

Halacha Notes

Introduction to Halacha

- Definition of הלכה
 - הלכה means path, הלכה is the path to life
- Shulchan Aruch
 - Authored by R' Yosef Karo, alias מחבר
 - Divided into four sections
 - אורח חיים - way of life, daily law
 - יורה דעה - knowledge, kashrus
 - חושן משפט - business law
 - אבן העזר - marriage law
- Rav Moshe Isserles - רמא
 - written detailing the הלכה (including minhag אשקנזי)
 - wrote notes in Shulchan Aruch where he states minhag אשקנזי
 - Unified one sefer of Halacha
- Chofetz Chaim
 - Wrote משנה ברורה, late 1800s, commentary on אורח חיים
 - sources footnotes - שער הציון
 - commentary and basic halacha - משנה ברורה
 - in depth explanation - ביאר הלכה
 - cites other opinions - ביאר הטיב
- Modern Poskim
 - R' Moshe Feinstein (1986)
 - R' Shlomo Zalman Auerbach (1995)
 - R' Newirth (שמירת שבת כהלכה)
 - R' Ovadia Yosef (2014)
 - R' Shimon Eider (2007)
 - R' Ribiat (39 Melachos)
 - R' Forst
 - R' Willig

Hashkafah of Shabbos

- "שבת חס מלאכה" - פרשת ויקהל
- What's the definition of מלאכה? Look at the context. The parsha of building the משכן is next to שבת. - **missing notes on this**

- Av - (39) - actual melacha/work done in mishkan
- Tolda - subcategory - either different action or purpose
- Melacha have two parts:
 - תכלית - purpose
 - פעולה - act
- Example of זרע of תולדה
 - Watering
 - Pruning
 - Fertilizing
- Note: There is little practical difference between the two - the major difference will be when we bring korbanos iyh soon
- Why do we need rabbinic prohibitions on shabbos?
 - To protect the sanctity of shabbos, חז"ל instituted many גזירות (ordinances) and שבותים (restrictions)
- Different types of אסורי דרבנן:
 - חשבות - prohibit melacha like activities - example: writing with left hand
 - according to torah it's allowed if it's not the normal way, but the chachamim make it not allowed
 - מוקצה - objects that are set apart - must be prepared before shabbos or have no purpose on shabbos
 - אמירה לעכום - non-Jew doing melacha for you
- Understanding אסורי דרבנן:
 - חשבות - melacha like activity
 - מוקצה - moving objects not set aside for shabbos
 - chachamim made it so by not moving an object, you won't use it
 - אמירה לעכום - You can not tell a non-Jew to do a melacha for you
 - The reason for this אסור דרבנן is that all is allowed people would be lax in general toward melachos/shlichus
 - Even if the non-Jew wasn't asked, but she knows to perform the melacha on her own, you can not say the room is dark so they turn on the light
 - Positive benefit for you is אסור
 - Removal of annoyance or preventing loss is permitted
 - Non-Jew acts totally on her own is permitted
 - Disabling illness (need prescription for migraine) and מצוה needs (turning on lights for Friday night meal) is only permissible if you are asking him to perform a Rabbinic restriction (example - asking him to turn on Friday night lights with a שניי) is permitted
- אסורים מדרבי קבלה - prohibited melacha on shabbos written in navi
 - honor shabbat
 - preparing for a melacha after shabbos
 - speech on shabbos should be different

Focus of Shabbos

R' Hirsch: Focus of Shabbos is אמונה in ה'

First 38 Melachos: Reminder of מעשה ברשית

Last 39 Melacha: Reminder of יצאת מצרים

Hashem carries us through history → concept of פרטית/הוצאה

Understanding Severity of שבת חילול

1) Violate an עשה - no punishment

2) Violate a לא תעשה - lashes

3) Violate certain לא תעשה (chametz on Pesach, eating on yom kippur) - כרת

What is כרת?

a) Die before 60

b) Children die before you

c) Lose עולם הבה

4) Violate other עוירות (murder with no witness) - מית' בדי שמים

5) Violate רציחה (murder with witness) - מית' בדי בית דין

6) Violate שבת with witness - stoning

→ Why does שבת get the worst punishment? Because it's a testimony of your אמונה to ה', it's so important.

We don't trust a non-Jew with:

a) שחיטה - slaughter

b) סתם ינס - wine

c) בישול עכום - cooked food

Halacha: Someone who publically violates שבת, we do not trust them with any of the above.

Torah Definition of מלאכות מחשבה

A) The Torah definition of מלאכה is only if the labor is "professional work"

B) This includes: lasting, direct, efficient, planned, etc.

