The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שכ"ה סעיף ה'-ז'

Overview

Siman 325 Seif 5:

If a gentile caught fish or picked fruit for himself, it is prohibited for a Jew. Even if one is uncertain whether the fish were caught or the fruit was picked that day it is prohibited but is permitted immediately after Shabbos, even if one is certain that it was picked or caught on Shabbos.

- All authorities agree that the fish is prohibited since it was not prepared before Shabbos. The same is true if the fish became caught in a trap on their own on Shabbos. (M.B. 21)
- Even if it is uncertain whether it was prepared before Shabbos it is prohibited. If it is evident that the fish were caught or the fruit was picked before Shabbos it is permitted. (M.B. 24)
- The requirement to wait בכדי שיעשו applies when the gentile performed the melacha for the benefit of a Jew. (M.B. 25)

Siman 325 Seif 6:

If the fruit was picked or the fish caught for a Jew or to be shared by Jew and gentile, one must wait בכדי שיעשו after Shabbos before benefitting from it.

- The same is true concerning any melacha a gentile performed for the benefit of a Jew. (M.B. 26)
- The requirement to wait בכדי שיעשו applies to everyone, even if they are not the one's for whom the melacha was performed. On Shabbos the item is muktzah. (M.B. 28)
- If one does not know where it came from one must assume it came from outside of the techum. If it was imported by horse one must wait the time it would take a horse to transport it from its place of departure. It is not clear whether a gentile has credibility, even in the course of normal conversation, to identify the place of departure. (M.B. 29)

Siman 325 Seif 7:

If it is uncertain whether the fruit was picked for a Jew or if it is known that it was picked for a Jew but it is uncertain whether it was picked on Shabbos or before, the fruit is prohibited on Shabbos and after Shabbos for the period of בכדי שיעשו but some maintain that it is permitted immediately after Shabbos.

- If a gentile gives a gift to a Jew, it is assumed that it was picked for him and the same is true concerning a gift of a loaf of bread. (M.B. 30)
- The reason for stringency even though the prohibition is Rabbinic is that the items will become permitted after Shabbos. In a circumstance of two doubts, on Shabbos the item is prohibited but permitted immediately after Shabbos. (M.B. 32)
- This opinion maintains that Chazal did not impose their prohibition in a circumstance of doubt. Some authorities are lenient in accordance with the latter opinion while others maintain that one may be lenient, only when the object is needed for a *mitzvah*. (M.B. 33)

Halacha Highlight

Waiting בכדי שיעשו

Shulchan Aruch Siman 325 Seif 6
צריך להמתין לערב בכדי שיעשו

He must wait after nightfall the period of בכדי שיעשו

Shulchan Aruch (סע' ו') rules that if a gentile caught fish or picked fruit from a tree for a Jew or even if he had in mind a Jew and gentile, the Jew may not benefit from the fish or fruit until he waits the period of time called בכדי שיעשו after Shabbos. Mishnah Berurah (ס"ק כ"ט) referencing *siman* 515 explains that בכדי שיעשו is the amount of time it would take for the gentile to go after Shabbos back to the place where, for example, he picked the fruit, pick additional fruit and then return. If the fruit was imported by horse we calculate the amount of time it would take to ride the horse back to the fruit tree, pick the fruit and then ride the horse back. In the event it is not known the origin of the fruit that was imported to make the calculation of בכדי שיעשו it must be assumed that the fruit was imported from beyond the *techum*.

Rav Shlomo Zalman Auerbach (ביצחק יקרא) addresses the question of benefitting from a *melacha* performed by a gentile for the sake of a Jew that cannot be done after Shabbos. In such a case how does one calculate the period of בכדי שיעשו? For example, if a gentile took pictures of an event that took place on Shabbos and obviously, once the event passed it is not possible to back and have the gentile take those pictures again. He ruled that in such a circumstance those pictures are prohibited forever since they cannot be taken after Shabbos.

Maharsham (ח"ג סי' רצ"ז) addressed a question of a *melacha* performed by a gentile for a Jew which had the *melacha* not been performed the item would have become ruined altogether. He writes that seemingly, it should be prohibited forever since even after בכדי שיעשו the effect of the *melacha* is still evident. Nevertheless, he rules leniently explaining that Chazal only prohibited the item for the period of בכדי שיעשו, even though the benefit of the performed *melacha* is still evident.