

In Hilchos Shabbos

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Amira l'Akum 101

Part 2:

Special Leniencies
to the Prohibition of Amira l'Akum

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

Last week we discussed the fundamentals of the prohibition of *Amira l'akum* and its two components: *Amira* and *Hana'ah*. We discussed the first method of avoiding the prohibition of *Amira l'akum* by circumventing these two components through using *remiza* – “hinting.” However, in many situations where a “positive benefit” is gained, this method is not possible, because of the second component of *Hana'ah* is violated.¹ In this part we will discuss several special leniencies which can waive the prohibition of *Amira l'akum* entirely - both the components of *Amira* and *Hana'ah* - allowing one to ask a non-Jew directly to perform a *melacha* on Shabbos without having to use *remiza*. We will divide these leniencies into two categories:

- 1) *Shvus d'shvus*: A double *d'Rabbanan*
- 2) Other special leniencies to the prohibition of *Amira l'akum*

Shvus d'Shvus: A Double d'Rabbanan

The Shulchan Aruch² writes that there is a leniency in the prohibition of *Amira l'akum* called *shvus d'shvus* – a double *d'Rabbanan*. This means that when a Jew asks a non-Jew to perform a *melacha* that is prohibited only *mid'Rabbanan*, it opens the possibility to several leniencies. The reason for this is as follows: since the prohibition of *Amira l'akum* is prohibited only *mid'Rabbanan*, if the *melacha* that the non-Jew is performing is also prohibited only *mid'Rabbanan*, the seriousness of the *melacha* being performed is minimized even further. Since there are two separate factors that render the *melacha* being performed to prohibited only *mid'Rabbanan*, it waters down the severity of the *melacha* being performed and we can thus apply certain leniencies.³ The following would be an example of a *shvus d'shvus*:

It is prohibited *mid'Rabbanan* to carry an object in a *karmelis* (a public domain that services less than 600,000 people⁴). If one asks a non-Jew to carry an object in a *karmelis* on Shabbos it is considered a *shvus d'shvus*, because 1. the *melacha* being performed (carrying in a *karmelis*) is only a rabbinic prohibition, and 2. it is being performed not by the Jew himself but by a non-Jew, which is also only rabbinically prohibited under the rabbinical prohibition of *Amira l'akum*. Therefore, asking a non-Jew to carry in a *karmelis* on Shabbos is considered a *shvus d'shvus*.

Although a *shvus d'shvus* is still generally prohibited, *Chazal* allowed a *shvus d'shvus* to be performed on Shabbos in the following instances:

- a. To prevent a substantial financial loss
- b. For a *mitzva* need
- c. To prevent significant pain or discomfort

To prevent a substantial financial loss

One may ask a non-Jew (even directly) to perform a *rabbinical* prohibition to prevent a substantial financial loss,⁵ because it is a situation of a *shvus d'shvus*. For example:

- If someone mistakenly left an expensive item in a *karmelis* and he is afraid that it will be stolen, he may ask a non-Jew (even directly) to carry it inside his home.⁶ Since carrying in a *karmelis* is prohibited only *mid'Rabbanan*, asking a non-Jew to carry the item is a *shvus d'shvus* (because *Amira l'akum* itself is prohibited only *mid'Rabbanan*), and is permitted to prevent a substantial financial loss.
- If someone notices that his freezer which is full of meat, has become unplugged on Shabbos and is concerned that the meat will spoil over Shabbos, he may ask a non-Jew (even directly) to plug in the freezer.⁷ Since connecting the plug of a freezer into the outlet (i.e., using electricity) is prohibited only *mid'Rabbanan*,⁸ asking a non-Jew to reconnect the freezer is a *shvus d'shvus*, and is permitted to prevent a substantial financial loss.