אסור דאורייתא vs. אסור דרבנן

Why does it matter if a מלאכה is אסור דרבנן or אסור דאורייתא? Because it effects הלכה in cases (such as פקוח נפש)

Guidelines from the Torah to be a Melacha

1) כדרכה - normal way - in order to be forbidden from the Torah the action must be done in the normal way - as opposed to abnormal cases:

A) כלאחר יד - dial phone with knuckles

B) שינוי - pick up phone with back of hand

- Drag a bench on hard dirt floor
דבר שאי - Was possible a hole would be made but not probable

- 2) מתקן - To be אסור from the Torah the melacha must be constructive (positive)
- Even erasing is only a Torah prohibition if it is in order to write (מוחק על מנת לכתוב)
 - If it is destructive it is מקלקל which is אסור דרבנן
 - Opening packages = destructive, so why is it sometimes allowed?

- 3) צריך לגופל - done for purpose of itself
- Digging a hole for planting - חורש
 - Digging hole for dirt - שאין צריך לגופל
 - Rambam: דאורייתא
 - Rashba & Ran: דרבנן
 - Bottom line: דרבנן, but strictest of prohibitions

- 4) כוונה - intention
- I do an action knowing that it is אסור and I decide to do it anyway (intent) - מזיד
 - two types - שוגג
 - I don't know what I am doing is wrong (don't know the הלכה) - שוגגת מלאכה
 - OR
 - I know it is אסור but I don't know it's שבת - שגגת שבת
 - Lack of intent but not of awareness
 - Examples of כוונה: no מתכוון
 - Tearing a paper towel from dispenser (not dotted) - מתור

- 5) Awareness
- unaware - turning on light by accident - no punishment - מתסקן
 - Case: Drag bench on muddy ground
 - Will definitely lead to חורש
 - if you're "happy" with the results, it's פסק רישא דניחא ליה and it is אסור - פסק רישא
 - דאורייתא
 - and it is אסור דרבנן - פסק רישא דלא ניחא ליה - Don't care/unhappy with results

- 6) מתקיים - lasting action
- אסור דאורייתא - lasting
 - Opposite - אני מתקיים
 - אסור דרבנן - Knot Ex. Tying a shoelace for a day
 - מתור - Knot - shoelace tied less than 24 hours
 - מתור - Sunglasses (transition - coloring צובע)
 - אסור דרבנן, it's If it doesn't last
 - אסור דאורייתא, it's If it does last
 - שבת "last" until after - גריא

7) עשייה - direct action

- Direct action - אסור דאורייתא
- As opposed to גרמה, an indirect action which is אסור דרבנן (chain/delayed reaction)
- Delayed indirect action - אסור דרבנן
- Example - putting plastic cups filled with water around a fire to extinguish a fire

8) כולה - complete

- Complete (work)
 - Example: The מלאכה of כותב/writing is prohibited by the Torah only if you write two letters
- חצי שיעור - even writing one letter is אסור from the Torah (even though it's incomplete) - הלכה ממשה לסני

9) Efficient

- חצי מלאכה - $\frac{1}{2}$ of the מלאכה being done by one person and $\frac{1}{2}$ being done by another
- It is prohibited to carry/הוצאה in a public domain, ארשות הרבים where there is no ערוב
- If two people carry a heavy couch in a public area, both violate הוצאה from the תורה
- However, if two people were to carry a child (it is easier to carry with only one person) - this is considered חצי מלאכה and is אסור דרבנן
 - If two people hold a match to light a fire/two people write while holding a pen simultaneously

Four Groups of 39 Melachos

- 1) סידורא דפת - Order of Bread Making
- 2) סידורא דבגדים - Order of Garments
- 3) סידורא דעורות - Order of Leather
- 4) סידורא דבנין - Order of Building

11 Melachos of סידורא דפת

- 1) זורע - planting
- 2) חורש - plowing
- 3) קוצר - harvesting
- 4) מעמר - gathering
- 5) דש - threshing
- 6) זורה - winnowing
- 7) בורר - sorting
- 8) טוחן - grinding
- 9) מרקד - sifting
- 10) לש - kneading

חורש

- Definition - preparing soil for the purpose of making it more suitable for planting
- Source from the משכן
 - lechem hapanim (daily activities) - רבי האי גאון
 - dyes (construction of משכן) - רשי
- Action - loosening the soil - פעולה
- Purpose - preparing the soil for planting - תכלית
- removing stones so that things will grow - תולדה

Guidelines for חורש

- Fact #1 - Has no set שיעור - even making one hole in the ground to plant is אסור
- Fact #2 - Only a prohibition if it is possible for something to grow
 - Desert sand - where plants cannot grow (so if one digs a hole and plants there) it is מתור
 - Question: מנת חינוך - How is planting in the desert not a violation of חורש if they planted in the desert leaving מצרים?
 - Answer: By the משכן the fact that plants grew in the desert was a נס - but nowadays plants do not grow in the desert
- Fact #3 - חורש is only violated if you loosen the soil
 - It is not אסור if you compress soil (push down/compact)
 - APP Examples which are מתור because it is compacting, not loosening
 - Walking on dirt
 - Sitting on a chair on dirt
 - Pushing a stroller straight

