

David Brofsky

**HILKHOT  
MO'ADIM**

UNDERSTANDING  
**THE LAWS**  
OF THE  
**FESTIVALS**

Maggid Books

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Prohibited Labors on Yom Tov and *Okhel Nefesh*

ALTHOUGH EACH FESTIVAL has its own individual identity and halakhic obligations – such as eating *matza* on Pesah, and sitting in a *sukka* and taking the *arbaat haminim* on Sukkot – we are also commanded to relate to each festival as a “Yom Tov,” during which one may not violate any of the forbidden labors (*melakhot*). In that sense, Yom Tov seems quite similar to Shabbat.

Shabbat and Yom Tov, however, differ in at least three significant ways. Firstly, one who intentionally performs any of the thirty-nine *melakhot* on Shabbat violates both a positive (Ex. 23:12) and negative (20:10) commandment, and, under certain conditions, incurs capital punishment (35:2). If these conditions are not met, one incurs the punishment of *karet* (31:14). Furthermore, one who unintentionally violates the Shabbat must bring a *korban ḥatat*.<sup>1</sup> However, one who intentionally performs a prohibited *melakha* on Yom Tov violates a negative commandment (12:16) and possibly a positive commandment,<sup>2</sup> but only incurs *malkot* (lashes).

Second, the Gemara teaches that on Shabbat, there is “*ḥiluk melakhot*” – that is, if one were to unintentionally violate numerous *melakhot* on Shabbat during one period of unawareness (“*he’elem eḥad*”), he must bring a **separate** *korban ḥatat* for each *melakha* (Makkot 21b). On Yom Tov, however, there is no “*ḥiluk melakhot*”; one who violates numerous *melakhot* on Yom Tov *behe’elem eḥad* incurs only one punishment.

Third, one may perform *melakhot* for the sake of *okhel nefesh* on Yom Tov. The Torah states: “No work is to be done on those days,

except to prepare food for everyone to eat – that is all you may do” (Ex. 12:16). We learn from this verse that one may perform *melakhot* necessary for the preparation of food on Yom Tov. Furthermore, the Mishna teaches: “The only difference between Shabbat and Yom Tov is *okhel nefesh*” (Megilla 7b), implying that the central difference between Shabbat and Yom Tov lies in the permissibility to cook on Yom Tov.

To what can we attribute these differences between Shabbat and Yom Tov? Seemingly, the *issur melakha* accomplishes two goals. By refraining from *melakha*, one remembers the creation of the world, when God ceased “working” on the seventh day (Gen. 2:1–3). This is particularly true on Shabbat, whose primary theme is the commemoration of creation. Because one who violates the Shabbat denies God’s role in the creation of the world, he is “cut off” (*karet*) from this world, and each and every labor performed is significant.

Furthermore, abstaining from *melakha* contributes to an atmosphere of “*mikra’ei kodesh*” (Lev. 23:1–2). The *Sefer HaHinukh* explains:

The purpose of this mitzva [is to ensure] that the Jewish people will remember the great miracles that God wrought for them and their forefathers, and so that they should discuss them and inform their children and grandchildren. Through refraining from worldly matters, they will be free to engage in this. If one could work on the festival, even light labors, each person would focus on his business, and the respect for the festival would be forgotten by the adults and their offspring. There are other benefits from refraining from labor as well – the entire nation gathers in their houses of worship and houses of study to hear words of wisdom, and the communal leaders can guide and teach them.<sup>3</sup>

On Yom Tov, the prohibition to work plays a secondary role; it provides the proper atmosphere for one to celebrate the particular festival. For that reason, *melakha* on Yom Tov is prohibited by an ordinary negative commandment, and it is not accompanied by capital punishment or *karet*. In addition, as we shall see, Yom Tov is observed not only by fulfilling the mitzvot specific to each festival, but also through eating, drinking, and rejoicing physically and spiritually. The halakha therefore places less emphasis on each individual *melakha* (*ein hiluk melakhot*),

and even permits those *melakhot* that may enhance the atmosphere of the day (*okhel nefesh*).<sup>4</sup>

In the following chapters, we will discuss the laws of Yom Tov related to *okhel nefesh*, the *melakhot* permitted in order to prepare food for the festival, as well as the other laws of Yom Tov, including the proper celebration of Yom Tov, *Eiruv Tavshilin*, and Yom Tov Shenai (for one who resides outside of Israel, as well as for a visitor there).