For a mitzva need

One may ask a non-Jew (even directly) to perform a *rabbinical* prohibition for the sake of a *mitzva* need, because it is a situation of a *shvus d'shvus*.⁹ For example:

- One may ask a non-Jew to carry a *machzor* or *sefer* to shul through a *karmelis*.¹⁰ Since carrying in a *karmelis* is prohibited only *mid'Rabbanan*, asking a non-Jew to carry the *sefer* is a *shvus d'shvus* and is permitted for the sake of a *mitzva* need.
- One may ask a non-Jew (even directly) to carry wine or food that is essential to his Shabbos meal¹¹ from a neighbor's house to his house through a *karmelis*.¹² Since food that is essential for one's Shabbos meal¹³ is necessary to perform the *mitzva* of *oneg Shabbos* (enjoying one's Shabbos meal), he may ask a non-Jew to carry it through a *karmelis* as it is only a *shvus d'shvus*.
- Someone who is having guests over and forgot to supply pillows and blankets for his guests may ask a non-Jew to carry pillows and blankets through a *karmelis*, as the *mitzva* of *hachnasas orchim* (hospitality) is permits a *shvus d'shvus*.¹⁴

To prevent significant pain or discomfort

One may ask a non-Jew (even directly) to perform a *rabbinical* prohibition to prevent significant pain or discomfort, because it is a situation of a *shvus d'shvus*.¹⁵ For example:

- If one forgot to turn on his air conditioner or did not leave it on a cool enough setting and is suffering from great discomfort, he may ask a non-Jew to turn on or adjust the air conditioner to the proper temperature.¹⁶ Since switching on or adjusting the air conditioner (i.e., using electricity) is prohibited only

1 For example, if one forgot to turn on the kitchen light one may not hint to a non-Jew to turn on the light, because it is prohibited to benefit from the “positive benefit” of the light turning on (ShabbosShulchan Aruch 276:1; Mishna Berura 276:2). Similarly, if one forgot to turn on an air conditioner, he may not ask a non-Jew to turn, because turning on an air conditioner is a “positive benefit” which one may not benefit from (Igras Moshe Y.D. 3:47:2; see also *Shmiras Shabbos Khilchaso* 30 note 167; Orchos Shabbos 23:23). 2 Shulchan Aruch 307:5

