

In Hilchos Shabbos

You have heard the shaylos . . .
Now learn the issues & the opinions

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

There are many activities that may be permitted for one person to perform on Shabbos yet would be prohibited for someone else. As an example, there is a controversy among the poskim whether it is permissible on Shabbos to open a soda bottle that is sealed with a plastic cap, as detaching it from the bottle creates a functional cap.¹ For those who follow the stringent opinion it is prohibited to open these bottles on Shabbos, while others who follow the lenient opinion are permitted to open them. Is it permissible, then, for someone who follows the stringent opinion to ask someone who follows the lenient opinion to open these bottles for him on Shabbos? In this chapter we will scenario and several others and determine whether it is permissible to ask another Jew to act as one's 'Shabbos goy,' as asking a Jew to perform a melacha may involve the prohibition of *Amira l'Yisrael*.

The Prohibition of *Amira l'Yisrael*

We are familiar with the rabbinical prohibition of *Amira l'akum*, asking a non-Jew to perform a melacha that is prohibited for a Jew to perform on Shabbos. Yet there is a similar prohibition of *Amira l'Yisrael*, asking a Jew to perform a melacha on Shabbos that is prohibited for him personally.² The Radbaz³ writes, "The prohibition of *Amira l'Yisrael* is no less severe than the prohibition of *Amira l'akum*."

Three scenarios of a Jew asking his friend to act as a 'Shabbos goy'

We will discuss three different scenarios where a Jew asks another Jew to act as a 'Shabbos goy.' Each of these scenarios are different and we the prohibition of *Amira l'Yisrael* does not apply to each one in the same way.⁴

Scenario #1: Someone making "early Shabbos" remembers on his way home from shul that he forgot to set the air conditioner. Is he permitted to ask someone who is making "late Shabbos," and has not yet accepted Shabbos, to set his air conditioner? Perhaps since he himself has already accepted Shabbos he may no longer ask his friend to perform a melacha, as doing so may involve the prohibition of *Amira l'Yisrael*.

The *Shulchan Aruch*⁵ discusses this question and rules that "someone who accepted Shabbos early is permitted to ask another Jew to perform a melacha."

The *Magen Avraham*⁶ explains that in this case asking another Jew to perform a melacha on Shabbos does not involve the prohibition of *Amira l'Yisrael* because he himself could also theoretically perform the melacha on his own had he not made "early Shabbos." Since he could have theoretically done the melacha himself he is somewhat associated to the same permissibility that applies to his Jewish friend who did not yet accept Shabbos. Therefore, the prohibition of *Amira l'Yisrael* does not apply.

Thus, someone who made "early Shabbos" may ask his friend who is making "late Shabbos" to set the air conditioner to its proper settings.

Similarly, a woman who accepted Shabbos on herself by lighting the Shabbos candles may ask her husband (or anyone who did not yet accept Shabbos) to perform a melacha.⁷ Since it is not yet Shabbos and she could theoretically have postponed lighting the Shabbos candles and accepting Shabbos, the prohibition of *Amira l'Yisrael* does not apply.

Scenario #2: An American Jew is visiting his Israeli relatives in Eretz Yisrael for Sukkos. Being that he lives in *chutz la'Aretz* (the diaspora) he must keep two days of Yom Tov.⁸ However, his Israeli relatives keep only one day of Yom Tov, and may perform melacha on what is for him the second day of Yom Tov. Is it permissible for him to ask one of his Israeli relatives to perform melacha for him on the second day of Yom Tov?

