



Parshas Shemos 5767

January 12, '07  
Volume VI Issue 11

### Hilchos Yom Tov (cont.)

*Are melachos prohibited on Chol Hamoed mid'oraisso or mid'rabanan?*

The *Rambam* says (Yom Tov 7,1): Even though it does not say Shabbat in relation to Chol Hamoed, but since it is called מקרא קדש and during this period people brought the *korban chagiga* (festive offering) to the *beis hamikdash*, it is forbidden to perform *melacha*.

*Similar to Yom Tov, are all melachos forbidden?*

The *Rambam* continues, that the intention is to distinguish between a regular weekday and Chol Hamoed and therefore it is enough to prohibit some *melachos* and permit others. In other words, he is saying that Chol Hamoed must not be like a regular weekday where everything is permitted and on the other hand it is not Yom Tov - suffice to prohibit some *melachos* and permit others.

*It sounds like the prohibition is of rabbinic origin, is that true?*

There are three opinions in the *Rishonim*.

- The *melachos* are of biblical origin but Chachamim were empowered to decide which *melachos* to permit and which to prohibit.
- The prohibition to do *melachos* is rabbinic and the *posuk* is an *asmachta*

(hinted to by *Chazal* in the torah).  
This is the *Rambam's* opinion.<sup>1</sup>

- The *melachos* are of biblical origin, except that *mid'oraisso* one may perform *melachos* for Chol Hamoed, even מלאכת אומן (*melachos* performed by craftsmen) and *Chazal* only permitted them when done in layman fashion.<sup>2</sup>

*Are there rules as to which melachos are permitted on Chol Hamoed?*

*Chazal* categorized permitted *melacha* into five groups:

*Ochel nefesh* – *melachos* related to food preparation.

*Davar ha'aved* - in case of loss.

*Ma'ase bedyot* – regular *melachos* performed in a simple manner.

*Tzorchei rabim* – *melachos* that benefit the public.

A worker who does not have Yom Tov necessities.

Each one of these groups includes many intricate *halachos* as to when *melacha* may be performed and by whom.

One must know the definition of a “*davar ha'aved*” as not every “loss” is

<sup>1</sup> Rav Sternbuch, in his classic *Mo'adim Uzmanim* writes that one who treats Chol Hamoed like a weekday will violate a biblical prohibition even according to the *Rambam*, as we perceived above, the *Rambam* wants Chol Hamoed to be different then a weekday.

<sup>2</sup> See *SS”K* vol. II chap. 66 footnote 16.

halachically so. Sometimes one is merely “not gaining” as opposed to losing. How does one define a *ma’ase bedyot*? Is writing a *ma’ase bedyot* and what about typing?

*Are there not simple guidelines one can follow to know which melachos are permitted when?*

Unfortunately there are not. *Chazal* teach us that the *halachos* of *Chol Hamoed* are unassociated with each other and one *heter* does not necessarily lead to another. The *Chinuch*<sup>3</sup> writes “sometimes we will find that *Chazal* permitted arduous melachos and sometimes they prohibited easy ones”. He continues “do not be surprised at this because the Torah handed it to them to decide that which is permitted and that which is prohibited”. We see that much is to be learned and nothing can be taken for granted.

*It seems that going to work on Chol Hamoed is problematic.*

Indeed it is and one must enquire as to whether one’s work is permitted. The *Aruch Hashulchan*<sup>4</sup> adds the following: the general rule is one must flee from leniencies that degrade *Chol Hamoed*.

*If work is prohibited on Chol Hamoed, what is one supposed to do for an entire week?*

The *Mishna Berura*<sup>5</sup> cites the *Yerushalmi*. R’ Aba bar Memel says *melacha* is prohibited on *Chol Hamoed* to be able to eat, drink and learn Torah. He then cites the *Kol Bo* saying *Hashem* intended *Chol Hamoed* to be a time where one can

strengthen one’s fear and love of heaven and toil in His perfect Torah.

*What is included in the heter of ochel nefesh?*

*Ochel nefesh* does not only mean cooking and baking, it includes anything done to an item from which one will benefit on *Chol Hamoed* or the last day of Yom Tov. This includes, **reaping** – one may pick apples, tomatoes, wheat and berries or anything similar. **Grinding** – one may grind wheat, beets or any other food. **Capturing** – it is permitted to catch fish even though on Shabbos and Yom Tov it is a biblical prohibition. **Hav’arah** - lighting a fire is totally permitted for *ochel nefesh*.<sup>6</sup>

*What if the ochel nefesh involves hard work?*

One may do all the above even though it might be a *melechtes uman*<sup>7</sup> – professional work or hard labor. Reaping and grinding wheat can be hard labor and take up much of one’s vacation; nevertheless it is permitted under the umbrella of *ochel nefesh*.

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Food For Thought

*May a cook be paid to work on Chol Hamoed?*

*May a baker bake cakes and challos for Chol Hamoed (and obviously be paid)?*

*What if he can bake before Chol Hamoed or grind wheat before Chol Hamoed?*

Answers coming be"H next week .

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<sup>3</sup> *Chinuch Mitzvah* 323.

<sup>4</sup> *Simon* 544:7.

<sup>5</sup> *Simon* 530:2. SS”K 66:5

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<sup>6</sup> See SS”K 66 footnote 32 whether *hav’arah* is *ochel nefesh* or *machshirim*.

<sup>7</sup> M”B *simon* 530:1. M”B *simon* 533:4 and *simon* 537:15.

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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.