

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY

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Lecture #14: Bi-Khedei She-Ya'asu

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The *gemara* in *Beitza* (24b) claims that if a gentile performs *melakha* (forbidden work) on behalf of a Jew on Shabbat or holiday, the Jew may not benefit from that service on the day proper, and even after that Shabbat or holiday, he must wait the amount of time it took to perform the *melakha* before benefiting from it.

The basis concept - known as "*bi-khedei she-ya'asu*" – is debated between Rashi and Tosafot. The latter claim that the entire principle is merely a deterrent against initiating requests for forbidden *melakha*. Knowing that no benefit can be derived from the request discourages lodging one in the first place. Whatever is accomplished by the gentile during Shabbat or *chag* is to no avail since an equivalent amount of time must transpire after the day is over before benefiting.

Rashi claims that the prohibition is far more substantive. FUNDAMENTALLY, no benefit may be derived from *melakha* of Shabbat or *chag*; by waiting a commensurate amount of time, no benefit will be received.

Various applications of this *issur* are raised amongst the *Rishonim*. It is quite clear that according to Tosafot any situation which might invite future infraction is a candidate for the *bi-khedei she-ya'asu* principle. Where no concern exists because the likelihood of future violation is slim, *bi-khedei she-ya'asu* is not necessary. For example, only the Jew on whose behalf the *melakha* was performed must wait *be-khedei she-ya'asu*, while others may partake immediately after Shabbat.

According to Rashi, however, the parameters of this principle are less evident, as the nature of the underlying prohibition is unclear. What would Rashi say regarding other people benefiting from the *melakha*; may they partake immediately after *chag* and before *bi-khedei she-ya'asu*? Presumably the *khedei she-ya'asu* principle pertains to the intended beneficiary. He may not receive benefit from *yom tov* activity and must therefore wait an equivalent amount of time. Alternatively, we may redefine the issue of non-benefit from a *melakha* violation. Perhaps the prohibition surrounds the actual ITEM which has been prepared on the *chag*, as opposed to the PERSON for whom the *melakha* is performed. The *gemara* in *Chullin* (15) cites the position of R.

Yochanan Ha-Sandlar, who claims that items cooked on Shabbat are forbidden to ingest at any time. He claims that just as Shabbat is sacred, the items prepared on that day are as well. Clearly, this extreme position discerns a Biblical prohibition pertaining to the ITEM itself, and not just a restriction against a person benefiting from Shabbat activity. Although we do not accept R. Yochanan's radical stance, Rashi's definition of *be-khedei she-ya'asu* may be a moderated version of this theory; the ITEM which has been invested with Shabbat resources may not be benefited from until the duration of '*melakha* time' has elapsed. If this is true, we may prohibit ANYONE from benefiting from the *melakha*, and not merely the one for whom the *melakha* was performed.

Another issue which may be impacted by the understanding of Rashi's *issur* is the amount of time which must elapse in order to fulfill the requirement of *bi-khedei she-ya'asu*. Should the person wait the entire amount of time for the process to be performed or only the time it took for the element of *issur* within the process to elapse?

For example, if the gentile traveled a distance to pick a fruit for the Jew, should the Jew wait after shabbat a few seconds – the time it would take to pick a fruit, or should he wait a few hours, to include travel time? The Rishonim who cite Rashi are uncertain regarding this issue and Rashi himself provides little indication. If Rashi defines the prohibition as "person based," or an "*issur gavra*," the beneficiary may have to wait the entire duration, since the entire process is what yielded him benefit. However, if the prohibition defines the *item* as a forbidden Shabbat element, the object would no longer be defined as Shabbat produce after waiting the time it took to perform the actual *issur* alone. If Rashi's prohibition is meant to define items as containing *yom tov kedusha*, waiting the time it took for the infraction to take place would probably be sufficient to eliminate that status.

A related situation concerns the question of *melakha* which is not objectively necessary to yield benefit, although in a particular situation, it did contribute to the process. The *gemara* in *Eruvin* (40a) describes gentile gardeners who would provide Jews with flowers on Shabbat. Rava claimed that the full period of *be-khedei she-ya'asu* must elapse before deriving benefit from fragrance. The Ran in *Beitza* (14a in the pages of the Ri"ף) questions this rule, since the forbidden *melakha* - picking the flower - was not absolutely necessary to enable smelling its fragrance. According to many positions in the *gemara* (*Sukka* 37b), non-edible flowers may be smelled on Shabbat even when still attached. The Ran justifies Rava's ruling since the particular recipient in question, was reliant upon the act of picking for his ultimate benefit. As he was not near the location of the flowers, he would never have been able to smell them without prior picking. He must therefore wait *be-khedei she-ya'asu* before deriving benefit from the fragrance. *Be-khedei she-ya'asu* obtains if the *melakha* contributed to the experience, even if it was not absolutely necessary in order to derive benefit. The Ran justifies this subjective perspective by adopting Tosafot's view of the *issur* of *be-khedei she-ya'asu*; any time an infraction assists a Jew, he must "wait out" the equivalent time to avoid any incentive to premeditate *Yom Tov* violation.

We are left to wonder whether Rashi would agree with the Ran's view. Would the objective irrelevance of picking flowers for fragrance exempt from *be-khedei she-ya'asu*, or would the subjective contribution still warrant this rule? Presumably the question would revolve around how Rashi defines the principle of *be-khedei she-ya'asu*. If the person himself is forbidden from benefitting from forbidden *melakha*, we may again scrutinize the specific situation and instruct distance from any subjective benefit assisted by *Yom Tov* activity. However, if *melakha* of *Yom Tov* imposes a status of *issur* upon an item, we may follow a more objective standard; only *melakhot* absolutely necessary to facilitate the universal experience in question would confer *issur* status to the item.

A final question pertaining to Rashi's position is the question of the applicability of the *be-khedei she-ya'asu* principle when items were illegally transported on *chag* from outside the *techum*. Should the rule apply even to this unique law of *chag*? *Rishonim* are split over this issue; the *Terumat Ha-deshen* and *Tosafot* deny the application of principle, while the *Mordechai* and the *Rif* (in a *teshuva*) apply it.

Rashi's statements are vague, but again we may infer his conclusion based on the nature of this prohibition. If the person may not receive any benefit from *Yom Tov* manipulation, we may extend the rule to all forms of *Yom Tov melakha*, even the case of *techum*. However, if the violation confers an *issur* status upon the object of the *melakha*, the *issur* applies in situations in which the *melakha transformed* the item. Fruit picked on *chag* is transformed into prohibited food since the *melakha* produced detached fruit. Violation of *techumim* transportation, which does not alter the physical or chemical properties of the item, may not be the type of *Yom Tov* violation capable of rendering an *issur* upon the object.