Rav Moshe Feinstein⁹ (and the majority of poskim¹⁰) rule that it is prohibited for a Jew who lives in *chutz la'Aretz* to ask an Israeli to perform a melacha for him on the second day of Yom Tov due to the prohibition of *Amira l'Yisrael*. Rav Moshe explains that this scenario differs from that of the first scenario where someone who made "early Shabbos" is permitted to ask another Jew to perform a melacha because he could also theoretically perform the melacha on his own had he not made "early Shabbos". On the other hand, in our

¹ Rav Moshe Feinstein (quoted by Rav Dovid Feinstein (in Shabbos Kitchen pg. 185 and Halacha Berura) Rav Yisroel Belsky (in Halacha Berura pg. 8), *Rivvos Ephraim* Vol. 4) prohibits opening soda bottles on Shabbos. However, Rav Shlomo Zalman Auerbach permits opening plastic bottle caps on Shabbos (*Shmiras Shabbos k'hilchoso* 9, end of 18) ² Rav Yisroel Belsky (*Shulchan Halevi* pg. 340) brings a source to this prohibition from the *Mechilta* in *Parshas Shemos* (12:16) that expounds on the verse: "You should not perform melacha" – You should not perform melacha; your friend should not perform melacha [for you]; and a non-Jew should not perform melacha for you. Rav Belsky writes that it is clear from the *Mechilta* that the same way one may not ask a non-Jew to perform a melacha on Shabbos, one may not ask his fellow Jew to perform a melacha on Shabbos as well. The sefer *Orchos Shabbos* (Vol. 3, pg. 446) brings a source to the prohibition of *Amira l'Yisrael* from the *Maharam m'Rutenberg* (quoted in the *Bais Yosef siman 624*) ³ Radbaz 4:258 ⁴ In the following paragraphs we will focus our discussion on the prohibition of "Amira l'Yisrael" and *Zilzul K'vod Chaveiro* (degrading the honor of one's friend). Yet there are other prohibitions that are relevant to this discussion as well. Rav Yisroel Belsky writes (*Shulchan Halevi* pg. 340) that there may be two other issues involved in asking another Jew to perform a melacha: **1) The prohibition of *Lifnei ei'ver*** (causing one's friend to stumble): Perhaps asking a Jew to perform a melacha on Shabbos, that he himself rules is prohibited, violates the prohibition of *Lifnei ei'ver*, since in his own opinion this act is prohibited. Yet according to Rav Moshe Feinstein this does not seem to be an issue as he writes (*Igros Moshe* O.C. Vol. I end of page 320) "It is obvious that if one's friend is doing something based on the ruling of his own Rav, the prohibition of *Lifnei ei'ver* does not apply. Since he performs the activity based on the ruling of his Rav he has done no sin at all - even if the *halacha* does not follow the opinion of his Rav." **2) *Shlichus*** (making an agent to perform a melacha on Shabbos): Perhaps when someone asks his friend to perform a melacha on Shabbos his friend acts as a *shliach* (agent) on his behalf, and we therefore consider it as if he is the one performing the melacha which in his opinion is prohibited. The principle of *ain shliach l'dvar aveira* cannot be applied here since it is based on the reasoning of *divrei ha'rav divrei ha'talmid divrei mi shomim*, meaning that the one asked to perform the sin is expected to refuse doing the sin as he must listen to Hakadosh baruch Hu more than his friend. Yet in our case where in the friend's opinion it is permitted to perform this melacha there is no reason to assume that he will not comply and perform the melacha. (*p'nei Yehoshuah* quoted in *Minchas Yitzchok* 7:34).] However, see *Orchos Shabbos* Vol. 3 pg. 451 where he writes that based on the ruling of the *Bais Meir* and *Chasam Sofer* there is no problem of *shlichus* on Shabbos. ⁵ 263:17; see the *Bais Yosef* (there) where he cites the opinion of *Tosfos* who proves this *halacha* from the *Gemara* in *Shabbos* 151a ⁶ 263:30. This is also the opinion of the *Bais Yosef* (in *siman 263 d'h Kasav ha'Ran*). However, the *Bach* and *Taz* (in *siman 263*) hold an even more lenient opinion on this issue. They argue that *Tosfos* who rules that someone who made early Shabbos may ask his friend to perform a melacha, holds this way unconditionally. Meaning to say, that so long as one's friend is permitted to perform the melacha the prohibition of *Amira l'Yisrael* does not apply. The *Mishnah Berura* (263:64) seems to follow the lenient view of the *Bach* and *Taz*. ⁷ *Shmiras Shabbos k'hilchoso* 46:21 ⁸ *Mishnah Berura* 496:13 ⁹ *Igros Moshe* O.C. Vol. 3:73 ¹⁰ See sefer *Yom Tov Sheini K'hilchoso* 14:2 note 2 where he lists the different opinions and reasons given to prohibit an American from asking an Israeli to perform a melacha on the second day Yom Tov. See also *Orchos Shabbos* Vol. 3 page 451.

