



# Benefitting From Child's Transgression During *Bein Hashemashot*

**Question:** We forgot to plug in our hot plate, and so we asked our child (9 years old) to plug it in 11 minutes after sunset. We second-guessed ourselves in the morning. Was it permitted? If not, could we have used the hot plate then and benefitted from the food that was on it?

**Answer:** Some things are forbidden on Shabbat but permitted during *bein hashemashot* (=bhsh), which is treated like a *safek* (doubt) of night/Shabbat, including asking a non-Jew to do *melacha* for Shabbat needs, e.g., lighting a candle (Shulchan Aruch, Orach Chayim 261:1; *ibid.* 342:1 expands it a little more). Since some *poskim* and communities (see Be'ur Halacha to 343:1) allow children to do things on Shabbat that adults may not, we understand your idea of using a child during *bhsh* (after the community accepts Shabbat, leniency is harder – see Piskei Teshuvot 343:4). However, since plugging

in a hot plate, with its very hot filaments, is a Torah-level *melacha*, it is also forbidden by Torah law to encourage a child to do so (Mishna Berura 343:4). Since *bhsh*, is a *safek* of Shabbat, asking a child to do a full *melacha* is a *safek* Torah prohibition, and facilitating a *mitzva* (a Shabbat meal) would not be sufficient justification.

## When a child violates Shabbat, benefit is forbidden if he did it on behalf of others

During the first 13 minutes after sunset, there is arguably a double doubt: 1. *Bhsh* is a *safek*; 2. Maybe Rabbeinu Tam is correct that *bhsh* begins only an hour or so after sunset (see Be'ur Halacha to 261:1). However, most *poskim* say that since our communities' clear *minhag* is to discount Rabbeinu Tam's opinion (i.e., on Saturday we do *melacha* some 35 minutes after sunset), we should not consider this a reason to be more lenient than the regular *halachot* of *bhsh* (Orchot Shabbat, 25:(78); Dirshu 261:14).

On our presumption that you erred, what is the *halacha b'di'eved*? We rule that one may not benefit from violations done during *bhsh* (Mishna Berura 261:6, against Zayit Ra'anani II:5). When a child violates Shabbat, benefit is forbidden if he did it on

The Orthodox Union - via its website - fields questions of all types in areas of kashrut, Jewish law and values. Some of them are answered by Eretz Hemdah, the Institute for Advanced Jewish Studies, Jerusalem, headed by Rav Yosef Carmel and Rav Moshe Ehrenreich, founded by HaRav Shaul Yisraeli zt"l, to prepare rabbanim and dayanim to serve the National Religious community in Israel and abroad. Ask the Rabbi is a joint venture of the OU, Yerushalayim Network, Eretz Hemdah... and OU Israel's Torah Tidbits.



behalf of others (Magen Avraham 325:22).

However, perhaps eating the food is permitted even if done by an adult on Shabbat proper. If the food was nominally cooked, then even if plugging in the hot plate caused it to become fully cooked and heated a cooled-off liquid, benefit is permitted. This is based on the rule that when there are serious opinions to permit something, as in these cases (see Shulchan Aruch, OC 318:4 and Be'ur Halacha ad loc.), benefit *b'di'eved* is permitted even for those who rule stringently *l'chatchila* (Mishna Berura 318:2). There is also room for leniency based on the fact that the work was done *b'shogeg* (based on a mistake, including a halachic one). Of the three opinions in Ketubot 34a, we generally accept the middle opinion, which forbids benefit on Shabbat even *b'shogeg* (Shulchan Aruch ibid. 1), but in case of need many rely on the lenient opinion (Mishna Berura ad loc. 7, based on the Gra ad loc.).

Regarding the food on the hot plate, there is a complication. The plugging in created a new situation of food being on a heat source when it was not when Shabbat started (like *hachzara*). This is often forbidden because one might stoke the coals or because it looks like cooking (Mishna Berura 318:98). If one makes a mistake on these matters, the food is forbidden in benefit (Shabbat 38a). Here

you did the equivalent of actually stoking the coals, but paradoxically, the reason we are stringent is because people are lax because they don't think the possibility of stoking the coals is a big deal. Here the main mistake was about doing a *melacha*, which people do take seriously, and there is no need for extra stringency *b'shogeg*. There are too many permutations to address as far as whether you also violated *hachzara*, but if you follow the opinions to take food directly from the refrigerator to a hot plates, you should not be impacted here.

As far as using the hot plate if and when you become aware of the mistake, it is permitted only according to the Gra (above), as a clear Shabbat violation created its heat. ■

*Eretz Hemdah has begun a participatory Zoom class - "Behind the Scenes with the Vebbe Rebbe" - an analytical look at the sources, methodology, and considerations behind our rulings, with Rav Daniel Mann. Contact [info@eretzhemdah.org](mailto:info@eretzhemdah.org) to join.*

## Having a dispute?



For a Din Torah in English or Hebrew contact 'Eretz Hemdah - Gazit' Rabbinical Court: 077-215-8-215 • fax: (02) 537-9626  
[beitdin@eretzhemdah.org](mailto:beitdin@eretzhemdah.org)