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Amira l'Akum 101

Asking a Non-Jew to Perform *Melacha*

The Basics of Amira l'Akum: Part I

A summary of the weekly Wednesday night shiur by Rabbi Shmuel Stein at the Miami Beach Community Kollel / To receive a copy send an email to InHilchosShabbos@gmail.com

Chazal instituted numerous rabbinical prohibitions to safeguard the *halachos* of Shabbos. One of these rabbinical prohibitions is *Amira l'akum* - instructing a non-Jew to perform a *melacha* on Shabbos.¹ The Chida² writes that one who violates the prohibition of *Amira l'Akum* holds back the final redemption from coming. In this chapter we will discuss these basic *halachos* of *Amira l'Akum*:

- 1) Why did Chazal institute the prohibition of *Amira l'akum*?
- 2) The two components of *Amira l'akum*
- 3) Permissible ways to avoid the prohibition of *Amira l'akum*

It is important to note that although we will attempt to clarify the *halachos* of *Amira l'Akum*, the *halachos* of *Amira l'Akum* in the following chapters, these *halachos* are broad and complex and one should consult a Rav when a question of *Amira l'Akum* arises.

Why did Chazal Institute the Prohibition of Amira l'Akum?

The Rambam³ explains why Chazal instituted the prohibition of *Amira l'Akum*: "Chazal enacted the prohibition of *Amira l'akum* to protect the sanctity of Shabbos. If it were permissible to ask a non-Jew to perform a *melacha* on Shabbos the holiness of Shabbos would become lax and would ultimately lead to Jews violating *melacha* on Shabbos."

The Two Components of Amira l'Akum: Amira and Hana'ah

There are two components that comprise the prohibition of *Amira l'akum*:⁴

- 1) *Amira*: Asking a non-Jew to perform a *melacha*
- 2) *Hana'ah*: Benefiting from a *melacha* performed by a non-Jew

The prohibition of Amira – Asking a non-Jew to perform a melacha

Chazal prohibited asking a non-Jew to perform *melacha* on Shabbos. The Rambam⁵ writes "It is prohibited to ask a non-Jew to perform a *melacha* on Shabbos – even though the non-Jew is not obligated to keep Shabbos."⁶ Meaning, that anything that a Jew may not perform himself on Shabbos, he may not ask a non-Jew to perform on Shabbos.⁷ For example:

- One may not ask a non-Jew to turn off a light on Shabbos, as this violates the prohibition of *Amira l'akum*.⁸
- One may not ask a non-Jew to lower a flame on Shabbos.
- One may not ask a non-Jew to push the button to call an elevator.⁹

Using hand gestures or motions. One may not make hand gestures to ask a non-Jew to perform a *melacha*, as this too is considered a form of asking and is prohibited under the prohibition of *Amira*.¹⁰ For example, one may not show an air conditioner to a non-Jew and make hand motions at it to indicate that he would like the non-Jew to turn the air conditioner on. Similarly, one may not point at a light switch to indicate to a non-Jew that he would like the light turned off, as this would be equivalent to telling the non-Jew to turn it off.

The prohibition of Hana'ah – Benefiting from a melacha performed by a non-Jew

The Shulchan Aruch¹¹ writes that in addition to the prohibition of *Amira* - asking a non-Jew to perform a *melacha*, Chazal also prohibited benefiting from a *melacha* that a non-Jew performed for the sake of a Jew. The Mishna Berura¹² explains that Chazal added this additional prohibition as a "fence" to safeguard the prohibition of *Amira l'akum* itself. If it were permitted to benefit from a *melacha* that a non-Jew performed for the sake of a Jew it could lead to someone asking a non-Jew to perform a *melacha*, thereby actually violating the prohibition of *Amira l'akum*. To prevent this Chazal prohibited benefiting from the *melacha* that a non-Jew performed for the sake of a Jew even if the non-Jew performed the *melacha* on his own, without being asked to perform the *melacha*. For example:

- If a non-Jew notices that his Jewish neighbor needs a light turned on in a dark room and turns on the light on behalf on his Jewish neighbor, it is prohibited for the Jew to benefit from that light on Shabbos.¹³ Even though the Jew did not ask the non-Jew to turn on the light, since the non-Jew turned on the light for the sake of the Jew he may not benefit from the *melacha* on Shabbos.
- If a non-Jewish housekeeper notices that a cholent is drying out and adds cold water to a cholent the Jew may not benefit from the cholent on Shabbos.¹⁴
- If a non-Jew notices his Jewish friend waiting for an elevator and calls the elevator for him, the Jew may not use the elevator.¹⁵ Since the non-Jew called the elevator for the sake of a Jew, it is prohibited for the Jew to benefit from the *melacha* - even though he did not ask the non-Jew to perform the *melacha*.