### **WHICH MELAKHOT ARE PERMITTED ON YOM TOV?**

According to the mishna cited above, *okhel nefesh*, the permissibility of cooking on Yom Tov, encapsulates the difference between Yom Tov and Shabbat. Indeed, this difference is stressed by the Torah, as we noted above: “No work is to be done on those days, except to prepare food for everyone to eat – that is all you may do” (Ex. 12:6).

Which *melakhot* may one perform in order to prepare food? Although one might intuitively suggest that all *melakhot* necessary for the preparation of food are permitted, the Gemara rules that not all *melakhot* are permitted for *okhel nefesh* purposes.<sup>5</sup> What, then, are the criteria in determining the scope of the *heter okhel nefesh*?

Some *Rishonim* explain that only *melakhot* that *must* be performed on Yom Tov are permitted, because if those *melakhot* were to be done before Yom Tov, one would not achieve the same result. Rambam, for example, explains:

Whenever it is possible to perform a labor on the day prior to the holiday without causing any loss or inadequacy, our sages forbade performing such a labor on the holiday itself, even if it is performed for the sake of [the preparation of] food.

Why was this forbidden? This was a decree [instituted], lest a person leave for the holiday all the labors that he could have performed before the holiday, and thus spend the entire holiday performing those labors. Thus, he will be prevented from rejoicing on the holidays and will not have the opportunity to [take pleasure in] eating and drinking.

For this very reason, [our sages] did not forbid transferring articles on a holiday, although the transfer of all [articles] is a task that could be performed

before the holiday. Why was this not forbidden? To increase our festive joy, so that a person can send and bring anything he desires, and thus fulfill his wants, and not feel like someone whose hands are tied. With regard to other labors that are possible to be performed on the day before the holiday, since they involve [prolonged] activity, they should not be performed on a holiday.

What is implied? On a holiday, we do not harvest, thresh, winnow, separate, or grind grain, nor do we sift [flour]. For all these and any similar activities can be performed on the day prior to the holiday without causing any loss or inadequacy.

We may, however, knead, bake, slaughter, and cook on a holiday, since if these activities had been performed on the previous day, the taste would be adversely affected. For warm bread or food that is cooked today does not [taste] the same as bread or food that was cooked the day before. Similarly, meat that is slaughtered today does not [taste] the same as meat slaughtered on the previous day. The same rules apply in all analogous situations.

Similarly, when it would be detrimental for subsidiary activities [involved in the preparation] of food to be performed on the day [before the holiday] – such as grinding spices and the like – they may be performed on the holiday.<sup>6</sup>

Rambam also writes:

We may not make cheese on a holiday, for cheese will not lose its flavor if it is prepared on the day before the holiday. In contrast, one may crush spices in the ordinary manner [on a holiday], for if they were crushed before the holiday, they would lose flavor.<sup>7</sup>

According to Rambam, although *mideoraita* all *melakhot* necessary for the preparation of food are permitted on Yom Tov, the sages only permitted those *melakhot* that cannot be done as effectively before Yom Tov, lest one be “prevented from rejoicing on the holidays and will not have the opportunity to [take pleasure in] eating and drinking.” Rashi implies that these *melakhot* are biblically prohibited.<sup>8</sup>

Other *Rishonim*, however, explain that *melakhot* that are usually performed on a large scale, in order to prepare food for a longer period of time, are prohibited. Rosh, for example, explains:

Since one is accustomed to cut [the grapes of one’s] vineyard and to cut [the wheat of one’s] field together, and to grind a lot [of wheat] and to crush



one's grapes together, they prohibited these activities, as they are similar to one's weekday behavior (*uvdin deḥol*). For this reason, they also prohibited trapping, as sometime one catches many fish at a time, which is similar to weekday behavior.<sup>9</sup>

Ran also explains that the sages prohibited *melakhot* that are done in order to prepare for many days, such as *ketzira* (reaping) and *teḥina* (grinding).<sup>10</sup>

