

TALMUDIC METHODOLOGY
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The Prohibition of Working on Erev Pesach

The Mishna at the beginning of the fourth perek of Pesachim describes issur of performing melakha (labor) after chatzot (noon) on Erev Pesach. It also informs us of the custom of desisting from melakha on Erev Pesach altogether. This discussion serves as the springboard for a broader issue: What happens when a person travels to a city which follows minhagim different from those practiced in his hometown. In fact, much information can be gleaned from this discussion regarding the contemporary issue of how many days of Yom Tov an American should keep in Israel and vice versa. Our article, however, will address the core issue itself - the issur of performing melakha on Erev Pesach.

Though the Mishna describes the nature of the all-day issur as a minhag (a practice which evolved rather than one which was mandated or instituted), it still affirms that the prohibition of working during the LATTER part of the day (after chatzot) is based upon an actual issur. This article will inspect the nature of this issur (pertaining the latter part of the day) and thereby we might be able to gather a clearer picture about the minhag of not working the entire day.

Rashi claims that the issur during the second half of the day is based on the concern that one might neglect the various duties of the day: burning chametz, sacrificing the korban Pesach, and preparing for the Seder. [See Tosafot Rabbenu Peretz and the Ramban (in his Milchamot Hashem) for an amplification of Rashi's position.] Tosafot cite a Yerushalmi which confers a very different impression of this half-day issur melakha. The Yerushalmi announces that during the period in which a Pesach sacrifice may be brought, a person must refrain from melakha. Apparently, this issur is not merely to assure that the korban will be attended to; rather, an ESSENTIAL issur exists. In fact, Tosafot seem to imply that this issur might be de'oraita - Biblical in nature. Both the Ramban and the Ra'avad cite this same Yerushalmi but take care to assure us that this issur is only de'rabbanan. However the Yerushalmi provides the distinct impression that this issur is an inherent one. What is the nature of this inherent issur according to the Yerushalmi?

At first the Yerushalmi voices the following problem: "It is not proper that your sacrifice be brought while you are busy with work." Evidently, working during this time would constitute an affront to the korban which you are sacrificing or having sacrificed on your behalf. If we adopt this understanding of the issur according to the Yerushalmi, in essence the issur should apply ONLY during the actual sacrifice. The issur during the entire

afternoon would be seen as a practical measure: having sent your korban with an agent, you can never be sure of the exact moment of sacrificing and therefore must refrain from work during the entire afternoon.

Tosafot Harashba cites a phrase which could allow a different reading of this Yerushalmi. He refers to the parallel with those who offer a personal or private korban and are prohibited from working during the day of the sacrifice. For these people, the Tosafot Harashba writes, the day is considered a personal Yom Tov. Tosafot Harashba thereby establishes a new concept, which in turn is applied to Erev Pesach and korban Pesach: the day of sacrifice is in itself a YOM TOV and is therefore prohibited in melakha. In fact, in a subsequent discussion the Yerushalmi (4:6) cites a very revealing pasuk as a possible source for the issur - "Yom Pesach hu la-Hashem," "It is a day of Pesach for G-d" - corroborating the notion that the 14th of Nissan (the day of the korban Pesach) is a separate Yom Tov. As a Yom Tov, it would definitely be forbidden to work.

SUMMARY:

We have isolated three basic approaches to understanding the issur of melakha during the afternoon of Erev Pesach. Many chose to view this prohibition as purely technical - to allow ample time for necessary preparations. The Yerushalmi gives the impression that it is an essential issur, either because it is inappropriate to work while your sacrifice is being offered, or because the day itself has Yom Tov qualities.

One significant ramification of this question might be the type of work which is forbidden. The Mishna as well as the gemara are both silent regarding this issue. The Rambam (Hilkhos Yom Tov 8:18) writes that it is forbidden to do work "LIKE Chulo Shel Mo'ed," with this issur being slightly more lenient than the issur during Chulo Shel Mo'ed. Apparently, he also viewed Erev Pesach as a quasi Yom Tov, in the spirit of Chulo Shel Mo'ed's being a partial Yom Tov. As such, there might be some forms of work which are permissible.

According to Rashi's opinion that the issur has practical roots, we certainly could not use the yardstick of Chulo Shel Mo'ed to determine which types of work are forbidden. The Mordechai (siman 607) as well evokes a parallel to Chulo Shel Mo'ed when he forbids one's arranging with a Gentile to sew clothing for him on Erev Pesach. He bases this on the prohibition of requesting work by a Gentile on Chulo Shel Mo'ed.