Since in these cases the non-Jew performed the *melacha* for the sake of the Jew, it is prohibited to benefit from the *melacha* that was performed. However, if the non-Jew performed a *melacha* for his own sake, one may benefit from the *melacha*.¹⁶ For example, if a non-Jew entered a Jew's home on Shabbos and turned on a light for his own sake, the Jew may benefit from the light that was turned on.¹⁷ He may even request that the non-Jew not turn off the light after he is done using it.¹⁸

Permissible Ways to Avoid the Prohibition of Amira l'akum

There are two ways to avoid the prohibition of *Amira l'akum*:

1. By circumventing the prohibitions of both *Amira* and *Hana'ah*
2. By making use of special leniencies to the prohibition of *Amira l'akum*

In this chapter we will discuss the first way to avoid the prohibition of *Amira l'akum* - circumventing the prohibitions of both *Amira* and *Hana'ah*.

Circumventing the prohibitions of both Amira and Hana'ah

Since there are two components involved in *Amira l'akum* - *Amira* and *Hana'ah*, to avoid transgressing the prohibition of *Amira l'akum* one must circumvent both components.

Circumventing the component of Amira: Remiza (hinting to perform a melacha)

If one does not directly ask a non-Jew to perform a *melacha* but only "hints" to him that he wishes for a *melacha* to be performed, the first component of *Amira* is avoided.¹⁹ Since he did not explicitly ask the non-Jew to perform the *melacha* it is not considered as if he asked the non-Jew, and the prohibition of *Amira* is circumvented.²⁰

Defining a proper "hint"

When one only discusses the difficulty that he is experiencing he is "hinting" to the non-Jew to perform a *melacha* on his behalf and is not considered a form of *Amira*. For example:

- If one realizes that he forgot to turn off the light in his room, he may tell a non-Jew, "I mistakenly left the light on in my room and it's hard to fall asleep," in the hope that the non-Jew understands on his own to turn off the light.²¹
- If one left his crockpot on too high, he may hint to a non-Jew by apprising him of the situation by saying, "I left my crockpot on too high, and the food is going to burn," so that the non-Jew understands on his own to lower the crockpot.
- If one's alarm is ringing, he may hint to the non-Jew by saying, "My alarm clock is ringing and it's very disturbing," in the hope that the non-Jew realizes to turn off the alarm.²²

Since in these examples the Jew only told the non-Jew of the problem and did not directly ask him to perform the *melacha* it is considered only a "hint" and thus circumvents the first component of *Amira* - asking a non-Jew to perform a *melacha*. (We will soon discuss how to circumvent the second component of *Hana'ah*.)