Ramban offers a different approach (Lev. 23:7), noting that regarding Shabbat, the Torah consistently prohibits “*kol melakha*,” any manner of work,<sup>11</sup> while regarding Yom Tov, the Torah generally prohibits “*kol melekhet avoda*.”<sup>12</sup> Ramban explains that while on Shabbat all *melakhot* are prohibited, on Yom Tov, the Torah only prohibited *melekhet avoda*, toilsome labor. Other labors, however, “executed for the sake of food preparation, are beneficial, rather than onerous.” Therefore, *melakhot* performed for *okhel nefesh* are permitted.<sup>13</sup>

Finally, the Yerushalmi cites two views that prohibit certain *melakhot* on Yom Tov (Beitza 1:10). According to Reish Lakish, the proximity of the verse, “No work is to be done on those days, except to prepare food for everyone to eat – that is all you may do” to “and you shall watch the *matzot*” (Ex. 12:16–17) teaches that all *melakhot* performed prior to “watching” (that is, from the kneading of the dough) are prohibited on Yom Tov. Alternatively, Ḥizkiya explains that the words “*akh hu levado*” (“that is all you may do”) excludes three *melakhot* – *kotzer*, *tohen*, and *meraked* – from the permissible *melakhot* of *okhel nefesh*. Some *Rishonim* cite this Yerushalmi.<sup>14</sup> They discuss whether the Yerushalmi should be understood literally, whether Reish Lakish and Ḥizkiya disagree, and whether the Talmud Bavli agrees with the Yerushalmi.

The *Shulḥan Arukh* rules that *melakhot* required for *okhel nefesh*, as well as *hotzaa* (carrying) and *hav'ara* (kindling), are permitted on Yom Tov.<sup>15</sup> He also rules that although reaping, grinding, wringing, and trapping are necessary for food preparation, they are rabbinically prohibited. R. Moshe Isserlis, Rema (Poland, 1520–1572), adds that some are stringent when the *melakha* could have been performed before Yom Tov without any detrimental impact upon the food. He concludes that

if these *melakhot* were not performed before Yom Tov, they may be done on Yom Tov while employing a *shinui* (they should be performed slightly differently than usual).<sup>16</sup>

### **MITOKH SHEHUTRA LETZOREKH: EXPANDING THE PARAMETERS OF OKHEL NEFESH**

The Mishna teaches:

*Beit Shammai* says that one may not carry a child, a lulav, or a *sefer Torah* into the street on Yom Tov; *Beit Hillel* says that this is permitted. (Beitza 12a)

*Beit Shammai* and *Beit Hillel* disagree as to whether one may carry non-food items on Yom Tov, a violation of the *melakha* of *hotzaa*. The Gemara explains that according to *Beit Hillel*, “Since (*mitokh*) you can carry for eating, you can also carry for non-food-related purposes.” This principle is referred to as “*mitokh*.” The *Rishonim* debate the scope of this expansion of *okhel nefesh* as well as its rationale.

For what purposes may one carry on Yom Tov? Rashi explains that the principle of *mitokh* indicates that carrying on Yom Tov is completely permitted *mideoraita*, even for no specific reason.<sup>17</sup> This position is difficult to understand in light of the limitations upon *okhel nefesh* that appear elsewhere in the Talmud. The *heter* of *okhel nefesh* does not even permit all food-related activities, let alone other activities that are often performed for the sake of food! For example, R. Ḥisda and Rabba both maintain that it is prohibited to cook on Yom Tov for the next day, although they debate whether one receives *malkot* or not for doing so (Pesahim 66a). Some suggest that although one may cook for no specific purpose, one may not cook explicitly for the next day. Tosafot disagree with Rashi’s explanation:

“Since it was permitted for food-related purposes, it was also permitted for non-food-related purposes” – provided that it fulfills a need for the enjoyment of the day or a need to fulfill a mitzva on Yom Tov, such as in the case of carrying a child to circumcise him, a Torah scroll to read from it, and a lulav to fulfill the mitzva with it. However, [a *melakha* done] not for any need

of the day at all is not permitted. For example, one who carries out stones would be liable. ... It appears to Ri that carrying a baby out to walk casually is considered a need of the day.<sup>18</sup>

According to Tosafot, the Torah only permitted the performance of *okhel nefesh melakhot* when they fulfill a legitimate purpose related to needs of Yom Tov.