¹¹ This is based on the explanation of the *Magen Avraham* (263:30) cited earlier that the reasoning for the lenient ruling of the *Shulchan Aruch* regarding someone that made early Shabbos is since he could theoretically have done the melacha on his own had he not made early Shabbos. However, the *Bach* and *Taz* (cited in note 6) that hold that any time one's friend is permitted to perform the melacha the prohibition of *Amira l'Yisrael* does not apply, the reasoning of Rav Moshe to prohibit an American from asking an Israeli to perform a melacha on the second day of Yom Tov would not apply. The *Mishnah Berura* (263:64) seems to follow the lenient view of the *Bach* and *Taz*. Still, the other poskim give different reasons to prohibit an American from asking an Israeli to perform a melacha; see *Minchas Yitzchak* (7:34) and *Orchos Shabbos* (Vol. 3, pgs. 451-459).

"Can You Be My Shabbos-Goy-Yid?"

Asking Another Jew to Perform
an Activity that You Yourself
May Not Perform

example of an American asking an Israeli to perform a *melacha* on the second day of Yom Tov, this is not true since the American must always keep two days of Yom Tov and may never perform *melacha* on the second day. He is therefore not associated at all to the same permissibility that applies to his Israeli relative and asking the Israeli relative to perform *melacha* on the second day of Yom Tov violates the prohibition of *Amira l'Yisrael*.¹¹

Although one may argue that even someone who lives in *chutz la'Aretz* can theoretically be able to keep only one day of Yom Tov, since if he were to decide to move to Eretz Yisrael he would also keep only one day. Hence, he too should be somewhat connected to the same permissibility as his Israeli relatives, and the prohibition of *Amira l'Yisrael* should not apply. Rav Moshe explains that this argument is not valid since most people visiting Eretz Yisrael for Yom Tov plan on returning to *chutz la'Aretz* after Yom Tov, making the possibility of remaining in Eretz Yisrael after Yom Tov unlikely. Therefore, we cannot consider them to be among those who could even theoretically keep one day of Yom Tov and asking an Israeli to perform a *melacha* on the second day of Yom Tov would violate the prohibition of *Amira l'Yisrael*.

Scenario #3: Someone follows the stringent opinion that forbids opening soda bottles sealed with a plastic cap on Shabbos. Is he permitted to ask another Jew, who follows the lenient opinion, to open them for him?

The *poskim*¹² rule that the answer to this question depends on the reason why one refrains from opening soda bottles on Shabbos: Does he refrain *m'ikar hadin*, because he holds that this is the *halacha*, or does he refrain as a *chumra*, an extra stringency?

M'ikar hadin – according to the strict guidelines of halacha

If the reason a person does not open soda bottles on Shabbos is *m'ikar hadin*, he may not ask another Jew to open them either.¹³ Since in his opinion (or the opinion of his Rav¹⁴) the *halacha* prohibits opening soda bottles on Shabbos, asking another Jew who follows the lenient opinion to perform the activity involves the prohibition of *Amira l'Yisrael*, even though the latter is indeed permitted to open a soda bottle on Shabbos.