1 The Rambam (Shabbos 6:1) writes that this prohibition of *Amira l'Akum* is a rabbinical prohibition. 2 Sefer Chomos Anach, Yisro 3 Rambam (Shabbos 6:1). [See also Rashi Avoda Zara 15a (d'h kivan) and Rashi Shabbos 121 (d'h kavah) who gives other reasons why the prohibition of *Amira l'akum* was enacted. The Shulchan Aruch Ha'Rav (243:1) explains that although the motivation to establish the prohibition of *Amira l'Akum* was because of the reasoning of the Rambam (so that *Shmiras Shabbos* should not become lax), the method and mechanics that that Chazal used to institute this prohibition was through the reasonings of Rashi.] 4 See *Shmiras Shabbos k'hilchaso* 30:1; Nishmas Shabbos 5: Klal 1 5 Shabbos 6:1 6 The Rambam (ibid) adds that "one may not even ask the non-Jew before Shabbos begins to perform a *melacha* on Shabbos." 7 Mishna Berura 307:73 8 39 Melochos p. 64 9 Nishmas Shabbos 5:58 10 Chai Adam 62:2 (*Shmiras Shabbos k'hilchaso* 30:3; Orchos Shabbos 23:20) 11 Shulchan Aruch 276:1 12 Mishnah Berura 276:2. See *Biur Halacha* (d'h afilu) where he clarifies that the extent of this penalty depends on whether the *melacha* that was performed by the non-Jew for the sake of the Jew was prohibited *mid'Oraisa* or *mid'Rabannan*. If the *melacha* that the non-Jew performed was a *melacha d'Oraisa* then it is prohibited for any Jew to benefit from the *melacha* that was performed. However, if the non-Jew performed only a *melacha d'Rabannan* then it is prohibited for only the Jew that the *melacha* was performed for to benefit from the *melacha* that was performed. 13 Shulchan Aruch 267:1. However, the Orchos Shabbos (23:64) writes that according to many *poskim* in a case where the non-Jew turned on the light on his own without being asked to do so we do not force the Jew to leave his home (or the room). Since the Jew was able to use the dark room, albeit with difficulty, we do not force the Jew to leave his room when the non-Jew turned on the lights without permission. If such a situation arises one should consult a Rav. 14 *Shmiras Shabbos k'hilchaso* 30:47. However, see *Madzhez Elyahu* (Vol.1:53) where he rules, that *b'dieved* if a non-Jew added water on his own the cholent does not become prohibited, based on several halachic factors. 15 Orchos Shabbos 23:58, note 99 16 Rambam, Hilchos Shabbos 6:2 17 *Shmiras Shabbos k'hilchaso* 30:57 18 39 Melochos p. 67 19 See Mishna Berura 307:76. The *poskim* discuss an issue which arises when one must go outside in the streets to find a non-Jew and call him into his home, as perhaps calling him into his home by saying "I have a problem...can you come into my house..." is considered a direct form of an *Amira*. See *Meor Hashabbos* Vol.1 14:2; The Sanctity of Shabbos *biurim* 1 where they cite dissenting opinions on this issue. There is another issue with calling a non-Jew into one's home to perform a *melacha* as the *poskim* debate whether it is ever permitted to allow a non-Jew to perform a *melacha* inside the house of a Jew, see Mishna Berura 276:11, as it seems that a Jew may never allow a non-Jew to perform a *melacha* with his object on Shabbos. Some *poskim* rule that one may never allow a non-Jew to perform a *melacha* in the home of a Jew (Rav Elyashiv *melachim umnagich* 4 haarah 4; Chut Shani Vol. 3:81:3), while others permit this (Chay Adam, 62:3; Shulchan Aruch ha'Rav 243 mahadura basra; Kalkeles Shabbos, Amira l'akum 5; Orchos Shabbos 23, note 24 from Rav David Feinstein) and this seems to be the prevalent custom (Rav David Feinstein cited in Orchos Shabbos ibid). 20 see Orchos Shabbos Vol. 2 pg. 439, note 46 21 *Shmiras Shabbos k'hilchaso* 30:5

Improper “hints.” There are “hints” that are not as subtle and are not valid as they are considered as if the non-Jew was asked directly to perform a *melacha*. For example, if when asking the non-Jew, the Jew mentions the non-Jew’s involvement or participation in performing the *melacha*, it would be equivalent to directly asking the non-Jew to perform the *melacha*.²³ For instance,

- One may not say to the non-Jew, “Please do me a favor...I left my light on,”²⁴ because he mentioned the non-Jew’s involvement by saying “Please (can you) do me a favor,” it is as if he asked the non-Jew directly to perform the *melacha*.
- One may not say to the non-Jew, “My light was mistakenly left on, and I would appreciate it if someone would help me.”²⁵ Since he mentioned, albeit subtly, the non-Jew’s involvement in performing the *melacha* by saying “I would appreciate if someone (i.e., the non-Jew) could help me,” it is as if he asked the non-Jew directly to perform the *melacha* and violates the component of *Amira*.

Similarly, it is common that after one “hints” to a non-Jew to perform a *melacha* (e.g., “I mistakenly left the light on in my room and it’s hard to fall asleep”), the non-Jew will respond, “So would you like me to turn off the light?” One must be careful not to answer “Yes” or even nod his head²⁶ as this refers to the non-Jew’s involvement in performing the *melacha*.²⁷ Instead, one should repeat the hint by saying, “I mistakenly left the light on in my room and it’s hard to fall asleep,”²⁸ in the hope that the non-Jew will realize on his own that he wishes for the light to be turned off.²⁹

Circumventing the component of *Hana’ah*

Although “hinting” may resolve the component of *Amira*, there is still the second component of *Hana’ah* which must be circumvented.³⁰ This point is something that is very often misunderstood, as the *Sefer Nishmas Shabbos*³¹ writes, “There is a common misconception regarding the *halachos* of *Amira l’akum*. Many people mistakenly assume that so long as a person “hints” to a non-Jew to perform a *melacha* and is careful to avoid asking the non-Jew directly to perform a *melacha*, the prohibition of *Amira l’akum* is avoided entirely. However, this is not correct, because although “hinting” to the non-Jew may resolve the first component of *Amira*, it is not sufficient to resolve the second component of *Hana’ah* as it is prohibited to benefit from the *melacha* that the non-Jew performed for the sake of the Jew.” As we mentioned above, the Shulchan Aruch³² rules that even if a non-Jew performed a *melacha* for the sake of a Jew on his own, without being asked to perform it, one may still not benefit from that *melacha* because of the component of *Hana’ah*. Thus, even when one only hints to the non-Jew to perform a *melacha* it is still necessary to circumvent the second component prohibition of *Hana’ah*.