In order to understand the basis of this important debate, we must first investigate the rationale behind the “*mitokh*” extension of *okhel nefesh*. As R. Yishaya Di Trani (c. 1180–c. 1250, Italy) writes, citing a questioner:

Wonder of wonders! What is the rationale to say, “Since it was permitted for [food-related] purposes, it was also permitted for non-[food-related] purposes”? Where does this principle come from? Upon what is it based? This is a principle without reason!<sup>19</sup>

We will present three possible approaches that clarify this issue. Above, we suggested that the Torah only prohibited a certain type of labor on Yom Tov – “*melekheth avoda*” – while *melekheth okhel nefesh* was excluded from the prohibition.<sup>20</sup> Perhaps, then, these *okhel nefesh melakhot*, no matter what the context, were never prohibited on Yom Tov. Therefore, as the Gemara says, “Since it was permitted for food-related purposes, it was also permitted for non-food-related-purposes.” Indeed, Raavad writes:

In other words, all of those *melakhot* that were permitted for the sake of eating were never included in the prohibition of “and you shall do no *melakha*.” And that which the Torah states, “except to prepare food for everyone to eat – that is all you may do,” simply indicates that those labors permitted because they are necessary for food preparation are [completely] permitted on Yom Tov.<sup>21</sup>

Ri offers an extreme application of this understanding. He suggests that since making cheese, a sub-category (*tolada*) of the *melakha* of *boneh* (building), is permitted on Yom Tov, one should be permitted to build a house on Yom Tov; “since building is permitted for food-related

purposes, it should be permitted for non-food-related purposes!” He concludes that building a house must therefore only be rabbinically prohibited.<sup>22</sup> Many disagree with Ri, but this startling position certainly highlights this approach.

As we previously noted, others understand the *heter okhel nefesh* differently – the Torah permitted the preparation of food on Yom Tov because Yom Tov is meant to be a festive day. Indeed, R. Aryeh Leib b. Asher Gunzberg (1695–1785) explains that the Torah permitted *okhel nefesh* on Yom Tov due to the mitzva of *simhat Yom Tov*.<sup>23</sup> If so, how are we to understand the extension of *mitokh*?

R. Eliezer of Metz (*Yerei'im*) explains that the Torah did not only permit *melakhot* necessary for the preparation of food, *okhel nefesh*, but rather all those *melakhot* performed for “*hanaat hanefesh*,” physical and spiritual enjoyments. Therefore, a labor that is permitted for food preparations, such as carrying and cooking, may be performed for other bodily or spiritual needs.<sup>24</sup> *Yerei'im* bases this understanding of *okhel nefesh* on a gemara which indicates that whenever the Torah states that one may not eat, it intends to prohibit other benefits as well (Pesahim 21a). Thus, according to our first approach, *Beit Hillel* argues that certain *melakhot* were never prohibited at all; according to the second approach, *Beit Hillel* expands the definition of *okhel nefesh* to include other needs and enjoyments as well.

Returning to the debate between Rashi and Tosafot, Rashi must maintain that these *melakhot* were never prohibited; as a result, *mideo-raita*, they may be performed even when there is no clear need. Tosafot, on the other hand, must understand that these labors were permitted for specific, *okhel nefesh* related purposes. Although *Beit Hillel* expanded the definition of *okhel nefesh* to include all physical and spiritual benefits, these *melakhot* may still only be performed for a clear physical or spiritual need.

Rambam has a unique position regarding *mitokh*. He writes:

Any *melakha* for which one is liable on the Sabbath, he may be [punished by] lashes for performing it on Yom Tov if it is not necessary for the preparation of food, with the exception of *hotzaa* [the transfer of articles from one

domain to another] and *hav'ara* [the kindling of a fire]. Since it is permitted to transfer articles for the sake of [the preparation of] food [on Yom Tov], [this activity] was permitted even when it is not necessary for [the preparation of] food. Therefore, it is permitted to transfer an infant, a Torah scroll, a key, or the like from one domain to another. Similarly, it is permitted to kindle a fire, even though it is not for the purpose of [the preparation of] food.

