The Laws of Shabbat

Yeshiva Course

By Rabbi Yosef Ben David

Volume One

Yeshiva Beit David, Inc.

The Laws of Shabbat – Yeshiva Course
By Rabbi Yosef Ben David

Copyright © 2024 by Yeshiva Beit David, Inc.
First edition © 2024 by Yeshiva Beit David, Inc.
First paperback edition 2024.

All rights reserved. No part of this book may be reproduced or transmitted in any form or by any means electronic or mechanical, including photocopy, recording, or any information storage or retrieval system, except for brief passages in connection with a critical review, without permission in writing from the Publisher.

Yeshiva Beit David, Inc. Publication Dept.
5080 Camino Del Arroyo, Suite 325
San Diego, CA 92108
Email: publishing@ybdsd.org

Library of Congress Data and Catalogue Information:
The Laws of Shabbat – Yeshiva Course
Author: Rabbi Yosef Ben David
First Edition © 2024 by Yeshiva Beit David, Inc.

Design and typeset by Yeshiva Beit David, Inc.

Contents

Shiur(s):	Chapter Description:	Page:
Shiur 01:	Introduction	1
Shiur 02:	Preparing for Shabbat	5
Shiur 03:	The Onset of Shabbat	11
Shiur 04:	Accepting "Early Shabbat"	17
Shiur 05:	Lighting Shabbat Candles - Part I	21
Shiur 06:	Lighting Shabbat Candles - Part II	25
Shiur 07:	Laws of Kiddush - Part I	29
Shiur 08:	Laws of Kiddush - Part II	35
Shiur 09:	Laws of Kiddush - Part III	39
Shiur 10:	Laws of Kiddush - Part IV	43
Shiur 11:	Lechem Mishneh	47
Shiur 12:	Se'udot Shabbat	51
Shiur 13:	Conclusion of Shabbat and Havdala	57
Shiur 14:	Havdala and Melaveh Malka - Part I	63
Shiur 15:	Havdala and Melaveh Malka - Part II	69
Shiur 16:	Issur Melakha and the Shabbat Day of Rest - Part I	75
Shiur 17:	Issur Melakha and the Shabbat Day of Rest - Part II	79
Shiur 18:	Issur Melakha and the Shabbat Day of Rest - Part III	83
Shiur 19:	Issur Melakha and the Shabbat Day of Rest - Part IV	85
Shiur 20:	Issur Melakha and the Shabbat Day of Rest - Part V	89
Shiur 21:	Issur Melakha and the Shabbat Day of Rest - Part VI	93
Shiur 22:	Issur Melakha and the Shabbat Day of Rest - Part VII	97
Shiur 23:	Issur Melakha and the Shabbat Day of Rest - Part VIII	101
	ABOUT THE AUTHOR AND YESHIVA BEIT DAVID	104

The Laws of Shabbat

By Rabbi Yosef Ben David

Welcome to the "Laws of Shabbat" course. This week's shiur is an introductory one, placing the importance of Shabbat in halakhic perspective. The actual halakhic nitty-gritty will begin next week.

Shiur #01: Introduction

I. How is Shabbat special?

After a full week of mundane, hopefully satisfying, hard, oft tension filled, work we look forward to the arrival of a day of rest, the Shabbat. Our anticipation aside, a question arises: is Shabbat really unique and special, or is it simply a day off?

The importance and significance of Shabbat is noted extensively throughout Jewish literature. In tefilla on Friday night we say, "You have sanctified the seventh day in Your name; it (the Shabbat) is the purpose of creation," a quote that is reminiscent of the story of creation (Bereishit 2:3) and the Ten Commandments (Shemot 20:11). In the Shabbat mincha service we recite: "You gave Your nation a day of rest and of holiness." Furthermore, the Talmud Yerushalmi (Nedarim 3:9) states that keeping Shabbat is equivalent to performing all the mitzvot, a statement that is also echoed in the Zohar. Berakhot 40b says that experiencing Shabbat is like enjoying one sixtieth of Olam Ha-ba (the world to come). Beitza 16b and the Zohar speak of a person having an additional or elevated soul on Shabbat. All these characteristics certainly seem to highlight Shabbat as an exceptional, sublime day and an extraordinary experience.

II. Shabbat: A day on, not a day off

How can we call Shabbat "special?" In fact, what do we really accomplish on Shabbat? After all, one might claim, we mostly seem to refrain from activities on the seventh day. Shabbat is merely a day of rest, a day off from hard work.

This claim, however, is clearly false. Firstly, many of the melakhot (acts which are forbidden on Shabbat) apply even where there is little or no physical exertion involved. For example, it is forbidden to add a small stick to a fire or to pluck a blade of grass. It appears to be that melakha is not synonymous with physical strain. Therefore, one cannot fulfill Shabbat by merely refraining from physical exertion. Additionally, it would be incorrect to assume that a person who sleeps through the entire Shabbat has "kept" the Shabbat. On one hand, he certainly did not perform any forbidden work. On the other hand, he just as assuredly did not do anything to actively achieve the objectives of Shabbat.

What are the goals of Shabbat observance? In part, the answer is that one who actively observes Shabbat is acting as a witness attesting to the creation of the world by God, (see Bereishit 2:2-3 and Shemot 20:11). By imitating God and resting on Shabbat,

we proclaim to the world that it was God "Who rested on the seventh day from all the work that He had made."

The observance of Shabbat is also supposed to recall yetziat Mitzrayim, our Exodus from Egypt (see Devarim 5:15). In the same manner as during the creation of the world, God demonstrated through our Exodus that He was the creator. We were the vehicle by which God broadcast to the world that He created it (see Devarim 4:34). The choosing of Am Yisrael was integral to the world realizing that God is the creator. Consequently, it is on Shabbat that we ought to remember that God chose us as His nation and redeemed us from servitude in Egypt. Thus, beyond the universal message of the creation of the world, Shabbat is suffused with national import - the creation of our nation.

Finally, on Shabbat we are commanded "shamor ve-zakhor," observe and remember (see Shemot 20:8 and Devarim 5:12; and Shevuot 20b and Berakhot 20b). The Torah also informs us that Shabbat is a day of "shabbaton" (a solemn day of rest - Shemot 17:23). We are also enjoined to observe "kavod ve-oneg Shabbat" (the honor and delight of Shabbat); commentators debate whether this is a biblical or rabbinic command. (See Rambam, Laws of Shabbat, chap. 30, Ramban Shemot 20:8 and Vayikra 23:2.)

While "shamor" refers to issur melakha, forbidden work, "zakhor" (see Ramban Shemot 20:8) and "shabbaton" (see Ramban Vayikra 23:24; gemara Shabbat 114b; however, see also Rambam Sefer Ha-mitzvot, positive commandment 157) refer to the positive mitzvot associated with the sanctity of Shabbat. For example, "zakhor" demands that one sanctify Shabbat through kiddush, while "shabbaton" requires one to maintain the Shabbat as a day of rest, even from non-melakha actions such as business or strenuous activities. On another level, we are commanded to observe kavod ve-oneg Shabbat. They include not only spiritual, but also earthly delights: eating well and often, in fine attire and in a bright and sparkling atmosphere. To fulfill this we clean our homes, dress well, light Shabbat candles and eat three festive meals. [Halakhic decisors debate whether there is an additional dimension to Shabbat - simcha (rejoicing); see Yalkut Yosef, vol. 4, pp. 6-7, note 4.]

III. The Shabbat Experience

We have mentioned three objectives that should be accomplished on Shabbat: to testify that God is the creator of the world, to remember our Exodus, and to remember and keep Shabbat. There is, however, a very important fourth dimension to observing Shabbat. Shabbat gives us the chance to renew our relationship with God; to, "recharge our spiritual batteries." It has been said: "More than the Jewish people have kept Shabbat, Shabbat has kept the Jewish people" (see also Kuzari 2:34 and 3:10). How is this accomplished?

A fascinating idea, developed by Moreinu HaRav Aharon Lichtenstein shlit"a, sheds light onto our understanding of the Shabbat experience. The Torah forbids melakha (lit. work) on Shabbat in the parashot of Yitro (Shemot 20:10) and Mishpatim (Shemot 23:12), but does not cite the punishments of karet (the cutting off of one's soul) and sekila (lit. stoning) for its violation until later on in Sefer Shemot, parashat Ki Tisa (31:12-17). Moreover, many characteristics of Shabbat are revealed in parashat Ki Tisa, not in the earlier parashot. It is in Ki Tisa that Shabbat is referred to as an ot (lit. a sign) and a brit (lit. a covenant) between God and the Jewish people. Why were these themes first mentioned here in Ki Tisa, and not in the earlier presentations of Shabbat in Yitro and Mishpatim?

The parasha of Ki Tisa introduces the idea of hashra'at ha-Shekhina (the settling of Divine Presence amongst the Jewish people) in the context of building the mishkan (the Tabernacle) (see Teruma, Tetzaveh, and Ki Tisa). Building the mishkan allows the settling of the Divine Presence amongst the Jewish people in the dimension of space. It is appropriate, then, that in the context of this new idea, God chooses to add that hashra'at ha-Shekhina can take place not only in the dimension of space (mishkan), but also in the realm of time (Shabbat).

We now understand why the Torah waits until Ki Tisa to teach us that Shabbat is a sign and covenant. Only when we understand that God is dwelling among us in a special way on Shabbat can we appreciate that Shabbat is a sign and covenant between us and Hashem. Only in this context can we understand that one who violates Shabbat has not merely performed a forbidden act, but, as Ki Tisa states, he has been mechallel (profaned) the Shabbat (Shemot 31:14). At this point the Torah informs us that one who performs melakha on Shabbat incurs the punishments of karet and sekila. This harsh punishment is not due to violating a prohibition, but to the degradation of the kedushat ha-yom of Shabbat, as stated explicitly in the pasuk (Shemot 31:14) "Mechalleleha mot yumat."

While hashra'at ha-Shekhina places a great onus upon the Jewish people in that we must take care to avoid issur melakha, it also provides us with the unique opportunity to cleave to God. Shabbat is a time when Hashem and Benei Yisrael "rush into each other's arms." It is a time to blend spiritual and earthly pleasures. We use this opportunity to increase our Torah study (our primary bridge to Hashem), to enjoy and strengthen our families (the primary source of our mesora, tradition), and to realize the depths of our spiritual capacities in our earthly bodies. Shabbat, indeed, nourishes the Jewish people and bonds us ever more closely to the Shekhina. It is not surprising, then, that sensitive Jews rejoice at the onset of Shabbat, and despair at its conclusion.

May our dedication to learning the laws of Shabbat improve not only our shemirat Shabbat, but also our living of Shabbat.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #02: Preparing for Shabbat

[Note: The following abbreviations will be used in this series.

The four sections of the Tur and Shulchan Arukh:

OC = Orach Chayim
YD = Yoreh De'a
EH = Even Ha-ezer
CM = Choshen Mishpat

Recent works on Shabbat:

MB = Mishna Berura
SSK = Shemirat Shabbat Ke-hilkhata.]

I. Introduction

Every week, households around the world are enveloped in a flurry of action to prepare for the upcoming Shabbat. We are concerned with many details to make sure that Shabbat is as pleasant as possible. However, is it really necessary to expend so much time and effort? The Torah writes (Vayikra 26:2): "Keep my Shabbatot and fear my sanctuary." R. Eliezer of Metz comments in his Sefer Yereyim (siman 410) that "just as God commands us to fear and honor the Temple, so too He commands with regard to Shabbat, for they are juxtaposed [in the Torah] with each other. What does it mean to fear Shabbat? That a person should keep in mind to honor Shabbat, and to ensure and be zealous in the matter."

Additionally, on the verse (Shemot 31:16): "And Benei Yisrael kept (lit. watched) the Shabbat, to make the Shabbat...," R. Chaim ben Atar, in his Or Ha-chayim, comments that we should anticipate when Shabbat will arrive so that we can arrange all our needs for Shabbat and have a festive Shabbat meal.

In fact, according to the gemara (Beitza 16a), Shammai understood the verse (Shemot 20:8) "Remember the Shabbat to keep it holy" to mean that one should start putting aside food for Shabbat even at the beginning of week. His cycle of eating was always geared towards the honor of Shabbat, for if he would come into possession of a good animal, he would set it aside for the Shabbat meal; but if he would later find an even better animal, he would eat the first and set aside the second for the Shabbat meal.

By contrast, Hillel believed that, because of his deep faith in God, he would be furnished with a festive meal for Shabbat even if he would not put aside the good animal at the beginning of the week. Instead, he would eat it right away. Nonetheless, Hillel would agree that most people who do not reach his level of trust in God should act in accordance with Shammai. (See Mishna Berura 250:2.)

Preparations for Shabbat can also be deduced logically. We are all familiar with the analogy of Hashem to a leader of a great nation. If that leader were to come to visit our home, our preparations would be endless, our house would be shining, our food delicious, clothing spotless, and we would certainly not finish our preparations late. How much more so should we be careful to honor Hashem and the Shabbat.

II. How Do We Prepare for Shabbat?

A. Counting the Days of the Week

Chazal point out that even from the start of the week we already have an established relationship with Shabbat. In Shemot (20:8) the Torah states: "Remember the Shabbat to keep it holy." Based on this, the Mekhilta (the midrash to Shemot) comments that we are obligated to count the days of the week leading up to Shabbat. Accordingly, the Ramban comments that the verse teaches that we should remember Shabbat every day of the week. This is to assure that we not forget Shabbat and confuse it with another day. Additionally, this is also in order to remember daily the creation of the world and its Creator.

Therefore, the Ramban writes, our method of counting the days of the week differs fundamentally from that of the non-Jews. The non-Jews use unique names for each day of the week, such as Sunday, Monday, etc. By contrast, we count the days of the week with an eye towards Shabbat, as seen in the "Shir shel yom:" "Today is the first day in (the count towards) Shabbat."

B. Preparing the House and Oneself

1. Arising Early

One should arise early on Friday morning to prepare for Shabbat. The gemara (Shabbat 119a) notes that even great sages helped with the household chores in order to honor the Shabbat (OC 250:1).

2. Tidying the Home

One should set his table, arrange his bedding, sweep and wash the floor, and attend to all household matters before Shabbat. Therefore, when he returns from synagogue Friday night he will find his house clean and in order. For the duration of Shabbat one should have a nice tablecloth spread and one try to keep the house neat and tidy (OC 262:1).

3. Wearing Clean and Fine Shabbat Clothing

One should launder his clothing during the week in order to have clean clothes for Shabbat. However, according to an enactment of Ezra, one should not launder his clothing on erev Shabbat. This is to insure that one will have time to prepare for Shabbat (OC 242:1, and SSK, vol. 2, 42:5, note 13). It is possible that this prohibition is inapplicable in today's modern environment where we have washing machines and tumble-dryers (see SSK, ibid.).

On Shabbat, one should try to wear fine clothing. As part of this requirement one should not wear clothing that one wears during the week. Instead, one should have special clothing for Shabbat: a suit or a dress, a shirt or a blouse and Shabbat shoes. It is even preferable, if possible, to have a Shabbat tallit. All of this is applicable even for one who lives alone or who will be travelling alone (OC 262:2, and Mishna Brura ibid. notes 5 and 6, and SSK, vol. 2, 42:56, note 206).

4. Purchasing Food for Shabbat Dining

In the event that one can purchase and prepare the food for Shabbat easily, it is preferable to do this on erev Shabbat in order to show that it was bought specifically in Shabbat's honor. If the food requires a great deal of preparation, then one should purchase it on Thursday in order that there will be enough time to prepare the food on Friday. One should also declare at the time one purchases food for Shabbat that "this is likhvod Shabbat" (in Shabbat's honor) (see MB 250:2).

Although it is not an obligation, it is preferable to enjoy more meat, delicacies and wine on Shabbat than one does during the week. One should at least be careful to eat two cooked dishes and fish (assuming one enjoys fish) at each meal (see OC 261:1, and MB 242:1, 2.). However, it is possible that in today's society meat has replaced fish as the greater delicacy (see SSK, vol. 2, 42:16, note 63).

One who can only afford two meals fulfills the mitzva of oneg Shabbat (enjoying Shabbat) with them and is not obligated to borrow or take out a loan for the third. However, if one cannot afford even two meals he should take out a loan to pay for all three, for God has guaranteed that He will repay the debt. Nonetheless, if one feels that he will not be able to repay the loan, he should forgo the mitzva of oneg Shabbat (MB 242:3, and SSK, vol. 2, 42:18, 19, note 71).

5. Spending Lavishly

Although one's income is divinely determined each year from one Rosh Hashana to the next one may spend lavishly for the sake of Shabbat, as it is guaranteed that God will ultimately repay the expenditures (MB 242:4).

6. Baking Challa

It is a time-honored custom that married women bake their own challa for kavod Shabbat and not to rely on purchasing their challa from a baker. It is important for those who have this custom to remember to mafrish challa (set aside some dough in memory of the priestly gifts) (see OC 242:1).

7.Bathing and Grooming

With relation to personal appearance and hygiene, the Shulchan Arukh (OC 260:1) states: "It is a mitzva to wash one's face, hands, and feet with warm water prior to Shabbat. It is also a mitzva to cut and wash one's hair and to cut ones nails before Shabbat." The Rema (ibid.) adds that one should wash his whole body with hot water. Preferably, these preparations should be done after midday in order to demonstrate that it is being done likhvod Shabbat (Arukh Ha-shulchan 260:6). Furthermore, one should put on one's Shabbat clothing immediately after bathing. One should be careful to finish his preparations early and not wait until the last moment. Waiting until the last minute may cause onto accidently violate Shabbat (OC 263:3, and MB 11 and 12).

8. Travelling

In the event that one is travelling to a place where no Shabbat preparations are being made for him, he should ensure that he reaches his destination with two thirds of the day left until Shabbat. This will guarantee that he has enough time to prepare properly for Shabbat. If one is travelling to a place where his Shabbat needs will be provided for, he still must be careful to have taken all possible delays into consideration so he will arrive at his destination early enough that there will be no risk of desecrating Shabbat (see OC 249:1, and Mishna Brura ibid.).

9. Limiting Dining Prior to Shabbat

As part of the mitzva of kavod Shabbat, one should enter into Shabbat looking forward with anticipation to eating the evening meal. Therefore, in the interest of keeping up one's appetite (and limiting unnecessarily time-consuming work), it is forbidden at any time on erev Shabbat to eat a meal that one does not normally have as part of his weekly diet, such as at a party or banquet. It is even forbidden to eat a se'udat mitzva if it should have been eaten on an earlier day (OC 249:2).

While a timely se'udat mitzva is permitted to be eaten on erev Shabbat, it is a mitzva to have the meal before midday. If it must be eaten after midday, it may take place as a normal se'udat mitzva so long as it begins with at least a quarter of the day remaining. After that time, the se'udat mitzva should only consist of small portions of bread in order to ensure that the Shabbat meal will be eaten with an appropriate appetite (OC 249:2).

It is permissible to eat any normal set meal at any time on erev Shabbat. Nonetheless, it is a mitzva to refrain from eating such a set meal in the last quarter of the day in the summer. In the winter, one should aim to eat even earlier because of the shorter days. Of course, it is better to limit one's Friday afternoon meal as much as possible. One is permitted to snack any time on Friday afternoon even right up until the onset of Shabbat. Once Shabbat has begun, it is forbidden to eat or drink anything until one has prayed and made kiddush (OC 249:2, and SSK, vol. 2, 42:25 and 29, and notes 111 and 112).

10. Limiting Work Prior to Shabbat

In order to ensure that the needs of Shabbat are attended to, it is forbidden to be involved in a consistent and established labor routine that is not geared toward the Shabbat from mincha ketana and onwards (we will explain halakhic times in the next shiur). One who violates this principle will not see success from his activity during this time (OC 251:1). This law does not forbid involvement in business transactions such as those in supermarkets and other stores. Nonetheless, these businesses should be closed with the impending approach of Shabbat, preferably an hour before sunset (MB 251:1). One may work after mincha ketana, even for pay, if the work is light and casual in nature, such as watering the grass, sewing a button or writing a letter (OC 251:1).

A laborer who generally works until the evening should try to set the parameters of his job to allow him to stop working at mincha ketana (MB ibid., Sha'ar ha-tziyun, note 4). When this cannot be done, he should at least try to get home on time to help prepare some basic Shabbat necessities (MB 251:3). However, one who is indigent, or who will suffer a loss if the work is not completed, may work up until the approach of Shabbat (MB 251:5).

If one's work is actually helping someone else in his Shabbat preparations, as in the case of a barber, he may work after mincha ketana for pay. This is only if it is obvious that the work is likhvod Shabbat. If it is not obvious that it is likhvod Shabbat, he may only do this work after mincha ketana for free. In all these cases one should stop early enough to ensure that he will not come to chillul Shabbat (OC 251:2, and MB ibid.).

11. Preparing the Sidra

One is also required to recite the parshat ha-shavua (weekly Torah portion) twice every week along with either the Targum Onkelos or the commentary of Rashi. It is preferable to learn both commentaries. Ideally, one should recite either all of it on erev Shabbat or read a portion of it daily and complete it on erev Shabbat. After completing

this obligation it is customary to read the haftara as well. Women are exempt from this obligation, but they should still hear Torah reading in shul (OC 285:1-4, 7, and Mishna Brura; see also SSK, vol. 2, 42:57-58, 60, Arukh Ha-shulchan OC 285 and Yalkut Yosef vol. 4, pp. 354-356 note 1, for an elaboration on this mitzva).

In the event that one did not complete this Torah reading before Shabbat, one should try to complete it before eating the Shabbat day meal. This meal should begin before midday. If one has still not finished the reading, the Shulchan Arukh cites three opinions as to until when one has to complete it: until Shabbat mincha, at which point the reading for the next week begins, until Tuesday (inclusive) or until simchat Torah (OC 285:4).

Although this mitzva receives support from the Talmud Bavli, Yerushalmi, and almost all Rishonim and Acharonim, it is indisputable that most people, both learned and unlearned, are not accustomed to fulfilling it. Moreinu Harav Aharon Lichtenstein shlit"a explained to me that although it is proper to read the portion of the week twice, with Targum or Rashi, those who do not do this can rely on the opinion of the Ra'avan. The Ra'avan (cited in Hagahot Maimoniot, Laws of Tefilla 13:25) understands the ruling of the gemara (Berakhot 8a-8b) to refer to only those who live in small villages that do not have a minyan for Torah reading. Since these people will not hear the Torah reading, the Ra'avan says according to the gemara they must do the next best thing - recreate the Torah reading themselves. Therefore, they must read the weekly portion twice: once for the reading of the oleh and once for the reading of the ba'al koreh. They must recite the Targum as well, since the Torah reading used to be accompanied by a simultaneous translation. This should be accomplished at the same time that the tzibbur would be reading the Torah in shul, as the gemara says: "One should complete his parashot TOGETHER WITH THE CONGREGATION." [The Ra'avan claims that the clause "together WITH the congregation" makes no sense if we assume that the entire congregation has an obligation to recite the parasha twice independently of the public Torah reading.] However, if one attends Torah reading in shul, it is unnecessary to read the sidra twice with Targum at home.

12. Miscellaneous

Other important preparations for Shabbat to consider are: setting the Shabbat clocks, keeping lights on or off in certain rooms (bathrooms, bedrooms, etc.), removing muktza items from one's clothing, and certifying that the light remains off in the refrigerator. One might also consider calling relatives and friends to wish them a pleasant Shabbat.

13. Shalom Bayit

It goes without saying that Shabbat preparations should not be the cause of tension or anxiety in one's home. Rather, they should be accomplished in an atmosphere of anticipation and excitement. Erev Shabbat is a time for families to bond in a united effort to honor the Shabbat. Perhaps one of the one most important elements of entering Shabbat honorably is to enter in a warm, joyful, peaceful and familial mood. (In this vein, see also MB 262:9.)

In the next shiur, we will begin studying the onset of Shabbat.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #03: The Onset of Shabbat

[Note: This shiur and the next will deal with the beginning of Shabbat, particularly with accepting Shabbat early. Afterwards, we will discuss kiddush, the three meals, and havdala. Once we have completed these issues, we will devote the remainder of the year to studying the forms of forbidden labor, with particular attention to common problems and modern issues. Our apologies for the confusion regarding the schedule of future installments in this series.]

A. Definition of Day

When does a day begin? With regard to all mitzvot in the Torah, except for those associated with the seder korbanot (temple sacrifices), the day begins at night, as it says in the Torah (Bereishit 1:5): "And it was evening and it was morning." Thus, Shabbat officially begins at the onset of night when three medium size stars appear (tzeit ha-kokhavim) at the end of Friday, the sixth day. However, since Chazal were unsure as to when exactly tzeit ha-kokhavim occurs, they legislated that we treat sheki'a - the moment when the ball of the sun disappears over the horizon - as the beginning of Shabbat (OC 261:1).

Although sheki'a is actually the onset of bein ha-shemashot - a time which may be day or night - for the purpose of Shabbat we treat it as nighttime. Thus, all the laws and regulations that are relevant to Shabbat are applicable at this point in time (with the exception of a few leniencies - see below), even if one has not yet accepted Shabbat (OC 261:1). Similarly, one who is unsure if it is bein ha-shemashot yet must act as if it is already bein ha-shemashot (MB 261:1).

Bein ha-shemashot lasts for 3/4 of a mil, after which it is definitely night - what we call tzeit ha-kokhavim (see OC 261:1, and Mishna Berura 261:20). It is important to define precisely how many minutes are represented by 3/4 of a mil, since there are certain leniencies which apply only during bein ha-shemashot. There are essentially three opinions regarding the definition of a mil, and thus three opinions as to the duration of 3/4 of a mil.

1. Beit Yosef (OC 459:2, and YD 9:6, and see also Shakh ibid. note 25) rules that a mil is 18 minutes; thus 3/4 of mil is 13 and 1/2 minutes.

2. The Rambam (Commentary to Mishna Pesachim 3:2) and the Bartenura (ibid.) rule that a mil is 24 minutes, and 3/4 of a mil is therefore 18 minutes.

3. Finally, the Vilna Gaon (OC 459) rules that a mil is 22 and 1/2 minutes, and thus 3/4 of a mil is about 17 minutes. The common custom is in accordance with Beit Yosef - that a mil is 18 minutes, and 3/4 is 13 and 1/2 minutes (MB 261:23).

Thus, for 13 and 1/2 minutes, i.e., during bein ha-shemashot, even though it is forbidden to perform biblical or most rabbinic proscriptions, there are a few leniencies which Chazal permitted, since it is "safek yom safek laila" (literally, there is doubt as to whether it is day or night). [It should be noted that 1) these leniencies are only applicable when the majority of the community has not yet formally accepted Shabbat, and 2) they are valid even though the individual in question has accepted Shabbat and it is already bein ha-shemashot (OC 261:4, and Mishna Berura ibid., note 28).]

The essential principle of these leniencies is that anything which is forbidden mi-derabanan (by the Rabbis) and will not ultimately lead to a violation of an issur Torah (a biblical prohibition), is permitted during bein ha-shemashot, with the caveat that the activity be either for the purpose of a mitzva overet (a mitzva whose time will pass), or for guests, or for the needs of Shabbat, or in order to prevent a great loss of money, or where there is great need (OC 261:1 and 342:1).

