibited, see the P’ri Megadim, who writes that the halacha is the same as for biblically prohibited actions, which means that if the action is performed b’shogeig, it is necessary to wait until after Shabbat. The Pri Megadim’s proof text is Talmud Bavli Shabbat 38a, but the distinction drawn there is that someone who cooks on Shabbat has performed a forbidden act on Shabbat itself, whereas someone who leaves food on an uncovered heat source before Shabbat has not performed a forbidden act on Shabbat itself. The latter is rabbinically prohibited, but the Gemara does not give this as the reason for its conclusion. It’s astonishing that the Pri Megadim uses that Gemara as his proof text, because there, the Gemara states clearly that even if

the food was left on the uncovered heat source before Shabbat b'meizid (deliberately), it's permitted to eat it on Shabbat because the forbidden action was not performed on Shabbat itself. No halachic authority permits benefit from an action performed b'meizid on Shabbat, even where the action is rabbinically prohibited...

The Biur HaGra writes that even the Code of Jewish Law, who rules in accordance with Rabbi Yehudah, is referring to biblical prohibitions, but in the case of rabbinical prohibitions, [...] the rabbis did not impose the k'nas (penalty) of "shogeig atu meizid". One of the Gra's proofs is that Maimonides rules that if you immerse utensils in the mikvah b'shogeig on Shabbat, you may use them on Shabbat, but that if you immerse utensils in the mikvah b'meizid on Shabbat, you may not use them until after Shabbat.

[...]

I also found that the Chayyei Adam writes that in his view, in the case of a rabbinical prohibition performed b'shogeig, it is permitted to derive benefit even on Shabbat itself.

7. Biur Halacha, Chapter 318 (Achat mish'ar m'lachot)

The Chayyei Adam writes that this only applies in the case of a melacha that effects a change to the object, such as cooking and the like. But in the case of carrying an item from one domain to another, which does not change the object, if it's done b'shogeig, it's permitted even for the person who carried the item to benefit, even on Shabbat, but if it's done b'meizid, it's forbidden even for others to benefit until immediately after Shabbat. Nevertheless, we should be stringent in the case of all biblical prohibitions, such as cooking.

8. Mishna Berurah, Chapter 318, sub-section 2

In any case where there is a dispute as to whether or not an action constitutes the melacha of cooking (and the same applies in the case of other melachot), there is no reason to prohibit benefit (on Shabbat) from the action b'di'avad (after it was done), because the prohibition of deriving benefit is "only" a rabbinical penalty, and in the case of doubt in relation to a rabbinical prohibition, we rule leniently.

9. Mishna Berurah, Chapter 318, sub-section 7

In the Gemara, there is a difference of opinion between Rabbi Meir and Rabbi Yehudah, both in relation to a prohibited act performed b'shogeig and one performed b'meizid. The Code of Jewish Law rules in accordance with the opinion of Rabbi Yehudah, following the Rif, Maimonides and the Geonim. However, the Vilna Gaon agrees with Tosafot and others, who rule in accordance with the opinion of Rabbi Meir, to the effect that if a prohibited act was performed b'meizid, both the perpetrator and others are prohibited from deriving benefit until after Shabbat, but if it was performed b'shogeig, even the perpetrator may derive benefit immediately. In a case of need, one may rely on the second opinion in the case of cooking b'shogeig.

10. Mishna Berurah, Chapter 318, sub-section 4

It is forbidden for the perpetrator to benefit from that melacha, by reason of a rabbinical penalty, but the perpetrator may benefit from the proceeds of sale.

The Magen Avraham writes in the name of the Rashba that this also applies in relation to the pot in which the food was cooked, because it absorbed food that is forbidden to the cook.

11. Mishna Berurah, Chapter 318, sub-section 5

Permitted to derive benefit immediately after Shabbat – Even for the person for whom the food was cooked. It is only necessary to wait bichdei sheya'asu (better- sheyei-asu), i.e. sufficient time after Shabbat in which the melacha could have been performed, in the case of a non-Jew who cooked for a Jew. This is because the prohibition of instructing a non-Jew is treated lightly, and one might come to instruct a non-Jew again, so that the food or other item will be ready immediately after Shabbat. Conversely, if a Jew performs a forbidden action, there is certainly no concern that if we allow the person for whom it was done to benefit immediately after Shabbat, that person will instruct a Jew to cook for him/her on a subsequent Shabbat. Furthermore, a Jew will not obey an instruction to break Shabbat, because a person will not sin if it doesn't benefit that person.

[...]

If food that was cooked on Shabbat b'meizid became mixed with other food during Shabbat, then according to the Magen Avraham, the food that was cooked b'meizid is not nullified, and it is forbidden for the cook to benefit from it on Shabbat. Since it will be permitted for others to benefit after Shabbat, it is considered to be a "davar sheyeish lo matirin", which is not nullified even in 1000 times its quantity. The Magen Avraham seeks to reconcile his opinion with the Rama to Yoreh Deah, at the end of Section 102, who writes the opposite. The Chavat Da'at argues with the Magen Avraham.

The above only applies if the cook wishes to benefit, but if the cook only intends others to benefit, then according to all opinions, the food is considered to be a "davar sheyeish lo matirin."

Note: Surprisingly, Shulchan Aruch HaRav 318(4) agrees with the Magen Avraham.

12. Sha'ar HaTziyun, 318(11)

If the food cooked b'meizid became mixed with other food after Shabbat, it is nullified according to all opinions.

13. Sha'ar HaTziyun 318(12)

Food cooked b'shogeig on Shabbat is a davar sheyeish lo matirin and is permitted after Shabbat according to all opinions. It does not become nullified on Shabbat.

14. Sha'ar HaTziyun 318(13)

If food cooked b'meizid on Shabbat is mixed with other food after Shabbat, it is permitted after Shabbat and nullified according to all opinions.