With regard to the other forbidden labors, [the following principles apply:] Whenever the activity is necessary for [the preparation of] food – e.g., slaughter, baking, kneading, or the like – it is permitted. If it is not necessary for [the preparation of] food – e.g., writing, weaving, building, and the like – it is forbidden.<sup>25</sup>

Rambam explicitly applies the principle of *mitokh* to *hotzaa* and *hav'ara*, but not to the other *melakhot* necessary for the preparation for food. What is the difference between these two labors and the other *melakhot okhel nefesh*?

*Maggid Mishneh* explains that according to Rambam, there are three categories of *melakhot*. *Melakhot* inherently connected to the preparation of food, such as *bishul* (cooking) and *shehita* (slaughtering), were not prohibited at all on Yom Tov. *Hotzaa* and *hav'ara*, which are not inherently related to food preparation, but are, at times, certainly necessary for *okhel nefesh*, are also permitted even for non-food preparation due to the principle of *mitokh*. *Melakhot* which are not related to food preparation at all, such as *kotev* (writing) and *kosher* (tying a knot), are never permitted on Yom Tov. Therefore, according to *Maggid Mishneh*, Rambam adopts both of the conceptual positions that we have outlined.<sup>26</sup>

The *Shulhan Arukh* rules that one may carry a child, lulav, *sefer Torah*, and utensils, “since it was permitted for [food-related] purposes, it was also permitted for non-[food-related] purposes.”<sup>27</sup> The *Mishna Berura* applies this principle to *hav'ara*, *shehita*, *afiya*, and *bishul* as well.<sup>28</sup>

#### **DEFINING “LETZOREKH KETZAT”: CARRYING ON YOM TOV**

We learned above that according to *Beit Hillel*, one may carry a lulav, a *sefer Torah*, and even a child in a *reshut harabbim* (public area), even

though they are not needed for “*okhel nefesh*.” Although Rashi permits carrying for no specific need or purpose, other *Rishonim* insist that the *mitokh* principle only permits one to carry for some, even slight, need. What is considered to be a legitimate need?

Rabbeinu Ḥananel (990–1053) implies that one may only do these *melakhot* for the sake of a mitzva: One may carry a lulav or *sefer Torah* for their respective mitzvot, and a child in order to perform a *Brit Mila*.<sup>29</sup> Tosafot reject this narrow definition of “*tzorekh*,” and maintain that one may even carry a child in a public area on Yom Tov for a “*tiyul*.”<sup>30</sup> Rosh cites Rabbeinu Tam (1100–1171), who explains that one who wishes to walk to the *Beit Knesset*, or even for a “*tiyul besimḥat Yom Tov*,” and cannot leave his child at home, may carry a child through a public area on Yom Tov.<sup>31</sup> Indeed, Tosafot even record that people play ball in a public area, as this is also considered to be a “*tiyul*,” which is permitted.<sup>32</sup>

Rosh also permits carrying *Maḥzorim* and *Siddurim* home from the synagogue, as “*hitiru sofan mishum teḥilatan*” – they permitted certain actions lest one otherwise not be able to perform the mitzva at all.<sup>33</sup> Maharshal objects to this leniency unless one truly fears that they may be stolen if left in the synagogue.<sup>34</sup>

Finally, Rosh cites the *Geonim*, who prohibit carrying keys that do not open boxes for food or jewelry. He bases this position upon passages from the *Yerushalmi* and *Tosefta*.<sup>35</sup> Maharshal argues that based upon these sources, one should not carry keys to one’s chests or rooms because one fears that his property may be stolen. Rather, he argues, one should preferably remain at home and not violate the Torah prohibition of carrying for no purpose on Yom Tov (*Beitza* 1:18). *Beit Yosef*,<sup>36</sup> however, cites *Hagahot Rabbeinu Peretz*,<sup>37</sup> who permits carrying keys to chests containing money, since avoiding anxiety may also be considered to be a “*tzorekh hayom*” (a legitimate need).

Rema cites the position of Tosafot, that one may play ball in a public area on Yom Tov. He also cites Rabbeinu Peretz, and rules that one may carry on Yom Tov, “when there is [even] a small need, or he fears that they may be stolen, or another loss.”<sup>38</sup> He concludes that one who lives

in an area surrounded by an *eiruv* may carry anything that is considered functional (that is, any item that is not considered to be *muktze*).