This cannot be compared to the lenient ruling of the *Shulchan Aruch* in the first scenario, where asking a friend who has not yet accepted Shabbos to perform a *melacha* does not involve the prohibition of *Amira l'Yisrael*. In that scenario the fellow Jew has not yet accepted Shabbos and is certainly permitted to perform a *melacha*. However, regarding our situation of opening the soda bottle, from the perspective of the one following the stringent opinion, it is prohibited for everyone (even those following the lenient opinion) to open soda bottles on Shabbos. Since in his opinion opening the soda bottle is prohibited *m'ikar hadin*, from his perspective, his friend is not permitted to open the soda bottle as well. Therefore, he may not ask another Jew to open a soda bottle on Shabbos, as doing so violates the prohibition of *Amira l'Yisrael*.¹⁵ Similarly:

- One who does not use a city *eiruv* may not ask his friend to carry something for him on Shabbos if, in his opinion (or the opinion of his Rav), the *eiruv* is not valid *m'ikar hadin*.

- One who is stringent and performs *melacha* on *motza'ei Shabbos* only seventy-two minutes after *shkiya* (sunset) may not ask his friend who waits less than seventy-two minutes to perform a *melacha* for him if, in his opinion (or the opinion of his Rav), *m'ikar hadin* one may not perform *melacha* on *motza'ei Shabbos* before waiting seventy-two minutes.¹⁶

If his friend opened the soda bottle for his own sake. If a Jew who follows the lenient opinion regarding opening soda bottles on Shabbos opened a bottle on Shabbos for his own sake, someone who adheres to the stringent opinion may benefit from the open bottle.¹⁷ Since the person who opened the bottle follows the lenient opinion, he did not violate a Shabbos prohibition by opening the soda bottle, and therefore even someone who follows the stringent opinion may still benefit from it.¹⁸

As a *chumra* – an extra stringency

Someone who follows the stringent opinion regarding opening soda bottles on Shabbos only as a *chumra* may ask his friend to open one for him on Shabbos.¹⁹ This is because in theory he agrees that the *halacha* follows the lenient opinion, but because the issue of opening soda bottles on Shabbos is controversial, he (or his Rav) refrains from opening them on Shabbos. Here asking another Jew who follows the lenient opinion does not violate the prohibition of *Amira l'Yisrael*, because even those who follow the *chumra* agree that it is not actually prohibited to open soda bottles on Shabbos.²⁰ Therefore:

- One who does not use a city *eiruv* as a *chumra* may ask his friend to carry something for him on Shabbos, since in his opinion (or the opinion of his Rav) the *eiruv* is essentially valid, and he refrains from using the *eiruv* only as a *chumra*.
- One who waits seventy-two minutes after *shkiya* before performing *melacha* on *motza'ei Shabbos* only as a *chumra* may ask his friend who waits less than seventy-two minutes to perform a *melacha* for him.

Zilzul b'Chavod Chaveiro: Degrading the Honor of a Fellow Jew

The *poskim*²¹ address another issue which may be involved when asking another Jew to perform a *melacha* on Shabbos. When someone is stringent regarding certain activities on Shabbos, asking a fellow Jew to perform a *melacha* for him may give off the impression that he is using his Jewish friend as a "Shabbos goy." Doing this may degrade the honor of his friend, as it may imply that his friend's adherence to the *halachos* of Shabbos is not as important as his own.

Regarding this, Rav Yisroel Belsky²² writes: "Degrading the honor of a fellow Jew is a very serious issue. When one Jew uses his Jewish friend as if he is his 'Shabbos goy,' using him to perform *melacha* on Shabbos, he shows a bitter denigration of his friend's honor. This should bother a sensitive heart, to see someone who is stringent (regarding a certain *halacha*) using someone who is lenient as if he is not a Jew, or as a Jew who is on a lower level."

Therefore, it may be technically permissible for someone who refrains from performing a certain activity only as a *chumra* to ask a fellow Jew to perform a *melacha* for him on Shabbos, he must be conscientious about the latter's honor and only ask him to perform the *melacha* if he can do so in a manner that does not compromise the honor of his friend.