Thus, for example, if one forgot to separate terumot u-ma'asrot and there is no other food available, one may separate the tithes at this time, since the activity is necessary for the mitzva of eating on Shabbat (OC 261:1, and Mishna Berura, ibid, note 4). Similarly, if one's only cutlery has not yet undergone required immersion, and there is no other cutlery available, one can immerse it during bein ha-shemashot. One may also, at this time, insulate pots of foods with material that merely keeps the heat from escaping [we will discuss the prohibition of hatmana (insulating) in a later shiur], and establish an eiruv chatzeirot (literally a uniting of courtyards) and an eiruv tavshilin (literally a uniting of foods). [Both eruv chatzerot and eruv tavshilin will be discussed in a later shiur (see OC 261:1).]

Although women accept Shabbat when they light candles (while men accept it when praying Kabbalat Shabbat in shul), it is theoretically permissible for a woman to shower after lighting Shabbat candles, until the congregation has accepted Shabbat. Practically speaking, however, the act of showering can include acts forbidden by the Torah, such as boiling water, and therefore should not be performed unless one takes care to avoid any biblical prohibition (see SSK, vol. 2, 43:19). (We will discuss this in greater detail in a shiur devoted to "Bathing on Shabbat.")

An even greater leniency exists with regard to amira le-akum (literally, instruction to gentiles). Even in the event that the entire congregation has accepted Shabbat, one may instruct a non-Jew to perform even a melakha min ha-Torah (a biblically prohibited work) so long as it is not yet almost tzeit ha-kokhavim, and the activity is for the sake of a great need, or for the needs of Shabbat, or for the purpose of a mitzva. Thus, one may instruct a non-Jew, during this time period, to turn on the lights in the dining room so that one may have a pleasant Shabbat meal (OC 261:1, MB261:18; OC 342:1, MB 342:1, and Bi'ur Halakha, s.v. Mutar).

B. Adding on to Shabbat (Tosefet Shabbat)

i. The Mitzva

According to the gemara Rosh Hashana 9a, there is a mitzva to accept Shabbat even earlier than bein ha-shemashot (as well as to extend the end of Shabbat beyond tzeit ha-kokhavim); this is called, 'tosefet Shabbat' (see OC 261:2). Most poskim rule that tosefet Shabbat is a mitzva min ha-Torah, while some rule it is only de-rabanan (Bi'ur Halakha 261:2 s.v Yesh Omrim, Eliyahu Rabba sec. 261, and SSK, vol. 2, 46:1, note 1).

Thus, in the event that one's Mincha minyan prays so close to sheki'a that one will not be able to finish his Mincha amida and accept Shabbat before sheki'a, it is better to pray Mincha earlier be-yechidut (privately) and fulfill both the mitzva min ha-Torah of tosefet Shabbat, as well as tefillat Mincha in the proper time, than to pray the late Mincha with a minyan (SSK, vol. 2, 46:5, note 26). It goes without saying that if, in this scenario, there is also an earlier Mincha minyan, one should pray with that minyan.

[It should be noted that if one has not prayed Mincha but has already accepted Shabbat, either personally or because it is already sheki'a, he may not pray Mincha. Rather, he should make up the missed tefilla by reciting the Friday night amida twice (SSK, vol. 2, 46:5).]

The Acharonim dispute whether this mitzva devolves upon both men and women (Pri Megadim, Mishbetzot Zahav 608:1), or upon men alone (Minchat Chinukh, mitzva 313:9). The accepted halakhic ruling is that women are obligated in tosefet Shabbat (SSK, vol. 2, 46:1, note 7).

ii. Methods of Accepting "Early Shabbat"

What must one do in order to accept Shabbat earlier than sunset? Rishonim dispute whether one must recite a specific liturgy (e.g., kiddush, the Shabbat amida, or the blessing for the Shabbat candles) or whether mere acceptance of Shabbat restrictions suffices. There is further dispute, within the latter opinion (that one can fulfill tosefet Shabbat by mere acceptance of the holiness of the day), regarding whether a verbal declaration is necessary, or if even a mental declaration is sufficient. The Mishna Berura (261:21) seems to rule that while tosefet Shabbat should be accomplished through a verbal declaration, a mental commitment to accept Shabbat is also binding. [The laws of accepting Shabbat through candle lighting will be discussed in a later section.]

In addition, there are several acts which by implication effect the acceptance of early Shabbat. For instance, besides reciting kiddush or the amida or kindling the Shabbat lights, reciting barkhu, mizmor shir le-yom ha-Shabbat, or the last stanza of lekha dodi on Friday night, also usher in the Shabbat. (See also OC 261:4.)

iii. How Much Time Must One Add?

Even if one accepts Shabbat just a few moments before sunset, he fulfills the mitzva of tosefet shabbat (OC 261). Nonetheless, because Rishonim dispute the exact amount of time that one is obligated to add to Shabbat, and because of a general debate as to the exact time of the onset of Shabbat, Mishna Berura (261:23 and 263:15) praises one who accepts Shabbat and refrains from melakha (work) twenty to thirty minutes before sunset.

However, the earliest one can accept Shabbat is from pelag ha-mincha, which is defined as an hour and a quarter of halakhic time (sha'ot zemaniyot) before the end of the day (Berakhot 26b). If one accepts Shabbat before this time, it is meaningless (Mishna Berura 267:4). Thus, if one accepts "early Shabbat," one should insure that the Shabbat candles are lit after pelag ha-mincha. If they are kindled prior to pelag ha-mincha, the candles must be extinguished and rekindled with a berakha (blessing) in the proper time.

[Note: Sha'ot zemaniyot (halakhic hours) are not necessarily sixty minutes long. Rather, they are units of time, each consisting of a twelfth of the day. Thus, during the winter, when there is less daylight, each "hour" of daytime would be only about fifty

minutes. However, in the summer, when the days are longer, the day "hours" could consist of seventy minutes each.]

iv. Determining Pelag Ha-Mincha

A dispute arises amongst poskim as to how to calculate the "daytime hours." Some halakhic authorities rule that the day period, which is divided into twelfths, begins at neitz ha-chama (sunrise) and ends at sheki'a (sunset) (Vilna Gaon, OC 559, and Levush OC 267). Accordingly, pelag ha-mincha is an hour and a quarter before sheki'a.

Other poskim rule that we count the "hour" units of the day from alot ha-shachar (dawn) until tzeit ha-kokhavim (the emergence of three stars) (Magen Avraham, OC 58:1, and Eliyahu Rabba, OC 267). Thus, from this perspective, pelag ha-mincha is an hour and a quarter before tzeit ha-kokhavim. While the Mishna Berura (233:4, 261:25, 263:19, 267:4) does not seem to issue a conclusive ruling, it appears that most communities follow the opinion of the Vilna Gaon and Levush on this matter.

v. Impact on the Greater Community

The Shulchan Arukh (OC 263:12) rules that if the majority of the community has accepted Shabbat, the minority of the community are considered to have accepted Shabbat as well. An important implication of this halakha is that if it is close to sheki'a, one should not drive to shul or perform any other melakha (prohibited work). This is important since besides the concern that one may inadvertently miscalculate the time of sheki'a, it may be considered Shabbat for him even before sheki'a if the majority of the community will have already accepted Shabbat. This would be the case, for example, in a community which begins praying kabbalat Shabbat prior to sheki'a.

[Note: Such a person, though he may not perform melakha, may nonetheless pray Mincha, as long as he himself has not actually accepted Shabbat and it is not yet sheki'a. He should not pray Mincha, though, amongst a minyan which has accepted Shabbat already. Even if the minyan will accept Shabbat only after one began tefillat Mincha, he should still preferably pray outside the sanctuary, but if there is no other place for him to pray, he may pray Mincha in the shul itself. See OC 263:15, 16, and Mishna Berura ibid. notes 59 and 63.]

It follows, furthermore, that if the majority of the community accept "early Shabbat," then the minority have accepted Shabbat at that time as well. The Mishna Berura (ibid. note 51) is quick to qualify this law. He writes that this law is only true where there is a single shul for the whole community. If there are several synagogues in the city, however, they are not affected by another synagogue's acceptance, even if the other synagogue represents the majority. However, writes the Mishna Berura, a private minyan in one's home, even one that meets regularly, is not considered an independent synagogue and must follow the majority.

Poskim further limit this law in the case of a single shul in the city to where there is no other minyan in the given synagogue. Even if the majority of the shul accepted Shabbat in an earlier minyan, the minority of the shul are not considered to have accepted Shabbat if they will pray in a later minyan in that shul (SSK, vol. 2, 46:7).

According to a suggestion made by Rav Moshe Feinstein zt"l, this discussion may be for the most part a non-issue. He writes (Igrot Moshe, OC, vol. 3, no. 38) that the halakha which subordinates the minority to the majority in the case of accepting Shabbat early is only operative when the majority accepted Shabbat early for the purpose of elevating and insuring the sanctity of Shabbat. However, if the motivation to accept

Shabbat early is for the sake of convenience, e.g. so that the Shabbat meal will not begin too late at night, etc., then the majority's acceptance cannot affect the minority.

It seems clear today, when early Shabbat minyanim are merely seasonal, that they are not established out of principle, but rather for the sake of convenience. Thus, according to Rav Moshe zt"l, an individual may not be obligated to accept Shabbat early, even when his entire community accepts an "early Shabbat." Nonetheless, Rav Moshe adds that he is undecided, and that the issue needs further investigation. (See SSK, vol. 2, 46:9, note 59, who seems to accept Rav Moshe's suggestion le-halakha.)

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #4: Accepting "Early Shabbat"

I. Items to be aware of when accepting "early Shabbat"

1. As mentioned in the previous shiur, one cannot accept Shabbat prior to pelag ha-Mincha. Thus, one cannot fulfill the mitzva of nerot Shabbat, nor kiddush, until pelag ha-Mincha.

2. "Early Shabbat" minyanim often daven Mincha (recite the afternoon prayer) close to pelag ha-Mincha. When bringing in Shabbat early, it is important that Mincha be recited prior to pelag ha-Mincha, and Ma'ariv (evening prayer) be recited after pelag ha-Mincha. The reason is as follows.

There is a Tannaic debate as to when the time for Mincha ends and the time for Ma'ariv begins. R. Yehuda opines that this time is pelag ha-Mincha, while Rabanan assert that it is nightfall (Berakhot 26a). The gemara (Berakhot 27a) rules that one can choose either position, but with one caveat. Whichever practice one chooses, one must not deviate from that practice from then on. Indeed, this is the ruling of the Shulchan Arukh (OC 233:1). [Mishna Berura ibid. for further discussion.] Since our practice today is to daven Ma'ariv at nightfall, in accordance with Rabanan, the very custom of "early Shabbat" is questionable, for how can one daven Ma'ariv during the time of Mincha? In fact, those who act stringently and do not accept an "early Shabbat" do so for this reason. [See the Peri Megadim, Mishbetzot Zahav Laws of Pesach 489:5 and the Vilna Gaon in Ma'aseh Rav note 65 who are not in favor of the "early Shabbat."]

Nonetheless, poskim permit the "early Shabbat" despite this apparent contradiction (Magen Avraham, cited in Mishna Berura 267:3). Their reasoning is that since there is a mitzva to add Shabbat onto the weekday, one can rely on the halakhic decisors who understand that accepting Shabbat early triggers the onset of nighttime, and thus it is no longer zeman Mincha (the time of Mincha). However, in the event that one is to rely on this leniency and daven Ma'ariv of Shabbat before nightfall, one should daven Mincha of erev Shabbat prior to pelag ha-Mincha, to avoid an outright contradiction of rulings between R. Yehuda and Rabanan. According to Moreinu Ha-rav Aharon Lichtenstein shlita, this should be done even if one must recite mincha without a minyan.

In the event that this cannot be accomplished, and Mincha must be recited after pelag ha-Mincha, there are poskim who allow a tzibur (gathered group for a minyan) to daven Ma'ariv before nightfall in the interest of tefilla be-tzibur (praying with a quorum) (Derekh Ha-chaim, cited in Mishna Berura ibid.; Arukh Ha-shulchan, OC 235:1-5 who justifies this practice; Mishna Berura 235:8). The Mishna Berura (267:3), however, is stringent even in this case: he will only be lenient for a tzibur, in a sha'at ha-dechak (pressing circumstances), and if the Ma'ariv is recited during bein ha-Shemashot (dusk).

3. While it is true that with regard to the Ma'ariv amida one can at times fulfill his obligation by praying before nightfall, this is not the case, according to most poskim, with regard to Keriat Shema, which must be recited during zeman shekhiva (the time people go to sleep) i.e., at nightfall (Mishna Berura 235:8, 14; 267:6). Thus, one who accepts "early Shabbat" and davens Ma'ariv before nightfall does not fulfill his obligation to recite Keriat Shema.

However, the blessings which precede Keriat Shema which one recites at this early Ma'ariv are not considered berakhot le-vatala (blessings made in vain), since they were not formulated primarily for Keriat Shema, but rather have the status of tefilla (MB 235:7). Moreover, the recitation of Keriat Shema, instead of being a hefsek (an interruption), apparently constitutes tefilla as part of the system of birkot Keriat Shema.

The proper practice, then, for one who accepts "early Shabbat" is to recite Ma'ariv as one normally would, including birkot Keriat Shema and Shema, with one exception - do not have in mind the intention to fulfill the mitzva of reciting the Shema at this time. One should only intend to fulfill mitzvat Keriat Shema bi-zmana (in its proper time) - after nightfall (MB 235:9).

What is the procedure for this second recitation of Shema? At nightfall, i.e., the time when mitzvat Keriat Shema is operative, one should recite the Shema again but without birkot Keriat Shema, which were already recited properly, as noted above (see OC 235:1). In fact, technically, it is sufficient to merely repeat the first two paragraphs of Shema, and omit the third parasha relating to tzitzit. This is because parashat tzitzit is recited in order to fulfill the daily obligation of zekhirat yetziyat mitzrayim (remembering our exodus from Egypt) and this obligation was already discharged with the earlier reading. From pelag ha-Mincha and on, one satisfies the nighttime requirement of zekhirat yetziyat mitzrayim since this obligation is not limited to zeman shekhiva, unlike the first two paragraphs of Shema. Nonetheless, poskim suggest that optimally one should repeat all three paragraphs of Shema at this time (MB 235:11).

4. Another issue that one must address when making "early Shabbat" is the timing of the first se'udat Shabbat (Shabbat meal). The gemara (Shabbat 117a) learns the requirement of shalosh se'udot (three Shabbat meals) from the threefold emphasis of "yom" (day) in the pasuk in Shemot (16:25). This might imply that one must dine the Shabbat meals on Shabbat itself, i.e., the seventh day of the week, or it could mean that the obligation of seudat Shabbat applies whenever there is kedushat Shabbat (sanctity of Shabbat), which exists also in the time of tosefet Shabbat.

Indeed, while all poskim agree that one can begin the se'uda rishona (first meal) in daylight (i.e., late Friday afternoon), they dispute whether the above gemara rules out the possibility of eating the entire se'uda rishona during daylight. Optimally, one should act in accordance with the former opinion and be sure to eat at least a kezayit (olive-sized piece of food) after nightfall (MB 267:5). If this is too difficult, one can opt for an alternate solution. The Pri Megadim (Mishbetzot Zahav, OC 267) suggests that one eat three meals the following day. [Note: We will discuss the amount of "ke-zayit" in our shiur about se'udot Shabbat.]

5. We have mentioned that one may begin the se'uda rishona after accepting Shabbat, even though there is still daylight outside. We have also pointed out that one does not fulfill his obligation to recite Shema when he davens Ma'ariv in daylight. How does the fact that one has not yet fulfilled his obligation min ha-Torah (according to biblical law) to recite Shema impact on his eating of the seuda rishona, since the sages ruled that one may not eat one-half hour prior to zeman Keriat Shema? Must one stop in the middle of the meal - at the onset of nightfall - to recite Keriat Shema?

In most cases the answer is no, since the Shulchan Arukh (OC 235:2) states that it is only forbidden to START the meal one-half hour prior to zeman Keriat Shema (lest one forget to recite Keriat Shema). Thus, in the event that one made "early Shabbat" but began the meal be-issur (in violation), i.e., within one-half hour prior to tzeit ha-kokhavim (nightfall), one would indeed be obligated to stop eating and recite Keriat Shema at nightfall. However, if one began the meal be-heter (permissibly) by asking someone (who will not be eating the meal at this time to remind him to say Shema later, or if one began his meal more than a half-hour prior to nightfall, he may complete his meal, even through the arrival of nightfall, and then recite Keriat Shema later (MB 235:16, 18; 19-21).

It should be noted, however, that since a minority of poskim consider one to have fulfilled Keriat Shema the first time, one should not protest against those who are accustomed to be lenient in beginning their se'uda rishona a half-hour prior to nightfall. Nonetheless, they too must interrupt their meal at nightfall to recite Keriat Shema, and cannot rely on the above minority opinion, since Keriat Shema is obligatory min ha-Torah (MB 267:6).

6. In the period of early Shabbat when most Jews have not yet accepted Shabbat, one who has accepted Shabbat is permitted to ask non-Jews to perform melakha for him even if it is not for the purpose of a mitzva. However, once most Jews have accepted Shabbat, it is permitted only if it is for the needs of Shabbat, up until tzeit ha-kokhavim (OC 261:1 and MB 261:17). May a person who has accepted early Shabbat ask Jews who have not yet accepted Shabbat to perform a melakha for him? Is there a form of forbidden agency created in this scenario? Rishonim debate whether this is permissible or not (see Sha'arei Teshuva 263:5), and the Shulchan Arukh (OC 263:17) rules in accordance with the lenient opinion. This seems to be the accepted view among most poskim (MB 263:64, and SSK, vol. 2, 46:21). However, one may only ask another Jew to do melakha for him when it is not yet close to sheki'a; otherwise most Jews in the community may have already accepted Shabbat and the individual asked to do melakha will automatically be forbidden to perform melakha even though he has not yet accepted Shabbat (see OC 263:12, and Mishna Berura 263:64). For further discussion of this topic see the Magen Avraham 263:30 and the Taz 263:3. See also SSK vol. 2 46:21 note 109. We will discuss the laws of amira be-akum, i.e., asking a non-Jew to do melakha, in a later shiur.

7. Recitation of Ya'aleh Ve-yavo on Rosh Chodesh - When Rosh Chodesh occurs on Friday night, does one recite Ya'aleh ve-yavo in one's "early Shabbat" Ma'ariv amida? While, unlike Shabbat and Yom Tov, there is no tosefet Rosh Chodesh (Magen Avraham OC 419:1) R. Betzalel Zolty rules (Mishnat Ya'avetz OC 12, p. 8) that one may recite Ya'aleh Ve-yavo in one's early Ma'ariv amida. This is so since even though it is not yet Rosh Chodesh, one's ma'ariv relates to the next day and is thus sufficiently related to the Rosh Chodesh theme to justify the recitation of Ya'aleh Ve-yavo.

8. When a man accepts early Shabbat, does his wife automatically accept it as well? There is a common misconception that when a man plans to attend an early Shabbat minyan, his wife should light candles before he leaves for Mincha. This is obviously an error, since the man will be davening Mincha prior to pelag ha-Mincha (as noted above), and it is impossible to accept Shabbat before pelag ha-Mincha (as noted above). The Shabbat candles, therefore, may be lit only after pelag ha-Mincha.

A further misconception is that a woman must accept Shabbat when her husband does, and thus it is thought that she must light Shabbat candles around the time her husband will be accepting Shabbat. This is an error. All individuals determine for themselves how much before shekia they accept Shabbat. Thus, though her husband may have accepted "early Shabbat", a woman may still perform melakha until she

decides to accept Shabbat, which, if she so chooses, may be as late as candle lighting time, near sheki'a. (See Igrot Moshe, OC, vol. 3, no. 38.) Rav Moshe zt"l, however, adds that it is proper that a woman be stringent to not perform melakhot designated for the benefit of her husband, since he has already accepted Shabbat. This stringency is questioned by other poskim (SSK 46:7, note 42).

[Note: The only exception to this is the law (OC 263:12) that the minority must subordinate itself to the majority when accepting Shabbat, as discussed in the previous shiur. However, as noted in that shiur, according to Rav Moshe Feinstein zt"l (Igrot Moshe OC, vol. 3, no. 38) this law is only operative close to sheki'a when Shabbat is accepted in order to enhance the sanctity of Shabbat, but not when we accept early Shabbat out of personal convenience.]

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #05: Lighting Shabbat Candles - Part I

1. Is It Obligatory to Light Shabbat Candles?

Lighting Shabbat candles is not simply a reshut, an option, it is a chiyuv, an obligation (Gemara Shabbat 25b and OC 263:2). Some poskim understand that it is a biblical requirement (Behag and Yere'im) but most rule that lighting Shabbat candles is a rabbinic obligation (Rambam Shabbat 5:1, Rashba Responsa vol. 4, siman 265, and Meiri Shabbat 25b).

2. What is the Purpose of Lighting Shabbat Candles?

There are three reasons cited for lighting Shabbat candles: to honor (kavod) Shabbat (Rashi Shabbat 25b, and Rambam Shabbat 30:5), to take delight (oneg) in Shabbat (Tosafot Shabbat 25b, and Rambam Shabbat 5:1. See Arukh Ha-shulchan OC 263:2 and Sefer Tosafot Shabbat 263:1 for an explanation of the roles of kavod and oneg in candle lighting according to Rambam), and to insure "shalom bayit," a peaceful and tranquil home (Shabbat 23b and Rashi ibid.; see, however, Levush OC 263:1 who states that shalom bayit is a dimension of oneg Shabbat). In order to fulfill the concept of shalom bayit with nerot Shabbat (Shabbat candles), one should insure that there is some illumination in every area of the home that will be used on Shabbat so that everyone may be able to find their way around without any discomfort.

According to those poskim who rule that kavod and oneg Shabbat are Torah obligations nerot Shabbat would then be considered a fulfillment of the biblical requirement for kavod and oneg Shabbat (see Sefer Ha-chinukh 297, Beit Yosef 487, and Ramban Vayikra 23:3). The Rambam (Hilkhot Shabbat 30:1), however, rules that kavod and oneg are a rabbinic obligation. Either way, kavod Shabbat is fulfilled by lighting in anticipation of Shabbat and oneg Shabbat is fulfilled by enjoying the light on Shabbat. (This distinction between kavod and oneg Shabbat is discussed in Beit Ha-levi vol. 1, no. 11, and in Chidushei Ha-grach al ha-shas in the name of the Griz, on Gemara Shabbat 23b). One should light the Shabbat candles with the intention to fulfill these mitzvot.

3. Who is Obligated to Light?

Everyone in the household, over the age of bar or bat mitzva is obligated to light Shabbat candles (OC 263:2). According to rabbinic legislation the entire household fulfills its obligation when one household member lights (see Shulchan Arukh Ha-rav 263:9). This is true even if the rest of the household did not hear the blessing for candle lighting (see Tzitz Eliezer, vol. 11, siman 21).

The custom is that the mother, who is generally in charge of running the daily household affairs, takes the responsibility for lighting Shabbat candles (OC 263:3). There is a custom that all girls in the household over three years light their own Shabbat candles as well. Where this is the custom they should light before their mother (Arukh

Ha-shulchan OC 263:7). This is because they cannot fulfill the obligation on behalf of an adult until they are bat mitzva and if they light after their mother, it would not be clear that the mother was fulfilling the obligation on behalf of the other adults in the household. It is customary for the man to participate in this mitzva by preparing the Shabbat candles (MB 263:12). If the mother cannot light then the father, or other members of the household, should light.

4. The Proper Time for Candle Lighting

One cannot fulfill the mitzva of candle lighting before pelag ha-mincha (see Shiur #3 and #4). If they were lit before pelag ha-mincha the blessing was said in vain. If this happens the candles must be extinguished and re-lit after pelag ha-mincha with a new blessing (OC 263:4 in Rema; and see MB and Bi'ur Halakha ibid. The Yabi'a Omer vol. 2, no. 17, however, rules that the blessing is not repeated when relighting the candles).

According to Rav Moshe Feinstein zt"l (Igrot Moshe OC, vol. 1, siman 96) the established custom is to light nerot Shabbat twenty minutes before sheki'a. Moreinu Ha-rav Aharon Lichtenstein shlita has commented that there is a widespread custom to light eighteen minutes before sheki'a (sunset). This is done out of concern for the opinion of the Yere'im that "3/4 of a mil" (i.e., 18 minutes) before sheki'a is in fact the beginning of bein ha-shemashot. Minhag (the custom of) Yerushalayim is to light forty minutes before sheki'a (Sefer Bein Ha-shemashot by Rav Y. M. Tokitzinski, chap. 6; and see SSK vol. 2, p. 39, note 57, and Yalkut Yosef vol. 4, siman 263, note 66 for a dissenting opinion). In pressing circumstances one can light up until it is almost sheki'a (MB 261:23). If it is getting late and a woman will not have time to light candles before sheki'a her husband should light the candles (MB 262:11).

5. Accepting Shabbat When One Lights Shabbat Candles

Women generally accept Shabbat when they light Shabbat candles unless they make a tnai (stipulation) not to accept Shabbat until later (OC 263:10; see, however, Yalkut Yosef 263:10). This stipulation may be made mentally (Rema 263:10; see Pri Megadim ibid., however, who requires verbalization of the tnai). This stipulation should not be made except in cases of genuine need (MB 263:21,44, SSK vol. 2, 43:22, note 128, and Tzitz Eliezer vol. 10, siman 19, and vol. 11, siman 21 and 22) since the efficacy of this stipulation is disputed amongst poskim (MB 263:44). A woman who needs to make this stipulation should light only at the time that the rest of the community lights; otherwise, it will not be clear that she lit in honor of Shabbat (263:4). However, a woman who lights Shabbat candles early, after pelag ha-mincha, without accepting Shabbat, has still fulfilled the mitzva (MB 263:20 and Biur Halakha s.v. Mi-be'od yom).

Although women accept Shabbat when they light, other members of the family are still permitted to do melakha after the candles are lit until sheki'a (OC 263:10 in the Rema). Since it is not a general rule that if a man lit the candles he has accepted Shabbat, men do not have to make a tnai to not accept Shabbat when they light. However, it is preferable if they do (MB OC 263:42).

6. The Blessing

When is the proper time to recite the blessing over the Shabbat candles? In general, there is a principle called "over le-asiyatan" which requires blessings recited over mitzvot to be said prior to doing the mitzva (Pesachim 7b). However, this is a problem in the case of Shabbat candles: when a woman recites the blessing, according to many poskim, she is accepting Shabbat which would forbid her to light the Shabbat candles afterward (MB 263:27).

The solution to the problem is for the woman to first light the Shabbat candles, immediately cover her eyes (without any interruption of talking - SSK vol. 2, 43:30) and recite the berakha. Then, she uncovers her eyes and derives benefit from the light. In this way, she is able to maintain on some level the demand for "over le-asiyatan" since the mitzva is not completed until she benefits from the light (OC 263:5 in the Rema).

