



Tofeir & Medical Practitioners – Part 1

Tofeir l'Zman – The Use of Labels or a Stapler and Attaching a Soft Material to a Hard One

{We continue our discussion of several *Melachos* of Shabbos that are pertinent to the field of medicine. As in our previous essays, we will begin with the basic tenets of each *Sugya* to define the fundamental essence of each *Melacha* and conclude with practical applications. This week we will focus on the *Melacha* of *Tofeir* – sewing.}

All of the thirty-nine prohibited *Melachos* on Shabbos (*Mishna, Shabbos 7:2*) are derived from the *Melechtes haMishkan* (the acts used in the construction or maintenance of the *Mishkan*). *Tofeir* (sewing) was performed in the context of repairing the *Yerios* (the curtains that covered the structure). *Tofeir*, in its classic form, isn't particularly relevant to medical practice, aside from two significant cases: suturing wounds, and attaching labels to forms, medical tests, or scans.

This essay will examine whether sutures that approximate the edges of a wound (but the wound is actually closed by the body's natural healing process) are forbidden as *Melechtes Tofeir*. It will also discuss the *Issur* of "*Hadbaka*" (sticking two things together) which, according to the *Rambam (Hilchos Shabbos 10:11)*, is a *Tolada* of *Tofeir*.

1. Impermanent *Melachos*

Is a permanent result required in order to define an action as a prohibited *Melacha*? This question is discussed in the context of several *Melachos*, but there is no universal standard. For example, the Gemara (*Shabbos 74b*) rules that a person only violates the *Melacha* of *Kosher* if he ties a permanent knot. However, regarding *Boneh* (building) there is a dispute among the *Acharonim* whether one is liable for building something impermanent. Regarding *Tofeir*, there is no discussion of note among the *Poskim* at all.

Though the Gemara doesn't directly address *Tofeir l'Zman* (temporary stitching), it does discuss opening stitches or detaching two items that are stuck together, which may shed some light on our question:



Rav Yehuda said in the name of Rav: A person who opens a neck hole [in a garment] on Shabbos must bring a Korban Chatas. Rav Kahana asked: What is the difference between this case and that of [opening] a seal of a [clay] barrel [which is permissible]? He replied: "This is a Chibur (an attachment) and this is not a Chibur. (Makos 3b)

The *Rishonim* dispute the distinction between opening a neck hole and opening a sealed barrel:

1. *Rashi* and the *Meiri* explain that the Gemara is referring to a new garment that **doesn't yet have a neck hole**. The *Issur* of forming the neck hole is thus not *Kore'a* (tearing), but *Makeh b'Patish* (completing an item). Opening a sealed barrel, by contrast, does not violate *Makeh b'Patish* because the barrel was formed originally as an open barrel and the cover was only attached afterward. Therefore, breaking the seal is not an act of *Makeh b'Patish*.

Why doesn't breaking open the seal violate the *Melacha* of *Kore'a*? We must say that according to *Rashi* and the *Meiri*, **detaching something that was only meant to remain temporarily attached is permissible**. If so, the reverse argument can also be made, and forming an impermanent attachment should also be permissible.

2. Other *Rishonim* (*Rabbenu Perachya* citing *R' Avraham ben haRambam* (*Shabbos* 48b) and the *Ritva*, *Makos ibid.*) hold that the Gemara refers to a garment that had a neck hole but it had been sewn shut. If a person tears those stitches on Shabbos, though he does not violate *Makeh b'Patish*, he does violate *Kore'a*. According to these *Rishonim*, though the stitches were only meant to remain in place temporarily, they are still considered a true *Chibur* and breaking them open is an act of *Kore'a*¹.

If tearing open temporary stitches is considered *Kore'a*, why is the same not true of opening a barrel seal? There must be a difference between *Tefira* and *Hadbaka*. *Rabbenu Perachya* (*ibid.*) explains that a barrel and its seal do not become a single entity until they are fired together in a kiln. Therefore, opening the seal does

¹ The *Ritva* adds that the Halachos of Shabbos are similar to those of *Kilayim* where a temporary stitch is considered a *Chibur*.



not constitute *Kore'a*. However, *Tefira* creates a *Chibur* even when the stitches are impermanent.

We see that according to *Rabbenu Perachya*, one can only be liable if the two items become a single entity – such as gluing two pieces of paper together (see the *Rambam, Hilchos Shabbos* 10:11). Surgical stitches, which do not cause the two parts of the skin to become one entity², would therefore not appear to be a *Chibur*. On the other hand, given that the sutures attach the two parts of the skin **permanently**, perhaps it could be argued that it should be considered a *Chibur*.