3 Regarding whether the leniency of *Shvus d'Shvus* applies to all activities that are prohibited *mid'Rabbanan*, and the *poskim* discuss whether the leniency of *shvus d'shvus* applies to all rabbinical prohibitions. 1. **Melacha sheino tzricha l'gufo** – Many *poskim* rule that the leniency of *shvus d'shvus* applies even when a *melacha* is performed in a manner of *melacha sheino tzricha l'gufo* (not needed for the thing itself). For example, the Mishna Berura (340:3; Biur Halacha d'h v'Chayav) writes that if a woman needs to go to the Mikvah on Friday night and forgot to cut her nails, she may ask a non-Jew to cut her nails since the act of cutting one's nails is a *melacha sheino tzricha l'gufo* (because one does not need the nails) and is only rabbinically prohibited and is a *shvus d'shvus* for a mitzva need. [Although cutting one's nails may generally not be considered a *melacha sheino tzricha l'gufo*, see Chapter in Brushing Hair, that is because cutting one's nails has a positive effect in that it beautifies one's body. However, when a woman cuts her nails in preparation for the mikva it is not done for beautification purposes but to remove a *chatzitzah*; therefore, it is considered a *melacha sheino tzricha l'gufo*. (Nevertheless, the Mishna Berura writes that it is preferable to ask the non-Jew not to use a scissor to cut her nails but to cut her nails with his hands.) According to these *poskim* someone who finds an insect and suffers emotionally from the insect may ask the non-Jew to kill the insect as it is a *melacha sheino tzricha l'gufo* (because the insect is not needed) and is a *shvus d'shvus* which is permitted to alleviate ones suffering or distress. However, Rabbi Akiva Eiger (Teshuvos, 17) rules that it is prohibited to ask a non-Jew to perform a *melacha sheino tzricha l'gufo* as it does not fall into the leniency of *shvus d'shvus*. 2. **A melacha done with a Shinui (in an awkward manner)** – A *melacha* that is done with a *shinui* is prohibited only *mid'Rabbanan* and thus should be permissible to ask a non-Jew to perform a *melacha d'Oraisa* through a *shinui* (in instances where a *shvus d'shvus* is permitted). Indeed, the Mishna Berura (340:3) considers a *melacha* performed through a *shinui* to be considered a *shvus d'shvus* (regarding asking a non-Jew to cut a woman's nails with his hands). However, Rav Yosef Shalom Elyashiv (cited in Orchos Shabbos 23:89, note 179) rules that it depends on how severe of a *shinui* is used. If the *shinui* alters the outcome of the action (e.g., cutting one's nails with his fingers, writing with his left hand), then we can apply the status of a *shvus d'shvus*. However, if the *shinui* does not alter the outcome of the action (e.g., turning on a light switch with his elbow) it is not a significant enough *shinui* to give it the status of a *shvus d'shvus*. 3. **A melacha done with through a Grama (an indirect action)** – A *melacha* that is performed through a *grama*, in an indirect manner, is prohibited only *mid'Rabbanan*, and when one asks a non-Jew to perform a *melacha* through a *shinui* it is considered a *shvus d'shvus* (Orchos Shabbos 23:91). 4 Although there is a *machlokes* in the *poskim* whether a public domain which is more than 16 *amos* is considered a *reshus ha'rabim d'Oraisa* (even if there is not 6000,000 people there), the Mishna Berura writes (325:11 and in *Sha'ar ha'Tzion* 325:13) that regarding the prohibition of *Amira l'akum* one may be lenient and consider any *reshus ha'rabim* that services less than 600,000 people to be a *Karmelis* which is only a *reshus ha'rabim d'Rabbanan*. 5 See Shulchan Aruch 307:5; Mishna Berura 307:22. Regarding how to determine what is considered a substantial financial loss, the Orchos Shabbos (23, note 173) writes that it would differ for different people depending on their financial situation and each Rav's determination of the situation. 6 Orchos Shabbos 23:100. 7 The Sanctity of Shabbos p. 30. In a situation where one will not suffer a substantial financial loss if the freezer is not plugged in, he may still hint to the non-Jew to plug in the freezer, because we can consider this to be only a *negative* benefit as he is only preventing the food from defrosting and getting ruined (Igras Moshe O.C. Vol. 4:127:1). 8 Although there is a *machlokes* in the *poskim* whether using electricity on Shabbos is prohibited *mid'Oraisa* or *mid'Rabbanan* (See Volume 3, Chapter on Why we Don't Use Electricity on Shabbos), regarding *Amirah l'akum* one may be lenient and consider the use of electricity to be prohibited only *mid'Rabbanan* (The Sanctity of Shabbos pg. 31 note 8). 9 Shulchan Aruch 307:5 10 Orchos Shabbos 23:94; The Sanctity of Shabbos pg. 32 11 The following is a list of foods that are essential for one's Shabbos meal: wine, *lechem mishnah*, fish, meat, cholent (The Sanctity of Shabbos pg. 35-36). 12 See Shulchan Aruch 325:10 and Mishna Berura 325:60 (Orchos Shabbos 23:95; The Sanctity of Shabbos p. 32) 13 Foods that are not essential for one's Shabbos meal are not necessarily considered a *d'var mitzva* and may not be carried over by a non-Jew (Mishna Berura 325:60; Orchos Shabbos 23:81; see also Nishmas Shabbos 5:108). The following is a list of foods that are not considered essential for one's Shabbos meal: kugel, salads, drinks, deserts (The Sanctity of Shabbos p. 36). 14 The Sanctity of Shabbos p. 33 15 Aruch ha'Shulchan 307:18 16 Minchas Yitzchok Vol. 3:234; The Sanctity of Shabbos p. 110; Nishmas Shabbos 5:91 17 Since regarding asking a non-Jew to perform a *melacha* we may consider “the use of electricity on Shabbos” to be prohibited only *mid'Rabbanan* (see note 8 above) it is thus considered a *shvus d'shvus* to ask a non-Jew to use electricity on Shabbos. [However, according to all opinions turning on an incandescent or fluorescent lightbulb is prohibited *mid'Oraisa* (See Volume 3, Chapter on Why we Don't Use Electricity on Shabbos) and is not considered a *shvus d'shvus*.] 18 The Sanctity of Shabbos pg. 34; Orchos Shabbos 23:110 19 Shulchan Aruch 261:1. Rav Moshe Feinstein (Igras Moshe O.C. 4:74:40) writes that the exact time for *bein ha'shmashos* (regarding this leniency of *Amira l'akum*) in New York is until 30 minutes after *Shkya*. However, in Igras Moshe (O.C. 462) he writes that one may be lenient in New York regarding *Amira l'akum* until even 40 minutes after *Shkya*. 20 See Volume One, Chapter Eight. 21 Shulchan Aruch 261:1 and 307:22 22 Regarding *bein ha'shmashos* of *Motzai Shabbos*. The Mishna Berura (342:2) cites a dispute regarding whether this leniency applies by the *bein ha'shmashos* of *Motzai Shabbos* as perhaps once it already Shabbos we assume that Shabbos continues through *bein hashmashos* as “a doubt” will not remove the holiness of Shabbos. The Mishna Berura concludes that one should be stringent on this issue and not ask a non-Jew to perform a *melacha* during the *bein ha'shmashos* of *Motzai Shabbos* (see Orchos Shabbos Vol. 2, p. 503, note 207). The Sanctity of Shabbos (p. 45) writes that in a case of extreme necessity one may ask a non-Jew to perform a *melacha* during *bein hashmashos* of *Motzai Shabbos*. 23 See Biur Halacha 342:1 d'h mutar that even if the chore that must be performed is not essential for one's Shabbos needs but provides only additional enjoyment for Shabbos it is nevertheless considered a Shabbos need and one may ask a non-Jew to perform a *melacha* during *bein ha'shmashos* for such a need. 24 Shulchan Aruch 261:1 25 The Sanctity of Shabbos p. 43

