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Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ש"ז סעיף כ"ב-סימן ש"ח פתיחה

Overview

Siman 307 Seif 22:

Any Rabbinic injunction is permitted during bein hashemashos if it is needed for a mitzvah. For example, it is permitted to ask a gentile to kindle a lamp during bein hashemashos or if one was occupied and needs to tithe produce during bein hashemashos. Anything one may not instruct a gentile to do on Shabbos, one may also not hint to him to do but it is permitted to hint to him on Shabbos to do melacha after Shabbos. If a gentile brings produce to a Jew on Shabbos because of a debt, according to one opinion the Jew may give the gentile the key to his storehouse and the gentile may then bring it there, measure and count it out since the gentile is working with his own produce and it does not belong to the Jew until after it is measured and they make a follow up calculation. Similarly, if a gentile makes cheese on Shabbos and a Jew watches and will purchase it from him, it is permitted since the gentile is working for himself. Even if the Jew stands by the herd for a month or two and his intent is to sell it to the Jew, it is permitted.

- Hinting is included in the restriction against instructing a gentile to perform melacha. It is also prohibited to instruct the gentile to do one thing if from that he will understand that you want him to perform a melacha. For example, one may not instruct a gentile to wipe his nose so that he will understand that you want him to remove the coal from the top of a lamp. If one hints to the gentile without instructing him to do anything, for example, if one informs him that the lamp is not producing a bright light or that one cannot read with coal on the end of the lamp and when the gentile hears this he removes the coal, it is permitted. (M.B. 76)
- If a gentile brings something of his for a Jew, even if the item is muktzah since it still remains in the hands of the gentile it is permitted to instruct him to clear an area so that he could place it down. (M.B. 78)
- Even though the Jew is present when they make the cheese and milk the cow so that he could subsequently purchase it, it is permitted since at the time he is working it belongs to the gentile who is working for himself. (M.B. 79)
- Even if the gentile makes the cheese only on Shabbos, if the Jew accepts it as payment for a debt that he is owed and if he does not accept them he will not be repaid, it is permitted since at the time he is making the cheese it belongs to the gentile. (M.B. 80)
- Rambam maintains that the injunction of muktzah was to prevent people from moving things on Shabbos the way they do during the week whereas Ra'avad maintains that it was to prevent people from inadvertently transporting items from one domain to another. These halachos are divided into four parts, 1) muktzah machmas chisaron kis, 2) muktzah machmas gufo, 3) kli shemelachto l'issur and 4) kli shemelachto l'heter. (Introduction to Siman 308)

Halacha Highlight

Hinting to a gentile to perform a melacha

Rema Siman 307 Seif 22

כל דבר שאסור לומר לאינו יהודי לעשותו בשבת וגו'

Anything one may not instruct a gentile to do on Shabbos etc.

Rema (סע' כ"ב) formulates the following principle. whatever one may not directly instruct a gentile to do on Shabbos, one may also not hint to him to do. Mishnah Berurah (ס"ק ע"ו) explains that hinting to a gentile to perform a melacha is encompassed by the general prohibition against instructing a gentile to perform melacha on Shabbos since one's hint causes the melacha to be performed. Similarly, it is prohibited to instruct a gentile to do something that he will understand to be an instruction to perform a melacha. For example, it is prohibited to instruct a gentile to wipe his nose so that he will get the message that you want him to remove the coal that is at the top of the lamp. However, if the hint does not contain an instruction it is permitted. Thus, it is permitted to say to the gentile that the light is not burning well or that one cannot read from the light of a lamp that has coal at the top even though one's intent is that the gentile should understand that he should remove the coal.

Rav Yosef Shalom Elyashiv (מלכים אמניך פ"ד הע' ד') raised the following question. Biur Halacha (סע' ב' ד"ה ואפי') rules that one must protest when a gentile wants to perform a melacha in one's home using one's possessions and yet here it is permitted to hint to him to perform a melacha with one's lamp. He answers by distinguishing between a circumstance in which the melacha performed by the gentile will generate something new or whether it is merely improving the current conditions. In our case, the lamp is already burning and the melacha that the gentile performs merely improves the light that the lamp is producing. In contrast, Biur Halacha referred to where one wants the gentile to extinguish a lamp and that melacha creates a new circumstance rather than merely improve the existing condition and thus one is obligated to protest.