



Parshas Achrei Mos/Kedoshim 5764

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May a gentile be requested to violate a rabbinical violation even for the sake of a slight ache or pain?

In earlier shiurim we learned that one may request a gentile to 'violate' the Shabbos and perform *melachos d'oraisso* for the health and medical needs of *חולה שאין בו סכנה*,¹ and the gentile may 'violate' rabbinical prohibitions for the sake of a slightly ill person.

However, a person who is suffering from a slight ache or minor pain is not considered as being ill and a gentile may not be requested to violate any prohibitions in such instances.² *Chazal* did not permit the violation of any *issurim* under such circumstances.

Is it possible to be a bit more specific?

It is difficult to draw the fine line between one who is slightly ill and one who has a minor ache or pain. It would be fairly safe to say though, that a light headache or a very mild sore throat does not permit having a gentile violate anything at all. In such cases there is another issue that involves the administration of medication. Even if one is permitted to request a gentile to violate an *issur d'rabanan*, it must be understood how one is to administer the medication being that only one who is defined as a *חולה שאין בו סכנה* (bedridden or sick) may have medication. *B'ezeras Hashem*, when we learn

about medication on Shabbos we will deal with this question.

When may I request that a gentile violate the Shabbos for the sake of a mitzvah?

The question should be 'is it permitted to request a gentile to violate an *issur* for the sake of a *mitzvah*? The answer is not so simple.

We find a big *machlokes* between the *Rishonim* on the following issue: we know that there is a *mitzvah* to perform a *B'ris Milah* on an 8-day-old baby even on Shabbos. What happens if the *mobel* realizes before the *B'ris* that he forgot the knife at home? Is he permitted to request a gentile to perform a *melacha d'oraisso* and bring the knife to the baby's house through a *reshus harabim* (a public domain)?

Most *Rishonim*³ learn that although one may perform the actual *B'ris* on Shabbos, one may not instruct a gentile to violate an *issur d'oraisso* for the sake of the *B'ris*, only an *issur d'rabanan*.

Accordingly a gentile may not sharpen the knife but a gentile is permitted to fetch a knife and carry it through a *karmelis* (a rabbinic domain).

However the *Ba'al Halachos Gedolos* learns that one may request a gentile to violate even an *issur d'oraisso* for the sake of the *B'ris*.

What is the halacha?

¹ See the previous sheet for the definition of a *חולה שאין בו סכנה*.

² *Mechaber* in *simon* 328:1 and *M"B* 3.

³ Namely the *Rif* (*Shabbos* 56a), the *Rosh* (*perek* 19:2, *Rambam* (*Milah* 2:9) cited in the *Bais Yosef* in *simon* 331.

The *Mechaber* writes that one may request a gentile to violate an *issur d'rabanan* for the *Milah* but not *issurei d'oraisso*.⁴

The *Mishna Berura* writes⁵ that it is preferred that a gentile carry the knife through a rabbinical domain to where the baby is, than to take the baby through the rabbinical domain (where there is no *eiruv*), because one will have to return the baby to his house thereby violating the Shabbos twice, whereas the knife can remain where it is until after Shabbos.

The *Rama* however writes 'see above in *simon* 307'. In *simon* 307:5 the *Rama* writes that there are opinions who hold that one may request a gentile to violate an *issur d'oraisso* for the sake of a *mitzvah*. That opinion belongs to the *Ba'al Ha'Itur* and it is compatible with the *Ba'al Halachos* we mentioned.

The *Mishna Berura* writes⁶ that many *poskim Achronim*⁷ argue with the *Rama* and do not permit one to request a gentile to violate an *issur d'oraisso* for the sake of a *mitzvah*. He continues saying that when there is no other option,⁸ one has what to rely on to request a gentile to violate an *issur d'oraisso* for the sake of a *Milah* especially if it only involves carrying the knife in the street, if the street is not a *reshus harabim d'oraisso*. Be"H we will learn what the definition of a *reshus harabim* is.

⁴ We are obviously not referring to cases where the baby's life is endangered and he needs being taken to hospital. We are referring to the preparation stage such as fetching the knife, sharpening it, turning on the lights etc.

⁵ *Simon* 331:20.

⁶ *Simon* 331:22.

⁷ See the *M"B* *simon* 276:24.

⁸ The *Bi'ur Halacha* writes in the name of the *K'sav Sofer* that when a knife needs to be sharpened, if one can locate another knife one may not sharpen it, even if the 2nd *mohel* refuses to lend his knife to the 1st *mohel*.

The purpose of these shiurim is not to *pasken*, as these issues are complicated and when the occasion arises a competent rav must be consulted with. It is our purpose to merely present the various issues involved.

Vort on the Parsha

In *parshas Kedoshim* we find many *mitvos* that deal with fellow man. One of the more difficult ones is the *mitzvah* of *לא תטור* – do not bear a grudge against your fellow Jew because of something done to you. The *Chofetz Chaim* wished to aid us in this task and gave the following parable: You are looking for Ya'akov and you are told that he is one of the people in a group. You approach the group and to the first person you accost you ask him whether he is Ya'akov. No, he replies, he is Reuven. You approach the next person and he replies that he is Shimon. Is there any reason to be upset with Reuven and Shimon for not being Ya'akov? Obviously not, they are not the people being sought and there is nobody to blame for that.

So too, says the *Chofetz Chaim*, when you ask your friend to lend you an item and he refuses, there is no point being angry with him. If *Hashem* had wanted him to lend you the item he would have lent it to you. If he does not lend it to you it is because *Hashem* decreed that he is not the one and therefore there is no cause for anger.

If one would go through life with such an outlook the world would be a lovely place to live in.

Food For Thought

- Do we compare other *mitzvos* to a *B'ris Milah* as far as instructing a gentile is concerned?
- Is the gentile permitted to turn on the lights in *shul* before *davening*? What about the air-conditioning?

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.