



Parshas Matos-Masei 5767

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Gentiles and Shabbos

Why is it forbidden to instruct a gentile to perform a melacha for me on Shabbos and Yom Tov?

The following is a synopsis of various opinions although, not all the opinions are *halacha*. The point of the exercise is to familiarize ourselves with the diverse opinions at hand.

S'mag¹ - The *S'mag*² cites the *Mechilta* that says *כל מלאכה לא יעשה בהם* (*Sh'mos* 12:16), where *יעשה* is pronounced *ye'aseh*, which means *melacha shall not be performed*, implying that *melacha* may not be performed even by others. Indeed the *Mechilta* explicates this *posuk* saying you shall not, your friend shall not and a **gentile** shall not perform your *melacha*.

The *S'mag*³ initially understands that the *Mechilta* teaches that it is *ossur mid'oraisso* to allow a gentile to perform your *melacha* on Shabbos and Yom Tov, however, if the gentile was handed the *melacha* before Shabbos to do in his own home it is permitted.

The *S'mag* concludes that possibly the *d'rasha* from the *posuk* is only an *asmachta* (a *d'raban*) that bases itself on a *posuk*, because if it were a *d'oraisso*, how could *Chazal* permit the gentile to perform my *melacha* in his home.

Rashi on this *posuk* cites the *Mechilta* verbatim, implying that it is a *d'oraisso*, but the *Ramban* and

the *Da'as Z'keinim* learn that it is only an *asmachta*.⁴

Rambam – The *Rambam* writes⁵ “one may not instruct a gentile to perform a *melacha* for us, even though a gentile does not have to keep Shabbos and even when one instructed the gentile before Shabbos and even when one does not need the product until after Shabbos. This prohibition is of rabbinical origin so that Shabbos will not be unimportant in people's eyes, which will cause people to personally do *melachos*”.

We see that instructing a gentile to perform *melacha* is *ossur mid'raban*.

Rashi – *Rashi*⁶ says that the reason one may not instruct a gentile to perform an *issur* is because of *דבר דבר*, one may not speak weekday matters. When instructing a gentile to perform an *issur*, for example, “switch on the lights” one is communicating about a forbidden act.⁷

Rashi – *Rashi*⁸ presents another very interesting reason. He says that the gentile is the Jew's *shaliach*,⁹ so when the gentile performs a *melacha*

⁴ The *Sha'ar Hatsiun* simon 243:7 says that many *poskim* learn that it is only a *d'raban*, including the *Ramban* who learns that the *Mechilta* is the wrong version and the correct version can be found in the *Yalkut*. The *Vilna Ga'on* also agrees.

⁵ *Z'manim Shabbos* 6:1.

⁶ *Avodah Zara* 15a כיו"ד מ"ד.

⁷ See *Shulchan Aruch HaRav* simon 306:5 and *kuntres acharon* simon 263:8.

⁸ *Shabbos* 153a ט"ה מ"ד.

⁹ The direct translation is messenger, but it is not accurate because a *shaliach* in *halacha* has the powers of his dispatcher and does not merely act on his behalf.

¹ *Sefer Mitzvos Gadol*, R' Moshe ben Yakov of Couchy, talmid of R' Yehuda haChassid.

² ה"ע לא תעשה סי

³ Cited in the *Beis Yosef* end of *simon* 244.

on the Jew's behalf, it is as if the Jew performs the *melacha*.

[There is a famous halachic statement that אין שליחות לעכו"מ – (a gentile cannot be a *shaliach*) so how can *Rashi* write that there is? The *Shulchan Aruch HaRav* writes ¹⁰ that *l'chumra* we say יש שליחות].

According to this reason, it is *ossur* to allow a gentile to perform *melacha* on your behalf even when not directed by a Jew and in certain cases the Jew must prevent the gentile from doing the *melacha* and protest.

The *Shulchan Aruch HaRav* adds that instructing a gentile to perform *melacha* after Shabbos does not involve *sh'lichus*, it involves ממצוא הפצח ודבר (speaking that which is not permitted on Shabbos).

The *Arnei Nezer* writes ¹¹ the following

- Instructing a gentile on Shabbos to perform a *melacha* after Shabbos, is a problem of negative speech (ודבר דבר) but not a problem of *sh'lichus*.
- Instructing a gentile prior to Shabbos to perform a *melacha* on Shabbos is not a problem of negative speech, because it is not said on Shabbos, but is a problem of *sh'lichus*, because when the gentile performs the *melacha* on Shabbos he is doing it on your behalf.
- Instructing on Shabbos to do the *melacha* on Shabbos involves both problems.

What about benefiting from a gentile's melacha when the Jew was not aware that the gentile was doing something for the Jew?

Another aspect is benefiting from *melacha* done for a Jew. Even when a gentile performed a *melacha* for a Jew without the Jew's knowledge, the Jew may not benefit from that *melacha* when the benefit derived is direct. ¹²

- A gentile turned on a light for a Jew, the Jew may not do anything in that room that he could not do before. It is impossible to read in a dark room and

thus one may not read in the room after the gentile turned on the light.

- A gentile sees a Jew making his way slowly and with difficulty down a dark staircase and subsequently turns on the light. It would appear that the Jew may not hurry down the stairs, because he is taking advantage of the light.
- If a gentile heats a plate of soup for a Jew, the Jew may not drink it hot, ¹³ because it cannot be drunk cold. If the gentile heated schnitzel for the Jew, since it is eaten cold it may be eaten hot.

What if one is sitting wrapped in a coat in a cold room and a gentile turns on the heating (b'issur), may one remove the coat?

I think yes, because it is something he could have done without the heating. It seems to be an indirect benefit not a direct one, unlike light in a room, which is more direct.

Vort on the Parsha

With regards to Gad and Reuven choosing to stay in *Ever HaYarden*, the *posuk* in *Devarim* says וירא ראשית לו כי שם חלקת מחוקק ספון, B'nei Gad wanted to stay in the area where Moshe Rabeinu, their beloved leader and Rebbe, is buried. ¹⁴ They could not approach Moshe and say we want to stay in the vicinity of your grave, so they blamed it on the fact that they had much cattle that required large breeding grounds.

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לזכר נשמת חנה בת ברוך

¹⁰ *Kuntres Acharon simon* 263:8.

¹¹ ט-ק ו' ו"ג ס"מ'ה ס"א'ו.

¹² See *SS"K* 30:3 and onwards.

¹³ *M"B simon* 253:96.

¹⁴ פירוש בעל נפש הגר.

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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.