

HALOCHOSCOPE



This week's question:

If garbage collection takes place on *Shabbos*, normally, one would leave the garbage on the curb before *Shabbos*. When *Yomtov* occurs on *Erev Shabbos*, this presents a problem. Does the *eruv tavshilin* help in this kind of preparation for *Shabbos*.

The issues:

A) *Muktzeh* of garbage on *Shabbos* and *Yomtov*

B) *Eruv tavshilin* – what kind of preparation is covered?

A) Taking out garbage on *Shabbos* and *Yomtov*

Garbage is usually considered *muktzeh*. Edible food remnants are not *muktzeh*. If they are fit for consumption by domestic animals, they could be considered non-*muktzeh*. Food refuse used for composting is *muktzeh*, as it has no permissible use on *Shabbos* or *Yomtov*. Human or animal waste is *muktzeh*. Sand set aside before *Shabbos* or *Yomtov* may be moved to cover the waste. Unprepared sand or earth is *muktzeh*.

Pieces of broken utensil could be reused. The Talmud debates whether they must serve similar uses to those served when they were whole. If they are not combustible, they could be used on *Yomtov* in a fire for cooking or heating. If they were broken before *Yomtov*, they are considered *muchan*, prepared for use as fuel. If they were broken on *Yomtov*, when *Yomtov* began, no-one had in mind to use them as firewood. Therefore, they are considered *muktzeh*. If they cannot be reused but recycled, such as pieces of metal utensils, they are considered *muktzeh*. This is raw material that has not been designated as a utensil. If a utensil is broken but can be repaired, its status depends on how it functions in the broken state. Some broken parts can be used. Others are set aside to be repaired later. In the meantime they are *muktzeh*. If used paper can still be used as a wrapper, it is not *muktzeh*. Another permissible use for paper on *Yomtov* is to wet it and place it on a grill, to prevent the food from burning. Written paper can be recycled by erasing it, a *melacha*. If this is not practical, it could be used to cap a jar or bottle. This requires some adjusting of the shape, which could often be considered a *melacha*. Having no immediate permissible use, this is *muktzeh*.

Once an item is placed into a trash heap or garbage receptacle, the owner has determined that it has no use for him. If one decided to remove it for an immediate permissible use, this would show that it was never really *muktzeh*. The poskim rule that if it was discarded before *Shabbos* or *Yomtov*, it may not be retrieved. If it was discarded on *Shabbos*, one may change his mind. Since there is always some garbage in the same receptacle that is truly *muktzeh*, such as used tissues, one would generally leave the rest of the garbage in the receptacle. [Recyclable items might be clean before bagging. The reusable items are fit to remove for use on *Shabbos* or *Yomtov*.] However, due to the possibility of removing a reusable item, the poskim do not categorically deem the receptacle

muktzeh. As a *basis*, container or base for both *muktzeh* and permissible items, it may be moved. It is nonetheless highly recommended that it is treated as *muktzeh*.

Garbage fits into the category of *muktzeh machmas gufo*, inherent *muktzeh*. It is not a utensil, nor has it any designated uses. Therefore, it may not even be moved to vacate its space. However, there is another type of *muktzeh* that garbage or its receptacle often fits into: *graf shel rai'i*, the chamberpot. Utensils whose use is forbidden on *Shabbos* may still be used for other permissible uses. Therefore, they may be moved, both for these uses and to vacate their spaces. If they have become disgusting for the alternative use, the Talmud debates whether they remain *muktzeh*. For example, a clay oil lamp can serve as a bowl for food. Once it is used, it will become blackened. Many people will be revolted by the idea of using it for food. This is known as *muktzeh machmas mius*, due to revulsion. We follow the lenient view, except in cases where it is totally disgusting, such as a chamberpot. Nonetheless, while it may not be moved due to its *muktzeh* status, it may be moved for a totally different reason: *kavod habriyos*. One may remove filth, waste or dead animals and the like. If people cannot stand the smell, they are not required to move out of the room. Rather, one may remove the offensive item. In the same way, if the garbage stinks, it may be removed from the room. Once one has *muktzeh* in his hands, he need not drop it as soon as possible. He may put it down in a convenient spot. In this case, he may take it to the curbside for collection. There might be other options, such as shoving the garbage can indirectly, or placing a loaf of bread on it. The same dispensation applies if it is on a part of the property outdoors that is used regularly, such as a path or a patio. One may determine on his own whether the item is repulsive. Some poskim suggest that repulsion need not be based on smell, but on unsightliness and the like. These may also be determined relative to a situation, such as by their amounts, whether guests are expected, and so on. While the Talmud and poskim indicate that there is a general dispensation to remove revolting garbage, they debate whether this is specifically a detail in *muktzeh* or in general cleanliness. One may not create a situation where one anticipates being permitted to rely on *graf shel rai'i* to move something. However, if he did so, he may still move it out of the way. [See *Shabbos* 28b-29a 44a-47a 50a 124b-125a 143a 156b-157a *Beitza* e.g. 15A 21b 26A-b 31a-33a etc., *Poskim*. *Tur Sh Ar OC* 308:1 6-8 12-13 etc 27-30 34-38 310:1 3 8 311 312:1, commentaries.]