A man, however, can make the berakha first and then actually light the Shabbat candles (SSK vol. 2, 43:30, note 153). A woman may do the same if she stipulates that she is not accepting Shabbat when she lights (SSK vol. 2, 43:30, end of note 155). In this case one should make sure that the match or candle, that will light the Shabbat candles, is already lit to prevent an interruption between the blessing and the lighting of the Shabbat candles (SSK vol. 2, 43:30).

If a woman accidentally recites the blessing before lighting the candles she is still allowed to light the candle. This is because we assume that she did not intend to accept Shabbat (SSK 43:30, note 155). If a woman lit the candles and forgot to recite the blessing at that time, she can say the blessing until sheki'a which is the end of the period that one may light candles (Bi'ur Halakha 263:5, s.v. Ke-sheyadlik).

Since we rule that women accept Shabbat when they recite the blessing they are permitted to blow out the match (an act normally forbidden on Shabbat) after lighting the Shabbat candles before they say the blessing (Arukh Ha-shulchan 263:14; this is also the ruling of Rav Moshe Feinstein zt"l - Radiance of Shabbat p. 16, note 10, and is apparently the common practice. See also Yabi'a Omer vol 3, OC 16. See, however, Ben Ish Chai, Shana Shnia, parashat Noach par. 8, and Berit Olam p. 17 who write that according to some poskim women accept Shabbat when they light the candles and therefore should be careful to let the match extinguish by itself).

7. What Kind of Shabbat Candles Should One Use?

Almost any type of candle may be used for the mitzva of lighting Shabbat candles. Their only requirements are that they have to burn well and not emit a bad odor (OC 264:1,3,6). Some say it is better to light with olive oil (OC 264:6) either because it burns nicely (MB ibid. note 23) or because it was used in lighting the menora in the mikdash (Temple), (Midrash Tanchuma on parashat Beha'alotkha, and Ketzot Ha-shulchan 74:4). However, other candles, such as wax candles which burn at least as well as olive oil may also be used (MB ibid.).

8. May One Use Electric Lights to Fulfill the Mitzva?

Most poskim permit one to use electric incandescent lights (preferably non-frosted ones) to fulfill the obligation of nerot Shabbat. This includes reciting the blessing (Sefer Ha-chashmal le-or ha-halakha 3:6, Beit Yitzchak vol. 1, Yoreh De'a siman 110, and vol. 2, siman 31, R. Yosef Eliyahu Chenkin zt"l in Edut Le-yisrael p. 122, Yabi'a Omer vol. 3, siman 17, Har Tzvi OC 143, Tzitz Eliezer, vol. 1, siman 20, chap. 11, Rav Moshe Ha-levi Soloveitchik zt"l and Rav Chaim Ozer zt"l in Nefesh Ha-rav p. 155-156). However, Rav Moshe Feinstein zt"l was reluctant about allowing one to do this (as was R. Yosef Rosen zt"l, the Rogatchover, cited in Har Tzvi, vol. 2, OC 120) and only permitted the use of electric lights for ner Shabbat in pressing circumstances and without a recitation of the blessing (Radiance of Shabbat p. 12, note 26, and p. 19). Moreinu Ha-rav Aharon Lichtenstein shlita also rules that one may use electric lights for fulfilling the obligation of nerot Shabbat only in pressing circumstances but one does recite a blessing on them. See also SSK 43:4, note 22.

If one may recite a blessing over electric lights: Why do we light with oil or wax candles since, comparatively, they provide such minimal illumination? Would it not be better to use electric lights for nerot Shabbat since they provide the primary light in our homes? Rav Shlomo Zalman Auerbach zt"l suggested that we still light oil or wax candles today for several reasons. One is that they were established as the most beautiful way to fulfill the mitzva. Moreover, they are intrinsically identified with nerot Shabbat, and thus distinguished as being in honor of Shabbat. Finally, since it is such a widespread custom to kindle them in honor of Shabbat, they may have the status of minhag chashuv (an important custom that cannot be changed) and thus we perform the mitzva with them (SSK vol. 2, 43:34, note 171; see also Az Nidberu vol. 3, no. 1).

9. Lighting in a Well Lit Room

Some poskim question whether one can fulfill the obligation when a room is already lit to the point that the Shabbat candles do not add any appreciable light to the room (OC 263:8). One cannot rely on the existing electric light to fulfill the mitzva as the electric light was not lit in honor of Shabbat (OC 263:4). In principle one may be lenient and fulfill the mitzva even by lighting Shabbat candles in a well-lit room (OC 263:8 in the Rema). However, in order to satisfy all opinions, some suggest to turn off the electric lights, turn them back on in honor of Shabbat (without speaking light - Az Nidberu vol. 5, no. 3) light the Shabbat candles, and then recite a blessing on all the lights. This was the minhag in Rav Moshe Feinstein zt"l's home (Radiance of Shabbat, p. 20, note 3). The Rav zt"l, Maran Rav Joseph B. Halevi Soloveitchik, thought that one should turn off the electric lights, light the Shabbat candles, then turn on the electric lights, and then say the blessing on all the lights (Nefesh ha-Rav p. 156, par. 3). R. Yehoshua Neuwirth shlita (SSK vol. 2, 43:34) suggests either to turn the lights off and then light the candles (like Rav Moshe Feinstein zt"l), or to turn off the lights, light the candles, have someone else turn on the lights, and then recite the blessing on all the lights. There is an opinion that one may light Shabbat candles le-khatchila (initially) in an illuminated room (see Yalkut Yosef, 263:8).

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #06: Lighting Shabbat Candles Part II

10. How Long Must the Candles Stay Lit?

In order to fulfill the mitzva of Shabbat candles and avoid a "berakha le-vatala" (a berakha recited in vain) one should make sure to benefit from the light at some point during the period of time between the time one accepts Shabbat and the light extinguishes (Be'er Heitev 263:14). It is better if the lights last through as much of the meal as possible. It is best if they last until one completes the meal (MB 263:40).

11. How Many Candles Must One Light?

The Mishna Berura (OC 263:5,9,22,45) rules that while it is sufficient to light one candle, the proper minhag is to light two candles. Two candles are used to recall the mitzvot of zakhor ve-shamor (Shulchan Arukh OC 263:1). There is a custom to add a candle for each child that is born to the family (Meshaneh Halakhot vol. 7, siman 35). In general, it is a mitzva to illuminate one's home as much as possible for Shabbat (MB 263:35, Ma'aseh Rav of Vilna Gaon notes 112 and 140. For further discussion see SSK vol. 2, 43:2 and ibid. note 10, and Yalkut Yosef 263:2).

12. One Who Forgot to Light Shabbat Candles

If one forgot to light nerot Shabbat there is a rabbinical obligation requiring one to light an additional candle every Shabbat thereafter (OC 263:1). However, if one just lit fewer candles than usual, this rabbinic obligation does not apply and one does not have to increase the number of candles that one usually lights (Bi'ur Halakha 263, s.v. Ve-shachikha; see however Pri Megadim, Eshel Avraham 263:3 who applies the fine to this case as well). It is the custom that guests light only two candles. This is because it is an assumed stipulation that the lighting of extra candles exists only at home (Yesodei Yeshurun vol. 3, no. 135; see also Igrot Moshe OC vol. 3, note 14:6).

13. Placement of the Candles

Since the purpose of lighting candles is to honor the Shabbat, create a joyous atmosphere, and allow for shalom bayit, the candles should be lit at the central gathering place in the home for Shabbat: the dining room. If it is impossible to light where one is eating one should light in a place where one will certainly benefit from the light (see OC 263:10 and MB 263:45).

14. May One Benefit From the Shabbat Lights?

The lights lit for Shabbat are considered huktza le-mitzva (designated for the mitzva) and one is prohibited to use them for anything other than illumination. A man who has not accepted Shabbat cannot use their flame to light the oven because of this principle. However, one can light a stick or match from the Shabbat candles in order to ignite other Shabbat candles since this is done to fulfill the mitzva of Shabbat candles.

Even so there is a custom to refrain from doing this as well. It is permissible to light directly from one Shabbat candle to another (MB 263:4 and Bi'ur Halakha ibid. s.v. Shtei petilot).

Poskim dispute whether it is permissible (Shulchan Arukh Ha-rav 263:22) or forbidden (OC 263:14 and MB 263:57) to touch the Shabbat candles at all due to their sanctity. However, Rav Moshe Feinstein zt"l ruled that it is permitted for one who has not yet accepted Shabbat to even move Shabbat candles (Radiance of Shabbat, by R. Simcha Bunim Cohen shlit"a, p. 24, note 21, and ibid., for other lenient authorities on this matter).

(We will discuss the laws of muktza as they relate to Shabbat candles in a later shiur on muktza.)

Appendix:

Laws of Candle lighting When One is not in His or Her Own Household

i. Eating Out

One who eats at a friend's house but sleeps at home is not considered to have left one's own household. If a couple eats the Friday night meal at a friend's house they do not fulfill their obligation of nerot Shabbat with their hosts. They must light their own candles.. Similarly, children who are benei mitzva ate the Friday night meal at a friend's house, but will return home to sleep, fulfill their obligation of nerot Shabbat with the candles which were lit in their own home. (Radiance of Shabbat, pp. 8-12, in the name of Rav Moshe Feinstein zt"l.)

If one is not eating at home, where should the Shabbat candles be lit? Their hosts have already fulfilled the primary obligation of nerot Shabbat when they lit in their household. Therefore, it is preferable that the guests light in their own home to fulfill their own primary obligation. However, some benefit from the light of the candles must be derived before the candles burn out. If lighting in their own home is not an option, the wife may light in their host's home even with a berakha since she has contributed secondary light to her host's household (Radiance of Shabbat pp. 11-12 in the name of Rav Moshe Feinstein zt"l).

ii. Sleeping Out

One who dorms but eats at home, as in the case of a yeshiva student, is not considered to have left his household and fulfills the mitzva of nerot Shabbat with his family. He should make sure, however, that there is some light (with no blessing) in his dorm room for Shabbat (see later). According to some poskim, this halakha is true also for one who dorms but generally eats at his friend's home. He is considered part of his friend's household, since he eats there regularly, and he fulfills his obligation of nerot Shabbat at his friend's house (Radiance of Shabbat, pp. 9-10 in the name of Rav Moshe Feinstein zt"l).

iii. Sleeping and Eating Away from Home

a. For Those Who are Single -

One who will not be home at all for Shabbat is considered to have left his or her household. In this case, one does not fulfill the mitzva of candle lighting with one's household; one is independently obligated to light candles (Arukh Ha-shulchan 263:5). This is true in the case of a yeshiva student who lives and eats away from home (see

next paragraph). In the event one is staying with another family for Shabbat that family is considered one's household for the Shabbat and their candle lighting will fulfill his or her obligation (see Mishna Berura siman 263, note 33).

As noted above, students who dorm in yeshiva and are not going home must light nerot Shabbat. There is a debate among poskim as how to fulfill the obligation of nerot Shabbat in this scenario. Some say that one person should light in the dining room for all the other students (Radiance of Shabbat p. 9 in the name of Rav Moshe Shternbauch shlita and Rav Chaim Pinchas Sheinberg shlita). Moreinu ha-Rav Aharon Lichtenstein shlita rules that where the dormitory is in a separate building from the dining hall each person should make sure that nerot Shabbat are lit, with a blessing, in their dormrooms (see also OC 263:6). In this case the students must take extreme precaution to prevent any possible fire-hazard. Where it is not possible to light actual candles, electric lights should be used for nerot Shabbat (with regard to a berakha on electric lights see above).

If one student lights in the dining room for everyone else, for the purposes of shalom bayit, if a student's dorm room requires light for Shabbat, one should leave a light on without a blessing (MB 263:31).

b. For Those Who are Married -

A wife or a husband may light on behalf of the other even if the spouse is not home for Shabbat. This is only true if nerot Shabbat is done in their own home (OC 263:6, and Radiance of Shabbat p. 10 in the name of Rav Moshe Feinstein zt"l). For the purpose of shalom bayit the absent spouse should insure that there is a light left on where he or she is staying (MB 263:31). However, since it is customary for women to light nerot Shabbat, she is allowed to intend to NOT fulfill the mitzva through anyone else. She is permitted to light with a blessing (Shulchan Arukh Ha-rav 263:15 and Tehilla Le-david 263:7).

If the husband and wife are each spending Shabbat away from home and each other then they both have an independent obligation to light Shabbat candles (Radiance of Shabbat p. 10 in the name of Rav Chaim Pinchas Sheinberg shlita). If they are spending Shabbat together as guests in another family's home they fulfill their obligation with the hosts. In the event two or more couples are merely eating together in the same room, as in a hotel dining room, then each wife is separately obligated to light with a blessing (Radiance of Shabbat p. 11, in the name of Rav Moshe Feinstein zt"l; see also MB 263:35).

When a couple spends Shabbat in a hotel, it is best if the wife light candles either in their hotel room or at their dining room table (as mentioned above). Extreme precaution must be taken to prevent any possible fire-hazard. Where it is not possible to use candles the wife should use electric lights for nerot Shabbat (and with regard to a blessing on electric lights see above). If she cannot light in her hotel room or at the dining room table, the wife should light somewhere where her candle can contribute light for the guests. Lighting in a place which benefits no one does not fulfill the mitzva and reciting a blessing in that circumstance would be a berakha le-vatala (Radiance of Shabbat, p. 13, in the name of Rav Moshe Feinstein zt"l).

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #07: Laws of Kiddush - Part I

1. Source

There is a Torah obligation to recite kiddush at the onset of Shabbat. The gemara (Pesachim 106a) mentions that this is derived from the pasuk "Remember the Shabbat to sanctify it" (Shemot 20:8). Most Rishonim understand this to mean that one must distinguish and elevate Shabbat from the other days of the week through words of praise and sanctity. That is, the actual RECITATION of kiddush is the Torah obligation. Accordingly, these Rishonim understand that kiddush on a cup of wine, prior to the Shabbat evening meal, is a rabbinic institution designed to enhance the biblical mitzva of the recitation of kiddush (Tosafot Sukka 38a s.v. Mai and Nazir 4a s.v. Mai, Rambam Laws of Shabbat 29:1, 6 and MB 271:2; see also Sefer Ha-chinukh, mitzva 31).

Some Rishonim believe, however, that kiddush over wine is a Torah obligation - not merely a rabbinic institution (Rashi Berakhot 20b, s.v. Kiddush ha-yom; see Tosafot Pesachim 106a s.v. Zokhreihu and Shevu'ot 20b s.v. Nashim who equivocate between these two opinions). According to Arukh Ha-shulchan (OC 271:2), this opinion in fact rules that kiddush over wine or bread is a Torah obligation. However, the Ra'avan (cited ibid.) understands that only kiddush over wine is a Torah obligation.

Yet further, it is possible to infer from Rashi (Nazir 4a, s.v. Ela ki ha) that DRINKING the wine of kiddush on Friday night is a Torah obligation (SSK vol. 2, 47:5, end of note 24).

There is a rabbinic obligation to recite kiddush on Shabbat day (Pesachim 106a). We will discuss this rabbinic kiddush in "Laws of Kiddush - Part 2."

Some have a custom to recite kiddush a third time at seuda shlishit (the third meal of Shabbat) (OC 291:4, MB 291:18, Tur OC 291, and Beit Yosef ibid. in the name of the Rambam). Even though this is not obligatory, it is proper to enhance the third meal by blessing and drinking wine even in the middle of the seuda (MB 291:21).

2. Are Women Obligated to Recite Kiddush?

The gemara derives from the inter-changing of the words "zakhor" (remember) and "shamor" (keep) in the two accounts of the Ten Commandments (Shemot 20:1-14 and Devarim 5:5-18) that "whoever is obligated to 'keep' Shabbat (i.e., refrain from prohibited work), is similarly obligated to 'remember' Shabbat (i.e. perform the positive commandments of Shabbat)" (Berakhot 20b and Shevu'ot 20b). Despite women's general exemption from other time-bound positive mitzvot (Mishna Kiddushin 29a), since women are obligated to "keep" Shabbat they must also "remember" Shabbat; they are, therefore, obligated in both kiddush Friday evening (MB 271:3) and Shabbat day (MB 289:6; see, however, Maharam Chalava, Pesachim 106a, s.v. Be-yom mai, who rules that women are exempt from kiddush on Shabbat day).

There is a general principle that one can motzi (exempt) someone else only if one is equally obligated in the mitzva. Therefore, since women have an equal obligation to recite kiddush, women can even motzi men (OC 271:2 and MB 271:4; see however Maharshal and Bach who rule that a woman cannot exempt men in kiddush). A woman can exempt a man even after she has fulfilled mitzvat kiddush (R. Akiva Eiger, responsum no. 7, and MB 271:5; see however Dagul Mei-Revava OC 271 who rules to the contrary).

In practice, however, it is generally considered inappropriate for a woman to exempt a man who is not a member of her family (MB 271:4). Moreover, even reciting kiddush for her husband is discouraged (see Berakhot 20b). We will discuss the laws of exempting other people in the next shiur "Laws of Kiddush - Part 2."

3. The Time for Reciting Kiddush

Kiddush is said Friday night after ma'ariv (OC 271:1) even if one recites ma'ariv immediately after pelag ha-mincha (Bi'ur Halakha ibid. s.v. Mi-yad). Poskim dispute whether one must recite kiddush as soon as possible, directly after returning from shul, or whether one may wait until he is hungry (OC ibid., MB 271:1, Bi'ur Halakha ibid. s.v. Mi-yad). Once one has accepted Shabbat, and this is true even for "early Shabbat," it is forbidden to eat or drink until one has fulfilled the mitzva of kiddush (OC 271:4 and MB 271:11). For example, women who have lit Shabbat candles, thereby accepting Shabbat (OC 263:10), cannot eat or drink until they fulfill mitzvat kiddush.

4. Recitation of Friday Night Kiddush

The prevalent custom is to first fulfill the mitzva of kiddush and then wash our hands (netilat yadayim) in preparation for the next mitzva: lechem mishneh (the two loaves - these laws will be discussed in a later shiur) (OC 271:12 in Rema, and MB 271:62). Others have the custom that everyone, except the person reciting the kiddush, washes their hands prior to kiddush. A third custom dictates that the person reciting the kiddush washes his hands as well prior to reciting kiddush (OC ibid. and MB 271:58).

The text of Friday night kiddush consists of three sections: "Va-yekhulu ha-shamayim" (Bereishit 2:1-3), the blessing over wine, and the blessing of sanctifying Shabbat. Prior to reciting "Va-yekhulu" it is customary to say part of its preceding pasuk "va-yehi erev va-yehi voker" (Bereishit 1:31) in an undertone, and then continue out loud, "yom ha-shishi, va-yekhulu ha-shamayim...." The reason for adding "yom ha-shishi" to "va-yekhulu ha-shamayim" is to form an acrostic that spells out God's name. However, it is insufficient to just add "yom ha-shishi" (the sixth day), as the new phrase makes no sense out of context. Therefore, we add "va-yehi erev..." and it now means: "It was evening and it was morning, the sixth day." (See Rema 271:10, Levush ibid., and Arukh Ha-shulchan 271:25.) Some add all of pasuk 31, for otherwise one is dividing the pasuk. It is forbidden to divide any pasuk that Moshe Rabeinu did not divide (Megilla 22a, and Chatam Sofer, OC Responsum 10). Those who permit this division say that one does this in order to add words of praise as an introduction, not to reformat the Chumash (see Arukh Ha-shulchan 289:3). [See also SSK vol. 2, 47:30, notes 147-149.]

One who has not said or heard the section of "va-yekhulu" has, nevertheless, fulfilled the mitzva of kiddush (MB 271:45). According to most poskim, one has fulfilled the mitzva even if he has inadvertently omitted saying or hearing the blessing over the wine has been (Igrot Moshe vol. 3, no. 45 in the name of Shulchan Arukh Ha-rav, and this is implied in OC 271:4; see however Kuntrus Acharon on Shulchan Arukh Ha-rav 272:2 who rules to the contrary; see also SSK vol. 2, 47:40, and notes ibid.). However, if one did not say or hear the last section of kiddush - the blessing of sanctification - then one has not fulfilled the mitzva of kiddush (SSK vol. 2, 47:40).

5. Kiddush-Related Customs on Friday Night

Some people have the custom to stand just for the first four words of kiddush: "yom ha-shishi va-yekhulu ha-shamayim" (as it forms an acrostic of God's name). Others stand from "yom ha-shishi" until the end of the first paragraph and then sit from borei pri ha-gafen and on. Others stand for the entire kiddush. (See OC 271:10, and Kaf Ha-chaim 271:2.) Those who stand for kiddush still must sit when they drink the wine (MB 296:6, Kaf Ha-chaim 271:62,64, and SSK vol. 2, 47:28, note 139).

When reciting kiddush, one should hold the cup in his right hand if he is right-handed and in the left if he is left-handed. The cup should be lifted a tefach (3 1/2 inches) from the table. If one does not hold the cup at all, he still fulfills kiddush as long as the cup was on the table. (See OC 271:10 and 183:4,5 and MB ibid. note 20.)

Having a meal present at the time of kiddush demonstrates the importance of Shabbat, thereby glorifying it. Consequently, the challot (lechem mishneh) should be placed on the table before kiddush (Arukh Ha-shulchan 271:22; see also She'iltot cited in Tosefot and Rashbam Pesachim 100b).

Another custom at the Shabbat table is to cover the challot. There are three reasons for this:

1. To commemorate the double portion of manna which fell every erev Shabbat in the desert and was covered on top and bottom with a protective layer of dew;

2. to designate and elevate the meal for the glory of Shabbat (She'iltot cited in Tosafot and Rashbam Pesachim 100b, and Teshuvat R. Moshe Feinstein zt"l in Radiance of Shabbat by R. Simcha Bunim Cohen, p. 182); and

3. because of the hierarchy of berakhot, it is improper to recite a blessing on wine before saying one on bread (OC 271:9, and MB ibid. note 41).

The practical difference between these reasons is in deciding when one can first remove the challa cover: after kiddush (3) or only after ha-motzi (1, 2) (MB ibid.). Another practical difference is if one is required to cover all items on the table which require a mezonot blessing, such as pastries and crackers. If we cover bread to maintain the integrity of the order of blessings (3) then we should cover mezonot on the table as well. (SSK [vol. 2, 47:25] rules that one should cover mezonot prior to kiddush.)

Regardless, poskim rule that all other challot on the table have to be covered if they belong to people who are fulfilling their obligation through the person reciting kiddush (Responsa of R. Moshe Feinstein zt"l, in Radiance of Shabbat, p. 182, and SSK, vol. 2, 47:25, note 125). According to R. Shlomo Zalman Auerbach zt"l, if one fulfills the obligation of kiddush by listening to someone else's blessing, but does not plan on drinking the wine, that person is only required to cover the bread, not the mezonot. In this case, none of the reasons for covering challot apply to mezonot. (See SSK, vol. 2, 47:25, notes 123-125.)

One is permitted to say kiddush over the lechem mishneh, if it is impossible to recite kiddush over wine. This is done by first washing hands, then, while placing hands on the challot, one recites "va-yekhulu." In the usual place of the blessing on the wine, at the completion of "va-yekhulu," remove the challa cover, raise the challot and recite the blessing of "ha-motzi." At this point, recover the challot, say the last berakha, and then eat a kezayit (an olive size worth of bread; this is 1.1 fl. oz. or 30 grams, according to R. Moshe Feinstein zt"l in his sefer Mi-beit Midrash le-Torah ve-Hora'a). (See MB 271:41.)

6. The Kiddush Cup

The kiddush cup (including the rim and base) should be whole, without any fissures or cracks, and it should be clean. If such a cup is not available, one may use any cup as long as it holds a revi'it (OC 271:1, OC 183:3, and MB and Sha'ar Ha-tziyun ibid.). [There are several opinions on how large a revi'it is. According to R. Chaim Na'ah zt"l (in his Kuntrus Ha-shiurim) it is 3.2 fl. ounces. Rav Moshe Feinstein zt"l rules that it is 4.42 fl. ounces (Radiance of Shabbat, p. 44); and the Chazon Ish rules that it is 5.3 fl. ounces (Chazon Ish OC no. 39, Kuntrus Ha-shiurim).] If there is a leak in the cup below the revi'it level, the cup is invalid (Sha'ar Ha-tziyun ibid. note 14).

Ideally, disposable cups should not be used, but if no other cups are available then they are acceptable (Radiance of Shabbat, p. 43, note 5, in the name of R. Yosef Eliyahu Henkin zt"l who is inclined to allow it and R. Moshe Feinstein zt"l in Igrot Moshe OC, vol. 3, no. 39 who is more hesitant; see also SSK vol. 2, 47:11, note 51 who cites R. Shlomo Zalman Auerbach zt"l who is lenient, and the Tzitz Eliezer vol. 12, no. 23 who permits it even initially). If one does not have a cup valid for kiddush, according to R. Moshe Feinstein zt"l, one may use a wine bottle for kiddush as long as it contains a revi'it (Radiance of Shabbat, p. 43, note 3; see also SSK vol. 2, 47:10,11, and notes 48 and 52).

One should fill the cup to the brim. If there is not enough wine to do this, a little water or ice cubes can be added to raise the level of the wine in the cup. One who does not do this still fulfills the obligation as long as there is a revi'it in the cup (OC 183:2, MB ibid. and 182:32).

One should pour the wine into the cup with the intention that the wine should be for the purpose of mitzvat kiddush. This should be done directly before kiddush (OC 183:2 in Rema, and MB ibid.).

7. The Wine

Ideally, Friday night kiddush should be recited over wine. It is best to use red uncooked wines. One may use, however, white wine and cooked wines (OC 272:3,8, and MB 272:10), as well as grape juice (Radiance of Shabbat, p. 45, note 12 in the name of R. Moshe Feinstein zt"l and R. Yosef Eliyahu Henkin zt"l).

Stam yeinam, which is wine processed or even possibly touched by a non-Jew or a public desecrator of Shabbat, is forbidden to be benefited from, and thus is obviously inappropriate for kiddush (YD 123:3, and Shakh 123:7). Poskim dispute whether one has fulfilled one's obligation if such wine was in fact used for kiddush (Radiance of Shabbat, p. 47, note 21).

If the wine was processed by a Jew, and the bottle was sealed, there is no concern of stam yeinam. There is also no concern of stam yeinam if the wine was cooked (YD ibid.). According to R. Moshe Feinstein zt"l, pasteurization is sufficient to remove the concern of stam yeinam since, according to him, wine is "cooked" if heated to 175 F (Igrot Moshe YD vol. 2, no. 52, and vol. 3, no. 31. Other poskim say that wine is not considered cooked until it reaches 212 Fahrenheit (Radiance of Shabbat, p. 45; see also SSK vol. 2, 47:19, note 95 regarding higher temperatures than pasteurization to remove the concern for stam yeinam). Therefore, some have the custom to specifically use cooked or pasteurized wine for kiddush to avoid the concern of stam yeinam (SSK vol. 2, 47:19, and OC 272:8 in Rema, and MB 272:23).

Wine that has been drunk from is considered yayin pagum (flawed wine) and should not be used for kiddush, except in pressing circumstances. However, removing wine with one's hands or pouring out wine does not render the wine pagum. One can rectify pagum wine by performing the following two steps: first, add non-pagum liquid, either wine or water, to the pagum wine; then pour this mixture into a bottle that has more wine in it than the pagum wine. If only one of these steps was performed the wine is valid, after the fact (be-dieved) (see OC 271:10, OC 182:3,5,6,7, and MB ibid.).