### **BATHING ON YOM TOV**

The Gemara (Ketubot 7a) further limits that application of *mitokh*:

Are you then of the opinion that it is permitted to burn spices [on Yom Tov], because burning is permitted in a case of need and should therefore be permitted even if there is no need? R. Papa responded: Regarding this, the verse states: “For what is *ye’ahel lekhol nefesh* [literally: edible by all people], that alone may be done for you” – only something which is of benefit to all (*shaveh lekhol nefesh*) may be done.

The Gemara concludes that the principle of *mitokh*, which permits labors generally done for food purposes (*hotzaa, hav’ara, shehita, bishul, and afiya*), only applies when the *melakha* is *shaveh lekhol nefesh* – burning spices was not viewed as a universally enjoyed activity. The majority of *Rishonim* rule in accordance with this passage.

The *Rishonim* discuss the principle of “*davar hashaveh lekhol nefesh*” regarding the permissibility of heating up water for bathing purposes on Yom Tov. Before we address bathing on Yom Tov, we must first discuss whether one may bathe on Shabbat.

Bathing on Shabbat poses a number of problems. First, heating up water on Shabbat is clearly prohibited, as it violates the *melakha* of *bishul*. The use of hot water in most homes is thus prohibited, as one would most likely directly turn on a heating element, thereby violating the *melakha* of *hav’ara*, and/or heat up cold water (either directly or when it enters the boiler to replace the hot water taken from the tap), violating the *melakha* of *bishul*. But may one bathe in hot water that was heated up before Shabbat? The Gemara relates:

At first, people used to wash in pit water heated on the eve of Shabbat; then, bath attendants began to heat the water on Shabbat, maintaining that it was done on the eve of Shabbat. So [the use of] hot water was forbidden. (Shabbat 39b–40a)

Thus, although one may wash his face, hands, and feet in water that was heated before Shabbat, one may not wash his entire body. This *gezeira* is known as the *gezeirat merhatzaot* or the *gezeirat balaniyot*.

Regarding bathing in cold water on Shabbat, R. Yaakov b. Moshe Moelin (1360–1427), known as Maharil, records that it is customary not to bathe in rivers on Shabbat.<sup>39</sup> He attributes this custom to the fear that one may squeeze water from his hair, carry, or swim. Many *Aḥaronim* cite this practice.<sup>40</sup> Some *Aḥaronim* assume that it is customary to refrain from showering in cold water as well.<sup>41</sup> R. Moshe Feinstein (1895–1986), however, argues that the custom not to bathe in rivers does not apply to showers. He acknowledges that most people do not shower even in cold water on Shabbat, but questions whether that is simply because they are not used to showering in cold water or because they are under the mistaken impression that there is an actual custom not to shower on Shabbat.<sup>42</sup> The *Aḥaronim* agree that one who is experiencing great discomfort may certainly bathe in cold water on Shabbat, as long as he is careful not to violate other Shabbat prohibitions (*sehita*, *memare'ah*, etc.).<sup>43</sup>

Regarding Yom Tov, the Mishna<sup>44</sup> records that *Beit Hillel* permits heating water on Yom Tov in order to wash one's face, hands, and feet.<sup>45</sup> Why does the Mishna imply that one may not heat water in order to bathe one's entire body on Yom Tov? Why doesn't the principle of *mitokh* permit bathing in warm water? We will present two approaches. First, Tosafot explain that one may not heat water in order to wash one's entire body for the following reason:

We [only permit heating water for] a *davar hashaveh lekhol nefesh*, and this [heating water in order to bathe one's entire body] is only for a finicky individual, while [washing] one's hands and feet is considered to be *shaveh lekhol nefesh*.

In other words, the principle of *davar hashaveh lekhol nefesh* limits our ability to apply *mitokh* to heating water. Therefore, one may only heat water for the purpose of washing one's limbs.

