The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Sun, Apr 13, 2025 ■ ט"ו ניסן, תשפ"ה
סימן תקט"ו סעיף א'

Halacha Highlight

Benefitting from a *melacha* performed by a *mumar*

Rema Siman 515 Seif 1 (b)
ויש מחמירין
And some are stringent

Rema expresses a dissenting opinion regarding the second day of Yom Tov. Shulchan Aruch ruled that when a gentile imports something that may have been plucked or trapped on Yom Tov it is prohibited that day but after Yom Tov it is permitted after כדי שיעשו. He then adds that in the Diaspora where they observe a second day of Yom Tov, the item is permitted on the second night of Yom Tov provided that he waits בכדי שיעשו. Mishnah Berurah (סק"ח) explains that since in reality only one of the days is Yom Tov, the object is permitted. If the first day is Yom Tov, then once he waited בכדי שיעשו it is permitted and if the second day is Yom Tov, a prohibition was not violated since it was plucked during the week. Rema cites authorities who adopt a stringent approach and prohibit the item until after the second day of Yom Tov. Mishnah Berurah (סק"ט) explains that the concern is that if it were permitted on the second day of Yom Tov, the Jew may be tempted to instruct the gentile to pluck the produce for him on the first day so that it should be available on the second day. To deter the Jew from giving such an instruction, the item is prohibited even on the second day.

Pri Megadim (סי' שכ"ה א"א ס"ק כ"ב ובסי' רע"ו משב"ז סק"ה) expresses uncertainty whether a *mumar* is treated the same as a gentile concerning *melacha* that he does for a Jew on Shabbos or Yom Tov or whether he is treated like a Jew. The practical difference is whether it is necessary to wait בכדי שיעשו after Shabbos or Yom Tov to benefit from that *melacha*. If he is treated as a gentile it is necessary to wait that additional amount of time but if he is treated as a Jew, it is permitted immediately after Shabbos or Yom Tov. Rav Yosef Shalom Elyashiv (מאור השבת ח"א סי' י"ח הע' ס"ו*) adopts a stringent position about this matter as does Dayan Yitzchok Weiss (מנחת יצחק ח"ט סי' ל"ט) who adds that it also applies to one who is a *mumar* to desecrate Shabbos.

Overview

Siman 515 Seif 1 (b):

Some are stringent and prohibit the object until after the second day of Yom Tov and the custom is to be stringent unless it is needed for Yom Tov for guests or something similar in which case we are lenient for others for whom the object was not imported.

- This opinion is concerned that leniency will lead one to ask the gentile to perform the *melacha* on his behalf so to counter this concern it is prohibited until after בכדי שיעשו following the second day. Some authorities maintain that this stringency is limited to the one for whom the object was imported but for others it is permitted immediately after the first day and they are not even required to wait בכדי שיעשו. (M.B. 9)
- Providing for guests which constitutes a *mitzvah* allows one to rely on the lenient opinion on the 2nd day after כדי ישעשו but if it is not for a *mitzvah* one should not be lenient for others. According to some authorities the allowance to consider guests as others is limited to guests who were invited after the host received the object from the gentile. Authorities also write that one may be lenient concerning out of town guests even if one invited them before the gentile delivered the object even if the host eats with them and we rely on the opinion that permits the object on the second day after כדי שיעשו. (M.B. 12)
- If one arranged with a gentile to deliver the item during a permitted time and the gentile delivered it at a prohibited time one may be lenient concerning the second day after כדי שיעשו even for the Jew for whom it was imported. Taz writes that when there is a pressing need one may rely on the lenient opinion even for the Jew for whom it was imported to benefit from the object after כדי שיעשו of the second night. (M.B. 13)