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

12 See The Daily Halacha Discussion (pg. 229, Rav Daniel Neustadt). Also heard from Rav Shmuel Fuerst and Rav Nissin Kaplan. See *Shulchan Shlomo* (318: end of 57), *Orchos Shabbos* (Vol. 3 pg. 448 end of footnote 4) and also *Shevet Ha'Levi* (1:53) **13** *Shevet ha'Levi* 1:53, Rav Yisroel Belsky (*Shulchan Ha'Levi* pg. 339) who gives four reasons why this is prohibited, sefer 39 melachos pg. 93 [footnote 363 quoting Rav Moshe Feinstein [*Igros Moshe O.C. Vol. 4:119:5*], *Orchos Shabbos* Vol. 3 pg. 447 note 4 [This can be based on the ruling of the *Tur* end of *siman* 624 that someone who keeps two days of Yom Kippur may not [ask or] benefit from the *melacha* that someone who holds only one day of Yom Kippur performed for him (see also *Darchei Moshe* 263:8). **14** Rav Daniel Neustadt *ibid* [sefer 39 melachos (*ibid*) quoting from Rav Moshe Feinstein. However, in *sefer Shulchan Shlomo* *ibid* he writes from Rav Shlomo Zalman Aurbach that if one only follows the stringent opinion because of a ruling issued to him by his Rav, and not because he himself understands that the stringent opinions are correct, he may still ask his friend to perform the *melacha* for him. **15** Rav Yisroel Belsky (*Shulchan Ha'Levi* pg. 339) writes that aside from the prohibition of *Amira l'Yisrael* asking someone to open the soda bottle would also violate the prohibition of *Lifnei Iver* and *Shlichus*; see note 4 above. **16** Following the opinion of *Rabbeinu Tam* [*Shulchan Aruch* 261:2 and *Rema* 261:2]. See *Biur Halacha* 261 *d'h Mi'tchilas* **17** *Igros Moshe O.C. Vol. 4:119:5 **18** Although generally when a Jew violates a *melacha* on Shabbos it is forbidden for anyone to benefit from the *melacha* on Shabbos under the penalty of *Maase Shabbos* (see *Shulchan Aruch*, beginning of *siman* 318). This penalty does not apply in our case where the Jew that opened the soda bottle did so based on the ruling of his Rav. Since from his perspective it is permissible to open the soda bottle the penalty of *Maase Shabbos* will obviously not apply. The *poskim* discuss another *halacha* regarding a case where one who follows the lenient opinion opened the bottle for his friend who adheres to the stringent opinion without being asked to do so, is it permissible for the one who follows the stringent opinions to drink from the bottle since it was opened for his sake? Some *poskim* (*Orchos Shabbos* Vol. 3, pg. 449 footnote 4) rule that one may not drink from the soda bottle since it was opened for his sake, just as we find regarding the prohibition of *Amira l'Akum* where one may not benefit from a *melacha* that a non-Jew performed on the behalf of the Jew even if the Jew didn't ask him to perform the *melacha*. Yet others (Rav Yisroel Belsky in *Shulchan Ha'Levi* pg. 341) rule that although one should certainly discourage his friend from opening the soda bottle on his behalf, if the bottle was opened one may benefit from it. **19** *Shevet ha'Levi* 1:53, *Orchos Shabbos* Vol. 3 pg. 447, sefer 39 melachos pg. 93 **20** The *Orchos Shabbos* Vol. 3, pg. 448 explains (in footnote) that there is no prohibition of *Amira l'Yisrael* when someone follows the stringent opinion as a *chumra*, since he only accepted the *chumra* not to perform the *melacha* on his own, but did not accept the *chumra* to the extent that he may not ask his friend to perform the *melacha* [i.e. the prohibition of *Amira l'Yisrael*]. **21** Rav Yisroel Belsky (*Shulchan Ha'Levi* pg. 340) [also in conversation with Rav Daniel Neustadt] **22** *Shulchan Ha'Levi* pg. 340*