mid'Rabbanan,¹⁷ asking a non-Jew to adjust the temperature is a *shvus d'shvus*, and is permitted to significant pain or discomfort.

- Someone who has a painful burn may ask a non-Jew to obtain medication from a drugstore.¹⁸ Since purchasing the medication and carrying it (through a *karmelis*) is prohibited only *mid'Rabbanan* a non-Jew may be asked to do so to alleviate his significant pain as it is only a *shvus d'shvus*.

Other Special Leniencies to the Prohibition of *Amira l'Akum*

In a scenario where one needs a *melacha d'Oraisa* to be performed it cannot be considered a *shvus d'shvus* and the leniencies discussed above do not apply. Nevertheless, the following special leniencies permit someone to ask a non-Jew even directly to perform even a *melacha d'Oraisa*:

1. *Bein hashemashos* – the twilight period between day and night

The twilight period between day and night is referred to as *bein hashemashos*.¹⁹ This twilight period is a time of uncertainty regarding whether it is considered day or night,²⁰ and on *bein hashemashos* of Friday afternoon it is unclear as to whether Shabbos has begun. Although we generally refrain from performing any *melacha* once *bein hashemashos* arrives (i.e., at *Shkiya* – sunset), *Chazal* applied certain leniencies to *bein hashemashos*. The *Shulchan Aruch*²¹ rules that during *bein hashemashos* on *erev Shabbos*²² one may (even directly) ask a non-Jew to perform a *melacha*, even a *melacha d'Oraisa*, for a Shabbos need.²³ For example:

- The *Shulchan Aruch*²⁴ writes that if a woman forgot to light the Shabbos candles and remembers during *bein hashemashos* she may ask a non-Jew (even directly) to light the candles on her behalf. (A *beracha* is not recited on the candle lighting.²⁵)
- If someone who forgot to turn on his oven before Shabbos may ask a non-Jew (even directly) to turn it on during *bein hashemashos* to warm up his food, because it is permissible to ask a non-Jew to perform a Shabbos need during *bein hashemashos*.²⁶

2. An ill person – A *Choleh she'ein bo Sakana*

A person who is ill to the point that he cannot function properly and must lie down in bed is considered a *choleh she'ein bo sakana* (a sick person who is not in life-threatening danger).²⁷ *Chazal* allowed a *choleh she'ein bo sakana* to directly ask a non-Jew to perform a *melacha* (even *d'Oraisa*) to help him feel better.²⁸ For example:

- Someone who has the flu may ask a non-Jew to call the doctor or even drive to a pharmacy to buy medication, because he is considered a *choleh she'ein bo sakana*.²⁹
- One may ask a non-Jew to adjust an electrical hospital bed for the sake of a *choleh she'ein bo sakana*, even though the patient is not dangerously ill.³⁰
- One may ask a non-Jew to boil water or warm up food that is needed for someone who is sick.³¹

