The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן תקל"ז סעיף י"ד-ט"ז

Overview

Siman 537 Seif 14:

It is prohibited to bring a flock into a fold on *chol hamoed* to fertilize the field. If the gentile brought in the animals on his own, it is permitted even on Shabbos, even if one expresses appreciation for what he did but one may not pay him a salary, even if it is nothing more than paying for the food he ate. On Yom Tov it is permitted to pay him for his food but he may not be given another salary. On *chol hamoed* one may even give him another salary but may not hire him, assist him or provide him with a custodian to move around the animals. If the gentile was hired for the week, month, or year it is permitted to assist him on *chol hamoed* and to provide him with a custodian to move around the animals.

- Animals are brought in to a field to spend the night and over the course of the night they move around and fertilize the entire field. (M.B. 41)
- It would appear as though he is fertilizing the field which is prohibited as a subset of plowing since it improves the ground. (M.B. 42)
- This is allowed only because it does not involve a full-fledged *melacha* but if he does perform a *melacha* it is prohibited to pay for his food since it demonstrates satisfaction with the work he is doing. (M.B. 44)
- People will think that he was hired for a number of days. (M.B. 45)
- On Shabbos and Yom Tov it is prohibited even if he was hired for the year. It is also prohibited to provide him with a custodian on Shabbos and Yom Tov. (M.B. 48)

Siman 537 Seif 15:

It is prohibited to harvest a field during *chol hamoed* if it would not become ruined if one waits until after the *moed*. If one does not have food to eat, even if food is available in the market, we do not require him to purchase it and he may harvest, gather, thresh, winnow and select in the normal manner, provided that he does not thresh with cattle. This applies when he is threshing for himself but if he is threshing grain for the community he may even use cattle.

- It is logical that even if it would become partially ruined it is permitted. (M.B. 50)
- We also do not obligate one to borrow from a friend. (M.B. 51)
- It should say that he may grind it in the normal manner. These *melachos* are permitted only for the quantity of grain that one will consume. (M.B. 52)

Siman 537 Seif 16:

If one has a vineyard adjacent to a gentile's vineyard and the gentile is harvesting his grapes during *chol hamoed* so that if the Jew does not harvest his grapes they will ruin, it is permitted for him to harvest his grapes, press them, make barrels and any other *melacha* necessary to manufacture wine without a change, provided he did not plan to perform these activities during the *moed*.

- Taz cites authorities who maintain that a prominent person should adopt a stringent approach even when the activity involves a loss. Bedek HaBayis questions this but it is preferred if the activity could be done in private. If people observed his behavior and misapplied it to prohibited circumstances, it may be that out of piety he should adopt a stringent approach. (M.B. 54)
- It is permitted for Jewish workers to do the work, even if they have food and for them it would not cause a loss. (M.B. 55)

Halacha Highlight

Asking a gentile to perform a *melacha*

Shulchan Aruch Siman 537 Seif 14
ובלבד שלא ישכרנו
Provided that one does not hire him

Shulchan Aruch (סעי' י"ד) discusses the *halachos* involved when a gentile brings animals into one's field so that they can fertilize the field. He explains that the *halacha* depends on whether it is Shabbos, Yom Tov or *chol hamoed*. On Shabbos one need not restrain a gentile who wishes to bring animals into one's field and one may even express appreciation, but one may not pay him, even if it is nothing more than reimbursing him for his food expenses. On Yom Tov, it is permitted to reimburse him for his food expenses but may not give him any other type of salary. On *chol hamoed* it is permitted to give him a salary but one may not hire him, assist him or provide him with a custodian to assist in moving the animals around. Mishnah Berurah (ס"ק מ"ו) explains that although it is permitted to give the gentile a salary once the job is complete, nevertheless, one may not invite the gentile to bring in his animals with the assurance that he will be paid for providing that service. The reason is that any activity that the Jew may not perform, he may not ask a gentile to perform for him.

Shulchan Aruch HaRav (סי' רמ"ג סעי' א') explains that just like on Shabbos Chazal were concerned that if it were permitted to ask a gentile to perform a *melacha* it may lead to the Jew himself performing the same *melacha*. So too, on *chol hamoed* Chazal expressed the same concern and thus prohibited a Jew from asking a gentile to perform *melacha*. Avnei Nezer (או"ח סי' שצ"ה אות ו') offered a different explanation. He explains that if it were permitted to ask a gentile to bring animals into one's field to fertilize it, it may lead to asking a gentile to do the same thing on Shabbos. Even though generally Chazal did not prohibit permitted activities on *chol hamoed* out of concern that it would lead to someone asking a gentile to do that activity on Shabbos, this case is unique. Generally, people are aware that there are leniencies that apply to *chol hamoed* that do not apply to Shabbos. But if it is permitted to ask a gentile to do something that the Jew may not do on *chol hamoed* that is not a *melacha*, one could erroneously conclude that in general it is permitted to ask a gentile to perform such activities that he may personally not perform.