Next week we will continue to study the laws of kiddush.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #08: Laws of Kiddush - Part II

8. Drinking the Wine

Whoever recites the blessing on the wine must drink a melo lugmav (a cheek full), a half of a revi'it, in order to fulfill the obligation (OC 271:13 and MB 271:64; however, see Arukh Ha-shulchan 271:38 that one fulfills the mitzva even if one does not drink a melo lugmav).

It is considered proper etiquette to drink the wine while sitting (Kaf Ha-chaim 271:4); yet, some have the custom to stand while drinking.

The mekadesh (the one who recites kiddush) should drink the wine immediately after reciting kiddush (OC 206:3, and MB 206:11,12). However, if the mekadesh waited some time before beginning to drink, he fulfilled the mitzva as long as he did not speak or become inattentive (hesech ha-da'at) (MB 206:12 and MB 25:29). If the mekadesh speaks before drinking the wine he does not fulfill the mitzva unless this interruption was for the purpose of mitzvat kiddush (OC 271:15 and MB ibid.).

The entire melo lugmav should be drunk in as short a time as possible without an interruption. Nonetheless, if one drinks the wine tokh kedei akhilat pras (the time it takes to eat a half a loaf of bread), which is about 2 - 9 minutes (the exact time is a dispute amongst poskim; see Chatam Sofer vol. 6, no. 16), one fulfills the obligation as long as he did not interrupt the drinking by speaking of matters unrelated to kiddush. If he did interrupt the drinking he should drink a melo lugmav again without reciting a new blessing. If the melo lugmav is not consumed within this time-period the entire kiddush must be repeated (MB 271:68).

According to many poskim, the mekadesh only fulfills the mitzva by drinking a melo lugmav from a cup which currently contains a revi'it of wine (MB 271:51).

The mekadesh himself should drink the melo lugmav, but if for some reason he cannot, then someone else who heard the blessing can drink it for him (Rema OC 272:9 and R. Moshe Feinstein zt"l cited in Radiance of Shabbat, p. 51, note 14; however, the Magen Avraham and other Acharonim rule that this does not work). The melo lugmav should not be drunk by a combination of people; but if it was drunk this way the kiddush is nonetheless valid (OC 271:14 and MB 271:72,73).

It is best ("mitzva min ha-muvchar" - OC 271:14) if those who hear kiddush taste a little of the wine from the kos shel berakha (the cup upon which kiddush was recited). They do not have to recite a new blessing since they were already exempted by the mekadesh. It is best if the wine they receive is not pagum (unfit) (Shulchan Arukh Ha-rav 190:5). Thus, one should follow one of three procedures.

a. The mekadesh should drink ad melo lugmav from the kos shel berakha, and then give this very same kos shel berakha to everyone else to taste from. This cup of wine is not considered pagum for the purpose of drinking (although it is pagum for the purpose of reciting kiddush) since it is the original kos shel berakha (Sha'ar Ha-tziyun 271:9).

b. However, if one is in a setting where people are uncomfortable with sharing the same cup, there is an alternative. After reciting kiddush, before drinking the wine, the mekadesh should pour the wine from the kos shel berakha into another cup to be distributed to those who heard the kiddush. This way the people who heard kiddush are still drinking non-pagum wine which originated from the kos shel berakha.

Two things must be kept in mind when performing this procedure. First, the people who heard the kiddush should not taste the wine they receive until after the mekadesh begins drinking from the kos shel berakha (OC 190:1 and MB ibid.). Second, it is important that the mekadesh make sure that even after pouring from the kos shel berakha there is still a revi'it in the kos shel berakha from which he will drink the melo lugmav from; otherwise, as noted above, it is questionable whether the mitzva has been fulfilled.

c. Full cups of wine may be placed before each person and after kiddush they may drink from their own cup. Since they are not drinking from the mekadesh's wine, they may begin drinking from their cup before the one who recites the blessing (OC 190:1 and MB ibid.).

9. Kiddush be-makom se'uda

According to the Shulchan Arukh (OC 273:1) one is required to recite kiddush in a place where the meal will follow (ein kiddush ela be-makom se'uda). Rishonim dispute whether this is a Torah requirement or a rabbinic one. (See Rashbam Pesachim 101a s.v. Af yedei, Rosh (Pesachim 10:5), Hagahot R. Akiva Eiger OC 271:1, and Peri Megadim in Mishbetzot Zahav OC 269:1).

The following are the requirements of kiddush be-makom se'uda: 1) kiddush must be in the location of the meal (OC 273:1) and 2) one must eat the se'uda immediately after kiddush (Rema OC 273:3). What does "immediately" mean? According to the Mishna Berura (ibid. note 12) this actually means right after kiddush whereas the Arukh Ha-shulchan (OC 273:4) and R. Moshe Feinstein zt"l (Radiance of Shabbat, p. 60, note 12) rule that it means there should not be a long break between kiddush and the se'uda.

If the kiddush and meal are taking place in one room, then one is permitted to recite kiddush in one corner and eat the meal in the other. It is best if one has this in mind when one says kiddush (MB 273:2). If the kiddush and se'uda are taking place in two different rooms, then one should have this in mind and see the place of the se'uda when saying kiddush. However, in pressing circumstances, only one of these requirements is necessary (see OC 273:1, and MB 273:8 and Bi'ur Halakha ibid. s.v. Ve-khein ikar, and Arukh Ha-shulchan 273:3).

Other aspects of kiddush be-makom se'uda, more relevant to kiddush of Shabbat day, will be discussed in the next shiur.

10. Exempting Others from Mitzvat Kiddush

Through halakhic medium of "shomei'a ke-oneh" (listening is as speaking) one may fulfill the obligation of reciting kiddush by listening to another's kiddush. In order for this to be accomplished, the mekadesh must have in mind to be motzi (exempt) the listeners in mitzvat kiddush, and the listeners must have in mind to be yotzei (to fulfill

their obligation in) kiddush. Most poskim understand that it is better for one person to be mekadesh for everyone else rather than for everyone to make his own kiddush. This is because of the principle of "be-rov am hadrat melekh" (Mishlei 14:28 and Berakhot 53a) - the king's glory occurs in the presence of the multitudes (MB 213:17 and Arukh Ha-shulchan OC 8; see, however, Kaf Ha-chaim 296:46 that it is better for each person to recite kiddush himself).

One who has already fulfilled his obligation to recite kiddush can still exempt others in kiddush (yatza motzi) since "kol yisrael arevim zeh la-zeh" (all Jews are responsible one for the other) (OC 273:4). If the mekadesh does not want to fulfill his obligation now with his own kiddush, he can still exempt others, but he cannot drink from the wine (OC 273:4).

Those who wish to exempt themselves with someone else's kiddush must wait until the mekadesh has drunk a melo lugmav before speaking. If they did speak in between, then they only have to say the blessing of "borei peri ha-gafen." Additionally, they should say "amen" after hearing the berakha. If they did not say "amen," they have after the fact fulfilled their obligation. They should not say "barukh hu u-barukh shemo" after "barukh ata Hashem," as this may be an interruption of the berakha. If they did say it they have nevertheless fulfilled their obligation. Finally, they should understand the content of the kiddush. If they do not, they have after the fact fulfilled their obligation, so long as the kiddush was in lashon kodesh (Hebrew). (See OC 213:2 and 215:2, MB :17, OC124:8, MB 124:21,30, and Radiance of Shabbat, by R. Simcha Bunim Cohen, pp. 67-68).

A katan (minor) cannot exempt an adult (Sukka 38a, MB 271:2,3). The katan may say the kiddush aloud, enabling the adult to recite kiddush along with him (MB 271:3). A katan can exempt another katan, as long as he has not already fulfilled kiddush previously, i.e., a minor cannot employ the principle of "yatza motzi" to exempt another minor (see Peri Megadim, General Introduction, part 2, no. 17).

11. Special Cases

A. Diluting Wine

If one does not have enough wine for the three times it is required - twice for kiddush and once for havdala - one can dilute the wine. In the times of the Talmud, the wine was very strong and sharp, and one had to dilute (mozeg) the wine. In order to maintain the wine's identity, the maximum ratio allowed at that time was one part wine to a little less than six parts water (Shabbat 77a). Nowadays, since the wine is already diluted, the ratio of water to wine must be much less. For example: one can add to Concord grape juice two parts water to one part grape juice, and for Kedem wine, one can add one part water to one part wine (see the Radiance of Shabbat, p. 71).

B. Kiddush Friday Night Without Wine

In the event that one does not have wine for kiddush, then one can recite kiddush on lechem mishneh (the two loaves of bread), and if there is no lechem mishneh, then one can use chamar medina (OC 272:9, and MB ibid. and MB 271:78). What is chamar medina? It is a drink that one would serve for an honored guest (Igrot Moshe, OC vol. 2, no. 75). For example, beer and liquor are certainly chamar medina (OC 289:2 and MB 272:30). In addition, some poskim rule that milk, orange juice, apple juice, soda, tea, and coffee even qualify. (See The Radiance of Shabbat pp. 73-74. For further research see Shulchan Arukh Ha-rav 182:2, Tzitz Eliezer, vol. 8, no. 15, Arukh Ha-shulchan 272:14, Igrot Moshe OC vol. 2, no. 75.)

When using chamar medina, some say that one must have a revi'it in the cup and one must drink a melo lugmav (Magen Avraham OC 190:4). Others say that with liquor, a shotglass is enough, and one is only required to drink a little (Taz OC 210:1). The Mishna Berura (190:14) rules in accordance with the Magen Avraham, whereas the Chatam Sofer (OC Responsa 49) supports the view of the Taz.

The laws of kiddush pertaining to Shabbat day will be discussed in the next shiur, Kiddush - part III.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #09: Laws of Kiddush - Part III

12. Kiddush on Shabbat Day

A. Kiddusha Rabba

Since kiddush on Shabbat day is a rabbinic obligation and not a Torah obligation, it is euphemistically referred to as "kiddusha rabba" (the great kiddush) (OC 289:1 and MB 289:3; however, Magen Avraham OC 597:3 understands that, according to the Maharam, kiddush on Shabbat day is also a Torah obligation; Mishna Berura ibid. in Sha'arei Tziyun note 7 disputes the Magen Avraham's understanding of the Maharam).

B. The Blessing and Introductory Verses

The formula for this kiddush is the blessing of "borei peri ha-gafen." Nonetheless, many have the custom to add the verses "ve-shamru benei Yisrael et ha-shabbat" (Shemot 31:16-17) and "zakhor et yom ha-shabbat lekadsho" (Shemot 28:11) prior to "borei peri ha-gafen." Poskim differ as to whether one must begin this addition with the opening verses, i.e., "zakhor et yom ...," or if one may start reciting from the words "al kein beirakh ..." This is because "al kein" begins in the middle of a pasuk and one may not divide any verse that Moshe Rabeinu did not divide (Megilla 22a, Chatam Sofer, OC Responsum 10, and MB 289:2). The Arukh Ha-shulchan (OC 289:3) supports the practice of reciting "al kein beirakh" alone by asserting that in doing this one is only introducing the kiddush and not reformatting the Torah. See also SSK vol. 2, 47:30, notes 147-149).

C. Fulfilling Kiddusha Rabba by Listening to the Mekadesh

It is generally accepted that one fulfills the obligation of kiddusha rabba by listening to the recitation of "borei peri ha-gafen" (Rema OC 273:4). This is accomplished through the principle of "shomei'a ke-oneh" (listening is as reciting - see previous shiur). However, some poskim rule that to fulfill Shabbat morning kiddush all those who hear kiddush are required to taste the wine. This is because the essence of kiddusha rabba is the birkat ha-nehenin (blessing before enjoyment) of borei peri ha-gafen and, if one does not benefit from the wine, how can the praise be considered valid? (See Sefer Mo'adim U-zemanin, vol. 3, p. 107, and vol. 8, p. 63, no. 243 in the name of R. Chaim Brisker zt"l and the Griz zt"l, R. Velvel Soloveitchik).

The Netziv justifies the accepted custom of fulfilling kiddusha rabba by "shomei'a ke-oneh" (Ha-amek She'eila, She'ilta 54, Ha'Amek She'eila, ot 4). He explains that although the mitzva is to drink the wine, Chazal defined the mitzva as honoring Shabbat through the head of the household drinking the wine. In this way, everyone who hears the berakha fulfills their obligation. R. Moshe Shternbuch (Mo'adim U-zemanim, vol. 8 ibid.) explains that the Netziv meant that by hearing the blessing one is considered to have partaken in the praise over the cup of wine.

D. The Proper Time for Kiddusha Rabba

Why do we not recite kiddush upon arising Shabbat morning? As on any other day of the week, it is forbidden to eat or drink before attending to our first priority - beseeching God. Halakha deems it inappropriate to pursue one's own physical desires prior to tending to one's responsibilities to God. This is all the more true for prayer which intends to demonstrate both our acceptance of the yoke of Heaven and our recognition that we depend upon God for our well-being. Indulging ourselves prior to prayer is thus viewed as incompatible with prayer's central themes (OC 89:3 and MB 89:21). It is for this reason that on Shabbat day we recite kiddush only after morning prayers, and not upon arising.

However, one is permitted to drink very simple beverages, such as water, before davening (OC 89:3). The Mishna Berura (89:22) adds that one may also drink tea or coffee WITHOUT milk or sugar. He concedes, however, that people are customarily lenient with regard to adding sugar. The Arukh Ha-shulchan (OC 89:23) allows coffee and tea with sugar, but not with milk. He concedes, however, that people are customarily lenient with regard to adding milk as it is merely added to temper and add taste to the coffee. Indeed, it is attested that Rav Moshe Feinstein zt"l used to drink coffee with milk prior to morning prayers (Radiance of Shabbat, p. 99, note 11; see Yabia Omer, vol. 4, no. 11 and 12). Since these beverages are not tantamount to eating a meal, they do not generate an obligation to recite kiddush on Shabbat morning.

However, if one is ill or weak or very hungry or thirsty so that one cannot maintain proper attention (kavana) to prayers, one may eat before morning prayers (OC 89: 3,4, MB ibid., and Arukh Ha-shulchan 89:24,25). The Biur Halakha rules that if this is the case, then on Shabbat morning, since one is allowed to eat, one is obligated to recite kiddush before eating (Bi'ur Halakha 289, s.v. Chovat, and SSK vol. 1, 40:45). Rav Moshe Feinstein zt"l (Igrot Moshe OC. vol. 2, no. 28) questions this ruling; perhaps Chazal legislated kiddusha rabba only at a time when people normally eat, i.e., after morning prayers. Nonetheless, he agrees that one should follow the above ruling of the Bi'ur Halakha.

Rav Moshe Feinstein zt"l (Igrot Moshe OC vol. 2, no. 26) rules in a response found elsewhere that one should follow the ruling of the Bi'ur Halakha only if one needs to eat a true meal, such as a piece of bread the size of an olive or a meal (the size of three to four eggs) of pat ha-ba be-kisnin (mezonot-like bread from the five species of grain - wheat, barley, oats, spelt, or rye), such as cake, cookies, danishes, or pretzels. (One would have to wash one's hands, recite the blessing "al netilat yadayim," and "ha-motzi" prior to eating this meal, and recite birkat ha-mazon afterwards. The laws of pat ha-ba be-kisnin are beyond the scope of this shiur.) One is required to recite kiddush, since in this instance one will be eating a true meal prior to morning prayers,.

However, writes Rav Moshe, if one will be eating cooked mezonot (i.e., grain meals dissimilar to bread, such as some grain cereals, doughnuts deep fried in oil or pasta boiled in water) which cannot have the status of bread, and therefore cannot be considered a true meal, one is not required to recite kiddush (see Eliyahu Rabba cited in MB 286:9). It is even forbidden to recite kiddush; if there is no obligation to recite kiddush, drinking wine before morning prayers is deemed inappropriate.

Rav Shlomo Zalman Auerbach zt"l (cited in SSK vol. 1, 40:45, note 93) gives an even narrower definition for the obligation to recite kiddush prior to morning prayers. He asserts that one must be compelled to eat a meal which will obligate the recitation afterwards of birkat ha-mazon or "al ha-michya." Such blessings are only recited when a piece of bread the size of an olive or mezonot are eaten "tokh kedei akhilat pras," i.e., within two to nine minutes. Since even those who are sick are not compelled to eat at

this speed, an objective obligatory meal does not exist, and thus no obligation to recite kiddush. Therefore, one may not recite kiddush in this situation prior to the morning prayers.

After completing the shacharit service on Shabbat morning, one becomes obligated in kiddush, even though one has not yet recited the musaf prayers. (However, see Prisha OC 89:6.) Once this obligation starts, it is prohibited to drink even water unless one is sick or very weak. Yet, even if one does say kiddush after shacharit prior to musaf, one can only eat up to a ke-beitza (a egg's size worth) of bread or mezonot which is the measurement for a full meal. This is because one is prohibited from partaking in a full meal prior to reciting musaf unless one is weak (OC 286:3, and MB ibid. 7-9).

E. The Measurement of a Revi'it

Even for Shabbat morning kiddush, the kiddush cup must be filled with a revi'it. However, Rav Moshe Feinstein zt"l rules that since this kiddush is only a rabbinic obligation, the measurement for a revi'it is less than that of the Torah obligated kiddush Friday night (see also Bi'ur Halakha 271:13 in the middle of s.v. Shel revi'it). According to his opinion a revi'it for kiddush on Shabbat day is only 3.3 fl ounces; others say it is only 3 fl ounces. One must drink a melo lugmav, which a bit more than half of a revi'it, for Shabbat morning kiddush. According to Rav Moshe Feinstein zt"l this amounts to 1.7 fluid ounces.

F. Wine and Chamar Medina

If one has both wine and chamar medina, it is best to recite Shabbat morning kiddush on wine; one who prefers chamar medina can use it for kiddush. When using chamar medina, some say that one must have a revi'it in the cup and one must drink a melo lugmav (Magen Avraham OC 190:4). Whereas others say that with liquor, a shotglass is enough, and one is only required to drink a little (Taz OC 210:1). The Mishna Berura (190:14) rules in accordance with the Magen Avraham - that one must drink a melo lugmav - whereas the Chatam Sofer (OC Responsum 49) supports the view of the Taz that even drinking a little of the shotglass is enough.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #10: Laws of Kiddush - Part IV

G. Ein kiddush Ela Be-makom Se'uda

According to the Shulchan Arukh (OC 273:1), as noted in "Kiddush - part 2," one is required to recite kiddush in a place where the meal will follow (ein kiddush ela be-makom se'uda). There are two ways to interpret this requirement: 1. The meal establishes the significance of the kiddush; or 2. The kiddush dedicates the meal as a Shabbat meal. (For further research: These two interpretations may be rooted in the Rashbam on Pesachim 101a, s.v. Af yedei kiddush).

These differing interpretations lead to important practical differences. For example, what kind of "meal" is required to satisfy the requirement of "kiddush be-makom se'uda?" According to the first approach, the meal is merely required to enhance the kiddush, one does not need a true meal to fulfill this requirement. Even eating mezonot, such as cake or cookies, or drinking an additional revi'it of wine, suffice to enhance mitzvat kiddush. Since the goal of the meal is to insure that kiddush not stand alone, it is sufficient if even a basic meal accompanies it. This is the opinion of the Geonim (OC 273:5).

According to the second interpretation that kiddush preceding a meal establishes the meal as se'udat Shabbat, then a true meal consisting of bread (see Berakhot 49b and Tosafot ibid. s.v. Iy baiy akhil) is required since otherwise it is not a Shabbat meal. This is the opinion of the Vilna Gaon (Sefer Ma'aseh Rav no. 122) and Rav Moshe Feinstein zt"l (Igrot Moshe YD, vol. 2, no. 163, and ibid. OC vol. 4, no 63). See Eretz Ha-Tzvi by m"v Rav Hershel Schachter shlita, pp. 46-47, par. 8.

A second practical difference between these two approaches may be whether one fulfills mitzvat kiddush without eating or drinking anything afterwards. According to the first approach (i.e., the position of the Geonim) that kiddush cannot stand alone, one clearly does not fulfill kiddush in this manner. Furthermore, it would be prohibited to drink the kiddush wine if one will not eat afterwards. This is because if one does not fulfill kiddush by eating afterwards, by drinking the kiddush wine one has violated the prohibition of drinking prior to reciting kiddush.

Does one fulfill kiddush without eating according to the approach which emphasizes the role of kiddush in establishing a Shabbat meal? This depends upon how we interpret this requirement. On the one hand, it might mean that although the Shabbat meal must be preceded by kiddush, kiddush can be fulfilled independent of a meal. In fact, this is the ruling of R. Moshe Feinstein zt"l (Igrot Moshe YD, vol. 2, no. 163, and ibid. OC vol. 4, no 63; see, however, OC 273:3). On the other hand, one could interpret kiddush's role in the Shabbat meal as organic. According to this approach, Chazal specifically legislated the mitzva of kiddush al ha-kos (kiddush on a cup of wine) in the context of a true meal consisting of bread. Thus, not only would one not fulfill kiddush without eating afterwards, but even if one ate mezonot following kiddush, it would not be sufficient. One would only fulfill kiddush if the kiddush was followed by a meal consisting

of bread. This is the position of the Vilna Gaon (Sefer Ma'aseh Rav no. 122) as understood by the Rav zt"l, Maran R. Joseph B. Ha-levi Soloveitchik. See Shiurim Le-zekher Abba Mari z"l, vol. 2, 'Kiddush ve-havdala', pp. 105-122, Eretz Ha-Tzvi by m"v Rav Hershel Schachter shlita, pp. 46-47, par. 8, Bi'ur Halakha 273:5, and Ha'got R. Akiva Eiger 273:5. See also OC 273:3 which seems to reflect this opinion.

In light of the above dispute, what is the justification for the widespread custom Shabbat morning after tefilla of reciting kiddush and merely eating mezonot afterwards? What is the rationale to be lenient in practice? According to Rav Moshe Feinstein zt"l, regardless of whether one rules like the Geonim or not, this custom is readily understood, because kiddush does not have to be followed by a true meal. Kiddush may not require a meal at all. At most a mere "meal" of mezonot would suffice. Thus, a kiddush which is followed by a "meal" of mezonot satisfies all opinions according to R. Feinstein zt"l.

However, according to the position of the Rav zt"l, this custom is difficult to understand. This is because he understands that the Vilna Gaon, who disputes the Geonim, requires that kiddush be followed by a true meal. What is the justification, then, to be lenient in practice? Why do we not follow the opinion of the Vilna Gaon? The Rav zt"l suggested that the custom of following kiddush with mezonot Shabbat morning is rooted in a safek sefeika (a double doubt). First, it is possible that the law is accordance with the Geonim who are satisfied with kiddush being followed by a "meal" of mezonot; and second, even if the law is that kiddush must be followed by a true meal, perhaps the law is in accordance with the Ra'avad (Shabbat 29:10) who allows one to eat prior to kiddush on Shabbat day. Thus, explained the Rav zt"l, the custom on Friday night, where this safeik sefeika does not exist, is to follow kiddush with a true meal. There is no safek sefeika Friday night because even the Ra'avad forbids eating prior to Friday night kiddush.

Although, on Shabbat day, many people do not repeat kiddush at home after kiddush in shul, according to the Rav zt"l the more correct custom would be to recite kiddush again at home prior to eating one's Shabbat meal. This is because while eating mezonot after kiddush may be justified by relying on the above safeik sefeika, there is no such safeik sefeika to justify dispensing with kiddush prior to the Shabbat meal. All that exists is a dispute amongst the poskim as to whether the Shabbat meal must be preceded by kiddush or not. Therefore, it is preferable to satisfy all opinions and recite kiddush again prior to the meal.

A more lenient opinion is that of the Magen Avraham (OC 274:2). He asserts that if one does not wish to eat a meal Friday night, one may eat three meals on Shabbat day. In this case, he rules that one should recite kiddush Friday night and rely on the Geonim that it is sufficient for kiddush to be followed by merely mezonot or an additional revi'it of wine. This ruling also supports the widespread custom of following kiddush Shabbat morning with merely a "meal" of mezonot. Moreover, this opinion of the Magen Avraham, which clearly rules in accordance with the Geonim, justifies the custom of not reciting kiddush again at home after fulfilling kiddush with mezonot in shul. This is because the Geonim only require a "meal" of mezonot for kiddush; they do not require kiddush for the Shabbat meal.

Finally, the extreme position held by Rav Moshe Feinstein zt"l (Igrot Moshe YD, vol. 2, no. 163, and ibid. OC vol. 4, no 63) - as mentioned above, he rules that the Shabbat meal requires kiddush, but that kiddush does not require any meal whatsoever - leads to an interesting halakhic ruling. According to Rav Moshe zt"l, one may recite and fulfill kiddush in shul without even eating mezonot afterwards. However, one would have to recite kiddush again prior to eating the true meal in order that the meal be established as a Shabbat meal.

How much must one consume to meet the requirements of "se'uda" (a meal) for the purpose of kiddush be-makom se'uda? Depending upon how one rules in the above dispute, the mekadesh and those who hear this kiddush must eat either a kezayit (olive size) of bread or even a kezayit of mezonot (pastries) or an additional revi'it of wine (MB 273:25,27) or grape juice (Rav Moshe Feinstein zt"l cited in The Radiance of Shabbat, p.61, note 21), but not chamar medina (the drink of the land - see previous shiur, and MB 273:25). The bread or pastries must be made from the five species of grain - wheat, barley, spelt, oats, and rye (MB 273:25). This kezayit must be eaten tokh kedei akhilat pras (the time it takes to eat a half a loaf of bread), which is between 2-9 minutes.

Those who are stringent on Pesach not to eat 'gebrockt' (matza mixed with water) must eat matza following kiddush to fulfill kiddush be-makom seuda, since their 'cookies' are made merely of potato starch.

However, according to Rav Moshe zt"l, as mentioned above, there is no need to follow kiddush with any "meal" whatsoever. It is only the Shabbat meal which must be preceded by kiddush. Nonetheless, the prevailing custom seems to require kiddush to be followed by minimally a kezayit of mezonot.

If one is weak, we are lenient in fulfilling the specifications of kiddush be-makom se'uda for Shabbat morning kiddush by allowing fruit to satisfy the requirement of "se'uda." This is because the She'iltei Giborim writes that all forms of meals are considered complete meals on Shabbat, even those consisting solely of fruit. While this is not the accepted opinion, in a case of need we rely on it for kiddusha rabba, inasmuch as it is a rabbinic law. (OC 273:26)

H. Must One Sit or Stand for Kiddusha Rabba?

There are different minhagim as to whether one should sit or stand for Shabbat morning kiddush. (See Sha'arei Teshuva, OC 289:1, and Sefer Mishnat Chassidim 1:5.)

We will discuss the obligations of lechem mishneh (the two loaves) and eating three meals on Shabbat in the forthcoming shiur.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #11: Lechem Mishneh

1. Source

Each of the three Shabbat meals are required to commence with lechem mishneh, two loaves of bread (OC 274:1 and Rema OC 291:4). Rema OC 291:4 leaves some room to be lenient as to the necessity of lechem mishneh at the third Shabbat meal (se'uda shlishit). The laws of se'uda shlishit will be discussed in the next shiur.