Children

Young children (until the age of nine³²) are generally weaker than adults and therefore are quicker to be considered a *choleh she'ein bo sakana*.³³ Therefore, one may ask a non-Jew to perform a *melacha* for the needs of a child that if left untreated can develop into a sickness.³⁴ For example, a young child who has a severe fear of darkness is considered a *choleh she'ein bo sakana*, and one may ask a non-Jew to turn on a light on Shabbos for the child.³⁵

Cold weather

The *Shulchan Aruch*³⁶ writes that “regarding cold weather, all people are considered ill,” because cold weather can easily cause someone to become sick. Therefore, during

very cold³⁷ weather someone who is suffering from the cold may ask a non-Jew to turn on a heater.³⁸

Hot weather. Although the *Shulchan Aruch* rules that people are considered “ill” regarding the cold, it is not clear that this leniency to permit *Amira l'Akum* would apply to someone suffering from the heat because people generally do not become sick from the heat.³⁹ Still, as we mentioned earlier, there is another reason to permit asking a non-Jew to turn on an air conditioner in very hot weather based on the leniency of *shvus d'shvus* (because using electricity is only prohibited *mid'rabanan*).⁴⁰

3. *P'sik reisha* – an unintended consequence

One may ask a non-Jew to perform a *melacha* (even directly) if the *melacha* is performed only through a *p'sik reisha* (an unintended consequence⁴¹).⁴² For example, opening the door of a refrigerator that turns on lightbulb is considered a *p'sik reisha*, because when one opens the door of the refrigerator his intention is not to turn on the lightbulb but to remove food from the refrigerator. Therefore, although it is inevitable that opening the refrigerator door will turn on the light bulb, since it is an unintended consequence, it is considered a *p'sik reisha*. Although it is prohibited for a Jew to perform an act that is a *p'sik reisha* on Shabbos one may ask a non-Jew to perform an act that is a *p'sik reisha* on Shabbos.⁴³ For example,

- Rav Moshe Feinstein⁴⁴ rules that if someone forgot to remove the light bulb from his refrigerator before Shabbos, he may ask a non-Jew to open and close the refrigerator door on Shabbos. Although it is inevitable that opening the refrigerator door will turn on the light bulb, it is permitted because it is only a *p'sik reisha* – an unintended consequence.
- Although opening a car door will inevitably turn on the lights in the car, if someone mistakenly left an item in his car before Shabbos, he may ask a non-Jew to remove the item from the car on Shabbos (in a place where there is a proper *eiruv*). Although opening the car door will inevitably turn on the lights of the car, it is permitted to ask a non-Jew to open the car door because it is considered a *p'sik reisha* - an unintended outcome.⁴⁵

4. A public mitzva

The *Rema*⁴⁶ writes that the general rule is that one may not ask a non-Jew to perform a *melacha d'Oraisa* even for a mitzva need. For example, one may not ask a non-Jew to turn on a light so that he can eat his Shabbos meal.⁴⁷ However, some *poskim*⁴⁸ rule that one may ask a non-Jew (even directly) to perform a *melacha* for the sake of a mitzva *d'rabbim* – an act that will enable many people to perform a mitzvah. For example:

- If the lights in a shul turned off and the congregants are not able to *daven* or learn, one may ask a non-Jew to turn them on. Since a group of people will not be able to perform a mitzva unless the lights are turned on, one may ask a non-Jew to perform this *melacha* even though it is a *melacha d'Oraisa*.⁴⁹

However, other *poskim*⁵⁰ do not agree with this leniency and prohibit asking a non-Jew to perform a *melacha d'Oraisa* even for the sake of a public mitzva.⁵¹ For example, before the invention of electric lights many shuls did not have a way to provide lighting for *seuda shelishis*. The *Shelah haKadosh*⁵² writes that he witnessed many respectable communities would sit in darkness at *seuda shelishis* because they did not allow a non-Jew to be called to light candles. Although it involved a public mitzva these congregations did not ask a non-Jew to perform a *melacha d'Oraisa* but would sit in darkness until Shabbos ended.⁵³ One must consult a Rav on this issue.⁵⁴