Practical Applications

- Dig in a sandbox
 - Potential Issues
 - חורש - depends on sand
 - A) moist/clumpy = אסור
 - B) dry and loose = מתור
 - מוקצה
 - “because of itself” - מוקצה מחמת גופו
 - Meaning it has no purpose (rocks, sticks, dirt)
 - Sandbox is not מוקצה - is designed for play
 - Beach would be מוקצה - is not designated
 - Not recommended for adults
- Pushing a stroller
 - Pushing a stroller straight - מתור - compressing

- Turning a stroller
 - דבר שאינו מתכוון - something that is unintentional and also not necessarily going to happen (as opposed to רישא - it is מתור
 - פסיק רישא דלא ניחה ליה - something intentional but is necessarily going to happen (not happy with results - loosened soil) - אסור דרבנן
 - In this case it is also a שינוי (abnormal way to plow)
 - It is also מקלקל (not a constructive act - no plan to plant)
 - Therefore this case is מתור
- Walking in high heels
 - Stepping down - compressing - מתור
 - Picking foot up - loosening soil
 - דבר שאינו מתכוון
 - פסיק רישא דלא ניחה ליה (לא איכפת ליה)
 - שינוי
 - מקלקל
 - Therefore this case is מתור
- Sweeping the floor
 - Concept - משוה גומות - leveling the ground (covering holes)
 - Mishnah Berurah writes that people used to have dirt floors in their home
 - While sweeping up dirt people used to “level the floor” so that people walking on the floor would not trip, which is אסור דרבנן since leveling the ground is considered חורש as it prepares the ground for planting
 - רמ”א writes that even if it is a stone floor (or covered with carpet or wood) that the אסור of sweeping still applies
 - Why? Since there is a concern one will sweep on non-covered floors (dirt) one cannot sweep on covered floors (גזירה דרבנן)
 - Nowadays עורך השולחן writes it is מתור to sweep on a tile floor
 - Question: Based on the Rabbinic Prohibition of the Rama of sweeping floors (due to the concern of משוה גומות) is it permissible to sweep one’s deck or patio on Sukkos to clean the floor?
 - Other issues
 - משוה גומות
 - סותר - destroying bristles of the broom would break - nowadays - our brooms don’t break often (דבר שאינו מתכוון)
 - עובדא דחול - R’ Moshe Feinstein says it is not just a weekday activity so it is מתור
- Games on Shabbos
 - Even a concern of משוה גומות - on games that require a perfectly flat surface
 - The רמ”א holds that playing marbles on the floor is prohibited
 - מ”ב - even a stone floor would be prohibited to play on due to the decree (lest it come to flattening the ground)

- even מ"ב - מ"ב would agree you can play on mat or cloth on the floor (גזירה לגזירה - no decrees on a decree) also a tabletop would be mutar
- Nowadays since majority of floors are tile - one can play in your house (but not on stone floor outside)
- o One should not play with jacks or a soccer ball on a dirt floor

זורע

- Definition: "Planting" or "Sowing"
- פעולה - Putting a seed in the ground
- תכלית - Promoting plant growth
- שיעור - There is no minimum amount

Facts of זורע

- Fact #1 - It must be possible for something to grow there
- Fact #2 - Even without putting seeds in the ground there are other actions that are אסור
 - Example - Watering is a תולדה of זורע, pruning, removing rocks or weeds to enhance plant growth
 - o Example - Wash hands over plants פסיק רישא דניחה ליה
 - This would be אסור from the Torah
- Fact #3 - Any liquid that promotes growth would be a problem of זורע which is פרי מגדים
 - Example - spitting on grass would be אסור
- Fact #4 - Hydroponics is אסור
 - Putting plants into water on שבת
 - רמ"א says it is אסור to put a detached branch with an unopened bud/flower for the first time on Shabbos
 - Question: But זורע is promoting plant growth - by putting a plant (severed) detached from its roots into water it won't grow - rather it will just not die
 - משנה ברורה - explains why:
 - o נראה כמשקה זרעים - it appears like it is growing when flower opens up
 - o טירחה - filling up vase
 - נפקא מינה - If I have a vase filled with water (טירחה) is it a problem to put flowers into the water

Practical Applications

- Urinating on Grass
 - No זורע because it is too acidic to promote plant growth
 - Nevertheless it might be a problem of חורש since it is a fertilizer that improves the soil
 - Bottom line: One should not urinate on ground unless it is a great need (צורך גדול)

— Pouring Wine on Grass

- Strong wine/schnapps - מתור - there is חורש no מחמיר one should be לכתחילה
- Light Wine - אסור
- One cannot make a meal outside - רמ"א