The function of the mitzva of lechem mishneh is to commemorate the double portion of manna which descended on Friday morning when the Jews were in the desert (see Shemot 16:11-27, Shabbat 117b, and MB 274:1). Poskim dispute whether the practice of lechem mishneh is a Torah obligation (Taz OC 678:2, Chatam Sofer OC no. 46, and Arukh Ha-shulchan 274:1) or a rabbinic obligation (Magen Avraham OC 254:23). Women are also obligated in this mitzva (Arukh Ha-shulchan 274:4, MB 274:1, and Bi'ur Halakha 291, s.v. Nashim). For further research regarding women's obligation in lechem mishneh see Ran Kiddushin, 44a in the pages of the Rif s.v Ve-katav, Rabbeinu Tam Sefer Ha-yashar responsum 70 par. 4, Avudraham cited in Peri Megadim in Mishbetzot Zahav in OC 274:1, Maharam Mi-rotenberg Mossad Ha-rav Kook responsa 255, R. Shlomo Kluger in Responsa Ha-elef lekha Shlomo OC no. 114, R. Ovadia Yosef in Yabia Omer vol. 6, OC no. 28, par. 4.

2. What kind of loaves must one use to fulfill lechem mishneh?

A. Pat Yisrael

Ideally, one should use pat yisrael (bread which a Jew helped bake) for lechem mishneh (MB 242:6). When this cannot be done one may use any kosher bread for this mitzva (MB ibid.).

B. Whole Challot

The two loaves of bread or challa should be complete and whole (OC 274:1). However, even if there is a deep cut or fissure in the challa, it is considered whole on the condition that when one raises the loaf from its weaker end the loaf does not break into two (Magen Avraham OC 167:5). The challa is considered whole even if part of the challa is burnt (MB 274:2). If a small part of the loaf, up to less than 1/48 of the entire challa, broke off according to some poskim it may still be considered "whole." Others strongly assert that even such minimal damage removes its status of being "whole" as they are no longer derekh kavod, "honorable" (Arukh Ha-shulchan 274:5)

In the event that the loaves are broken in two, one should join them together so they appear as a whole loaf while reciting the blessing. One should attach them, for example, by means of a toothpick which will hold the two halves together (OC 168:2; see also Arukh Ha-shulchan 274:5 and MB 168:6,8 and 9). If one does not have two whole challot then one may fulfill the mitzva with one whole challa and a broken one. If there

is no whole loaf available then one may fulfill the mitzva with even two broken pieces of challa (Arukh Ha-shulchan 274:5). In the event one does not have any bread one may use two whole portions of pat ha-ba be-kisnin (mezonot-like bread from the five species of grain - wheat, barley, oats, spelt, or rye), such as cake, cookies, danishes, or pretzels (SSK vo. 55:16, and R. Moshe Feinstein zt"l, cited in The Radiance of Shabbat p. 78 note 13; see also OC 168:7 and MB and Bi'ur Halakha ibid.).

C. Size of the Lechem Mishneh

One should not use a challa smaller than a kezayit (an olive) for this mitzva unless there is no other alternative (SSK vol. 2, 55:5, and R. Chaim Pinchas Scheinberg shlita, cited in The Radiance of Shabbat, p. 79, note 15).

D. Frozen Challa

One may use frozen baked challa for the mitzva of lechem mishneh (SSK vol. 2, 55:12 and R. Moshe Feinstein zt"l, cited ibid. note 16). However, R. Shlomo Zalman Auerbach zt"l (SSK ibid. note 39) was unsure if frozen challa, hardened to the point that people would not eat it, was fit for lechem mishneh.

E. Bagged Challa

One should be able to hold the challot directly when one recites the berakha. Therefore, one ought not wear gloves during the birkat ha-motzi. Additionally, it is proper to recite the birkat ha-motzi on challot which are not wrapped up or inserted in bags (MB 167:23, SSK vol. 2 55:11 note 38, and R. Chaim Pinchas Scheinberg shlita, cited in The Radiance of Shabbat p. 79, note 18). See also paragraph 3 B below.

3. The Procedure

A. Small Incision in Challa

Prior to reciting the blessing, many poskim write that it is best to make a small incision in the challa that will be cut (Magen Avraham 274:1, MB 274:5, and Arukh Ha-shulchan 274:6). This is based upon the Maharshal (Bach OC 167, s.v. Ve-katav ha-Rosh) who argues that this will minimize the hefsek (interruption) between the blessing and cutting the challa. Other poskim assert that this practice should be avoided as it may lead to an even greater hefsek (R. Yechezkel Landau z"tl, in his work the Tzlach, Berakhot 39b).

It should be noted that all agree that the practice of making an incision is not me'akev (does not invalidate the berakha or mitzva) (Bach and MB, ibid.). Moreover, this practice is not mentioned in the Shulchan Arukh or the Rema, and in fact seems to be discouraged by the Rema (167:1). Some have the custom to merely run a knife over the challa as if to demonstrate that there is no interruption between the blessing and the cutting. However, some poskim question this custom as it appears superfluous because it does not create an incision in the challa. See also SSK vol. 2, 55:18, end of note 60.

B. Procedure While Reciting the Blessing

The one who recites the blessing should grasp both challot in his hands, recite the birkat ha-motzi, and then cut the appropriate challa (OC 167:4). The Rema(167:14), Arukh Ha-shulchan (OC 167:29) and Mishna Berura (MB 274:2) rule that the mevarekh (the person reciting the blessing) should first say "bi-reshut" (with your permission) prior to reciting the birkat ha-motzi, while the Vilna Gaon reportedly (Ma'aseh Rav no. 78) considered this insertion a hefsek (an interruption).

C. The Role of Salt

If one's challot are tasteless and bland one must add salt prior to eating from them in order not to denigrate the bread. Today this may be unnecessary since our challot have had salt added to them already (OC 167:5 and MB ibid.). Yet, the Rema (OC 167:5) writes that one should have salt on the table at the time of birkat ha-motzi in consonance with the salt that had to accompany each sacrifice (korban). Since our dining tables are compared to the altar, and our eating is identified with the actual bringing of the sacrifices, one must place salt on the table, i.e., the altar, to accompany the sacrifice (see MB ibid.). Nonetheless, many have the custom to salt the challa either to add more taste or to have the salt more closely identified with the "sacrifice," i.e., the challa. Kabbalists have the custom to dip the challa into the salt. See Arukh Ha-shulchan OC 167:10-12).

D. Which of the two challot does one cut?

The Rema (OC 174:1) writes that, based on Kabbala, one ought cut the bottom challa Friday night, whereas on Shabbat day one should cut the top challa. On Yom Tov, one always cuts the top challa. The Taz suggests that on Friday night one should hold the bottom challa closer to oneself than the top challa. This is in order to avoid violating the prohibition of "ein ma'avirin al ha-mitzvot," circumventing an item which may be used for a mitzva in favor of another item. If one cuts the bottom challa which is closer, one does not appear to skirt the top challa (MB 274:5 and Arukh Ha-shulchan 274:6). Some poskim rule that this practice is unnecessary because "ein ma'avirin al ha-mitzvot" only presents a problem when one intends to use both items for the performance of a mitzva, not when one desires to use only one of them (Arukh Ha-shulchan ibid.).

E. Cutting More Challa

Some poskim rule that one should cut one challa Friday night and two challot for the Shabbat day meals; while others rule that one should cut both challot at each meal. The latter view, based on the Vilna Gaon, was the custom in some towns in Europe. Nonetheless, most have the custom to cut only one challa (see Arukh Ha-shulchan OC 274:2,3 and MB 274:4). R. Hershel Schachter shlita (Rosh Yeshiva at Yeshiva University) once commented that cutting two challot at each of the three meals, yielding twelve "loaves," fulfills the kabbalistic view that one should have twelve challot on Shabbat similar to the lechem ha-panim which had twelve challot. Some have the custom to merely graze the knife over the challa at the time of the berakha. Perhaps this is in order to fulfill, or at least simulate, the kabbalistic view. See, however, SSK vol. 2, 55:18, note 60, who questions the value of merely running a knife over the challa.

F. How do those who listen to the birkat ha-motzi fulfill their obligation in lechem mishneh?

They fulfill their obligation in lechem mishneh as long as the mevarekh intended to motzi them and they intended to be yotzei with his berakha (Rema OC 167:2). In addition, they must also eat from the lechem mishneh (MB 167:83; compare with MB 167:35). However, courtesy requires that they should not eat it until the one who has recited the berakha has partaken of the lechem mishneh first (OC 167:15, and MB 167:76).

G. How much must one eat to fulfill "lechem mishneh?"

One does not have to eat a kezayit of lechem mishneh to fulfill the mitzva; merely a taste suffices. This means that one must SWALLOW some challa before one may begin to talk (MB 167:35). Nonetheless, one should preferably (lekhatchila) eat a kezayit of the bread within kedei akhilat pras (within 2 - 9 minutes) without any interruptions of talking in the middle. This is because it may be that ha-motzi obligates one to eat a kezayit of bread. (See Magen Avraham, OC 167:7, Dagul Merevava ibid., MB 167:15 and 35, Sha'ar Ha-tziyun note 14, and SSK vol. 2, 55:5, 19, and 24).

H. One Birkat Ha-motzi

One who hears birkat ha-motzi should not recite another birkat ha-motzi on the individual piece of challa one receives. If one does recite another berakha, the obligation has, nonetheless, been fulfilled (Eshel Avraham 274 and SSK vol. 2, 55:20).

J. One who has not yet "washed hands"

One who has not yet washed one's hands may still respond "amen" to the birkat ha-motzi, then wash, recite birkat al netilat yadayim, and then partake of the lechem mishneh (OC 167:7; see SSK vol. 2, 55:19).

K. Covering the Challa

See shiur #7 "Kiddush: part I" paragraph 5 where we discussed the details of this law.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #12: Se'udot Shabbat

I. General Background

1. Source

One is obligated to eat shalosh se'udot (three meals) on Shabbat. The source for this is found in the pasuk (Shemot 16:25): "And Moshe said, eat that (the manna) today, for today is a Shabbat to Hashem, today you shall not find it (the manna) in the field." The gemara Shabbat 117b derives from the threefold citation of "ha-yom" (today) in the pasuk that there is an obligation to eat three meals on Shabbat.

There is a dispute amongst poskim whether this is a Torah (Levush Sefer Chareidim 14:3, and Maharal of Prague) or a rabbinic obligation (Maharil no. 94, and Peri Megadim OC 291, in Mishbetzot Zahav note 1). The Arukh Ha-shulchan (OC 291:1) writes that even if shalosh se'udot are not a Torah obligation, at the very least they were instituted by Moshe Rabbeinu. For further research, see Rashi Shabbat 117b s.v. Telata, Rambam Hilkhot Shabbat 30:9, and Taz OC 291:1; also note that shalosh se'udot is not counted in the various listings of taryag (613) mitzvot.

2. Are women obligated to eat all shalosh se'udot?

Even though it is not discussed in the gemara, Rishonim cite different reasons as to why women are obligated in the mitzva of eating three Shabbat meals. Rabbeinu Tam (Sefer Ha-yashar volume of responsa 70:4) argues that since "af hen hayu be-oto ha-nes" - i.e., women were also included in the miracle of the manna - women are obligated in the mitzvot of lechem mishneh and shalosh se'udot. The Ran (Shabbat 44a in pages of the Rif s.v. Ve-katav) states that Rabbeinu Tam's reasoning was unnecessary. According to the Ran, women are obligated in these mitzvot simply because men and women are equally obligated in all positive mitzvot of Shabbat; see also Arukh Ha-shulchan 291:4. This is rooted in the rule (gemarot Berakhot 20b and Shevu'ot 20b) that whoever is responsible in shemirat Shabbat (refraining from melakha on Shabbat) is obligated in zekhirat Shabbat (the positive mitzvot of Shabbat). Rabbeinu Tam, however, may understand that this rule only applies to positive Torah obligations, such as kiddush, but not rabbinic ones such as shalosh se'udot (see Maharil cited in Peri Megadim Eshel Avraham OC 291:11).

On the strength of these arguments, the Shulchan Arukh (OC 291:6) rules that women are obligated to eat three Shabbat meals. See MB 291:26, and also shiur #11: Lechem Mishneh, par. 1. This is also the ruling of the Arukh Ha-shulchan (291:4) who notes that many women are generally unaware of this responsibility and proclaims that this must be rectified.

3. One who is not hungry

One must eat all three meals even if one is not hungry (OC 291:1). However, since the whole reason for eating is to increase one's enjoyment, if one is so full that he absolutely cannot eat, one is exempt (OC 291:1 and MB 291:3).

4. What are the proper time periods of each meal?

Some poskim are of the opinion that since the shalosh se'udot are derived from the threefold citation of "yom" (day), each meal should be distinct. Consequently, they should be eaten during three different periods of the day - leil Shabbat (Friday evening), Shabbat morning (prior to midday), and Shabbat afternoon (after midday). See Arukh Ha-shulchan 288:2 and compare with the formulation of the Mishna Shabbat 117b and Rambam Shabbat 30:9. See also Mesorah Torah Journal no. 4 p. 17, where the Rav zt"l posited that one is obligated to eat shalosh se'udot during the times of ma'ariv, shacharit, and mincha in order to fulfill "chatzi la-Hashem ve-chatzi lakhem" (the notion that half the day must be dedicated to spiritual service to Hashem, and the other half to appreciating Hashem by enjoying our physical environment). This idea is based on the Yerushalmi Shabbat 1:3 which applies "chatzi la-Hashem ve-chatzi lakhem" to Shabbat as well as Yom Tov. Davening and eating at each period of the day divides one's service to Hashem on Shabbat between the spiritual and the physical realms.

The details of timing the three meals will be discussed in section II.

5. What are the recommended foods for the shalosh se'udot?

It is preferable for one to enjoy more meat, delicacies, and wine on Shabbat than one does during the week, although one is not obligated to do so (OC 250:2, Shulchan Arukh Ha-rav 250:2, and SSK vol. 2 42:16). Minimally, one should try to eat two cooked dishes and fish (assuming one enjoys fish) at each meal (MB 242:1,2). In today's society, meat may have replaced fish as the greater delicacy. (See SSK, vol. 2, 42:16, note 63.) One should eat warm food at each of the Shabbat meals as this not only honors Shabbat but increases one's enjoyment as well. (Rema 257:8). However, one who does not like warm meals may enjoy cold meals instead (MB 257:48).

The obligation to eat bread will be discussed in section II.

6. One who cannot afford shalosh se'udot

If one only can afford two meals, he nonetheless fulfills his mitzvat oneg Shabbat with them. Furthermore, one is not obligated to borrow money for a third meal. However, if one cannot afford even two meals, then he should borrow enough money to buy three Shabbat meals; this is so since God guarantees that He will repay the debt. Nonetheless, if one feels that one will not be able to repay the loan, he should forgo mitzvat shalosh se'udot. (See Mishna Berura siman 242 note 3 and SSK, vol. 2 42:18, 19 note 71).

II. Laws pertaining to each of the shalosh se'udot

1. Se'uda rishona (the first meal)

A. Time

The first meal may be eaten as early as pelag ha-mincha (if one has accepted early Shabbat) and as late as alot ha-shachar (dawn) (OC 267:2, MB 267:5, and Shulchan Arukh Ha-rav 271:16). One should begin the meal soon after returning home from shul so that he fulfills the mitzva of sanctifying the Shabbat day by reciting kiddush

as soon as possible. However, if one is not hungry, he may delay the se'uda until later in the evening. Clearly, one should not delay the meal if eating later will disrupt the household or detain servants or guests. See OC 271:1 and MB 271:1.

One who did not eat the first meal on Friday must eat three meals on Shabbat day (Rema 291:1).

B. What must one eat to fulfill the mitzva?

One should preferably eat a little more than a ke-beitza (the volume of an egg) of bread; one who has eaten a kezayit (the volume of an olive) of bread has nonetheless fulfilled his obligation (OC 274:4, ibid. 291:1 and MB 291:2). The required amount must be eaten tokh kedei akhilat peras (2-9 minutes).

For further research: Rishonim dispute whether the reason for eating bread is due to oneg Shabbat or kavod Shabbat. See Rashba Berakhot 49b (oneg) and Tosafot Pesachim 101a, s.v. Ta'amo (kavod). See also MB 274:9.

2. Se'uda shniya (the second meal)

A. Time

Since it is prohibited to fast beyond chatzot (midday) of Shabbat day (OC 288:1) one must begin the se'uda shniya prior to chatzot. Even if one has taken something to eat or drink before chatzot (e.g., one drank water before tefilla, or partook from the kiddush in shul), some poskim still require him to begin the meal before chatzot (Arukh Ha-shulchan 288:2). Other poskim rule that if one is involved in tefilla or Torah study, he may fast past midday and start the se'uda shniya later (MB 288:2).

B. What must one eat to fulfill the mitzva?

See se'uda rishona, B, above. It is advisable not to overeat during this meal so that one will have an appetite for se'uda shlishit (OC 291:1).

3. Seuda shlishit (the third meal)

A. Time

i. Earliest Time

Rishonim dispute whether the se'uda shlishit may commence any time during the day (Ba'al Halakhot cited in Ran, Shabbat 43b in pages of the Rif, s.v. Tanu rabban kama) or specifically at the onset of mincha time (a half-hour after midday in sha'ot zemaniyot - see shiur #3, part B, section IV) (Tosafot Shabbat 118a, s.v. Be-mincha, and Rosh ibid. 16:5). Shulchan Arukh (OC 291:2) rules in accordance with this latter opinion.

ii. Before or After Mincha?

Some Rishonim posit that one should eat before davening mincha; this is out of concern for the view that one may not drink between mincha and ma'ariv (Rabbeinu Tam Tosafot Pesachim 105a, s.v. Ve-hanafka mina, and Rosh ibid. 10:13). Others write that it is best to eat this meal after davening mincha (Rambam Hilkhot Shabbat 30:10, Hagahot Maimoniyot ibid, note 20). The Rema (OC 291:2) cites both opinions and mentions that the custom is to follow the latter opinion. If it is difficult to have the meal after mincha, one may eat se'uda shlishit before mincha (MB 291:11). See also Arukh Ha-shulchan 291:1.

iii. Latest Time

Although the Shulchan Arukh (OC 299:1) forbids one to begin eating after the onset of sheki'a (sunset) (see MB ibid.) due to the approaching mitzva of havdala, the Mishna Berura allows one to start se'uda shlishit in a case of need until a half-hour before tzeit ha-kokhavim (nightfall). Rav Moshe Feinstein zt"l (Igrot Moshe OC vol. 4 no. 69 par. 6), however, is stringent; he rules that one may only begin eating until a half a mil (i.e., 9 minutes) after the onset of sheki'a. If one began eating prior to sheki'a, he may continue eating even after tzeit ha-kokhavim (nightfall) (OC 299:1 and MB ibid. For further research see Bi'ur Halakha 299:1 s.v. Mi-shetechshakh.

B. Must one eat bread and have lechem mishneh at se'uda shlishit, or do other foods suffice to fulfill one's obligation?

This is disputed among the Rishonim. Many Rishonim are of the opinion that one must not only eat bread at the third Shabbat meal (Tosafot, Yoma 79b, s.v. Minei) but have lechem mishneh as well (Rambam Hilkhot Shabbat 30:9, Rosh and Tur OC 291). This is due to manna's status as a major staple and its connection with shalosh se'udot. Other Rishonim rule that even eating other foods suffices (Rabbeinu Tam Tosafot Berakhot 49b. s.v I, Rabbeinu Yona Berakhot 36b in pages of Rif, s.v. Birkat, and Ran Shabbat 44a in pages of Rif s.v. Ve-ika).

The Rema (OC 291:4) rules that it is best to eat bread and to have lechem mishneh. When this is not possible, one should recite birkat ha-motzi on a whole loaf of bread. If one is too full to eat bread, the Shulchan Arukh (OC 291:5) rules that one may fulfill the obligation of se'uda shlishit by eating mezonot foods. If this is not possible, one may eat meat or fish (like Tosafot ibid.), or as a last resort fruit (like Rabbeinu Yona and Ran ibid.).

The Arukh Ha-shulchan (OC 291:12), though, vehemently disagrees with this leniency, arguing that, inasmuch as the Rif, Rambam, Rosh, Tur, and Shulchan Arukh fundamentally require one to eat bread, one may eat foods other than bread only if one is ill. He furthermore contends that one who is lenient in this matter has committed a "great violation."

For further research: See Mesorah Torah Journal vol. 5 p. 14 which records an insight of the Rav zt"l (Maran Rabbi Joseph B. Halevi Soloveitchik) on the lenient opinion that allows one to fulfill se'uda shlishit by eating foods other than bread. Why should se'uda shlishit be different from the first two meals? The Rav zt"l explains that this opinion understands that the mitzva of shalosh se'udot does not require one to eat bread at any of the Shabbat meals. Rather, it requires one to only eat food, be it meat, fish, or fruit. On the other hand, the requirement of eating bread at the Shabbat meals springs from a completely different source - oneg Shabbat (the mitzva to have enjoyment on Shabbat). Oneg Shabbat divides Shabbat into two periods, Friday night and Shabbat day. Each period requires one meal consisting of bread. Thus, one is required to have one meal of bread on Friday night (the first meal) and one meal of bread on Shabbat day (the second meal). Once oneg of Shabbat day has already been fulfilled, there is no requirement of bread at the third meal.

An alternate reason can be found in Rabbeinu Yona (Berakhot 36b in pages of Rif, s.v. Birkat). He cites Rabbanei Tzarfat who say that the obligation to eat bread springs from the obligation to recite kiddush; kiddush must be recited where there is a meal (ein kiddush ela be-makom se'uda; see shiurim #8 and #9). Since the obligation to recite kiddush is only once on Friday night and once on Shabbat day, there is no necessity to eat bread at se'uda shlishit.

C. If one has lechem mishneh or bread for se'uda shlishit, must one cover them prior to birkat ha-motzi?

This depends on whether one covers the bread as a remembrance of the miracle of the manna or because bread generally has priority over wine. See shiur #7 Kiddush - part 1 paragraph 5. The Arukh Ha-shulchan (OC 299:14) understands that we follow the latter opinion. Thus, since we do not recite kiddush at se'uda shlishit, there is no need to cover the bread.

D. Must one drink wine at Seuda Shlishit?

Although there is no mitzva of kiddush at se'uda shlishit, it is commendable to recite a blessing over wine during the course of the meal (OC 291:4 and MB 291:21). See also Rambam Hilkhot Shabbat 30:9 and Arukh Ha-shulchan OC 291:10. The Mekubalim, cited in Arukh Ha-shulchan ibid., state that one should recite kiddush at se'uda shlishit as well. This does not appear to be our custom.

E. Talmud Torah and Seuda Shlishit

One should not schedule se'uda shlishit to take place during one's appointed time of Torah learning. However, one should not extend one's Torah learning or shiur, past the time of se'uda shlishit. One should even leave an unduly long shiur if the lengthy shiur will impinge upon one's fulfillment of se'uda shlishit (Peri Megadim, Eshel Avraham, OC 290, Arukh Ha-shulchan OC 290:3, Kaf Ha-chaim OC 290 no. 14, and Mishna Berura 290:8).

However, if one schedules se'uda shlishit to take place during the shiur, instead of before or after the shiur, then one must attend the shiur even if it will mean missing se'uda shlishit (Rokeiach no. 55; see Sha'ar Ha-tziyun 290:5). The Magen Avraham (OC 290) adds that this ruling only applies to a shiur that educates people in halakha and inspires "fear of Heaven." This would exclude shiurim limited to theoretical analyses or lectures on politics and the like. See also Bach, OC 290:2.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #13: Conclusion of Shabbat and Havdala

I. Havdala and Melakha

Shabbat ends with the onset of nightfall, since, according to the Torah, the new day begins at night. (See Bereishit 1:5, Mishna and Gemara Chullin 83a, and Rashi ibid. s.v. Ma'aseh Bereishit; see also Pesachim 2a.) Thus, in theory, according to Torah law (min ha-Torah) one should be permitted to perform melakha immediately at nightfall when Shabbat ends (MB 293:3 and 299:38). In practice, however, this is not the case. Even after nightfall one may not perform any type of melakha, be it a melakha forbidden by the Torah or by the Rabbis, until one has recited havdala (OC 299:10 and MB 299:32).

Most poskim understand that this is a rabbinic prohibition based upon either one of two reasons:

1. Prior to reciting havdala a partial (i.e. rabbinic) sanctity of the Shabbat prevails even after nightfall. This creates the opportunity of escorting the king through havdala (MB 299:33,34 and Tzitz Eliezer v. 11, no. 34).

2. The rabbis forbade melakha in order to remind one to fulfill mitzvat havdala (Arukh Ha-shulchan OC 299:21).

There is one opinion [Eshel Avraham (Butshetsh) mahadura tinyana 299:10] who believes that it is forbidden according to Torah law to perform melakha prior to havdala. He understands that tosefet Shabbat min ha-Torah occurs automatically after nightfall.

Before discussing the laws of havdala, it is necessary to address the issues concerning the onset of nightfall.

II. Determining Nightfall

1. Appearance of Stars

All poskim agree that nightfall is determined by the appearance of three MEDIUM-sized stars in the evening sky (Bi'ur Halakha 261 s.v. She-hu and Bi'ur Halakha 293 s.v. Gimmel kokhavim ketanim). [For further research, see Shabbat 35b; compare with Megilla 20b, Pesachim 2a, and Berakhot 2a-b. See also Nechemia 4:15, Rambam Shabbat 5:4 (compare with Rambam Terumot 7:2) and Shulchan Arukh OC 235:1.].

However, in practice, we consider it to be night only when three SMALL stars have emerged. This added stringency is because we are not experts in evaluating what is a "medium-sized" star; thus, we wait longer until even the small-sized stars have appeared. In this way, we are certain that nightfall has arrived (OC 293:2, MB 293:3, and Bi'ur Halakha 293 s.v. Gimmel kokhavim ketanim). Hence, one may not perform melakha prior to this time since it may still be daytime (MB 293:3).

2. Calculating Nightfall

A. Contradictory Gemarot

Nonetheless, Rishonim and poskim have calculated the time at which three MEDIUM-sized stars emerge. Two contradictory gemarot lie at the core of this calculation. The gemara Pesachim (94a) states that the stars appear four "mil" (i.e., the time it takes to walk four mil) after sunset. In contrast, the gemara Shabbat (35a) indicates that the period from sunset to nightfall is 3/4 of a "mil." (See Tosafot ibid. s.v. Trei.)

It is unclear from the gemara how long a period a "mil" actually is. See Shiur #3, MB 459:15, Bi'ur Halakha ibid. s.v. Havi, Bi'ur Ha'gra ibid. s.v. Ve-shiur, and Chok Ya'akov (ibid. s.v. note 10). The view most widely accepted is that a mil can be walked in 18 minutes. With this number in mind, the time of four mil between sunset and the appearance of the stars is 72 minutes, whereas the time of 3/4 of a mil between sunset and nightfall is 13 and 1/2 minutes. How can these two contradictory conceptions concerning the timing of nightfall be reconciled?