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

26 *ibid* 27 *ibid* 28 *Shulchan Aruch* 328:17 29 *ibid* Mishna Berura 328:46 30 *The Sanctity of Shabbos* p. 50 31 *Orchos Shabbos* 23:115; *The Sanctity of Shabbos* p. 50 32 *Minchas Yitzchok* Vol. 1:78. See *The Sanctity of Shabbos* p. 53 that every child is different and some children who are stronger in nature are no longer considered “a child” even when they are younger than nine years old. 33 *Rema* 328:17 34 *The Sanctity of Shabbos* p. 53 35 *Orchos Shabbos* 23:114; *The Sanctity of Shabbos* p. 53 36 276:5 37 The *Shulchan Aruch* (276:5) writes that this leniency applies only if it is very cold. The *Shulchan Aruch* concludes that “This is not in accordance with some people who are lenient even in cases where it is not very cold. The Magen Avraham (276:15) explains that “these people are lenient because they hold that one may ask a non-Jew to perform a *melacha* to prevent one from suffering. However, this is not so as only a *shvus d'shvus* is permitted to prevent one from suffering. Therefore, one must warn these people to only ask a non-Jew to perform a *melacha* if it is very cold outside.” The *Aruch HaShulchan* (276:12) adds that “It is difficult to give a clear guideline for what is considered ‘very cold’ as every person reacts differently towards the cold weather.” (See *Ohr Tzion* vol 2, 25, 5.) However, the *Nishmas Shabbos* (5:96) cites the *Levush* (276:5) who explains those people who are lenient that they are used to having heating and they suffer from cold weather therefore for these people it is considered ‘very cold,’ and they may ask a non-Jew to perform a *melacha*. The *Nishmas Shabbos* (*ibid*) writes that this would certainly apply for our generation. 38 Even though turning on a heater involves a *melacha d'Oraisa*, either because it causes either a fire or a heating element to turn on (violating the *melacha d'Maveir*); see *The Sanctity of Shabbos* p. 52. Similarly, the *Nishmas Shabbos* (5:96) writes that if someone left his air conditioner on a setting that is too cold and there is no other room for him to go to, a non-Jew may be asked to change the setting of the air conditioner. 39 See *Minchas Yitzchok* Vol. 3:23; *Shmiras Shabbos k'hilchaso* 30:11; *Nishmas Shabbos* 5:91, *d'hu beizeh* 40 See note 8 above. Although there is a machlokes whether using electricity is prohibited *mid'Oraisa* or *mid'Rabbanan*, regarding the prohibition of *Amira l'Akum* one may be lenient and consider it to be prohibited only *mid'Rabbanan*. 41 See Volume 3, Chapter on Sensors 42 Mishna Berura 253:99 (also in Mishna Berura 277:15, 259:21, 337:10). However, Mishna Berura (in 253:51) cites an opinion that does not agree with this leniency and concludes that for a Shabbos need one may rely on the lenient opinion which permits asking a non-Jew to perform a *melacha* through a *p'sik reisha*. 43 The *Shulchan Aruch Harav* 253:10 explains this leniency as follows: One of the issues involved with asking a non-Jew to perform a *melacha* is that the non-Jew acts as a *shliach* (agent) to perform the *melacha* for the Jew (see previous chapter note 6) and thus it is viewed as if the Jew is performing the *melacha* himself. On the other hand, when one asks the non-Jew to perform an activity and the *melacha* occurs only indirectly and unintentionally it is permitted because the non-Jew was not directly asked to perform the *melacha* and thus he is not considered an agent for the Jew to do the *melacha*. (See also *Hagoas Baruch Ta'am*, on *Taz* 253:18) 44 *Igros Moshe* O.C. 2:68 45 The *Orchos Shabbos* (23:66,68) gives two more examples of a *p'sik reisha* which one may ask a non-Jew to perform on Shabbos: a. **Sweeping out overflowing water.** If water gathers in one's house, he may ask a non-Jew to sweep the water outside even though the water will be swept into the garden (violating the *melacha d'Zoreya*). Since one's intention is only to remove the water from his house, and the fact that the garden will be water is only an unintended outcome, one may ask a non-Jew to sweep out the water. b. **turning on a hot water faucet.