However, the primary question which might be influenced by the essence of the issur is its scope. The Mishna cites several opinions about the range of this issur. As mentioned earlier, we accept Beit Hillel's position (Pesachim 55a) that the issur in actuality begins only after chatzot. Beit Shammai (Pesachim 55a), however, ruled that the prohibition begins at night. Seemingly, the only way of explaining Beit Shammai is to assume that at some level the 14th of Nissan is afforded a status as a Yom Tov and the status applies equally to night and day (as it does to all Yamim Tovim).

Indeed, even if we reject Beit Shammai's position, we still must contend with Rabbi Yehuda's position that the ACTUAL ISSUR begins in the MORNING. Since the korban pesach cannot yet be sacrificed, one's work cannot be seen as an affront; furthermore, early morning work will not distract one from preparing for the Seder. Evidently, Rabbi Yehuda perceived the 14th as a Yom Tov and therefore forbade work during the entire day - but not at night.

What we have accomplished is as follows. By studying the extreme positions of Beit Shammai (an issur which encompasses the night) and Rabbi Yehuda (an issur which spans the entire day) we have asserted that THESE Tana'im might have based their positions upon understanding the issur as stemming from the day's being a Yom Tov.

Might the Chakhamim have agreed in principle that the day is a Yom Tov but argued in practice about the SCOPE of the Yom Tov? Indeed, most Yamim Tovim begin at night, but as this Yom Tov revolves around the korban which can only be sacrificed after chatzot, its scope is limited to this time.

A somewhat more applicable question which might arise from our discussion is whether this issur applies in our era. The Ba'al Hama'or claims that since we no longer sacrifice korbanot, melakha is fully permissible. The response to this position and the defense of a contemporary issur is varied. The Ramban and the Ra'avad base it upon a gezeira (rabbinic decree). We must continue to behave in certain mikdash-related areas EXACTLY as they were performed when we had a Beit Hamikdash, in anticipation of the Mikdash's imminent rebuilding. Clearly, Rashi, who is concerned with ample time for Seder-night preparations, would extend the issur to our own day. However, Tosafot and the Yerushalmi would present a different claim for the issur's persistence: once the 14th is established as a Yom Tov - albeit because of the korban Pesach - its status remains and transcends or outlasts the lack of an actual korban Pesach.

A third question pertaining to this issur is raised by the Tzelach (Rabbi Yehuda Landau, the nineteenth Rav of Prague and author of the Noda Bi-yehuda): would work be forbidden on the 14th of Iyyar (Pesach Sheni) prior to the sacrifice of korban Sheni? It might be difficult to view this day as a Yom Tov. Seemingly, only the 14th of Nissan, the day on which the entire nation offered a Pesach, can be consecrated as a Yom Tov.

SUMMARY:

We have demonstrated how the basis of the issur might impact several specific aspects of the issur and, most importantly, might impact upon the scope of the issur itself (according to Beit Shammai and Rabbi Yehuda).

We might now briefly turn our attention to the Mishna's description of the minhag. According to Beit Hillel, the actual issur only applies during the afternoon. Many cities, though, voluntarily expanded this prohibition to include the morning as well. Perhaps they understood the Chakhamim's position as stemming from understanding the 14th as a quasi Yom Tov. Hence, even

though the halakha per se only addressed the afternoon and in essence this Yom Tov is limited to the afternoon, the minhag voluntarily broadened the Yom Tov to its natural scope which encompasses the entire day (though not the night). See the commentary of the Rabbenu David (Pesachim 4b) who asserts this understanding.

METHODOLOGICAL POINTS:

1) Often the examination of an extreme position helps illuminate a more moderate one. By inspecting Beit Shammai and Rebbi Yehuda, we were able to clearly see the possibility of explaining the issur as being based on Yom Tov qualities. Once this was confirmed, we then were better able to question whether the Chakhamim accept a similar principle.

2) Often minhagim are not entirely severed from a halakhic basis. Sometimes they serve to broaden an existing Halakha in a manner which reflects the halakha's true essence. The minhag to prohibit work the entire day of Pesach might affirm this day's being - at least in part - a Yom Tov

AFTERWORD:

For a comprehensive and text-based discussion of the Yom Tov of korban Pesach (the 14th of Nissan) as opposed to the Yom Tov of Matzot (held on 15-22 Nissan), see Rav Mordechai Breuer's sefer entitled Pirkei Mo'adot.