According to this logic, Tosafot would seemingly permit bathing in water that was heated before Yom Tov. Rosh, however, rules that one



may not even bathe in water heated up before Yom Tov.<sup>46</sup> Ran explains that just as the *gezeirat merhatzaot* extends the biblical prohibition of heating water on Shabbat in order to bathe one's entire body to water heated up before Shabbat, the *gezeirat merhatzaot* applies to water heated up before Yom Tov as well, as it is not considered *shaveh lekhol nefesh* to bathe in hot water on Yom Tov and thus fundamentally prohibited.<sup>47</sup>

Rif<sup>48</sup> and Rambam<sup>49</sup> disagree. They explain that heating water on Yom Tov for bathing is permitted, due to the principle of *okhel nefesh*. Nevertheless, the *gezeirat merhatzaot* of Shabbat was extended to Yom Tov, prohibiting using water that was heated on Yom Tov for full-body bathing. One may, however, bathe in water that was heated up before Yom Tov. Since there is no biblical prohibition of heating water on Yom Tov, the *gezeirat merhatzaot* was only applied to Yom Tov itself.<sup>50</sup>

The *Shulhan Arukh* rules in accordance with Rif and Rambam, and permits washing one's entire body with water heated before Yom Tov.<sup>51</sup> Rema implies that he adopts the position of Tosafot, prohibiting heating water on Yom Tov because bathing is not considered *shaveh lekhol nefesh*, as well as that of Rosh, prohibiting using water heated before Yom Tov.<sup>52</sup>

Nowadays, when we are accustomed to bathing with greater frequency, may we be more lenient regarding bathing on Yom Tov? Perhaps bathing in warm water is now considered *shaveh lekhol nefesh*, and thus permissible on Yom Tov according to Tosafot and Rosh? According to the *Shulhan Arukh*, it seems that the prohibition of bathing in hot water on Yom Tov is related to the *gezeirat merhatzaot*, and not to the principle of *shaveh lekhol nefesh*. There would thus be no compelling reason to be lenient, despite the change in common practice. According to this opinion, however, one only may bathe in water that was heated before Yom Tov. Some view water heated in a "*dud shemesh*" (using solar panels, a common means of heating water in Israel) as water heated before Yom Tov, since it is not directly heated on Yom Tov in a prohibited fashion.<sup>53</sup> According to Rema, however, who prohibits bathing in hot water on Yom Tov because full-body bathing in hot water was not considered to be *shaveh lekhol nefesh*, might we permit

such bathing nowadays, when it is standard for people to bathe daily in hot water?

This may depend upon a broader question regarding the application of *shaveh lekhol nefesh*: is the definition of *shaveh lekhol nefesh* subjective? Some *Aḥaronim* certainly imply that *shaveh lekhol nefesh* is not an objective, unchanging standard, but rather may be subject to time and place. For example, the *Biur Halakha* questions whether one may heat water to wash one's feet nowadays, as washing one's feet daily is no longer a common practice.<sup>54</sup> Similarly, Rema<sup>55</sup> and *Magen Avraham*<sup>56</sup> debate whether bathing a child is considered *shaveh lekhol nefesh*, which would allow one to heat water in order to wash a child. It would seem that the very fact that there is a debate highlights that *shaveh lekhol nefesh* must be subjective.

R. Shlomo Zalman Auerbach questions if one would be permitted to heat water in order to bathe in a case in which one is sufficiently filthy that everyone would bathe in hot water.<sup>57</sup> R. Yehoshua Neuwirth, author of *Shemirat Shabbat KeHilkhata*, suggests that nowadays, warm showers may be considered a *davar hashaveh lekhol nefesh*.<sup>58</sup> Furthermore, R. Neuwirth mentions that nowadays, when one turns on the hot water for a shower, he often does not heat the water to be used for the shower, but rather uses water that was already heated. Cold water then enters the boiler and may be heated, and this water may be used for another permitted purpose, such as washing one's limbs or washing the dishes. (Some heating systems, however, heat the water immediately, and this rationale would not apply.<sup>59</sup>) In the text of his *Shemirat Shabbat KeHilkhata*, however, R. Neuwirth does not accept these leniencies.<sup>60</sup>

Some *Aḥaronim* imply that one may bathe in *mayim poshrim*, luke-warm water, on Shabbat and Yom Tov,<sup>61</sup> but others disagree or limit this leniency to the specific situation of *mikveh* immersion. *Shaar HaTziyun* cites *Beit Meir*, who considers heating water "*lehafig tzinatan*" (in order to remove the chill) as certainly *shaveh lekhol nefesh*.<sup>62</sup>