** One may ask a non-Jew to turn on a hot water faucet on Shabbos. Although turning on the faucet will inevitably cause more water to enter the hot water tank and get cooked (violating the *melacha d'Bishul*), since that is an unintended outcome, it is a *p'sik reisha* and one may ask a non-Jew to turn on the hot water faucet on Shabbos. [However, this leniency does not apply to the newer model hot water tanks (tankless hot water heaters) which heat up the water instantly, because in this case it is indeed one's intended outcome when turning on the faucet for the water get heated up (Nishmas Shabbos, *Pishei Halachos*, p. 243). 46 The *Rema* (276:2) following the majority of *poskim* who disagree with the opinion of the *Ba'al HaTtur* who permits *Amira l'Akum* for even a *melacha d'Oraisa* for the sake of a mitzvah (see Mishna Berura 276:23). However, as we discussed earlier, one may ask a non-Jew to perform a *melacha d'Rabbanan* for the sake of a mitzvah as it is then only a *shvus d'shvus*. 47 *Rema*, *ibid* 48 See *The Sanctity of Shabbos* p. 56, note 38 citing from Rav Chaim Pinchas Scheinberg, Rav Ahron Kotler, Yabia Omer (3:23) from many *poskim*. 49 *The Sanctity of Shabbos* p. 57 50 See *Nishmas Shabbos* (5:45) where he writes extensively to prove that the majority of *poskim* prohibit asking a non-Jew to perform a *melacha* even for the sake of a public mitzvah. 51 When it comes to preventing the public from violating a Shabbos prohibition many *poskim* permit asking a non-Jew to perform a *melacha d'Oraisa*. For example, the *Mishna Berura* (276:25) writes that if the *eiruv* falls on Shabbos, one may ask a non-Jew to fix the *eiruv* even if it involves a *melacha d'Oraisa* to prevent the public from violating the *melacha d'Hotzav* on Shabbos (*Orchos Shabbos* 23:77). 52 Cited in the *Mishna Berura* (276:24) 53 Interestingly, Rav Yisroel Belsky (quoted in *Halacha Berura* chapter the Shabbos goy p.6) explains that this halacha was what gave birth to the custom which is kept in many Chasidic circles to have a *tinkeleh tish* (a “dark table”), where the meal of *seuda shelishis* is eaten without any lights. It would then be ironic for someone to explicitly instruct a non-Jew to turn off the electric lights to perform the custom of a *tinkeleh tish*, as doing so would violate the prohibition of *Amira l'Akum*, which was the basis for this custom in the first place. Rather, one should only *hint* to the non-Jew to turn off the lights to circumvent the two components of *Amira l'Akum*. However, others (Minhag Yisroel Torah 292:5) explain the custom for having a *tinkeleh tish* based on the following concept of the *Chasam Sofer* (Chasam Sofer, *parshas Beha'alosecha, d'hu el mul*): “Aside from one's physical eyes, *Hakadosh baruch Hu* gave a person spiritual eyes as well. These spiritual eyes can see spirituality. Yet, the power of these spiritual eyes is blocked by his physical eyes and the more one detaches himself from his physical eyes the more active his spiritual eyes are. When one closes his eyes in concentration, he detaches himself from his physical eyes and gains a greater connection to spirituality.” Thus, at the conclusion of Shabbos, the *tinkeleh tish* is performed in darkness to disconnect oneself from his physical eyes and connect to spirituality. Nevertheless, one must be careful to abide by the rules of *Amira l'Akum* and only *hint* to a non-Jew to close the lights. 54 Rav Yisroel Belsky (cited in *Halacha Berura*, Chapter the Shabbos goy, p.6) writes that this leniency should not be relied upon unless it is a true need. For example, if a shul wishes to have the lights turned on each week for *seuda shelishis*, the congregation should use a timer to ensure that the lights turn on automatically for the meal and not make it a regular weekly practice to ask a non-Jew to turn on the lights for *seuda shelishis*. *Orchos Shabbos* (23, note 158) adds that in situation where one must ask a non-Jew to perform a *melacha* for the sake of a public mitzva it is preferable, when possible, to ask the non-Jew to perform the *melacha* with a *shinui* (in an awkward manner) e.g., with his elbow.