Permissible forms of *Hana’ah*

Although Chazal forbade benefiting from the *melacha* performed by a non-Jew, they included only certain types of benefit in this prohibition. There are some benefits that are not considered “complete” benefits and are not included in this prohibition. There are two lower forms of benefit that are not included in the component of *Hana’ah* and one may benefit from them on Shabbos:

1. A benefit that occurs through removal
2. An additional benefit

I. A benefit that occurs through removal

There are two forms of *Hana’ah* that a *melacha* that is performed can produce a “positive benefit” or a “benefit by removal,” and Chazal did not prohibit benefiting from the later, as we will explain:

- A “positive benefit.”** In some instances, a *melacha* that is performed will create something and is considered a “positive benefit.” For example, turning on a light is considered a “positive benefit,” because it creates something new (i.e., the light shining from the bulb). Similarly, turning on an air conditioner is considered a “positive benefit,” because something new was created (i.e., the cold air that is being blown from the air conditioner).
- A “benefit by removal.”** In other instances, a *melacha* that is performed will only take something away, it is considered a “benefit by removal.” For example, turning off a light is considered a “benefit by removal,” because it removes something (i.e., the light). Similarly, turning off an air conditioner is considered a “benefit by removal,” because it takes away something (i.e., the cold air that was being blown from the air conditioner).

Chazal only included benefiting from a “positive benefit” in the prohibition of *Hana’ah*, as this is considered a higher-level benefit. It is permissible to benefit from a “benefit by

removal,” as this is considered a lower-level benefit.³³ Thus, if a situation arises where one needs to benefit from “benefit by removal,” such as having a light turned off, he may accomplish this by “hinting” to a non-Jew to perform the *melacha*, because in this case both components of *Amira l’akum* are circumvented and thus the prohibition of *Amira l’akum* is avoided:

1. *Amira*. Since he only “hinted” to the non-Jew to perform the *melacha* the first component of *Amira* is circumvented; and,
2. *Hana’ah*. Since the benefit in this case is only “benefit by removal” the second component of *Hana’ah* is also circumvented, and therefore the prohibition of *Amira l’akum* is avoided.

Similarly, if one needs an air conditioner or oven turned off on Shabbos, he may “hint” to a non-Jew to turn off the air conditioner or oven, because both components of *Amira l’akum* are circumvented and the prohibition of *Amira l’akum* is avoided.

2. Additional benefit

There is another form of benefit that Chazal did not include in the prohibition of *Hana’ah*: Additional benefit. Meaning, that in a case where the *melacha* that the non-Jew performs only adds *additional* benefit, one may benefit from it on Shabbos.³⁴ For example, if a room is already dimly lit and can be usable, albeit with difficulty, turning on the light in that room would produce only *additional* benefit and may be used on Shabbos. Accordingly, it is permitted to “hint” to a non-Jew to turn on a light in a dimly lit room, because both components of *Amira l’akum* would be avoided:

1. *Amira*. Since he only “hinted” to the non-Jew to perform the *melacha* the first component of *Amira* is avoided; and,
2. *Hana’ah*. Since the benefit in this case is only “additional benefit” the second component of *Hana’ah* is also avoided, and therefore the prohibition of *Amira l’akum* is avoided.

To Summarize

Chazal prohibited asking a non-Jew to perform *melacha* on Shabbos, to preserve the sanctity of Shabbos. Accordingly, any act that a Jew may not perform himself on Shabbos may not be asked to a non-Jew to perform on Shabbos. There are two components to this prohibition: *Amira*, asking the non-Jew to perform a *melacha* on Shabbos, and *Hana’ah*, benefiting from the *melacha* that a non-Jew performed on Shabbos for the sake of a Jew. We have discussed the first way to avoid the prohibition of *Amira l’akum*: by circumventing the two components of *Amira l’akum*. By using *remiza*, “hinting,” to circumvent the component of *Amira*, in instances where there is only a lower-level benefit, such as a “benefit by removal” or an “additional benefit,” and the component of *Hana’ah* is circumvented.