B. Rabbeinu Tam

Rishonim and poskim offer different resolutions to the contradiction in the gemarot. Rabbeinu Tam (Tosafot, Shabbat 35a s.v. Trei, and Pesachim 94a s.v. R. Yehuda) asserts that there are two sunsets. In the first stage, the sun sets, disappearing from our view; this is called "the beginning of sunset." This phase lasts the time it takes to walk three-and-a quarter mil (i.e., 58 and 1/2 minutes) and this is still considered daytime (see Tosafot Menachot 20b, s.v. Nifsal). In the next phase, a second "sunset" occurs when all the light in the sky disappears; this is called "the end of sunset." This phase lasts the time it takes to walk three-quarters of a mil (i.e., 13 and 1/2 minutes) and is considered "bein ha-shemashot" (a period of time in which it is doubtful whether it is day or night).

At the conclusion of the second phase (i.e., bein ha-shemashot), three medium-sized stars appear, indicating nightfall. Thus, according to Rabbeinu Tam, the total elapsed time between sheki'a and nightfall is 72 minutes. In this fashion, R. Tam resolves any contradiction between the two gemarot. The gemara Pesachim is referring to both stages of sunset while the gemara Shabbat is referring only to the second stage. See MB 261:20,23, and Bi'ur Halakha s.v. Mi-tchila and s.v. She-hu.

It is interesting to note that while the opinion of Rabbeinu Tam leads to an extra stringency at the conclusion of Shabbat, it also theoretically leads to a leniency at the onset of Shabbat. According to R. Tam's calculation, bein ha-shemashot begins much later, therefore one would in theory be allowed to perform melakha much later on Friday than according to other opinions. In practice, however, we do not rule this way. We are stringent regarding the onset of Shabbat on Friday and one must be very careful not to do any melakha after sheki'a, i.e. once the sun can no longer be seen. See MB and Bi'ur Halakha ibid.]

C. Vilna Gaon

However, this position of Rabbeinu Tam is disputed by many Ge'onim, Rishonim and poskim, including the Vilna Gaon (Bi'ur Ha-gra, OC 261:2, s.v. She-hu). According to them, only one stage of sunset exists. They rule that the disappearance of the sun from the horizon (i.e. sheki'a) marks the onset of bein ha-shemashot. According to this position, bein ha-shemashot lasts the time it takes to walk three-quarters of a mil (i.e., 13 and 1/2 minutes). At the conclusion of this time period, three medium-sized stars appear;

this is nightfall min ha-Torah for all purposes. This is the position reflected by the gemara Shabbat. The gemara Pesachim, however, which cites a four-mil period, is relevant for other purposes; it refers to the time between sunset and a later time at night when all the stars appear. See also MB ibid. and 233:14.

D. Accounting for Change in Latitude and Time of Year

Nevertheless, according to many poskim, whether one understands that there is one sheki'a or two, all agree that the bein ha-shemashot period of three-quarters of a mil (i.e., 13 and 1/2 minutes) varies according to the time of year and one's location on the planet. This 13 and 1/2 minute bein ha-shemashot time period was mentioned in the Talmud only for the latitude of Babylonia during the months of Tishrei and Nissan when days and nights are equally long. European lands, however, which are closer to the North Pole, have a much longer time period of bein ha-shemashot. Therefore, one should be very particular not to perform melakha after Shabbat, even if much time has passed since sunset, until three small stars appear. Bi'ur Ha-gra ibid., MB 261:23 and Bi'ur Halakha s.v. Mi-tchilat.

E. Supplemental Indicators

Acharonim point out that other conditions must also exist for three small stars to indicate nightfall. According to the Likutei Pri Chadash and R. Akiva Eiger, the sky must cease to glow with a light resembling daylight. However, the Vilna Gaon writes that even if the sky is aglow, three small stars indicate nightfall as long as the sun has set and all redness has disappeared from the sky (see SSK vol. 2, 58:2 who rules that it is proper to conduct oneself according to this view). MB 293:4. For further research, see Shiurim Le-zekher Abba Mari z"l, vol. 1, by Maran Rabbi Joseph B. Halevi Soloveitchik, pp. 91-112).

The Tif'eret Yisrael has a different condition. He rules that three small stars indicate nightfall only when one can also discern three medium-sized stars. This may be to ensure that we have a point of comparison to determine that the small stars are indeed the small-sized variety and not large ones. See MB ibid.

III. Tosefet Shabbat

In addition, we are stringent to refrain from melakha until three CLOSELY-SPACED small stars become visible (OC 293:2). This is due to the requirement of tosefet shabbat that part of the weekday be annexed to Shabbat (see shiur #3). By waiting for these stars to appear one has automatically added time onto Shabbat (MB 293:5). However, if one sees three small stars that are not closely spaced and then waits briefly afterwards, one has also fulfilled the mitzva of tosefet shabbat (MB ibid.). There is an opinion that one should refrain from melakha until the sky is filled with stars to satisfy all opinions with regard to tosefet shabbat (SSK vol. 2, 58:2, note 8).

IV. When does Shabbat end in practice?

The position commonly followed with regard to the end of Shabbat is the Vilna Gaon's. Taking into consideration the change in latitude, the varying opinions with regard to a "mil," and the mitzva of tosefet shabbat, it is widely accepted that Shabbat ends in the New York area, for example, about 42 minutes after sunset, while in the Jerusalem area about 40 minutes after sunset. There are other opinions, however, in this matter. For instance, Moreinu Ha-rav Aharon Lichtenstein shlita informed me that the Rav zt"l, Maran Rabbi Joseph B. Halevi Soloveitchik, ruled that Shabbat ends in the New York and Boston area 30 minutes after sunset. [The Rav zt"l, though, was personally stringent

in accordance with Rabbeinu Tam.] Others require 50 minutes while some suggest even 60 minutes.

Some poskim are even more stringent and rule that we must take into account the position of Rabbeinu Tam that true nightfall does not occur until 72 minutes after sheki'a (sunset). According to this view, one may not perform melakha until 72 minutes after sheki'a. [See OC 261:2, MB 261:20,23, and Bi'ur Halakha s.v. Mi-tchila and s.v. She-hu.] Whether this calculation changes with time of year and location is a subject of debate (see MB 261:23 and Bi'ur Halakha s.v. Mi-tchilat). Bi'ur Halakha (261, s.v. She-hu) and R. Moshe Feinstein zt"l (IGM OC, vol. 1, no. 24) both indicate that one should ideally wait 72 minutes regardless of the time of year and location. In addition, one should add a few minutes to this calculation to fulfill the mitzva of tosefet shabbat.

One may rely on a clock or timepiece to indicate the time that the above conditions for nightfall will exist (MB 293:7).

V. Melakha and Havdala

1. Scope of prohibition

The Rema (OC 299:10) cites that some poskim, such as Rabbeinu Yerucham, are of the opinion that since the prohibition to perform melakha after nightfall, prior to havdala, is rabbinic in origin, the Rabbis were lenient with regard to performing melakha that does not involve labor and trouble (MB 299:38). Thus, according to this opinion, one would be permitted to kindle a light or carry an object from one domain to another after nightfall prior to havdala (Rema ibid.). However, the Rema (ibid.) rejects this leniency in practice, as do many other poskim, since there seems to be no source for distinguishing in this manner between the melakhot. See MB 299:39.

Moreover, some question the Rema's interpretation of Rabbeinu Yerucham, claiming that Rabbeinu Yerucham instead meant to be stringent. According to this approach, Rabbeinu Yerucham forbade all performance of melakha prior to havdala, while allowing only non-laborious melakha after havdala recited in the amida; one would be permitted to perform all melakha only after reciting havdala over a cup of wine. See Sha'ar Ha-tziyun 299:51 in the name of Derekh Ha-chaim.

Thus, in practice one may perform melakha after nightfall only once one has recited the one of these havdala formulas: 1. The amida (ata chanantanu); or 2. "Barukh ha-mavdil bein kodesh le-chol" (Blessed is He who distinguishes between the sacred and the mundane); or 3. Havdala over a cup of wine (see next shiur). Yet, the Mishna Berura cites that when not reciting havdala over wine (i.e. options 1 or 2 above), a scrupulous person should still not perform any melakha until after he has recited ve-ata kadosh (said after the amida). This stringency does not apply, however, to rabbinic prohibitions, nor to melakha required for the public welfare (MB 299:40).

It is important to note that the prohibition to perform melakha prior to reciting havdala devolves on each individual and is not communal in orientation. Thus, one may recite havdala after nightfall and perform melakha even if the rest of the Jewish community has not yet done so. Similarly, one may not perform melakha after nightfall prior to havdala even if the rest of the community has already recited havdala. [MB 263:67.]

2. A Leniency

There is one leniency prior to havdala after nightfall, however; one may discuss business or plans for the week, or anything else which might otherwise fall under the

category of not being proper Shabbat talk ("m'm'zo chafatzekha ve-daber davar" - this will be discussed in detail in a future shiur). One may also ask a non-Jew or a Jew who has already recited havdala to perform a task involving melakha. [See OC 263:17 and 299:10, MB ibid., and Shulchan Arukh Ha-rav 299:15.]

In the next shiur we will discuss the laws relevant to the various recitations of havdala and the requirement of "melave malka," escorting the Shabbat queen with a meal.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur#14: Havdala and Melaveh Malka - Part I

I. Havdala

1. Source

A. The Torah Obligation

Reciting havdala at the end of Shabbat, according to most rishonim, is a Torah obligation derived from the pasuk (Shemot 20:8) "Remember the Shabbat to sanctify it;" sanctify Shabbat at its entrance with kiddush, and at its departure with havdala (Rambam, Laws of Shabbat 29:1; Sefer Ha-Chinukh no.31; Semag no. 29; and Rabbeinu Yona cited in Beit Yosef OC end of siman 296). However, other Rishonim assert that havdala is only a rabbinic obligation (Rabbeinu Tam cited in Responsa of Rosh 11:3, Rosh ibid., Rash Mi-shantz cited in Pri Megadim OC 296 and Orchot Chaim cited in Beit Yosef OC). For further research see Maggid Mishneh ibid., Pri Megadim OC 296, MB 296:1, Sha'ar Ha-tziyun ibid., and Arukh Ha-shulchan 296:1-4.

Originally, one fulfilled the Torah obligation of havdala by mentioning two things: the holiness of Shabbat and the fact that Shabbat is distinct from all other days of the week (Rambam, Sefer Ha-mitzvot no. 158, and compare with Pesachim 103b-104a). This requirement is satisfied by saying anything akin to "barukh ha-mavdil bein kodesh le-chol," blessed is He who distinguishes between sacred and secular (OC 299:10, Levush ibid., and MB 299:34,35). It is even possible that merely saying "shavu'a tov," have a good week, would fulfill the Torah obligation (see Tzitz Eliezer, vol. 11, no. 34, analagous to the Torah obligation of kiddush, which, according to R. Akiva Eiger, is fulfilled by saying "shabbata tuva," have a good Shabbat). For further research: see SSK, vol. II, 58:5, note 18, whether one must mention the exodus from Egypt to fulfill the Torah obligation of havdala.

B. The Rabbinic Obligation

However, the rabbis, in an effort to standardize havdala, instituted that we recite "ata chonantanu," a paragraph inserted into the berakha of "ata chonen" during ma'ariv on motza'ei Shabbat (Berakhot 33a and OC 294:1), as well as an additional havdala called "havdala al ha-kos." "Havdala al ha-kos" is recited over a cup of wine and includes blessings recited over besamim (spices) and ner (fire) (Berakhot 51b, Pesachim 103a, and OC 296:1). See also Berakhot 33a and Arukh Ha-shulchan OC 296:2,3.

Poskim appear to be divided, however, as to which recitation of this standardized havdala is primary, fulfilling the Torah obligation, and which is secondary, discharging merely the rabbinic obligation. The practical ramification is at which recitation should one intend to fulfill the Torah obligation. The Mishna Berura (296:1) considers havdala in the amida primary; this seems to be indicated explicitly in the gemara Berakhot 33a. However, the Chatam Sofer (Teshuvot OC, no. 21) understands the primary enactment to be havdala al ha-kos.

The history behind this "double" havdala is as follows: When Ezra brought the Jewish people from Bavel back to the land of Israel, many of the Jews were poor. Thus, when the Anshei Knesset Ha-gedola (the men of the great assembly) were creating a more elaborate and standardized form of havdala, beyond the simple utterances of "barukh ha-mavdil bein kodesh le-chol," they did not want to obligate Jews to recite havdala on wine, which was beyond the financial means of the masses. Instead, they instituted the tefilla of "ata chonantanu" in the ma'ariv amida on Saturday night. Later, when the Jewish people became wealthier, Anshei Knesset Ha-gedola ordained that havdala now had to be recited instead on wine. However, when Am Yisrael became poor again, Anshei Knesset Ha'gedola instituted the requirement that both forms of havdala - "ata chonantanu" and "al ha-kos" - must be recited. See Berakhot 33a and Shulchan Arukh Ha-rav OC 294:2.

2. Are Women Obligated in Havdala?

The dispute over the nature of havdala, as to whether it is a Torah obligation or a rabbinic one, is not merely academic. One practical ramification is whether or not women are obligated to recite havdala. If havdala is a Torah obligation rooted in "remembering" Shabbat, then since women are required to "remember" Shabbat they are also obligated to recite havdala (see shiur #7). However, if havdala is a rabbinic obligation, it is possible to conclude that women are exempt from this mitzva. If the rabbis instituted that one must recite havdala at the conclusion of Shabbat, i.e., on a weekday, then havdala's character should be independent of the SHABBAT law which requires women to keep the positive commandments, including rabbinic ones, of Shabbat (see shiur #7). Therefore, women should be exempt from reciting havdala according to the general rule for time-bound mitzvot (see shiur #7). (See Orchot Chaim cited in Beit Yosef OC, end of siman 296, Pri Megadim ibid., MB 296:34, and Arukh Ha-shulchan OC 296:4.) Yet, it is still possible that even if havdala is a rabbinic obligation, it may be that the rabbis fashioned havdala similar to the laws of kiddush, thereby obligating women (see Maggid Mishneh ibid. and Arukh Ha-shulchan ibid.).

3. May women recite havdala?

A. Stringency of Rema

In practice, the Shulchan Arukh (296:8) rules that women are obligated in havdala just as they are obligated in kiddush; he does mention that there are some who disagree. However, the Rema (ibid.), based on Orchot Chaim who writes: "Women do not recite havdala for themselves," rules that while women are obligated to hear havdala, they should not recite it themselves. Apparently, the Rema is concerned that a woman who recites havdala would be in fact reciting a blessing in vain. Interestingly, this ruling of the Rema appears to contradict a legal precedent he himself established. He writes, in the context of mitzvat shofar (OC 589:6), that women who choose to perform time-bound mitzvot may recite the blessing for the mitzva. Why should havdala be any different?

B. Justification for the Rema's stringency

Acharonim are divided on how to explain this apparent contradiction in the Rema. The Magen Avraham (OC 296:11) understands that the Rema permits women to recite the blessing on time-bound mitzvot only when the mitzvot involve an action such as the mitzvot of shofar and lulav. However, when the time-bound mitzva is itself merely a blessing, as in havdala, they may not recite the blessing. The Magen Avraham suggests that perhaps this is the reason women do not have the custom to recite kiddush levana, as it does not involve an accompanying action. The Taz (OC 296:7) offers a different reason for the Rema's limitation. He suggests that women may recite a blessing for time-

bound mitzvot only on mitzvot which are a Torah obligation, such as shofar and lulav, but not on time-bound rabbinic mitzvot such as havdala.

C. Leniency of the Bach

The Rema's position that women may not recite havdala is disputed by R. Yoel Sirkis, author of the Bach (Bayit Chadash). R. Sirkis asserts (Bach OC, end of siman 296) that the Rema misunderstood Orchot Chaim who ruled: "Women do not recite havdala for themselves." Rather, asserts R. Sirkis, Orchot Chaim meant merely that women are not obligated to recite havdala; this does not mean that women are prohibited from reciting havdala if they choose to. The proof for this, asserts R. Sirkis, is that women may recite the blessing for mitzvat shofar and lulav, and may also make a zimun among themselves (see OC 199:6,7), even though they are not obligated to perform any of those mitzvot. Using this logic, women should also be able to recite havdala. [R. Sirkis notes, however, that the custom is that women are obligated in mitzvat havdala - a fact similarly true for mitzvat shofar]. Therefore, R. Sirkis rules that women may recite havdala for themselves even if there are men available to recite havdala for them.

D. Ruling of Early Acharonim

The Magen Avraham (OC 296:11) cites the Rosh in support of the Bach. According to the Rosh, there is apparently no limitation on women reciting blessings which do not contain the classic formulation of "ve-tzivanu" ("and has commanded us"). Since havdala does not contain this formulation, women should be able to recite it. In accepting the Bach's proofs, as well as support from the Rosh, the Magen Avraham rules against the Rema. He asserts that women may recite havdala for themselves over the wine (and the besamim as they are birkot ha-nehehin).

The Taz (OC 296:7), however, rejects the position of the Bach (his father-in-law) and rules in accordance with the Rema that women may not recite the havdala over wine. Nonetheless, he does permit women to say "ata chonantanu" in the amida motza'ei Shabbat since it is not a blessing unto itself.

E. Ruling of Later Acharonim

Among the later poskim, the Arukh Ha-shulchan (OC 296:5) argues vehemently and persuasively against the Rema's ruling which forbids women to recite havdala. Firstly, he writes, it is incorrect to claim that the reason women may recite a blessing over lulav is because it is a Torah obligation but they cannot recite havdala since it is merely a rabbinic one. In fact, lulav is a rabbinic obligation throughout all of Sukkot, except for the first day when it is a mitzva min ha-Torah, and women nonetheless recite a blessing on the lulav all of Sukkot. Secondly, he argues, it is incorrect to assert that women may recite a blessing over shofar but not havdala since shofar is a time-bound mitzva involving an action whereas havdala is merely a blessing. In fact, havdala does involve an action - one must drink the cup of wine! And, beyond that, there is no compelling reason to say that it makes a difference for women whether a mitzva involves an action or not.

Thirdly, asserts the Arukh Ha-shulchan, most poskim rule that havdala is a Torah obligation. Thus, not only are women obligated min ha-Torah to recite havdala, but they may even exempt men. Additionally, even if havdala is only a rabbinic obligation, some poskim rule that women are still obligated mi-derabanan to recite havdala and can exempt men. Finally, those who rule that women are exempt from havdala are merely a minority opinion. On the basis of these arguments, the Arukh Ha-shulchan rules that while it is preferable for women to hear havdala from men to fulfill all opinions,

nonetheless, if men are not available to motzi them, it is obvious that women must recite havdala for themselves.

This is also the ruling of Shulchan Arukh Ha-rav (OC 296:19), Mishna Berura (296:35,36), and R. Moshe Feinstein zt"l (cited in The Radiance of Shabbat, by R. Simcha Bunim Cohen shlita, p. 113, note 8). Interestingly, R. Akiva Eiger (OC 589:9) understands that this ruling is precisely the intent of the Rema.

F. Women and the Drinking of Havdala Wine

A problem is raised, however, with the ruling which allows women to recite havdala. The Magen Avraham (OC 296:4) cites the Shela, who rules, based upon kabbala, that women may not drink from the wine of havdala. How, then, may women recite havdala if they may not drink from the wine?! The Mishna Berura (296:35) explains that the Magen Avraham only accepts this stringency in an ideal situation (le-khatchila); however, where there are no men to recite havdala, women may say the havdala and drink the wine rather than missing the mitzva of havdala. Alternatively, the Arukh Ha-shulchan (OC 296:5) indicates that this stringency is not an actual law, but merely a custom, and that not everyone follows this custom. Furthermore, the author of Terumat Ha-deshen gave his wife havdala wine to drink (cited in Yalkut Yosef, vol. 4, Shabbat 1, p. 458, note 15). Moreinu Ha-rav Aharon Lichtenstein shlita similarly told me that it is permissible for women to drink from the havdala wine. For further research, see Be-ikvei Ha-tzon, by mori ve-rabi Rav Hershel Schachter shlita, no. 39, p. 269.

G. Procedure for Women who recite havdala

In general, a woman who recites havdala should follow the standard procedure. This is despite the fact there is some debate with regard to a woman reciting the blessing on the fire. The issue develops as follows. It appears that the blessing over fire on motza'ei Shabbat is unconnected to Shabbat since it commemorates Adam Ha-rishon's discovery of fire on the Saturday night following creation (Pesachim 54a). Since this blessing is an independent obligation from Shabbat, it falls into the category of time-bound mitzvot from which women are exempt. The Bi'ur Halakha (296:8, s.v. Lo Yavdilu) seems to reflect this opinion when he writes that women are not obligated to recite the blessing over fire.

However, some poskim interpret the Bi'ur Halakha's ruling as a prohibition against women reciting the blessing over fire (see for example Shoneh Halakhot 296:8). This prohibition could be based on a number of reasons. Perhaps, they argue, the Bi'ur Halakha is worried here about the position of Magen Avraham (ibid.) that women should not perform time-bound mitzvot which are composed entirely of a blessing. Alternatively, it is possible that the Bi'ur Halakha is concerned for the position of R. Akiva Eiger (cited in Bi'ur Halakha 298:5, s.v. Ein) who states that the recitation of an unnecessary blessing would be considered an interruption between the other blessings of havdala (see SSK. vol. II, 61:24, note 68).

However, most other poskim interpret the Bi'ur Halakha at face value: women are merely exempt, not prohibited, from reciting this blessing (see for example Yabi'a Omer, vol. 4; OC no. 24, par. 9). In fact, most poskim obligate women to recite the blessing over fire since it is not a blessing over a mitzva, but rather a birkat ha-shevach, a blessing praising God, which is equally relevant for men and women (see, for instance, Igrot Moshe EH vol. 4, no. 65, and Yabi'a Omer ibid.).

4. Yatza Motzi and the Gender Gap

A man who has already fulfilled his havdala obligation may recite havdala for other men (MB 297:13). The question remains, however, may a man repeat havdala specifically for women? The answer is that he may not recite havdala for women who are able to recite havdala themselves. The reason is that since, according to a minority view, women are not obligated to recite havdala, the mechanism of yatza motzi may not apply and a recitation of havdala by a man in this case might be a berakha le-vatala. While this is only a minority view, it is improper for someone to unnecessarily recite havdala where there is a measure of doubt regarding its efficacy (see MB 296:36). Accordingly, a husband who normally recites havdala at home for his wife should intend to not fulfill his obligation with the havdala recited in shul. With this in mind, he will still be obligated in havdala, and may recite havdala for his wife at home.

However, where a woman is unable to recite havdala herself, and the only one available to recite it for her is a man who has already said havdala, the man may recite havdala for her. This is because most poskim believe women are obligated in havdala and may benefit from yatza motzi. Since there is no alternative in this scenario, we rely on the majority opinion (Arukh Ha-shulchan OC 296:5 and apparently the ruling of MB ibid.).

Similarly, women should not recite havdala for men, since according to a minority view women may not be obligated in havdala. However, where a man is unable to recited havdala himself and no one else is available to exempt him, a woman may recite havdala for him. This is true even if she has already fulfilled her obligation of havdala.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #15: Havdala and Melaveh Malka - Part II

In the previous shiur we discussed the Torah obligation of havdala, its subsequent standardization by the rabbis, and the obligation of women to perform havdala. We now turn to the details and prohibitions surrounding the mitzva of havdala.

5. Eating and Drinking Prior to Havdala

It is prohibited to eat or drink after sheki'a (sunset) until one fulfills the havdala obligation - for men this includes both "ata chonantanu" and "al ha-kos," while for women it is limited to havdala "al ha-kos." However, one is permitted to drink water. (See OC 299:1, MB 299:35, Sha'ar Ha-tziyun ibid. 299:46, and MB 106:4. Compare with Rema 299:10 and Magen Avraham ibid. See, however, Shulchan Arukh Ha-rav 296:19 that women must daven ma'ariv motzaei Shabbat and recite "ata chonantanu." See also shiur #12 for the latest time one may begin eating se'uda shlishit.)

6. Work (Melakha) Prior to Havdala

In general, it is prohibited to perform all manner of work until one recites some form of havdala. This may be fulfilled by saying "ata chonantanu" in the ma'ariv amida, by reciting "havdala al ha-kos," or by merely stating: "Barukh ha-mavdil bein kodesh le-chol." (See OC 299:10 and MB 294:3. For further details regarding the prohibition of melakha prior to havdala, see the previous shiur.)

6. Havdala Al Ha-kos

A. The Proper Time

The custom is to recite havdala al ha-kos after ma'ariv (Biur Halakha 299:4, s.v. Mevarekh); however, one may say it before ma'ariv (Shulchan Arukh Ha-rav 294:1), after nightfall (tzeit ha-kokhavim) (MB 293:9 and Arukh Ha-shulchan 293:3). One who makes havdala this way is still required to recite "ata chonantanu" in his ma'ariv amida (Berakhot 33a and MB 294:1). One who forgets to say "ata chonantanu" and has already said "barukh ata Hashem" does not go back. The reason for this is one may rely on the havdala al ha-kos, which he will say, or has already said (OC 294:1).

[For further research: At times one may recite havdala prior to nightfall, although one may still not perform melakha until nightfall. When is this true? See OC 293:3 and 299:6 and MB ibid.]

B. The Procedure

We are required to escort out the Shabbat in the same respectful and festive manner that we ushered it in (Rashi Shabbat 119b s.v. Be-motzaei Shabbat and MB 300:2). Therefore, all who participate in havdala should be wearing Shabbat clothes and the table should be spread with a fine tablecloth. (See Rema OC 262:1 and MB 262:4,8.)

The custom is to fill the cup to the brim in order that a bit of wine will spill over when one lifts the cup; alternatively, one could fill the cup until some wine flows over. This is done to symbolize a blessing for bountifulness in the home at the start of the week. (See Rema OC 296:1, Arukh Ha-shulchan OC 296:11, and MB 296:5.)

When reciting havdala for oneself, one may stand or sit. However, when one is exempting others, it is best for everyone to sit. Nonetheless, some have the custom to recite havdala while standing even when exempting others; those who will be exempt should stand close to the mavdil. (See Rema OC 296:6, MB 296:27, and Bi'ur Halakha 213:1, s.v. Al.) It appears that today the widespread custom is to stand whenever reciting havdala (Igrot Moshe OC, vol. 5, no. 20, par. 17).

[For further research: The Bi'ur Ha-gra (OC 296:6) writes that one should sit while reciting havdala; however, in the Siddur Ha-gra it is attested that the Vilna Gaon stood while reciting havdala. In what way may we reconcile this contradiction? See Tosafot Berakhot 43a, s.v. Ho'il, Igrot Moshe OC, vol. 5, no. 20, par. 17, and The Radiance of Shabbat p. 126, note 7.]

The correct procedure is to raise the havdala cup in one's right hand while reciting havdala. Poskim are divided, though, as to whether one must hold the spices in one's left hand during the recitation of havdala (OC 296:6) or not (Arukh Ha-shulchan 296:17).

