

THE SHABBOS WEEKLY

HALACHA SERIES ON HILCHOS SHABBOS

Published by



These halachos were shown by Rabbi Ostroff to HaGaon HaRav Moshe Sternbuch, shlita

based on the shiurim given by

RABBI DOVID
OSTROFF shlita

developed from the Chabura of the
Shulchan Aruch Project

Parshas Emor 5764

May 7, '04

Volume III Issue 27

With respect to requesting a gentile to violate Shabbos, is there a difference between mitzvos and a B'ris Mila?

In the previous shiur we learned that one may request a gentile to violate an *issur d'rabanan*¹ for the sake of a *B'ris Milah*.² With regards to other *mitzvos* we find a dispute amongst the *Rishonim*.

The *Rambam*³ writes that one may request a gentile to violate an *issur d'rabanan* for the sake of a *mitzvah*. The *Maggid Mishne* explains that the *Rambam*'s source is the above-mentioned *halacha* that says that one may request a gentile to violate an *issur d'rabanan* for the sake of a *B'ris Milah*. The *Rambam* did not make a distinction between a *B'ris Milah* and other *mitzvos*.

On the other hand the *Tosefos*⁴ states that a *B'ris Milah* is unique in the sense that one may request a gentile to violate an *issur d'rabanan* and this does not apply to other *mitzvos*. The reason for the unique *heter* (permitted action) is because the actual *B'ris Milah* involves the violation of the Shabbos, albeit *b'heter*, and therefore *Chazal* permitted requesting a gentile to violate the Shabbos, but other *mitzvos* do not share this status and hence it is prohibited.

What is the halacha?

First we will examine the *Shulchan Aruch*. The *Mechaber*⁵ cites both opinions. First the *Mechaber* cites the *Rambam* who permits it and then he cites the *Tosefos* who prohibits it. There is a known rule when learning the *Shulchan Aruch* which says that **סתם ויש אומרים הלכה כסתם**, which means that when the first opinion is mentioned anonymously, as if everyone agrees, and the second or following opinions are quoted as "there are those that say..." or "there is an opinion..." then the halacha is according to the first opinion, which in this case is to be lenient. Moreover the *Shulchan Aruch* in *Hilchos Rosh Hashana*⁶ does not cite the stringent opinion at all, which proves that he *paskens* according to the *Rambam*.

Can you provide a few examples?

If the *sefer torah* was forgotten in the *gabai*'s home, a gentile may be requested to bring the *sefer torah* to shul, provided that it can be brought to the shul via a *karmelis* and not via a *reshus harabim*. In other words, if the gentile can only carry it through a public domain, where carrying is a biblical prohibition, the gentile may not be requested to bring the *sefer Torah*. However if there is an alternative passage, which only involves an *issur d'rabanan*, it is permitted.

¹ A rabbinical prohibition.

² *Simon* 331:6.

³ *Rambam Shabbos* 6:9-10.

⁴ *Tosefos Gittin* 8b ג"ע ד"ה, *Bava Kama* 80b ד"ה אומר, and cited in the *S'mag*.

⁵ *Simon* 307:5.

⁶ *Simon* 586:21.

What about turning on the lights for the Shabbos meal?

Turning on the lights involves an issur *d'oraissō* and according to the *Mechaber* it is definitely prohibited.⁷ The *Rama*⁸ however cites an opinion who permits it, but we mentioned that the *Mishna Berura*⁹ disagrees and holds that one may not request a gentile to violate an *issur d'oraissō* for the sake of a *mitzvah*.

Is the gentile permitted to turn on the lights in shul before davening? What about the air-conditioning?

The same *halacha* as above applies to turning on the lights before davening, as it involves an issur *d'oraissō*. However, till today some shuls have a gentile turn the lights on before davening and they rely on two issues. The first is the *Rama* who as mentioned states that for the sake of a *mitzvah* one may even request a gentile to violate an *issur d'oraissō*, and since this concerns many people certain *poskim* permit it. The second is when there is already some light in the room and the gentile is merely adding light. This latter *heter* carries much more weight than the first one, but is also not agreed by all, as the *Magen Avraham* says¹⁰ that when one sees that a gentile is about to violate an *issur* for one's sake one must protest.

Do you have a solution that would comply with all opinions?

Nowadays it is possible to install a Shabbos clock to turn the lights on and off, which is

⁷ He only permitted it for an *issur d'rabanan*.

⁸ *Sh"t Simon* 276:2.

⁹ *Sh"t Simon* 276:24 in the name of the *Sh"l* and the *sh"r*. The *Rama* himself writes that one must not be lenient unless it is a dire necessity as many *poskim* oppose this opinion.

¹⁰ *Sh"t Simon* 276:14.

far better than having a gentile do so. It is also a matter of *chinuch* – education, as many people (children especially) do not know that a shul might have a special *heter*, as mentioned, and they might think that a gentile is always permitted to activate the lights.

Vort on the Parsha

HaRav Yakov Meir Yeshurun, one of the leading rabbis in prewar Warsaw, says that the Torah commands us to count the *Omer* until Shavuos in order to limit our 'working' time, and is explained as follows.

In *Pirkei Avos* it is written that one should not say "I will learn when I have time, lest you will not have time". *Chazal* knew that if one does not make time for learning one will not learn. It is not enough to "learn after work" if a specific time schedule is not set aside as work often stretches longer than expected and one's learning period disappears.

Rav Yakov Meir says that the time between Pesach and Shavuos is the time of the harvest and one must indeed harvest the fields in order to ensure a steady *parnasa* throughout the year. But one must count the time remaining for work – until Shavuos. After that one receives the Torah and the learning period begins.

Food For Thought

It happened that a gentile mistakenly removed the cholent from the stove on Friday night and turned off the gas. When it was realized that the food was for the morrow, the fire was subsequently relit and the food returned. May it be eaten?

A gentile took a peek at the cholent and gave it a good stir to improve its cooking. May it be eaten? What if a Jew did that?

Answers coming next week.