However, in many situations it is not possible to avoid the two components of *Amira l’akum*, as in a case where the *melacha* will produce a “positive benefit,” and this method of avoiding *Amira l’akum* is not feasible. For example:

- If someone forgot to leave on the light in his kitchen, it is prohibited to “hint” to a non-Jew to turn on the light, because turning on the light is considered a “positive benefit” which one may not benefit from on Shabbos.³⁵
- If one lives on a high floor in an apartment building, he may not “hint” to a non-Jew to call the elevator on Shabbos, as he may not benefit from the “positive benefit” of calling the elevator which was performed by the non-Jew for the sake of the Jew.³⁶
- If one forgot to turn on his air conditioner or did not leave it on a cool enough setting before Shabbos, it is prohibited to ask a non-Jew to turn on or adjust the air conditioner to the proper temperature, because turning on the air conditioner is considered a “positive benefit” which one may not benefit from on Shabbos.³⁷

Since in these scenarios a “positive benefit” is needed the second component of *Hana’ah* cannot be avoided and it is thus “hinting” to a non-Jew to perform the *melacha* will not obviate the prohibition of *Amira l’akum*. Moreover, in many situations hinting one’s needs to a non-Jew is not feasible, and the component of *Amira* cannot be avoided. Nevertheless, there are other leniencies that can permit *Amira l’akum* even in these instances. In part two we will discuss these special leniencies which can entirely waive the prohibition of *Amira l’akum* and can completely permit both components of *Amira* and *Hana’ah* without having to “hint” to the non-Jew one’s request.

The intention of this summary is to discuss common practical *shaylos*. One should consult a Rav concerning *p’sak halacha*.

²² 39 Melochos p. 70 ²³ See Shulchan Aruch 334:26; Mishna Berura 334:69 ²⁴ Practical & Relevant Hilchos Shabbos (Reviewed by Rabbi Shmuel Felder) p. 183 ²⁵ Shmiras Shabbos K’Hilchaso 30:5 ²⁶ Practical & Relevant Hilchos Shabbos (Reviewed by Rabbi Shmuel Felder) p. 183 ²⁷ Ibid ²⁸ Ibid ²⁹ According to many *poskim* (Shevet ha’Levi Vol.6:133:2; The Sanctity of Shabbos pg. 21, note 3 from many *poskim*), to consider a request to be only a “hint” there is an additional requirement that must be met: one may not mention the *melacha* that needs to be performed. For example, one may not say, “I left a light on, and I am not allowed to turn it off.” Since he mentioned turning off the light it can no longer be considered a hint. Rather, he must simply tell the non-Jew about his situation by saying, “My light was left on by mistake,” and thus avoid mentioning the *melacha* that needs to be performed. However, other *poskim* (Meor HaShabbos Vol. 1:13:3; Rav Shlomo Zalman Auerbach; 39 Melochos p. 70) rule that so long as he does not mention the non-Jew’s involvement in performing the *melacha* it is considered a “hint” even if he mentioned the *melacha* that needs to be performed. Meaning that although one may not ask the non-Jew, “Can you turn off the light?”, it is permissible to say I left a light on, and I am not allowed to turn it off,” even though the *melacha* was mentioned. ³⁰ See Mishna Berura 307:76; Orchos Shabbos vol. 2, p. 439 ³¹ 5:88 ³² Shulchan Aruch 276:1 ³³ Chidushi ha’Ran Shabbos 121a. ³⁴ Shulchan Aruch 776:4 Mishna Berura 307:76. ³⁵ Shulchan Aruch 276:1; Mishna Berura 276:2. However, as we mentioned above, if there already was some light in the room, and the light that the non-Jew turned on only provides *additional* light to the room it is permitted to benefit from the additional light. ³⁶ Orchos Shabbos 23:58 note 99 ³⁷ Igros Moshe Y.D. 3:47:2, where Rav Moshe Feinstein explains that “it is obvious that this is prohibited to hint to a non-Jew on Shabbos to raise the temperature of an air conditioner. Turning on the air conditioner is not considered only an *additional* benefit as it cannot be compared to asking a non-Jew to turn on a light in a dimly lit room.” The reason is as follows: In the case of the dimly lit room although it may be difficult to read a book in a dimly lit room, with some effort one can read the book. Since the book can be read even in the dimly lit room, we can consider turning on the light to be just an additional benefit as the book can now be read more easily. On the other hand, when an air conditioner is off or not on a cool enough setting, one cannot be “as comfortable” in the room now with the air conditioner off or on a lower setting as when the air conditioner is set to a cooler setting. Even if he exerts effort, the room will never be as comfortable as it were with the air conditioner set to a cooler setting. Accordingly, turning on or adjusting the temperature of the air conditioner is considered a “complete benefit” as the room is now comfortable. Therefore, hinting to a non-Jew to turn on the air conditioner does not suffice to circumvent the second component of the prohibition of *Amira l’akum*. See also Shmiras Shabbos K’Hilchaso 30, note 167; Orchos Shabbos 23:23.