It is a widespread custom for the listeners to recite the verse "la-yehudim hayta ora ..." aloud prior to the mavdil saying it. When the mavdil concludes reciting "borei pri ha-gafen," he transfers the havdala cup to his left hand (OC 296:6); according to others he places the cup the down (Arukh Ha-shulchan 296:17), and holds the spices in his right hand. After the mavdil recites the blessing "borei minei besamim," he smells the spices and passes it around for each of the listeners to smell its fragrance. One does not fulfill the mitzva if one does not smell the besamim (MB 297:13). If necessary, one should smell the besamim (with a blessing if there was an interruption) after havdala (MB ibid. and SSK vol. 2, 61:8).

Poskim are divided as to the procedure for the next stage. According to some, the mavdil holds the cup in his left hand and prior to reciting the blessing on the fire, all participants, including the mavdil, examine the fingernails of the their right hand by the light of the havdala candle. As this is being done, the mavdil recites the blessing "borei me'orei ha-eish." (See Taz OC 298:2, Mishbetzot Zahav OC 298:2, MB 296:31.) Others rule, however, that PRIOR to inspecting one's fingernails the mavdil recites the blessing "borei me'orei ha-eish" while holding the cup in his right hand; after reciting the berakha, the mavdil transfers the cup to his left hand and all examine the fingernails of their right hand (Siddur Ha-Gra, Siddua Ha-Yavetz, Knesset Ha-gedola, cited in Mishbetzot Zahav OC 298:2, and Rav Moshe Feinstein zt"l in Igrot Moshe OC, vol. 5, no. 20).

The reason we examine our fingernails by the light of the ner is as follows. One should be close enough to the havdala flame to be able to differentiate between two kinds of coins. Since distinguishing fingernails from one's skin is considered akin to differentiating between coins, we have the custom to look at our fingernails (OC 298:3 and MB 298:9). The correct way to perform this custom is to close one's right hand and look at the nails, the adjacent skin and the palm of the hand, then open the hand and examine the nails again (Rema OC 298:3 and MB 298:11). Some examine their left hand as well. Nonetheless, this procedure is classified as a custom and even if one merely enjoyed benefit from the ner without examining one's nails one has fulfilled the obligation (MB 298:9 and see OC 298:4).

In a case where one hears the blessing on the ner without benefiting from the ner, there is some question as to whether one has fulfilled the mitzva bedi'avad. Some poskim are stringent, requiring one to benefit from the ner after the completion of havdala (and to recite a blessing over it in case one has made an interruption after havdala) (MB 297:13 and 298:13). Other poskim suggest that perhaps one has bedi'avad fulfilled the mitzva since the mavdil has benefited from the ner (Kaf Ha-chaim 298:22 and SSK, vol. 2, 61:23, note 62).

The mavdil continues the havdala while holding the cup in his right hand. At the conclusion of havdala, the mavdil sits and drinks the wine. Some have the custom to dip their fingers in the remaining or spilt, wine and then moisten their eyes and inside pockets with it. Some extinguish the fire in the spilt wine. See Rema OC 296:1.

Those listening to havdala should not speak until the mavdil has drunk a melo lugmav (a cheekful - see later) from the havdala cup. If one does speak, it is possible that he has not fulfilled his obligation. Thus, one should not say "shavu'a tov" (have a good week) until after the proper amount has been drunk. (See Igrot Moshe OC vol. 4, no. 70.) Moreover, one should not recite the blessings over besamim or ner while havdala is being recited (MB 297:14).

One who hears the paragraph of "ha-mavdil bein kodesh le-chol," but not the blessing over wine, has nonetheless fulfilled the mitzva of havdala (MB 296:33).

Poskim debate whether one can recite havdala for another person via the telephone. Rav Moshe Feinstein zt"l rules one can rely on this form of havdala only in pressing circumstances; obviously, one should have already said "barukh ha-mavdil bein kodesh le-chol, or "ata chonantanu" (Igrot Moshe OC vol. 2, no. 108 and OC vol. 4, no. 91:4). See, however, Tzitz Eliezer, vol. 4, no. 26:2 and Yabia Omer, vol. 1, OC no. 19:18 which rule stringently on the matter.

If one forgot to recite havdala al ha-kos motzaei Shabbat one can still recite havdala up until sheki'a on Tuesday but without using spices and fire (OC 299:6).

One who has already fulfilled havdala may recite havdala again to exempt others, provided they do not know how to perform the havdala. If they do know how, it is best that they recite havdala. However, bedi'avad, if there is reason to, one who has already fulfilled havdala may recite it again for others. See MB 296:32, 297:13, OC 273:4, MB 273:20, and Bi'ur Halakha ibid. s.v. Ve-hu. In this case, the mavdil recites the havdala including the blessing over wine and besamim, but not over ner; rather, one of the other participants should recite the blessing over ner. See SSK vol. 2, 60:14, 61:6,22.

C. The Wine

If one has wine and chamar medina (such as beer and whiskey - see end of shiur #8) available, it is best to use wine for havdala (Shulchan Arukh Ha-rav 296:8, MB 296:8, and MB 182:7). Even if one does not have wine at home, but can get it elsewhere in town, though it may be expensive, this wine is considered "available" and one should procure it for havdala (Bi'ur Halakha 296:2, s.v. Im hu). When using wine, one must use a cup containing a revi'it (about 3.3 fluid ounces - see end of shiur #9) and drink a melo lugmav (a cheekful) (OC 296:3 and MB 296:23). However, since drinking only a cheekful creates a situation where there is a doubt whether one must recite a berakha acharona (a concluding berakha), it is best to drink a full revi'it to satisfy all opinions requiring a berakha acharona (MB 296:6).

In the event that no wine is available or one prefers chamar medina over wine, one can use chamar medina for havdala (OC 296:2 and Bi'ur Halakha ibid. s.v. Im hu). Even in this case, it is preferable to use a cup containing a revi'it and drink a melo lugmav. Nonetheless, some poskim rule that when using liquor for havdala one is merely required to fill a shot glass and drink a small amount. See end of shiur #8. One cannot, however, recite havdala on lechem (OC 296:2).

Preferably, the mavdil should be the one to drink the required amount from the havdala cup. However, bedi'avad, if one of the other participants drank the required amount instead (including a minor who has reached the age of chinukh, understanding), or if the other participants divided the required amount among themselves, even though the mavdil did not drink at all, the mitzva has been fulfilled. One may recite havdala, though, with the intention that he will merely taste the wine and then give it to someone else to drink the required amount. SSK, vol. 2, 60:37.

D. The Besamim (Spices)

There are a variety of reasons given for the mitzva of smelling besamim motzaei Shabbat. Among them is that upon the departure of Shabbat one loses the added dimension to one's soul supplied by Shabbat. For relief, we are instructed to smell spices on Saturday night (see Tosafot Beitza 33b, s.v. Ki havinan, Rashbam Pesachim 102b, s.v. Ve-shmuel, and Tosafot ibid. s.v. Rav). For further research: See Rambam, Laws of Shabbat 29:29, Tur OC, siman 297, and Or Zarua, vol. 2, no. 292.

All natural spices, whether from grass, bushes, or trees are suitable for besamim. It is questionable, however, whether one may recite a blessing on synthetic, or even natural, perfume. It is thus proper that one not use such substances for this mitzva (OC 216:6, MB 216:32, and SSK, vol. 2, 61:12, note 32).

If one does not have besamim available, one may recite havdala without them, omitting the blessing on the spices (OC 297:1). If they subsequently become available, prior to dawn of Sunday morning, one should recite the blessing over them. (See OC 298:1 and MB 298:3.)

One who does not have a sense of smell should not recite the blessing over the spices (OC 297:5).

E. The Ner (Fire)

The blessing over fire on motzaei Shabbat commemorates Adam Ha-rishon's discovery of fire on Saturday night following creation. This discovery was facilitated by Hashem instilling Adam with the knowledge to creating fire by striking two stones together (Pesachim 54a and MB 298:1). See Pirkei De-rabbi Eliezer, chap. 20 for another reason for this mitzva.

It is best to use a fire that resembles a torch (avuka). This is defined by two flames joined together. This is accomplished by using a multi-wicked candle or by holding two candles or matches together so that their flames unite. Nonetheless, a singe flame is acceptable, bedi'avad. See OC 298:2 MB 298:8.

If one does not have a flame, one can use an incandescent bulb. See end of shiur #5.

If one does not have a suitable ner available, one may recite havdala without it, omitting the blessing on the ner. If it subsequently becomes available, prior to dawn of Sunday morning, one should recite the blessing over it. See OC 298:1 and MB 298:3.

A blind person should not recite the blessing over the ner (OC 298:13)

II. Melaveh Malka

It is a mitzva upon men and women to "escort the Shabbat queen" (melaveh malka) after the conclusion of Shabbat and havdala. This is accomplished by eating, minimally, a kezayit (olive size) of bread along with meat or some other cooked dish soon after havdala, but not past midnight. It is commendable to cook a special dish for the melaveh malka. In a case of need, one may eat cake or other forms of mezonot, or even fruit and fulfill the mitzva. (See Shabbat 119b, Rashi ibid. s.v. Be-motzaei Shabbat, OC 300:1, MB ibid., Machatzit Ha-shekel no. 300, Ma'aseh Rav no. 16, Tosefot Ma'aseh Rav no. 39, and Eshel Avraham no. 300.)

It is proper to avoid becoming involved in chores or projects prior to eating the melaveh malka (MB ibid.). Some have the custom to wear their Shabbat clothes for the melaveh malka as well (Kaf Ha-chaim 300:6).

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #16: Issur Melakha and the Shabbat Day of Rest – Part I

I. Introduction

The Jewish people, by observing Shabbat, continuously affirm their sanctity and their eternal covenant with Hashem. This is expressed, in part, by performing certain obligations, such as kiddush, se'uda, and havdala. Hashem, though, also demands that the Jewish people rest and refrain from melakha (work) on Shabbat. What does this entail?

When encountering the topic of "issur melakha," the prohibition to do work on Shabbat, one must deal with an apparent inconsistency. On the surface, it seems that the type of work forbidden on Shabbat is limited to physical and strenuous labor, as the pasuk states: "Do not perform melakha (work)" (see Shemot 20:10 and Devarim 5:14). Clearly, however, this is not the case, as even plucking a blade of grass can be defined as melakha. Thus, melakha is not synonymous with toil. Violation and desecration of the Shabbat can occur with even the most casual of actions.

Yet, physical toil is prohibited on Shabbat for a different reason. Beyond the prohibition to perform melakha, the Torah informs us that Shabbat is a day of "shabbaton" (a solemn day of rest - Shemot 16:23) and one must "tishbot" (rest - Shemot 23:12). This requires one to maintain the Shabbat as a day of rest (menucha) from strenuous activities, even though they may not be defined as melakha (Shabbat 24b and 114b, Rambam Shabbat 21:1, Maggid Mishneh ibid., and Ramban Vayikra 23:24).

Thus, moving heavy furniture around one's home, while not considered melakha, would be a Torah violation of "shabbaton." It is even possible that the tedious task of keeping one's business open, though not necessarily arduous, may violate the Torah command to rest (see Ramban ibid. and Chatam Sofer EH, vol. 2, no. 173 and CM no. 195). Thus, according to Torah law, one must refrain from both strenuous and tedious activity as well as from melakha on Shabbat.

Rabbinic legislation prohibits other forms of activity; these include 1) acts which undermine the spirit and sanctity of the Shabbat; 2) acts which resemble melakha; and 3) acts which may lead to Torah violations. We will discuss these categories in a later shiur.

II. The 39 Forbidden Categories of Work (Avot Melakhot)

The Torah prohibition of melakha forbids 39 categories of work (avot) and their corollaries (toladot), (see Mishna Shabbat 73a and Yerushalmi, end of chap. 7). Most of these prohibited activities do not involve extreme physical exertion and 38 of the primary categories are not even mentioned in the Torah she-bikhtav (the Written Law). What, then, is the source and nature of prohibited work on Shabbat?

Immediately after Hashem commanded us to build the mishkan (Tabernacle) and all its vessels, He enjoined us to keep the Shabbat, as the Torah says: "My Shabbatot you shall keep" (Shemot 31:12). Further on in the Torah, the command to keep Shabbat is placed immediately prior to the details involving building the mishkan (Shemot 35:1-3). From the juxtaposition of the mishkan and Shabbat in these verses, as most Rishonim understand, Chazal derived that the 39 primary categories of work involving the building of the mishkan are forbidden on Shabbat (see Shabbat 49b, Rashi ibid. s.v. Ke-neged, and Rashi Shemot 31:13).

The rationale for this derivation lies in the message implicit in this juxtaposition. Hashem is instructing us that although He commanded us to build the mishkan, we must cease from the activities involved in building it upon the arrival of Shabbat (Mekhilta, beginning of parashat Vayakhel, and Rashi Shemot 35:2). Chazal called these primary categories "Avot" (lit. fathers) because of their distinction of being associated with the building of the mishkan (Bava Kama 2a).

For further research: Some Rishonim understand the derivation of 39 primary categories of work on Shabbat differently. See Rashba Shabbat 49b, and Ran Shabbat 74a, s.v. Amar Abaye.

Rishonim debate which aspect of the mishkan serves as the blueprint for prohibited work on Shabbat. Most Rishonim understand, based on Shabbat 73b, that it is the actual building of the mishkan (hakamat ha-mishkan). Some Ge'onim rule that it also includes the service performed in the mishkan (avodat ha-mishkan), such as aspects of the sacrificial order. This latter position seems to be generally that of the Yerushalmi, as well (see Yerushalmi Shabbat 10:3). For further research: See the introduction of the Eglei Tal, note 1 and 2; "The Debate between the Talmudim with regard to Melekhat ha-mishkan," by R. Yakov Genack in Alon Shevut vols. 132 and 133; and Encyclopedia Talmudit "avot ve-toladot."

III. Toladot (Corollaries)

Rishonim are divided on how to define a tolada. One opinion asserts that any form of work not associated with the building of the mishkan but similar to such work, i.e. to an av, either in form or purpose, is called a tolada, a corollary (Tosafot Shabbat 96b s.v. U-leRabi Eliezer and gemara Shabbat 73b with Rishonim). Thus, an av melakha does not prohibit merely a particular act, but rather serves as an illustration of prohibited activities (Rambam, Commentary on Mishna, Shabbat 7:2). See Vayikra 4:2, Bava Kama 2a, Tosafot ibid. s.v. Hakhi garsinan, Shabbat 70b, Rashi ibid. s.v. Mei-heina, and Rambam Shabbat 7:9.

For further research: Some Rishonim introduce a third category of melakha, called mei-ein melakha achat (a melakha equivalent to an av), aside from avot and toladot. A melakha is categorized this way when both its action and purpose resemble an av, or when both the object upon which it acts and its purpose resemble those of an av. According to this view, such a melakha can have toladot as well. It is not counted as an av because its form was not present in the mishkan. See Rambam Shabbat 7:9, Rashi Shabbat 73b s.v. Kulan, and Kalkelet Shabbat of Tiferet Yisrael. Compare with Mishna Shabbat 7:1.

The only practical implication in the existence of distinct categories of avot and toladot is with regard to the obligation to sacrifice a korban chatat (a sin offering). That is, if one violates two different avot melakhot be-shogeg (unknowingly - see next section), then he is obligated to bring two sin offerings. However, if one violates one av and a tolada of that av be-shogeg, then he is obligated to bring only one sin offering. See Bava

Kama 2a and Rambam Shabbat 7:7. Since we cannot bring sacrifices today, there is no practical difference nowadays between avot and their toladot.

IV. Punishment for Violation of Avot and Toldot

Purposeful violation on Shabbat of one of the 39 melakhot or their corollaries, when there has been an accompanying warning and witnesses present, is punishable by the penalty of death through stoning (sekila), as the Torah says: (Shemot 31:14) "He that profanes it (i.e. the Shabbat) shall surely die." This refers to death by stoning, since the Torah records (Bamidbar 15:32-36) that the gatherer of wood on Shabbat received the penalty of death by stoning for violating the prohibition of hotza'a (carrying in a public domain) on Shabbat. See Rambam Shabbat 1:2.

Purposeful violation of a melakha, where there has been no warning or no witnesses present, incurs the penalty of karet (spiritual excision or premature death), as the Torah states: (Shemot 31:14) "For whoever shall do work (on Shabbat), his soul shall be cut off." If melakha was done be-shogeg (unknowingly) i.e. one did not know that the particular act was forbidden on Shabbat, or one did not know that the day was Shabbat, in the times of the beit ha-mikdash (Temple) there was an obligation to bring a sin offering (korban chatat). This is based upon an established principle that all acts which incur a penalty of karet when done purposefully require a sin offering when committed be-shogeg (Shabbat 69a). See Rambam Shabbat 1:2.

Sometimes a person can be obligated to bring two sin-offerings for one act. This occurs when one action violates two melakhot on Shabbat. For instance, zomer ve-tzarikh le-eitzim, i.e. if one prunes a tree to both encourage its growth and use the branches for firewood, he has violated both the melakhot of sowing and reaping. If this was done be-shogeg, he must bring two sin offerings. See Rambam Shabbat 8:4.

[For those studying the laws of Shabbat from the primary texts, be advised that there are three types of terms employed in the sources with regard to liability or permissibility of activities on Shabbat. "Chayav" refers to an act prohibited according to the Torah. "Patur" refers to an act exempt according to Torah law, but liable according to rabbinic law. "Mutar," "patur mi-klum" and "eino chayav klum" refer to acts which are completely permissible. See Rambam Shabbat 1:3,4.]

V. Minimum Amount Required for Violation

Every melakha has a minimum amount required to incur the above penalties of stoning, karet, or bringing a sin offering. If one does less than this amount there is no penalty, but a violation has nonetheless been committed. The nature of this violation is either a Torah one called "chatzi shiur asra Torah" (the Torah forbids even less than the required amount), or a rabbinic one springing from a concern that in doing only part of the amount, one may ultimately achieve the full amount and profane the Shabbat.

For further research into "chatzi shiur asra Torah:" See Yoma 74a, Shabbat 93b, Rambam Shabbat 18:23, Rashi Shabbat 74a s.v. Ve-khi mutar, OC 340:1, Sha'agat Aryeh no. 81, Tiferet Yisrael on Mishnayot Shabbat chap. 1, note 4 in the Boaz, Magen Avraham OC 340:2, and Biur Halakha ibid. s.v. Al shnei sa'arot.

VI. Definition of Melakha

In order for an action on Shabbat to be defined as melakha, it must be identified as "melekhet machshevet" (thoughtful or purposeful work), in other words "melekhet uman" (craftsmanship). See Beitza 13b and Rashi ibid., s.v. Ele mai. This is because the type of work prohibited on Shabbat is derived from the categories of work in building

the mishkan, and the labor in constructing the mishkan is characterized as melekhet machshevet (Shemot 35:33). In other words, not only does the work involved in building the mishkan tell us which melakhot are forbidden on Shabbat, but also they serve as a model for how the melakhot must be done on Shabbat to be considered a Torah violation.

Thus, one does not violate a Torah prohibition if one's actions on Shabbat do not meet the standards of melekhet machshevet. Nonetheless, in many instances, there is still a rabbinic violation (see next shiur). In order that one's actions be defined as melekhet machshevet, the following conditions must be fulfilled; a more detailed explanation will follow in the next shiur:

1. The purpose of the action must be to achieve the melakha's goal - a melakha she-eina tzrikha le-gufa fails this condition;

2. The action must be performed in a manner where one is aware of the deed being accomplished - mit'asek fails this condition;

3. One must have intended for the result he caused to occur - davar she-eino mitkaven fails this condition;

4. It must be done in the normal manner - shinui fails this condition;

5. It must be done for a constructive purpose - derekh kilkul, a destructive action, fails this condition;

6. It must be permanent in nature - davar she-eino mitkayem fails this condition;

7. It must be done completely, i.e. a complete melakha - shnayim she-asua, two people dividing up a melakha fails this condition;

8. It must be done in a direct manner - grama, indirect action, fails this condition.

If any one of these eight conditions are not fulfilled, then no Torah violation has occurred; in many cases, though, a rabbinic violation has occurred. The next shiur will discuss these principles in greater detail and present instances in which one has failed to meet the requirements of melekhet macheshevet.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #17: Issur Melakha and the Shabbat Day of Rest - Part II

In the previous shiur it was mentioned that one does not violate a melakha min ha-Torah unless the eight conditions of melekhet machshevet (craftsmanship) are simultaneously satisfied. If any one of these eight conditions is not fulfilled, then no Torah violation has occurred. In many instances, though, one's actions may be sufficient to violate rabbinic law even in the absence of these conditions. The following is a discussion of instances in which one has failed to meet the requirements of melekhet macheshevet.

1. Melakha she'eina tzerikha le-gufa

Typically, according to halakha, one is forbidden to perform any prohibited act, regardless of one's motivation for accomplishing the act. For instance, the Torah prohibits eating non-kosher food even if one were to eat the food in order to hide it from someone. But what is the rule on Shabbat, where there is a requirement for "craftsmanship?" Is there a Torah violation if a person performs one of the 39 melakhot on Shabbat for a purpose other than the goals of that act in the building of the mishkan? Can a melakha, that occurs as a byproduct of trying to accomplish that which is not a melakha be defined as melekhet machshevet?

Tannaim (Shabbat 93b) are divided in this case. R. Shimon rules that there is only a rabbinic violation, while R. Yehuda considers it to be a Torah violation. The vast majority of poskim accept the lenient view of R. Shimon, and thus the halakha is that such an act is considered a rabbinic prohibition (Tur OC 278, 316, 334, OC 316:8, and MB 316:34 and MB 278:3). However, Rambam Shabbat 1:7 and Yeraim no. 274, among others, rule stringently in accordance with R. Yehuda. Rishonim equivocate as to what is the ruling of the Rif (see Ramban and Rashba on Shabbat 93b).

For further analysis: The Vilna Gaon (OC 340:1) feels that Shulchan Arukh rules stringently like R. Yehuda, since Shulchan Arukh (OC 340:1) asserts that it is a Torah prohibition to cut one's fingernails on Shabbat, and Tosefot understands this case as eina tzerikha le-gufa. But many rishonim understand that cutting one's nails is tzerikha le-gufa, and thus one cannot bring a proof from Shulchan Arukh's ruling. Furthermore, elsewhere (OC 316:8), the Vilna Gaon understood that Shulchan Arukh rules leniently like R. Shimon, since Shulchan Arukh asserts that trapping for no purpose is a rabbinic prohibition. The Biur Halakha (340:1 s.v. ve-chayev) points out this apparent contradiction within the Vilna Gaon, and explains that the Vilna Gaon was actually of the opinion that it is difficult to tell what Shulchan Arukh rules, and was merely highlighting the differing emphases in Shulchan Arukh. This seems to be also the approach of Eliyahu Rabba (OC 301:29) and Arukh ha-Shulchan (OC 316:19, OC 334:2,3,4, OC 340:6). Yet, Magen Avraham (OC 316: 17, and 340:1) and Mishna Berura (MB 316:34, MB 334:84,85, and Biur Halakha 316:8 s.v. ve-ha-chovel) seem to take for granted that melakha sheina tzerikha le-gufa is merely a rabbinic prohibition.

For further research: See gemara Chagiga 10b and Rashi, Shabbat 93b s.v. ve-R' Shimon.

Although a melakha she'eina tzerikha le-gufa is considered merely a rabbinic prohibition, it is the most stringent rabbinic prohibition of Shabbat. For example, although certain rabbinic prohibitions may be performed during bein ha-shmashot for the needs of Shabbat (OC 342), a melakha sheina tzerikha le-gufa is prohibited (MB 342:1). See also MB 278:3 with regard to extinguishing fire for one who is sick with a non-life threatening illness.

What is an example of a melakha she'eina tzerikha le-gufa? There are many opinions in Rishonim as to the definition of this concept and the cases included therein. Three basic positions are:

1. Subjective - It is when one is not entirely happy, satisfied, or reconciled with the outcome, e.g. taking a dead body out of the house which involves the melakha of carrying (hotzaa); you do not want it in the house, but you do not want it outside either - Rashi (Shabbat 93b, s.v. ve-rav shimon poter).

2. Objective - It is when the purpose of the act is not the same as the purpose in the mishkan. Thus, Tosefot rule that cutting nails and hair is a melakha she'eina tzerikha le-gufa, since the in the mishkan the wool was cut in order to be used, not to be discarded (Shabbat 94a, s.v. rabi shimon poter). (Rivash thinks that cutting nails and hair is asur min ha-Torah because in the mishkan there was also a value in merely shearing the wool, inasmuch as this assisted in the use of the skins of the sheep.

3. Subjective/Objective - It is when the act has a purpose in the positive sense, as opposed to an act which merely removes or prevents damage - Ramban and Chachmei Sefard, ibid. Some Geonim rule that removing a dead body which has created a foul odor in the house is a melakha she'tzerikha le-gufa. Perhaps they understand that preventing damage is eina tzerikha le-gufa, whereas removing present damage is tzerikha le-gufa.

Poskim appear to differ on how to rule. The Taz (OC 278) cites Rashi's explanation, whereas Magen Avraham (ibid.) cites that of Tosefot. Nonetheless, all poskim agree that digging an unwanted hole in the ground in order to have a mound of dirt is a melakha she'eina tzerikha le-gufa, as this satisfies all definitions. The same can be true of extinguishing a fire, capturing a dangerous animal, or carrying an unwanted item from a private domain to a public one.

An example of a practical implication of this law, that a melakha she'eina tzerikha le-gufa is prohibited merely midrabanan, is asking a non-Jew to turn off the lights in your bedroom so that you may go to sleep. The law is that shvut de-shvut be-makom mitzva (a rabbinic violation within a rabbinic violation for the sake of a mitzva) within certain parameters is permitted, and this is such a case. Inasmuch as turning off lights constitutes a melakha she'eina tzerikha le-gufa and is thus forbidden rabbinically, and furthermore, asking a non-Jew to perform melakha is a rabbinic violation (the laws of which will be dealt with in a later shiur), and finally, going to sleep on Shabbat is a mitzva of oneg Shabbat (enjoying Shabbat), there exists here a shvut de-shvut be-makom mitzva.

2. Davar She-eino Mitkaven

Tannaim differ in a case where one violates a melakha on Shabbat without the intention of doing that melakha, e.g. one drags a bench upon the ground in a situation where this might or might not create a furrow. (Digging a furrow is a Torah violation of the av melakha of plowing.) Conceptually, this is a case of performing permitted action "A" which in fact results in forbidden action "B", although it was unclear that action "B" would be the necessary outcome. According to R. Yehuda, a violation has occurred in such a case, (see below), while R. Shimon rules that no violation has occurred at all. Amoraim,

also debate this issue, with Rav accepting the opinion of R. Yehuda and Shmuel subscribing to the opinion of R. Shimon. The gemara rules leniently in accordance with R. Shimon, and this is indeed the halakha. See Beitza 23b, Shabbat 41a-42a, 46b and 95a, Rambam, Shabbat 1:5,6, and OC 337:1.

For further research:

A. Scope of leniency

1. See Levush (337:1), who understands that R. Shimon in fact only allows davar she-eino mitkaven with regard to rabbinically proscribed actions, but forbids it with regard to Torah proscribed actions. See Mishna Brura 337:1 that this position has been rejected by the poskim, and R. Shimon's leniency applies to Torah proscriptions as well.

