



Parshas Terumah 5764

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Is one permitted, before Shabbos, to instruct a gentile to perform a melacha on Shabbos?

Two issues are usually present when dealing with a gentile on Shabbos. One issue is the manner of speech, which involves the *issur* of *דבר דבר*. For example, instructing a gentile to do a *melacha* involves prohibited speech because one is saying “do a *melacha*”. The other is the directive to do a *melacha* on Shabbos, regardless of how it is said. The *Arnei Nezer*¹ says that the first issue only applies on Shabbos itself, because speaking about ‘doing a *melacha*’ is only *ossur* on Shabbos itself.

As for the second issue we must first appreciate the essence of the *issur* in instructing a gentile to perform a prohibited act.

We find several opinions amongst the *Rishonim* that define this prohibition:

- *S’mag*² – the *possuk* says כל מלאכה לא יעשה בהם (שמות יב טז), and we learn from the *possuk* that one may not have one’s *melacha* performed by a gentile. The *Bais Yosef* in *simon* 244 expresses uncertainties as to whether

the prohibition is biblical or rabbinical.

- The *Rambam* (*Z’manim* 6:1) says that *Chazal* forbid instructing a gentile in order to prevent one from losing the seriousness of Shabbos which in turn might lead to the performance of the *melacha*. In other words, instructing a gentile to perform an *issur* could lead one to carry out the *issur*.
- *Rashi* in *Shabbos* 153a says that the gentile becomes one’s שליח (similar to an emissary) and it is as if the Jew himself is performing the *melacha*.

The *Arnei Nezer* continues that the second issue applies to instructing the gentile before Shabbos as well, because the concern is the time the *melacha* is done and not when he was instructed to do it.

Therefore, one may not instruct a gentile before Shabbos to perform a *melacha* on Shabbos.³

Any examples?

One may not instruct a gentile to deliver the post on Shabbos. This is true even when one hands him a letter on Sunday and instructs him to deliver it on Shabbos.⁴ Even if one pays him to deliver the letter, it is *ossur* to

¹ שו"ת אבני נזר או"ח סי' מ"ג ס"ק ו' ו-ט"י.

² *Sefer Mitzvos HaGadol*, written by R' Moshe Yakov of Couchy.

Born: France, early 1200s. **Died:** Spain, middle/late 1200s.

Notes: Tosefist. Student of R' Yehuda HaChassid. Author of *Tosefos Yeshanim to Yoma*. (Adapted from the bibliography written by R' Shlomo Pereira).

³ See the *SS"K* 30 footnote 2.

⁴ *Simon* 247:1.

express that one wants it delivered on Shabbos.

One may not instruct a gentile before Shabbos to turn on the lights at a certain time and turn them off at a certain time. (We still have to learn the *halachos* regarding a case when the gentile turns them on and off on his own accord).

What if I only hint?

Pertaining the two issues mentioned before, i.e. the speech and the instructing, since one is only hinting they do not apply. For example, the *Mechaber* says ⁵ that one may say to a gentile after Shabbos “why did you not do such-and-such on Shabbos?”. The gentile will hopefully **understand** that you want a certain action performed the next Shabbos. This type of hinting is also a form of **דבר** **דבר** because you are hinting that something should be **done**, which is a form of a direct hint and one may not use this type of a hint ⁶ on Shabbos itself – *Rama* (*simon* 307:22). ⁷ In the case of the *Mechaber* one is hinting after Shabbos, which has the same effect as hinting before Shabbos.

It appears then that hinting is totally permitted before Shabbos.

It is far more problematic. Although the hinting in this manner takes care of the ‘instructing’ issue it does not deal with the actual *melacha* the gentile is performing for the Jew on Shabbos. In certain cases one need not prevent the gentile from performing certain *melachos* and in other instances one must prevent and protest even

⁵ *Simon* 307:2.

⁶ Indirect hints are *muter* on Shabbos itself, but only in certain cases, as we will see *be”H*.

⁷ According to the understanding of the *M”A* in *se’if* 22 and the *Eshel Avraham*, see the *Sha’ar Hatsiim* 307:10.

though the gentile is doing it on his/her own accord.

To summarize the manner of speech:

To instruct directly is *assur* on Shabbos and before or after Shabbos.

One may hint directly before or after Shabbos (without taking the action itself into account and whether it needs to be prevented) but not on Shabbos itself. There are cases where hinting is permissible on *Shabbos*, and we will discuss it in future shiurim.

Vort on the Parsha

Rav Sternbuch *shlita* points out that the *Shulchan* was 1½ *amos* high and its width only 1 *amah*, whereas the *Aron* was 1½ *amos* high and 1½ *amos* wide. The *Shulchan* stands for sustenance and prosperity, and we can learn from its dimensions that one should be reserved and not exploit one’s wealth to its fullest extent. On the other hand the *Aron* stands for Torah and spirituality, and here we learn that one must utilize one’s spiritual talents to their utmost and try and grow as much as possible.

Food For Thought

When must the gentile be prevented from doing a melacha and when not?

When may I hint on Shabbos that a melacha may be done?

What if the gentile turns on the lights for me without my instructing to do so?

I want a gentile to buy something for me. May I hand him money knowing that it will be bought on Shabbos?

Answers coming next week.

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Note: The purpose of this series is intended solely for the clarification of the topics discussed and not to render halachic decisions. It is intended to heighten everyone’s awareness of important practical questions which do arise on this topic. One must consult with a proper halachic authority in order to receive p’sak.