B) Hachanah and Eruv Tavshilin

Let us assume that on *Erev Shabbos* the garbage is not repulsive yet, but it will reach this level on *Shabbos*. Assuming he will not be able to move it on *Shabbos*, may one move it now? In our specific case, the garbage must be taken on *Shabbos*, or it will remain on the property for a week longer. Apart from the stinking later in the week (which can be dealt with by disposal in another location), it will stink on *Shabbos* as well.

There are two parts to this question: could one determine for himself that his current discomfort and anxiety about the anticipated smell or mess is equal to the required revulsion? Taking out the garbage in this case amounts to preparing for *Shabbos* on *Yomtov*. In regard to the first question, there are poskim who apply the relative revulsion to permit moving such items in similar situations. In addition, one could use one of the alternative methods to move the garbage out. The second issue raises the question of *hachanah*. Even if one finds a permissible way to move the *muktzeh per se*, how may he do this if he

does not need to do so for *Yomtov*, but specifically for *Shabbos*?

On *Yomtov* one is permitted to do *melacha* involved with preparing food, *melechtes*, or *tzorech ochel nefesh*. However, one may not do anything, including an activity normally permissible on *Shabbos* and *Yomtov*, in preparation for the day following *Shabbos* or *Yomtov*. *Hachana* is of Scriptural origin, but the Talmud debates the extent of the original Scriptural restriction. In one view, it is forbidden Scripturally when preparing on *Yomtov* for *chol*, a weekday following it. When *Yomtov* is followed by *Shabbos*, they are considered *kedusha achas*, a single extended holy day, in this respect. Another explanation is that preparing for *Shabbos* is classified Scripturally as *tzorech ochel nefesh* of the same day of *Yomtov*. In the other view, *hachana* is always forbidden Scripturally.

The basis for the restrictions on *hachana* is the Torah's terminology regarding the *mohn*. It did not fall on *Shabbos* or *Yomtov*. The food for *Shabbos* or *Yomtov* had to be *muchan*, ready for consumption or use, before *Shabbos* or *Yomtov* began. Had it fallen on *Yomtov* or on *Shabbos*, the *mohn* would not have been considered *muchan*.

This poses a problem with regard to a *Shabbos* immediately following a *Yomtov*. One needs to prepare some food, close to *Shabbos*. To allow preparation when *Erev Shabbos* is *Yomtov*, the *eruv tavshilin* was instituted. Some food that has been prepared ahead for *Shabbos* before *Yomtov* begins, is set aside on *Erev Yomtov*. A declaration is made that this begins the cooking preparations for *Shabbos*, and they shall be continued on *Yomtov*. Most poskim require two foods, one cooked and one baked, at least, initially.

For those who consider *hachana* a Scriptural restriction, how would a Rabbinically instituted *eruv* help to bypass it? If *hachana* is indeed forbidden, when doing a real *melacha* that is intended for the next day there is no *tzorech ochel nefesh* dispensation. One has also desecrated *Yomtov*. To begin with, normal preparations need not be considered Scriptural *hachana*. There is always a possibility that the food that was prepared for the next day will be needed for the same day's use. For example, unexpected guests could arrive late in the day. Since if this happened the *hachana* would be deemed *non-hachana*, one could not be held liable for the *melacha* activities or for *hachana*, Scripturally, even if the guests never materialized. The Talmud calls this '*hoil*', and uses this logic to exempt one from penalty for violating certain prohibitions, after the fact. This does not permit *hachana* outright. There remains a Rabbinical ordinance, no matter what, based on intent. However, it may be used as an excuse when an *eruv* was set. Basically, now that *hachana* is not necessarily forbidden Scripturally, the Rabbis instituted the *eruv* to alleviate their own ordinance extending *hachana* Rabbinically. *Hoil* would only work if the preparations are made in time to be of use later in the day. One could not put raw food on right before *Shabbos*, claiming that if a guest would show up right then, he could eat it.