We should stress that the question of creating a *Chibur* via surgical sutures is only whether the **act of stitching** creates a *Chibur*. We surely cannot consider the subsequent healing process that will occur to be part of the act of *Tefira*.³ However, the *Tzitz Eliezer* curiously maintains that the body's healing process does contribute to the violation of the *Melacha*.⁴

In summary: According to *Rashi* a person is not liable for tearing open a *Tefira l'Zman*. It is reasonable to assume that one is likewise not liable for creating a *Tefira l'Zman*. According to *Rabbenu Perachya*, one is liable for *Tefira l'Zman* but only if the two items become a single entity in the process.

The *Rema* (317:3) rules that a person only violates *Kore'a* if he tears open the original permanent stitches of a garment and not if he tears open temporary stitches that were only placed afterwards. Clearly, he holds that we do not consider *Tefira l'Zman* to be *Tefira*.

However, the *Shulchan Aruch* (340:7) appears to disagree⁵. He cites the *Shiboley haLeket* (108) who rules that one may not add temporary loops (through which a thread will be strung to attach the sleeves) to a garment on Shabbos for “*What difference is there between a Tefira for a day and a permanent Tefira?*”

² I.e., the skin (and other tissues) will “reattach” itself through the body's natural healing process, and the sutures only hold the skin together to promote this healing but don't actually attach the tissues to each other.

³ [Editor's note: In most cases, the body will eventually heal itself whether or not the wound is sutured together, and the sutures can be said to merely promote this process and to allow it to occur with reduced risk of infection, better cosmetic result, etc.]

⁴ The *Tzitz Eliezer's* view will be discussed in next week's essay.

⁵ This is also R' Yitzchak Mordechai Rubin *Shlit"u's* (*Orchos Shabbos*) understanding of the view of the *Shulchan Aruch*.



If the *Rema* disagrees with the *Shulchan Aruch*, why doesn't he dispute the ruling of the *Shulchan Aruch* in *Siman* 340? The *Acharonim* suggest a number of answers:

The *Tehila l'David* contends that the *Rema* was only lenient in cases of "*Kore'a Shelo Al Menas liTfor*" (tearing something open with no intention of reattaching it) which is only an *Issur d'Rabbanan*. However, in the case of the *Shiboley haLeket*, there was to be a bona fide act of *Tefira*, therefore, the *Rema* held that one cannot be lenient, even if it was only a *Tefira l'Zman*.

The *Sefer Shalmei Yosef* (354) discusses this question at length. He concludes that according to the *Rema* there is a difference between cases where the *Tefira* is **evidently** temporary, and cases where the person **intends** for it to be temporary but that isn't apparent to an observer. The *Rema* ruled leniently when the *Tefira* is obviously temporary. Where it isn't apparent, the *Rema* concurred with the stringent position of the *Shulchan Aruch*. This is also the approach of *HaGaon Rav Asher Weiss Shlit"a* (*Minchas Asher*, 2:39).

The *Chazon Ish zt"l* makes a similar distinction in a letter to Rav Shlomo Zalman Auerbach *zt"l*, explicitly stating that performing *Tofeir* with the intention of undoing the stitches is still considered a *Melacha*. He emphasizes that if a person performs an act that has the form of a *Melacha*, his intention that it be temporary makes little difference.

2. Labels

The use of labels in hospitals on forms and diagnostic test samples is widespread. Is this permissible on Shabbos?

Ostensibly, the use of labels should be an *Issur d'Oraisa* like gluing pieces of paper together, as ruled by the *Rambam*. However, as noted above, some of the *Poskim* hold that *Tefira l'Zman* is permissible and this should certainly be the case with regard to *Hadbaka l'Zman*. Is attaching labels considered a permanent *Tefira* or temporary?

On the one hand, since labels remain permanently attached unless they are removed, this would not appear to be an act of *Tefira l'Zman* at all. It would seem to



bear no comparison to other examples of *Tefira l'Zman* where the stitches are not going to remain permanently in place and were placed with the intention that they would be removed in the future. On the other hand, the person attaching the labels does not need them to remain permanently in place, as the item to which they are attached will at some point be discarded⁶.

HaGaon Rav Asher Weiss Shlit"א (Minchas Asher 2:39) maintains that while it is certainly better to avoid applying labels on Shabbos, in a pressing situation one may rely upon the contention that it is only *Tefira l'Zman*. However, one should at least utilize a *Shinuy* – e.g. sticking the item onto the label rather than sticking the label onto the item.