One who follows Rema may certainly bathe on Yom Tov when experiencing discomfort. Furthermore, one who wishes to bathe in warm water on a two- or three-day Yom Tov has upon whom to rely, and may certainly bathe in water heated slightly in order to remove the

chill. One who bathes on Yom Tov must avoid other Yom Tov prohibitions, such as wringing out one's hair and using bar soap.<sup>63</sup>

Needless to say, this discussion applies to a situation in which the method of heating up water does not entail the violation of other prohibitions, such as a boiler filled with hot water. It may be prohibited to use some hot water systems of Yom Tov due to the prohibition of *hav'ara*.

### **SMOKING ON YOM TOV**

Before we begin our discussion of smoking on Yom Tov, it is important to note that as time passes and the dangers of smoking become increasingly clear, it seems quite difficult to justify smoking at all. The recent consensus of *posekim* seems to prohibit smoking completely.<sup>64</sup> That being said, we will still dedicate the next few paragraphs to discussing the permissibility of smoking on Yom Tov, as it was discussed by numerous Torah sages over the past four hundred years, as it relates to our discussion of *shaveh lekhol nefesh*.

One of the earliest authorities to address smoking on Yom Tov was R. Chaim Benveniste (1603–1673) in his *Knesset Gedola*, who prohibits smoking due to the *melakha* of *mekhabeh* (extinguishing).<sup>65</sup> R. Avraham Gombiner (1633–1683), in his *Magen Avraham*,<sup>66</sup> adds that smoking should be similar to burning spices (*mugmar*), which was prohibited because it was not *shaveh lekhol nefesh*.

This discussion continued into the next century. R. Yaakov Yehoshua Falk (1680–1756), in his commentary to the Talmud, the *Penei Yehoshua*, argues further that smoking is healthy and good for the digestion (!), and therefore *shaveh lekhol nefesh*.<sup>67</sup> R. Netanel Weil (1687–1769), however, in his commentary to Rosh, the *Korban Netanel*, insists that smoking is not *shaveh lekhol nefesh* and harshly criticized those who smoke on Yom Tov.<sup>68</sup>

This debate continued further. R. Avraham Danzig (1748–1820) prohibits smoking on Yom Tov in his *Hayei Adam*,<sup>69</sup> while R. Chaim Mordechai Margulies (1780–1820), in his *Shaarei Teshuva*, cites others who rule leniently.<sup>70</sup> Interestingly, he records that *Hakham Tzvi*, R. Tzvi Hirsch Ashkenazi (1656–1718), smoked on Yom Tov in his youth, but

refrained in his older years. Due to the great discomfort he experienced from not smoking, he was counseled to resume smoking, as not smoking detracted from his *simhat Yom Tov*.

This debate reflects the dynamic definition of *davar hashaveh lekhol nefesh*. Those who smoke on Yom Tov nowadays assume that smoking is considered to be an activity categorized as *shaveh lekhol nefesh*. However, as more and more countries legislate against smoking in airplanes and other public places, it becomes increasingly difficult to consider smoking a universally enjoyed activity. In a posthumously published responsum, R. Moshe Feinstein grapples with this question, and concludes:

Since there are many who do not smoke, as they assume it to be dangerous ... therefore smoking cigarettes today is certainly not *shaveh lekhol nefesh*, although it is difficult to rule against the practice of the world.... Therefore, although a *baal nefesh* should certainly be stringent, it is difficult, halakhically, to prohibit it.<sup>71</sup>

Others, such as R. Shlomo Zalman Auerbach, R. Yosef Shalom Elyashiv, and R. Moshe Sternbach,<sup>72</sup> prohibit smoking on Yom Tov, as it is not considered to be a *davar hashaveh lekhol nefesh*. This was apparently the view of *Hazon Ish* as well.<sup>73</sup>

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CHAPTER 2

Cooking on Yom Tov for the Next Day:  
*Marbeh BeShiurim* and *Eiruv Tavshilin*

COOKING ON YOM TOV FOR A WEEKDAY

The Torah permits cooking and other *melakhot* on Yom Tov for the sake of food preparation. There are, however, certain limitations upon