



Parshas Va'eschanan 5767

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Please summarize the main points of last shiur?

In the previous shiur we learned the rules that apply when one violates an *issur d'oraisso* unintentionally.

The main points to remember are that the *Shulchan Aruch HaRav paskens* according to R' Yehuda who holds that nobody may benefit from the *melacha* until after Shabbos. The *Vilna Ga'on paskens* according to *Tosefos* who hold that everyone may benefit from the *melacha* on Shabbos.

The *Mishna Berura* arbitrates saying that when necessary one may be lenient and follow the *Vilna Ga'on*. We suggested though, that one must ask a rav as to define what **necessary** is.

Do the same rules apply when violating an issur d'rabanen?

The *Bi'ur Halacha* ¹ cites the *P'ri Megadim* who learns that *d'rabanen* shares a similar fate as a *d'oraisso* and argues on his *p'sak*.

He continues with the *Vilna Ga'on* who learns that regarding a *d'rabanen*, even R' Yehuda rules that the perpetrator may benefit from his handiwork on Shabbos and he supports this with the *Chaye Adam*.

Final word is that if one unintentionally violates an *issur d'rabanen*, one may benefit from the *issur* on Shabbos.

Can you provide some examples?

As usual, the examples are intended to give an idea how a *rov* would *pasken* but are not intended

¹ *Simon* 318:1 ?' ??? ??.

to be a *p'sak*. In all instances one must seek *halachic* guidance.

- Food was carried through a *carmelis* ² and brought to *shul*. The people who carried the food thought that the *eiruv* was intact and upon arrival learned that it was broken. An *issur d'rabanen* has been violated, albeit unintentionally, with the result that the food may be eaten.

- This one's tricky: pouring boiling water from a water urn directly onto tealeaves in a teabag is an *issur d'oraisso* of *bishul*. Placing a teabag into a *k'li sheini* ³ might involve a *d'oraisso* being that tealeaves are *kalei habishul* (items that cook easily) and as such one cannot be lenient. You can argue and say that a cup of tea is necessary and rely on the *Vilna Ga'on*, but one can easily make another cup of tea avoiding Shabbos violations and forfeit this tea.

But what if there is no tea essence or it's the last teabag? It depends on how dependant one is on that cup of tea and if without it one will suffer.

- Bread or cookies were ground on a grinding board, ⁴ unbeknown that it is an *uvda d'chol* ⁵ to use a grinding board. Although one is permitted to grind bread and cookies, as one may grind an item that has been previously ground. Since it is an *issur d'rabanen* one may use and consume the ground bread and cookies.

When a non-religious person performs a melacha for himself or for a religious person, is the melacha deemed meizid or shogeig?

² A public domain where carrying is an *issur d'rabanen*.

³ The empty cup water is poured into from the urn is a *k'li sheini*.

⁴ *Simon* 321:10.

⁵ A weekday activity that is *ossur mid'rabanen*.

The problem is as follows: a *shogeig* is defined as one of the two, either one knows it is Shabbos but did not know or forgot that the *melacha* is prohibited, or one forgot that it is Shabbos. A non-frum Jew might know that a certain *melacha* is prohibited but has decided that religion is not for him and thus his action does not conform to either of the above. Seemingly then his action is a *meizid* (intentional violation), which according to all, prohibits benefiting from the item until after Shabbos.

Is this true of all non-frum Jews?

I think not. Many non-frum Jews are of the opinion that since they have chosen not to live a *frum* life, the torah restrictions do not apply to them and they are permitted to “violate” the torah rules. We find a major opinion in *halacha* ⁶ that says ??? – one who says it is permitted is not faulty, i.e. he is not labeled as doing something with intention to violate the *issur*.

Based on that it is possible to say that a non-frum Jew who mistakenly thinks that he is not obligated to adhere to torah laws, is considered doing *melachos b'shogeig*.

Consequently, when such a person violates the Shabbos one may benefit from the *melacha* on Shabbos when necessary. Obviously this is a very delicate issue and one cannot *pasken* without speaking to a rov competent in these laws. It is very hard to decide who is a “ ” ??? ????? (a wanton Shabbos violator and a *meizid*) and therefore some *poskim* do not differentiate and consider non-frum people to be close to *meizid*. Consequently, each case is individual and a Rov must be asked. ⁷

Must one wait the time of bichdei she'ya'asu (the time it takes to perform the melacha) after Shabbos before benefiting from the melacha?

The *Shulchan Aruch* writes ⁸ that food cooked on Shabbos *b'shogeig* is prohibited to all on Shabbos

but permitted immediately after Shabbos and one need not wait the time of *bichdei she'ya'asu*.

Why when a gentile performs a melacha for a Jew one must wait bichdei she'ya'asu?

The reason is twofold. If one was permitted to benefit from a *melacha* right after Shabbos, one might still instruct a gentile to perform a *melacha* on Shabbos to benefit from it right after Shabbos, therefore *Chazal* prohibited use of the item the time it takes to perform the *melacha* to negate any benefit from it.

This reason does not apply to a Jew because a) a Jew will not agree to violate the Shabbos for a fellow Jew, and b) one will not instruct a Jew to violate the Shabbos. ⁹

Vort on the Parsha

Rav Sternbuch *shlita* writes that *tefillin shel yad* represent actions – *mitzvos* one performs with one's body and *tefillin shel rosh* represent *mitzvos* of the heart and intentions.

The *tefillin shel yad* are in one *bayis* and are on a single *klaf* to demonstrate that *am yisrael* all perform the *mitzvos* as a single unit – we are all united in our performance of the *mitzvos*. *Tefillin shel rosh* are on four different *klafs* and are in separate *batim* because *Am Yisrael* do not perform *mitzvos* of the heart in the same manner. There are different levels and intentions in this aspect.

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⁶ Taz in Yoreh De'ah simon 99:9.

⁷ Rav Sternbuch *shlita*.

⁸ Simon 318:1.

⁹ See *M"B* simon 318 :5.

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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.