3. Attaching a Soft Material to a Hard one – Labels on Patient Samples

The *Melacha of Tofeir* was used in the Mishkan to repair the *Yerios*⁷. Additionally, the *Rambam (Hilchos Shabbos 10:11)* rules that one is also liable for *Hadbaka*, such as for gluing pieces of paper together. Would a person be liable for attaching a soft item to a hard one which would not be nearly as permanent as gluing paper together?

We saw earlier that according to some *Rishonim*, the seal of a barrel is not considered to have a *Chibur* with the barrel since the two are not one entity. Therefore, removing the seal is not a *Melacha*. (Though the Gemara is discussing the *Melacha of Soser*, or, according to some *Rishonim*, *Makeh b'Patish*, we do see that not every type of attachment is considered a *Chibur*.)

In addition, the Gemara in *Beitza (32b)* rules that one may take clay that has been prepared before Yom Tov and spread it onto an oven, even though it will dry and become stuck to the oven. Clearly, this is not a violation of the *Melacha of Tofeir* as the clay is not considered to become a single entity with the oven.

⁶ There is a similar discussion among the *Poskim* with regard to the *Melacha of Kosheir* (which we discussed previously). However, we should stress that *Kosheir* is unlike other *Melachos* as the Halacha that one is exempt for a temporary knot is found explicitly in the Gemara. Regarding *Tofeir*, where no such condition is stated, a person may well be liable if he wants the two items to be stuck together, even if he doesn't need them to remain attached permanently.

⁷ *Tofeir* was not employed to repair the *Bigdei Kehuna* as they were woven and not attached by needlework.



We can explain the distinction between these cases in one of two ways:

When two items do not become one entity, though they may be attached very strongly (such as the seal on a barrel or the paper cover to a pot of cream cheese or yogurt), it does not constitute a *Chibur*.

Alternatively, the seal of a barrel is considered to be only a temporary *Chibur* as it will be removed in due course.

According to *Rashi*, it is permissible to open a sealed barrel because it is only a temporary *Chibur*. However, according to several other *Rishonim*, it is forbidden to break open even a temporary *Chibur*. The reason that it is permissible to open a barrel seal is because the seal and the barrel are not considered to have a *Chibur* between them at all as they do not become a single entity.

R' Shlomo Zalman Auerbach *zt"l* (*Shemiras Shabbos K'Hilchasa* 9, footnote 85) uses this argument to support the conclusion that one may stick a paper label on a plastic bottle on Shabbos. Since the paper is soft and the bottle hard, it would not be considered a *Chibur* despite the fact that they two are stuck strongly together and the *Chibur* isn't temporary.

Rav Asher Weiss *Shlit"a* (*ibid.*) contends that this is another reason to permit the use of labels on Shabbos. Since the labels are of a soft material and the items that they are attached to are made of harder materials, there will be no true *Chibur* between them. However, as stated above, Rav Weiss ultimately concludes that labels should only be used in pressing circumstances and by means of a *Shinuy*.

Rav Nisim Karelitz *zt"l* (*Chut Shani* 17) notes that this is also a reason for leniency regarding the use of band-aids which clearly do not become a single entity with the surface to which they are applied. However, he does rule stringently if the band-aid is used to pull two areas of skin together in order for a wound to heal⁸, arguing that this may be considered *Tofeir* of the skin. Rav Shlomo Zalman, however, disagreed that band-aids can perform *Tofeir* on a wound, as *Tofeir* is only executed by means of a thread. There is, moreover, no *Issur of Hadbaka* on a person's body.

⁸ E.g. a "butterfly" bandage or Steri-Strips



Truthfully, Rav Karelitz' position appears the more logical for even a thread does not become a single entity with a person's body and merely serves to promote the body's own healing. If so, there does not seem to be a logical reason to distinguish between that and *Hadbaka*.

4. The Use of a Stapler

The use of a stapler on Shabbos is clearly a violation of *Melechtes Tofeir* as a staple is equivalent to two stitches⁹ (*Chut Shani* 17 p136 & *Orchos Shabbos* 11:10). Therefore, where the use of a stapler is necessary, a *Shinuy* should be employed (such as by using the back of one's hand). Ideally, a non-Jew should be enlisted to do it instead.

One simple solution is to make use of a safety pin instead, since it is not usually used to create a permanent attachment. Though there are *Acharonim* who hold that the use of a safety pin is a violation of *Melechtes Tofeir*, all agree that if it is just inserted through the material(s) once, it is permissible. Moreover, according to the *Chazon Ish* (*Hashmatos* to 340), it is even permissible to insert it through the material twice.

{to be continued}

⁹ Which is the minimum *Shiur* for *Melechtes Tofeir*