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Digest
Mishna Berura
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סימן תקט"ו סעיף א'

Halacha Highlight

Benefitting from a *melacha* performed by a gentile

Mishnah Berurah Siman 515 Introduction
כדי שלא יהנה ממלאכת יום טוב
So that he will not benefit from the *melacha* performed on Yom Tov

Mishnah Berurah explains that according to Rashi the reason one may not benefit from an object that may have been attached to the ground that was imported by a gentile for a Jew on Yom Tov is due to the prohibition against benefitting from a *melacha* performed by a gentile for the benefit of a Jew. Rav Moshe Feinstein (אג"מ או"ח ח"ב סי' ע"ז) ruled that one may not even benefit from the *melacha* that was performed even when that benefit is not from the *melacha* directly. For example, if a gentile transported keys through a public domain, one may not enter the house that was opened with those keys. Rav Shlomo Zalman Auerbach (שו"ת מנחת שלמה ח"א סי' ה') offers a proof for Rav Feinstein from Mishnah Berurah's ruling elsewhere (סי' תקי"ח ס"ק מ"ה) regarding turnips that were buried in the ground and removed from the ground by a gentile on Yom Tov that are prohibited for consumption or even to move until בכדי שיעשו transpired after Yom Tov.

Rav Auerbach (מאור השבת ח"א סי' י"ח ס"ק נ"ח), however, maintains that it is permitted to enter the house opened with keys that a gentile transported through a public domain. His reasoning is that a prohibition was not violated by unlocking the door; the prohibition that was violated was transporting the keys and we only find that Chazal prohibited benefitting from the *melacha* itself. As far as the restriction against benefitting from the buried turnips a gentile may have removed from the ground, the issue there is that once they were buried in the ground they are considered as though they do not exist and when he removed them from the ground it is considered as though he violated a prohibition with them directly. Rav Yosef Shalom Elyashiv (מלכים אמניך עמ' תקכ"ה) also maintains that it is permitted to enter the house even when a *melacha* was performed to open the door, e.g., one used a card that electronically released a magnet. The reason is that opening the door merely removes an impediment and when a Jew subsequently enters the house, he does not benefit from the *melacha* that was performed.

Overview

Siman 515 Inroduction:

- The Gemara rules that a present given by a non-Jew of an object that may have been attached to the ground on Yom Tov is prohibited until בכדי שיעשו after night. Rashi explains that the item is *muktzah* and may not be used until after בכדי שיעשו since it is prohibited to benefit from a *melacha* performed by a gentile on Yom Tov. The implication is that after בכדי שיעשו it is permitted even on the 2nd night since only one of the days is actually Yom Tov. Others maintain that it is prohibited until after בכדי שיעשו after the 2nd day which is then חול. The reason to be stringent is out of concern that if it were permitted on the 2nd night one may instruct the gentile to harvest the food for him so that he could eat it the 2nd night. Another practical difference between these approaches is whether the prohibition applies to others besides the one for whom the object was brought. According to Rashi it is prohibited for anyone whereas according to the second approach it is prohibited only for the one for whom it was brought since one would not ask a gentile to perform a *melacha* for someone else's benefit. In summary according to the second approach it is prohibited for others only on the first day due to the prohibition of *muktzah* but after that day it is permitted immediately without having to wait בכדי שיעשו. Some authorities maintain that the requirement of בכדי שיעשו applies even to others. The Gemara also states that if the food is not available on trees and was transported from within the *techum* it is permitted but if it was transported from outside of the *techum* it is prohibited, meaning prohibited for consumption but permitted to move. This indicates that violations of *techum* do not require בכדי שיעשו. However, most authorities agree that בכדי שיעשו is required for *techum* violations but one is only required to wait בכדי שיעשו of the 1st day and does not wait have to wait בכדי שיעשו after the 2nd day. Another leniency is that regarding *techum* the prohibition is limited to the one for whom it was imported. It may not be moved beyond the four *amos* in which it is resting unless it is in a house or a city surrounded by an *eruv*. (M.B. Introduction)