The second concept is based on the assumption that the source for the laws of *hachana* is the *mohn*. The Torah permits preparing *mohn* that had fallen before *Yomtov*. Since it is *muchan*, considered 'ready', albeit raw, its further preparation is not forbidden Scripturally. Cooking it is Rabbinically forbidden, which can be suspended by an *eruv*.

Assuming *hachana* is Rabbinically forbidden, the Talmud gives two viewpoints on how *eruv* permits it. One approach is to say that *hachana per se* is not really forbidden on *Yomtov*, when done for *Shabbos*. However, in the preoccupation with the preparations for *Yomtov*, one might not honor *Shabbos* adequately. As a reminder to prepare enough food

for *Shabbos*, one sets aside an *eruv* while still in the midst of preparing for *Yomtov*. To ensure the institution of *eruv tavshilin*, the Rabbis forbade *hachana* without one. Thus the *eruv* is the cause of *hachana*, rather than its effect.

The other approach is that *hachana* is indeed forbidden in its own right on *Yomtov Erev Shabbos*. Because *hachana* for *chol* is Scripturally forbidden, there is a risk that people will confuse the two *hachanos*, and prepare for *chol* just as they do for *Shabbos*. Therefore, there was a need to forbid *hachana* for *Shabbos* Rabbinically, in its own right. At the same time as making this institution, they also instituted the *eruv tavshilin*. Now, people will know that *hachana* is forbidden, but that with the *eruv* they will have nominally begun preparing for *Shabbos*. This way, the Scriptural restriction is enforced.

Melachos not needed for food preparation, such as writing, are forbidden. However, those *melachos* that could be used for food preparation, such as carrying, are permitted for non-foods as well. This is known as *mitoch*. In one view, they were totally excluded Scripturally, in order to facilitate food preparation. Rabbinically a *tzorech hayom* is required. In a second view, the prohibition was never totally suspended. It was relaxed for *Yomtov* needs, with food preparation as an example. Thus, *tzorech hayom* is needed Scripturally. If the activity is needed for the next day, it is forbidden as *hachanah*. Does the *eruv tavshilin* work for non-food preparation? What about non-*melacha hachanah*?

Assuming *melacha* is Scripturally forbidden, food-*hachanah* is permitted Scripturally for *Shabbos*, or *ho'il* permits it to be considered that day's needs. The *eruv* removes the additional Rabbinical issues. Is non-food *hachanah* also permitted for *Shabbos* as one *kedusha!* Assuming the *melacha* is permissible Scripturally on *Yomtov*, the *eruv* might help for *Shabbos* needs. If the *eruv* is to highlight *kavod Shabbos*, other things could be included. Alternatively, if the idea is that the *eruv* was instituted in combination with *hachanah*, the *hachanah* part might only include food preparation. The poskim debate the need of or effectiveness of an *eruv* for non-food *hachanah*, such as the placing of an *eruv chatzeros*. Some suggest that an *eruv chatzeros* is openly done for *Shabbos*. Activities such as garbage removal could easily be seen to be done for *Yomtov*. [See Eruvin 38a Pesachim 46b-47a Beitza 2b 15b, Poskim. Ranb. Hil. Yomtov 6:1-2, Tur Sh Ar OC 527, commentaries. Nitei Gavriel Yamim Noraim, teshuva 9. Halocholescope IV:17.]

Our case could involve *melacha*, if the garbage is taken out to an area not bounded by an *eruv*. The activity is definitely a chore that is not needed for that day of *Yomtov*. One can claim that he needs to remove the garbage for his peace of mind on *Yomtov*. Furthermore, there is no obvious appearance of being done for *Shabbos*, and *eruv* could help.

In conclusion, one may remove garbage from any area that is currently being used, if it causes revulsion. If it causes discomfort associated with anticipated revulsion, one may remove it, but should rather try to move it indirectly. [Note: The actual removal of the garbage on *Shabbos* by gentiles raises other issues that were not discussed here. We will assume that those issues are taken care of independently.]

Sponsored in memory of Reuven Shmuel Mordechai ben Chaim Yitzchok z"l, whose *yahrzeit* is

on the 5th of Tishrei. כתיבה וחתימה טובה

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