



Parshas Vayeishev 5771

November 26, '10
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In the previous shiur we learned that one may not say to a taxi driver “please be prepared after Shabbos” because one is hiring him for after Shabbos. However, one may say to him “do you think that you can come after Shabbos” or “I would be happy to see you after Shabbos”, because in both cases one is not hiring the taxi driver, rather one is *hinting* that one would like to hire him after Shabbos. ¹ Talking about such affairs on *Shabbos* is prohibited.

I do not really see the difference between the two cases.

It depends on whether one instructs or tells someone to do something, in this case – hiring the person, or whether one hints at something and both people merely *think* about the *issur* without saying it. ²

Does that mean that I can hint to a gentile to do a melacha for me?

No it does not, and since the *halachos* are very complicated we will attempt to simplify them. First we will discuss the issues of a gentile performing *melachos* after Shabbos and then we will concentrate on cases where the gentile performs *melachos* on Shabbos itself.

One may not instruct a gentile to perform an *issur* after Shabbos. ³ Therefore, one may not say

- please turn off all the lights after Shabbos.
- please start the car straight after Shabbos.
- please start the dishwasher straight after Shabbos.

However, one is permitted to give an instruction to do something after Shabbos if there is a permitted way to do it, even though the person

might do it in a prohibited manner. Therefore, one may say

- please peel the onions after Shabbos for *melaveh malkah*. This is because one may peel onions on Shabbos close to a meal.
 - please wash the dishes after Shabbos for *melaveh malkah*, This is because one may wash dishes before another meal on Shabbos as well. Even though the gentile will use the dishwasher, since there is a permitted way to wash the dishes, it is not considered as if one is instructing the person to do an *issur*.
 - please tidy the house after Shabbos. This is because there are permitted ways to do this on Shabbos as well.
 - I left my *tallis* in shul, please fetch it for me. This is because the *tallis* can also be brought home in a permitted manner on Shabbos, either through wearing or carrying if there is an *eiruv*.
- All of these cases are applicable to instructing a Jew as well.

Is one permitted, before Shabbos, to instruct a gentile to perform a melacha on Shabbos?

Two issues are usually present when dealing with a gentile on Shabbos. One issue is the manner of speech, which involves the *issur* of *דבר דבר*. For example, instructing a gentile to do a *melacha* involves prohibited speech because one is saying “do a *melacha*”. The other is the directive to do a *melacha* on Shabbos, regardless of how it is said.

The *Arnei Nezer* ⁴ says that the first issue only applies on Shabbos itself, because speaking about ‘doing a *melacha*’ is only *issur* on Shabbos itself. As for the second issue we must first appreciate the essence of the *issur* in instructing a gentile to perform a prohibited act.

¹ See the *SS”K* 29:52.

² *M”B simon* 307:29.

³ *Simon* 307:2 and *M”B* 8-9, and *SS”K* 29:51.

⁴ שו”ת אבני נזר או”ח סי’ מ”ג ס”ק ו’ ו-ט’.

We find several opinions amongst the *Rishonim* that define this prohibition:

- *S'mag* ⁵ – the *posuk* says כל מלאכה לא יעשה בהם (שמות יב טז), and we learn from the *posuk* that one may not have one's *melacha* performed by a gentile. The *Bais Yosef* in *simon* 244 expresses uncertainties as to whether the prohibition is biblical or rabbinical.
- The *Rambam* (*Z'manim* 6:1) says that *Chazal* forbid instructing a gentile in order to prevent one from losing the seriousness of Shabbos, which in turn might lead to the performance of the *melacha*. In other words, instructing a gentile to perform an *issur* could lead one to carry out the *issur*.
- *Rashi* in *Shabbos* 153a says that the gentile becomes one's שליח (similar to an emissary) and it is as if the Jew himself is performing the *melacha*.

The *Anvei Nezer* continues that the second issue applies to instructing the gentile before Shabbos as well, because the concern is the time the *melacha* is done and not when he was instructed to do it. Therefore, one may not instruct a gentile before Shabbos to perform a *melacha* on Shabbos. ⁶

Any examples?

One may not instruct a gentile to deliver the post on Shabbos. This is true even when one hands him a letter on Sunday and instructs him to deliver it on Shabbos. ⁷ Even if one pays him to deliver the letter, it is *ossur* to express that one wants it delivered on Shabbos.

One may not instruct a gentile before Shabbos to turn on the lights at a certain time and turn them off at a certain time. (We still have to learn the *halachos* regarding a case when the gentile turns them on and off on his own accord).

What if I only hint?

⁵ *Sefer Mitzvos HaGadol*, written by R' Moshe Yakov of Couchy.

Born: France, early 1200s. **Died:** Spain, middle/late 1200s.

Notes: Tosefist. Student of R' Yehuda HaChassid. Author of *Tosefos Yeshanim* to *Yoma*. (Adapted from the bibliography written by R' Shlomo Pereira).

⁶ See the *SS"K* 30 footnote 2.

⁷ *Simon* 247:1.

Pertaining to the two issues mentioned before, i.e. the speech and the instructing, since one is only hinting they do not apply. For example, the *Mechaber* says ⁸ that one may say to a gentile after Shabbos "why did you not do such-and-such on Shabbos?" The gentile will hopefully **understand** that you want a certain action performed the next Shabbos. This type of hinting is also a form of דבר ודבר because you are hinting that something should be **done**, which is a form of a direct hint and one may not use this type of a hint ⁹ on Shabbos itself – *Rama* (*simon* 307:22). ¹⁰ In the case of the *Mechaber* one is hinting after Shabbos, which has the same effect as hinting before Shabbos.

Orchos Chaim LaRosh

וזכרון ציון וירושלים בשברון לב ובדאגה ובאנחה – remembering Yerushalayim with concern, sighing and with tears. But what are we lacking, how can we mourn for something we hardly appreciate?

When we *daven* עירך וירושלים, we must say to *Hashem* that we need the *Beis Hamikdash* to be able to get close. We don't want to constantly have petty battles with the *Yetzer Hara*, nor do we want to be so self-centered, and it is the *Beis Hamikdash* and *Hashem's* presence that will aid in our growth. Entering the courtyard we would prostrate ourselves before Him and banish anything but the will to serve Him with our very being. We lack the clarity of our *raison d'être*.

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⁸ *Simon* 307:2.

⁹ Indirect hints are *muter* on Shabbos itself, but only in certain cases, as we will see *be"H*.

¹⁰ According to the understanding of the *M"A* in *se'if* 22 and the *Eshel Avraham*, see the *Sha'ar Hatsium* 307:10.

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Note: The purpose of this series is intended solely for the clarification of the topics discussed and not to render halachic decisions. It is intended to heighten everyone's awareness of important practical questions which do arise on this topic. One must consult with a proper halachic authority in order to receive p'sak.