- Sukkah Tarp

- Issues are זורע and אוהל
- If you put the tarp on an angle (before raining) then no rain accumulates on it it is מתור to remove and roll up
- If water does accumulate what should you do?
 - Where is the Sukkah located?
 - Deck/Pavement - it is מתור to remove the tarp because
 - גרמא + פסיק רישא דלא ניחא ליה (לא איכפת ליה) + לצורך מצוה מתור
 - Grass - it may be מתור to remove the tarp depending on the following
 - How wet is the ground?
 - Supersaturated - מתור - Even though you are adding water it is not helping growth (pooling water - example hard downpour for 2 hours or overnight)
 - Not supersaturated
 - Ask a non-Jew to remove the tarp
 - Put another tarp down on the grass which creates a virtual deck
 - גרמא + פסיק רישא דלא ניחא ליה (לא איכפת ליה) + לצורך מצוה מתור is

- Outdoor Furniture

- Similar to the above halachos of sukkah or not... (it is not for a mitzvah)
- Is Oneg Shabbos enough of a mitzvah (compared to a mitzvah like sitting in the sukkah) that would allow us to shake off water on a swing?

- Eating Fruit & Seed Fell On Ground

- Issues:
 - מוקצה - if there is no use for the seed it is מוקצה
 - If a human/animal would eat it, then it is not מוקצה
 - If a human/animal wouldn't eat it, it is מוקצה
 - הוצאה
 - קוצר - Is not an issue (cutting something)
- Issues Explained
 - Apple seed - pick it up

- Peach pit - should I pick it up and violate מוקצה which is דרנן to avoid the זורע of אסור דאורייתא
 - A: רש"ש - you pick it up שבת to prevent from דאורייתא
 - A: מנחת חינוך - don't pick it up (because dropping is the אסור)
 - Practically - you can usually kick it to cement (but if an open field - מחלוקת - if one should pick it up) - bottom line is better to leave on floor
- Sprinklers - Automatic/Manual
 - Manual - opening valve would be considered זורע (not considered a גרמה)
 - Automatic - different opinions
 - אגר"מ - It is אסור to set a sprinkler to go on on Shabbos/Yom Tov - (דרבנן) זלזול שבת
 - רש"ז - Shemiras Shabbos K'hilchosa (Auerbach) - holds it is מתור
 - So what are they arguing about? The location
 - R' Auerbach (E"Y) constant need for watering (no disgrace)
 - R' Moshe (USA) no constant need for watering (it is זלזול)
- Throwing Seeds to Wild Chickens to Eat
 - זורע - the seed needs to take root and grow
 - טירחה - feeding animals that don't belong to you
 - Tashlich - one should not throw bread into water to feed fish on Rosh Hashanah
 - Bottom Line - don't do it
- Putting Cut Flowers into Water
 - Issue or not? It shouldn't be since זורע is only a problem if you are promoting growth - and in this case the flowers are cut
 - Nevertheless there is a Rabbinic prohibition that prohibits placing flowers into water because
 - Placing flowers in water causes them to open - and this is a problem because it resembles planting
 - There is a debate amongst the Poskim if one can place fully opened flowers into a pre-filled vase because it is hard to tell when they are fully opened
- Daled Minim
 - Fact: Hadassim and Aravos dry out quickly without water
 - They have no flowers - as long as you place them into water before Yom Tov then you would be allowed to put them back into water on Yom Tov
 - In the event that you would forget to place them into water before Yom Tov - one may rely on Poskim who permit placing opened flowers into a pre-filled vase (filled before Yom Tov)

- Wrapping in towels - a real towel has the problem of מלבן - wetting a cloth on Yom Tov cleans it
 - Instead you may wet a paper towel (no problem of laundering since they are not laundered) and place the דלד מינים into them
- Sunlight
- Q1: Can you open curtains next to a plant?
 - Q2: Can you walk - while you walk you remove a shadow - thereby promoting plant growth?
 - A1: Certainly if it is not your intention to promote growth you can open the shades - אינו מתכוון - why is it ok? It is a גרמה of a רישא but it is a פסיק רישא
 - A2: Chazal would never create a rabbinical decree to force you to be in your home all shabbos (it would be a בהם)

Understanding Planting - Background Information

- There are two different types of melachos
- The action itself is אסור right away
 - מעביר - lighting a fire
 - The process is the אסור (time delay)
 - בישול - only violate when totally baked/cooked
- The Melacha of זורע is similar to which of the above? It is a מחלוקת
- Do you violate זורע when you drop a seed on the ground OR when it takes root three days later?
 - אסור - once you plant in a place it can grow it is אסור
 - רש"ש - the act and the עבירה are not simultaneously - you only violate the אסור three days later when the seed takes root
 - נ"מ - you planted something and removed it before 3 days