2. Rishonim differ as to whether davar she-eino mitkaven is permitted only for Shabbat prohibitions (Sheiltot cited in Tosafot Shabbat 110b s.v. talmud, and Shita Yeshana in Shita Mekubetzet Ketubot 5b, p. 28; see also MB 320:53, Kritot 19b, and Torah Temima, Shemot 35:33) or even for general prohibitions (Ri cited in Tosafot Shabbat 110b s.v. talmud, Rosh Shabbat 14:9 and Rambam, Kilayim 10:16, Nezirut 5:14; see Shabbat 81b and Bekhorot 34a). See also Chiddushei Ha-Grach al Ha-Rambam Shabbat 1:10.

B. Opinion of R. Yehuda

While Rishonim appear to agree that according to R. Yehuda one violates Torah law in cases of davar she-eino mitkaven with regard to general prohibitions, they differ as to whether R. Yehuda understands that a Torah violation also occurs on Shabbat in a case of davar she-eino mitkaven, or merely a rabbinic one.

Those who understand that according to R. Yehuda there is a Torah violation for Shabbat as well are: Ramban, end of Milchamot Hashem, Shabbat 124b, Rashba, Shabbat 133a, and in Shita Mekubetzet Ketubot 6a, Ritva Yoma 34b, Rosh Shabbat 12:1, Meiri Shabbat 95a, and Maggid Mishna Shabbat 1:7 and 12:2. Those who understand that according to R. Yehuda there is merely a rabbinic violation on Shabbat in this case are: Tosefot Shabbat 41b s.v. meicham, Tosefot Yoma 34b, and Rabbeinu Avraham ben Ha-Rambam, Birchat Avraham no. 19, p. 33. A difficult opinion to establish is that of Rashi who seems to contradict himself – see Shabbat 121b and Yoma 34b.

While some Rishonim, such as the Sefer Yereim (siman 274), limit R. Shimon's lenient ruling to situations where there was only one way of performing action "A", most authorities rule that we are lenient even when an alternative manner of action "A", one which would certainly not lead to forbidden action "B", exists. Accordingly, even if one deliberately chooses a manner of performing action "A" which might lead to forbidden action "B", and forbidden action "B" indeed occurred, one is completely exempt. See Beit Yosef, OC 337, and Shulchan Arukh 337:1. However, where one intends at the outset to benefit from the possible occurrence of forbidden action "B", rishonim agree that R. Shimon would rule stringently, inasmuch as action "B" is no longer unintentional. See Rambam, Ma'akhalot Assurot 14:12 and rishonim on Pesachim 26a.

Some practical implications of this law, that davar she-eino mitkaven is mutar, are:

1. Unintentionally backing into a light switch – This case, according to the Kaf Ha-chaim (OC 277:4), is precisely one of davar she-eino mitkaven, and no violation has occurred since the permitted act "A" of backing into a light switch might or might not cause prohibited act "B", i.e. turning on/off the light. This is of course forbidden to do with the intent to turn on/off the light, as noted above.

2. Opening refrigerator doors – Even where one opened a refrigerator door and caused the motor to immediately turn on, no violation has occurred since the motor of a refrigerator does not always start immediately upon opening the door, and it is not one's intention to turn on the motor when opening the door.

The next shiur will discuss the laws of davar she-eino mitkaven pesik reisha, i.e. unintended forbidden act "B" which will definitely result from permitted act "A."

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #18: Issur Melakha and the Shabbat Day of Rest - Part III

The previous shiur discussed the laws of davar she-eino mitkaven, i.e. where intended, permitted act "A" yields unintended prohibited act "B". According to the halakha, one is not liable in such a case where prohibited act "B" might or might not have occurred as a result of permitted act "A". However, what is the law in a case of a davar she-eino mitkaven pesik reisha, i.e. where unintended, prohibited act "B" will DEFINITELY occur as a result of permitted act "A", such as turning on the light in a refrigerator by opening the refrigerator door?

The term "pesik reisha" is a rabbinic catch-phrase for something that will definitely occur, and derives from the phrase of the gemara: "pesik reisha ve-lo yamut," "cut off its (the chicken's) head and let it not die." The case revolves around one who wants to decapitate and use the head of a chicken for some purpose, and does not intend to kill the chicken thereby. According to the gemara (Shabbat 75a), all agree in such a case that one is liable since permitted act "A" (cutting off the head of a chicken) will inevitably lead to unintended prohibited act "B" (the killing of the chicken, which is forbidden under the av melakha of slaughtering, shochet).

While some authorities rule that there has been only a rabbinic violation in this case (Taz OC 340:2 and Ma'amar Mordechai 316:10), most rishonim and poskim rule that a Torah violation has occurred. Nonetheless, these rishonim and poskim rule that a Torah violation has occurred in this case only when unintended prohibited act "B" is "nicha lei," i.e. of BENEFIT to the one who performed the action. In a case where one has no benefit from act "B", "davar she-eino mitkaven pesik reisha De-LO nicha lei," they understand that a rabbinic violation has occurred. See Rambam, Shabbat 1:6, Tosefot and Rosh (Shabbat 103a), and Ramban and Ran (end of Shabbat, chap. 14), Ritva (Sukka 33b), Tur (OC 320), Beit Yosef (OC 320), Shulchan Arukh (OC 320:18) and MB 320:52,55, and Sha'ar Ha-tziyun 320:53.

A minority of rishonim and poskim rule that where one has no benefit from act "B", no violation has occurred at all (Arukh, cited in Tosefot Shabbat 103a, Ravyah vol. 1, Mesechet Shabbat, no. 194, Rabbeinu Yerucham, netiv 12:14, and apparently R. Eliezer Me-metz, in Sefer Yereim, no. 102, as well as Rambam according to Reb Chaim Brisker in Chidushei Ha-grach al Ha-Rambam Shabbat 10:17, Mishpatei Uziel, OC 19, Reb Chaim Brisker, cited by Rabbi S.Z. Reiger in Hapardes, v. 3, 1934). See also Ha-amek Sheilah, Sheilta 105, note 5.

Although we are not lenient on the basis of this minority opinion alone, we do utilize it in conjunction with other grounds for leniency. For instance, one drank a cup of hot tea on Shabbat, and some droplets remaining at the bottom cooled down. May one refill this cup with hot water from the urn, or does one violate the prohibition to cook on Shabbat by heating up the cold droplets of tea?

R. Moshe Feinstein zt"l (Igrot Moshe OC, vol. 1, no. 93, and OC vol. 4, no. 74, laws of bishul note 19) writes that it is permitted. His reasoning is that while in practice we treat previously cooked liquids, which have cooled, as raw food subject to the prohibition of cooking, nonetheless, inasmuch as in principle (but not in practice) most authorities are lenient in this regard, and this is a case of davar she-eino mitkaven pesik reisha de-lo nicha lei, as one does not intend to heat up the droplets and gains no real benefit from it, since they are only droplets, one may be lenient. Similarly, see MB 321:57.

What is the rationale of the position that one is liable for performing melakha on Shabbat in a case of davar she-eino mitkaven pesik reisha de-nicha lei? Rishonim differ; some are of the opinion that in this case one is considered to have intended to cause the prohibited act (Rashi, Sukka 33b, and Tosefot, Shabbat 42b), while others understand that although the melakha is unintended, the individual is aware that his actions will result in a melakha, and this awareness itself imposes liability (Rabbeinu Chananel, Shabbat 133a).

For further research: Rishonim and Achronim disagree as to whether pesik reisha is liable whenever the forbidden by-product is inevitable (Rabbeinu Chananel, Shabbat 111b, Mordechai, Shabbat, no. 329, and MB in Sha'ar Ha-tziyun 316:32), or only where there is no other way to accomplish the desired goal without also violating a melakha, but if there is another way, then even choosing the method which inevitably violates the melakha is considered mutar (Rashi, Zevachim 91b, Rashba Shabbat 107a). See also Shiltei Gibborim, Shabbat 38a in Rif, note 3.

What remains unclear from the gemara is the law regarding an instance where performing permitted action "A" inevitably causes RABBINICALLY prohibited unintended act "B" that is nicha lei, of benefit. For instance, if one intends to move a heavy bench indoors and in doing so drags it through the yard making a furrow (constituting a rabbinic violation as the furrow was created in an unusual manner) or if one intends to open a refrigerator door and in doing so turns on a fluorescent light inside (which is also a rabbinic violation – to be discussed in a later shiur), has there been a violation?

Some authorities are lenient and consider no violation to have occurred even though it is nicha lei (Trumat Ha'deshen, no. 64 and 67, Rambam, Shabbat 25:5, Rabbeinu Tam in Sefer Ha-yashar, no. 233, and Meiri, Shabbat 29b and R. Akiva Eiger, cited in Chatam Sofer YD 140 [see, however, MB 314:11], and others cited in Yabia Omer 4:34 OC and Yalkut Yosef, Shabbat vol. 5, p. 233, note 13), while most others are stringent (Rashba, Shabbat 120b, Ritva, Ketubot 6b, Magen Avraham 314:5, Eliyahu Rabba 314:22, Gra 314:1, Shulchan Arukh Ha-rav 337:1, and MB 314:11).

What emerges, then, is that the vast majority of later poskim rule that one is liable whether the pesik reisha de-nicha lei occurred in the context of a Torah or rabbinic prohibition, the former being a Torah violation and the latter a rabbinic one.

For further research: While we are generally stringent when there is a pesik reisha de-nicha lei, there are instances where poskim do use pesik reisha as a factor in establishing a leniency, even when nicha lei, as in certain cases of amira le-nochri (asking a non-Jew to perform melakha) such as asking a non-Jew to open a refrigerator causing the light inside to turn on. Or safeik safeika (double doubt). See MB 253:99, MB 314:11, Yabia Omer 4:34 OC, ibid. 5:28, note 1, OC, and Yalkut Yosef, Shabbat vol. 5, p. 233, note 13.

The next shiur will discuss the law regarding of a common case: davar she-eino mitkaven pesik reisha De-LO nicha lei in the context of a RABBINIC prohibition, e.g. motion detectors.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #19: Issur Melakha and the Shabbat Day of Rest - Part IV

In the previous shiur we discussed the prohibition to perform a "pesik reisha de-lo nicha lei," an action the inevitable consequence of which is a Shabbat violation, despite the fact that one does not desire this tangential outgrowth, in the context of a Torah proscription. As an addendum to this law, it is important to note that some halakhic authorities rule that this is only true when one merely does not care about the outcome of the act; however, where one is actually unhappy about the outcome - i.e. some harm is done - a pesik reisha is permissible (Tosefot, Shabbat 103a, and Me'iri, Shabbat 29b). Other posekim argue, asserting that even in such a situation pesik reisha is forbidden in the context of a Torah violation (Tosafot, Shabbat 78a), and this indeed appears to be the ruling of the later posekim (see Chazon Ish 51:14).

For further study:

1. Is lo nicha lei defined objectively as an outcome that people generally do not view as a benefit, or subjectively as a result that the person in consideration does not view as a benefit? See Minchat Shlomo, by Rav Shlomo Zalman Auerbach, pp. 548-549, where he adopts the former option; however, compare this with Bei'ur Halakha 320:18, who might accept the latter opinion. The practical difference is whether opening a refrigerator door, which will turn on a light, is considered lo nicha lei when one closes his or her eyes.

2. Is lo nicha lei defined leniently as an act which will yield no benefit on Shabbat, or stringently as an act which will never, under any circumstances, yield a benefit? See Yalkut Yosef 4, vol. 5, pp. 201-202, note 19, where Rav Ovadya Yosef seems to prefer the former opinion. The practical difference is whether turning on the motor of a refrigerator through a pesik reisha is considered lo nicha lei, since even if the motor would not go on during Shabbat the food would remain unaffected until sometime after Shabbat. The former approach would consider it lo nicha lei, whereas the latter opinion would consider it "nicha lei" or desirable.

What is the law in a case of a pesik reisha de-lo nicha lei in the context of a rabbinical violation? This is a major dispute amongst the posekim. Many halakhic authorities are lenient in this case and permit it, for an assortment of reasons. For instance, Tosafot (Shabbat 103a, s.v. Lo tzerikha) explain that a pesik reisha de-lo nicha lei is rabbinically forbidden in the context of a Torah prohibition, since, were it permitted, one might come to perform a pesik reisha where there is benefit and thereby violate a Torah prohibition. However, the Sages did not see fit to prohibit a pesik reisha de-lo nicha lei in the context of a rabbinical prohibition, since it is unnecessary to prohibit an action that might lead to a rabbinical violation. See also Tosafot, Shabbat 41b, s.v. Meicham and Maharsham 5:48, as well as Be'er Yitzchak, appendix to chapter 15, who rules leniently where there is no other alternative.

Other lenient opinions assert that this case is an instance of sefeik sefeika le-kula (double doubt in favor of leniency), inasmuch as some posekim rule that a pesik reisha de-lo nicha lei is permitted even in the context of a Torah prohibition, and many other decisors rule that as pesik reisha in the context of a rabbinical prohibition is permitted. Thus, since two different lenient rulings overlap in this case, a majority of posekim emerge with a permissive ruling. See Yechaveh Da'at 2:46.

Most Sephardic posekim, and many Ashkenazic posekim, rule leniently in this case, on the basis of one of the above rationales; see Yabi'a Omer 4:34. Such a position leads to the following leniencies: One may walk past video cameras and LED or LCD motion sensors (the operations of which are all rabbinical prohibitions) where one accrues no benefit. See Journal of Halacha and Contemporary Society, no. 21, Spring 1991, "The Use of Electricity on Shabbat and Yom Tov" by Rabbi Michael Broyde and Rabbi Howard Jachter, pp. 10-11, and ibid. no. 23, Spring 1992, "Modern Technology and the Sabbath" by Rabbi Michael Broyde, p. 79.

Nonetheless, many posekim, such as Magen Avraham (316:8), Dagul Mei-revava (340:3), and Chazon Ish (50:5), argue with the above position, and rule stringently, forbidding a pesik reisha de-lo nicha lei even in the context of a rabbinical prohibition. This also seems to be the opinion of the Rema (316:3). [For further research: While the Mishna Berura is quoted as concurring with this position (see Rabbi Shimon Eider, Halachos of Shabbos, III F 8, note 91), he himself, in fact, appears to equivocate on the matter. See MB 321:57 and Sha'ar Ha-tziyun 68; Sha'ar Ha-tziyun 337:2,10; and MB 340:17.]

Mishna Berura (MB 316:15 and Sha'ar Ha-tziyun 316:18) explains in the name of the Peri Megadim, however, that this stringent opinion would generally permit a pesik reisha de-lo nicha lei in the context of two intersecting independent rabbinical prohibitions, such as covering a large crate that contains flies.

Let us take a moment to explain this example. In the first place, the flies we encounter are generally not of the type usually captured and therefore, catching them is forbidden only rabbinically; beyond this, flies are not considered completely trapped in a large crate, because one must still exert effort to catch them, and thus using a large crate to trap small prey - even those creatures normally hunted - is prohibited only rabbinically. Therefore, since one is uninterested in catching the flies, but only in covering the crate, the action is a pesik reisha de-lo nicha lei in a case of two independent rabbinical prohibitions.

See also Sha'ar Ha-tziyun (337:2), who cites the Rema in 316:3 as agreeing with this position. For further research, see MB (314:11) and Chazon Ish (52:15, 56:4), who discuss the parameters of permitting this configuration, as in some cases the custom is to forbid a pesik reisha de-lo nicha lei even in a case of three intersecting rabbinical prohibitions.

While it appears that, according to those who rule stringently in the application of a pesik reisha de-lo nicha lei to a rabbinical prohibition, it would be forbidden to walk past a video camera, a possible leniency has been suggested (see Modern Technology and the Sabbath, pp. 80-81). There is a tradition, cited in Shulchan Arukh (OC 320:18), to rely on the opinion of the Arukh, who allows a pesik reisha de-lo nicha lei even in the context of a Torah prohibition, when there is at least a minority opinion which allows the intentional performance of a given action.

For instance, many modern posekim allow the raising or lowering of current in an electrical appliance (Yabi'a Omer 1:19; SSK 23:52; Be'er Moshe Kuntres Electricity #56; "The Use of Electricity on Shabbat and Yom Tov," ibid. pp. 34-35). While we do not rely on this lenient opinion in practice, it would seem one may rely on it in a case of pesik reisha de-lo nicha lei. Based on this premise, it would also emerge that it is theoretically permissible to turn electrical appliances on and off (where no incandescent lights are lit, as such a result involves a separate issue beyond the problem of utilizing a circuit), in a manner that is a pesik reisha de-lo nicha lei, since there is a minority opinion which allows this action even when done deliberately. (See "The Use of Electricity on Shabbat and Yom Tov," ibid. pp. 20-21.)

Next time, we will discuss the case of sefeik pesik reisha. Such a cases arises, for instance, if one does not remember if the light-bulb in a refrigerator was disconnected before Shabbat, and he or she now wants to open the door: is this action permissible? We will address this and the other instances of sefeik pesik reisha in our upcoming shiur.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #20: Issur Melakha and the Shabbat Day of Rest - Part V

What is the law in the case of a "safek pesik reisha," i.e. a possible case of pesik reisha, such as where one does not remember if he or she disconnected the light-bulb in the refrigerator before Shabbat; may one open the refrigerator door on Shabbat in such a case?

Many halakhic authorities are lenient even in the context of a melakha forbidden by Torah law, considering safek pesik reisha to be comparable to a classic davar she-eino mitkaven, as the prohibited resulting action may or may not occur. According to this opinion, one may open the refrigerator door in the above case. [See Ramban in his Milchamot Hashem, Shabbat 41b, Tosafot ibid. s.v. Meicham, Ran ibid., Me'iri ibid., Magid Mishna Shabbat 12:1, and Taz OC 316:3; Shevitat Ha-shabbat, "General Rules of Davar She-eino Mitkaven," par. 7 and 8, and apparently Eglei Tal, "Choresh," 22:21 and 20:11, believe the Taz's leniency applies even to Torah melakhot.]

The Bei'ur Halakha (316:3 s.v. Ve-lakhen), however, is only willing to apply the leniency to actions forbidden according to rabbinical law, on the basis of the principle of safek de-rabanan le-kula (we are lenient in doubtful cases of rabbinical institutions). This is also the ruling of Rav Shimon Eider in Sefer Hilkhot Shabbat, III F 6. According to this opinion, one would not be able to open the refrigerator door inasmuch as causing an incandescent light to turn on is a Torah violation. A strong argument could be made, however, to allow opening the door if the light were fluorescent, the opening of which, according to many, is only a rabbinical prohibition.

Other posekim are stringent at all levels of violation, as they distinguish between safek pesik reisha and davar she-eino mitkaven (Rav Akiva Eiger YD 87:6, and Shulchan Arukh Ha-Rav 277:1, "Kuntres Acharon"). They argue that these cases are not comparable, inasmuch as davar she-eino mitkaven only occurs in cases where the uncertainty lies with the action itself, e.g. "Will pulling this chair create a furrow or not?" while safek pesik reisha occurs in cases where the nature of past actions is unknown, e.g. "Was the light-bulb disconnected or not?" Thus, in their opinion, in cases of safek pesik reisha, since the doubt is merely in our knowledge of the situation but not in the action, one must be stringent.

We have discussed until now the case of pesik reisha. We must now ask: is there a difference between "pesik reisha" and "karov le-pesik reisha" (an action which will almost certainly yield a forbidden act)? According to the vast majority of posekim the answer is no, and in both cases it is forbidden. Thus, it is forbidden to open a door opposite a candle when the wind will almost certainly extinguish the flame. See Shabbat 120b; Yerei'im, no. 102; OC 277:1; Bei'ur Halakha 277:1 s.v. Shema; and Sha'ar Ha-tziyun 320:49.

For further research:

See Rambam Shabbat 1:6, Tosafot Shabbat 101a, Rashba Ketubot 5b, and Ritva ibid., who state that wherever it is possible that the act will not yield a prohibited act, even if only as a result of unlikely circumstances, it is not considered to be a pesik reisha. This is not a contradiction to the above halakhic ruling that karov le-pesik reisha is considered pesik reisha. The Rivash (no. 394) explains that one must distinguish between situations where although the prohibited act will probably occur, it is reasonable that the prohibited act may not happen, even if due to something unlikely, which is not considered pesik reisha; and where it almost certainly will occur, and it is unreasonable for it not to happen, which is considered a pesik reisha. In other words, is the likelihood that a violation will result considered to be beyond a reasonable doubt or not?

What is the law in the case of a pesik reisha occurring through the medium of gerama (indirect forces)? For instance, if one spills water in a private domain without intending that it should travel anywhere else, and due to the laws of gravity (and not due to the force of the spill), it flows into a public domain, has one violated the prohibition of hotza'a (transporting from a private to a public domain); or if it flows onto the grass, has one violated the prohibition of zeri'a (planting and enhancing plant growth)? Does the fact that this pesik reisha (unintended certain occurrence) was caused by indirect forces (gravity) provide grounds for leniency? It appears that posekim are lenient in such cases based on the mishna in Eruvin 88a, and Rashi ibid. s.v. Shofekhin. Rav Moshe Feinstein zt"l is quoted as being lenient in this case, since it is merely a pesik reisha caused by gerama (Rav Shimon Eider, Sefer Hilkhot Shabbat, V C 5, note 36), and Rav Shelomo Zalman Auerbach zt"l (Sefer Minchat Shelomo, no. 10, letter 6) appears similarly lenient in suggesting this rationale, amongst others, for permitting the opening of refrigerators on Shabbat even when it will indirectly lead to the turning on of the compressor. We will discuss the opening of refrigerators in a later shiur.

What is law with regard to causing a pesik reisha to occur through a non-Jew? Although in general one is prohibited from asking a non-Jew to perform melakha for a Jew ("amira le-nochri" – these laws will be discussed in a later shiur), one is generally permitted to ask a non-Jew to perform a permissible act which will definitely yield a secondary prohibited act, i.e. a pesik reisha (Rema OC 253:5; Magen Avraham 253:41, 277:7 and 314:5; MB 253:99; Sha'ar Ha-tziyun ibid. note 104). The reason for this leniency is that the non-Jew is not considered to be acting as an agent to perform a prohibited act, but is rather being directed to perform the primary, permitted act (Shulchan Arukh Ha-rav 253:10).

Therefore, where one cannot open a refrigerator on Shabbat because doing so will turn on the light inside, one may ask a non-Jew to open the door, even though this will definitely yield a melakha. (Turning on an incandescent light is generally considered to be a violation of the melakha of mavir, creating a fire). See Igerot Moshe OC, vol. 2, no. 68. Other similar questions regarding refrigerators will be discussed in a later shiur. Similarly, one may ask a non-Jew to remove an item, such as a book or glasses, from one's car, provided there is an eruv, even though this inevitably cause the lights to go on in the car. (Other similar questions with regard to amira le-nochri will be discussed in a later shiur.)

Before concluding the topic of davar she-eino mitkaven, it is important to understand how it is different from a melakha she-eina tzericha le-gufa, which we discussed previously, since various configurations of davar she-eino mitkaven, in particular, combined with other factors, may yield leniencies, as described earlier. To put the question into other terms, how is the permitted act of unintentionally creating a furrow by dragging a light bench from the sun to the shade (a case which is not "pesik reisha") different than the rabbinically forbidden act of digging a hole in order to use the sand to fill up sandbags?

The answer is that in the latter case one actually intends to perform the action of the melakha (i.e. creating a cavity in the ground), although not for the melakha's purpose (i.e. to improve the ground for planting), while in the former case one does not even intend to perform the action of the melakha (i.e. plowing). See Kesef Mishna Shabbat 1:7.

This distinction, however does not apply in a case of davar she-eino mitkaven when it is pesik reisha de-nicha lei (an act which inevitably will lead to a melakha that one will derive benefit from), such as dragging a heavy plow over a fertile field to bring it into a shed, which is prohibited according to Torah law. This case is treated more stringently than a melakha she-eina tzericha le-gufa since it is considered to involve not only intent (Tosefot Shabbat 42a s.v. Afilu and Yoma 34b s.v. Hani mili) or awareness (Rabbeinu Chananel Shabbat 133a) to perform the action of the melakha, but even the intent to achieve the melakha's purpose as well, i.e. improving the ground for planting.

How do we view, though, a case of pesik reisha de-lo nicha lei (i.e. the resultant melakha will yield no benefit), which is forbidden only rabbinically; is it different than a melakha she-eina tzericha le-gufa? Some posekim understand that in fact a pesik reisha de-lo nicha lei is precisely a melakha she-eina tzericha le-gufa, i.e. an intended action for a purpose other than that found in the Mishkan (Tosafot Shabbat 42a. s.v. Afilu). Others, though, distinguish between them (Arukh in Tosafot Ketubot 6a s.v. Hai), considering pesik reisha de-lo nicha lei to be an unintended act. See Derush Ve-chiddush Rav Akiva Eiger, essay 10, no. 8.

The next shiur will address the laws of mitasek, one who commits an inadvertent melakha, such as unintentionally turning on a light on Shabbat.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #21: Issur Melakha and the Shabbat Day of Rest - Part VI

We have discussed until now two of the eight possible ways to fail meeting the conditions of melekhet machshevet: melakha she-eina tzerikha le-gufa and davar she-eino mitkaven. Let us now turn to a third situation that does not fulfill the standards of craftsmanship: mitasek, inadvertently performing a melakha.

Mitasek is a case in which one unknowingly and unintentionally performs a melakha because one is preoccupied (mitasek) with some other activity (Rashi, Shabbat 72b, s.v. Ve-chatakh). Although a mitasek, as opposed to a shogeg, may be aware that the given day is Shabbat and that melakha is forbidden, he or she is exempt from punishment and from bringing a korban because the prohibited act was performed unawares. (Poskim agree, however, if the action has the status of a shabbat violation; see next shiur.) Essentially, a mitasek fails to meet the criterion of melekhet machshevet since that classification is reserved for a case in which a craftsman performs work in accordance with the directions provided by his or her mind. A mitasek, on the other hand, refers to a situation where the mind and the action are uncoordinated. See Shabbat 72b and 97b; Rashi and Tosafot, Shabbat 72b, s.v. Nitkaven; and Rambam, Shabbat 1:8 and 13:21.

What is the nature of this lack of coordination between mind and action? Generally, violation of melakha includes consciousness and intent to act upon a given object (1. "guf"), to achieve a given act (2. "ma'aseh"), in a certain way (3. "ofen"), while aware of the physical circumstances (4. "matzav") of the act which characterize the act as forbidden. Where any one of these elements is absent, as we will describe below, the act is defined as mitasek by different poskim.

Examples of mitasek include:

1. UNCONSCIOUS ACTS

a) A sleeping person, while rolling over, turns on the lights (missing 1-4).

b) A person walks into a room and with an unconscious knee-jerk reflex turns on the light (missing 1-3). This case requires some discussion. Poskim dispute whether this case is an instance of mitasek. Some believe that it is really a shogeg, and that the action of turning on the light came about because one momentarily forgot it was Shabbat (Ha-rav Ovadya Yosef in "Yalkut Yosef" #4, Shabbat, Vol. 3, 318:23 and n. 3; and R. Herschel Schachter, from a conversation with him, Jan. 5, 2000). Others are of the opinion that this is a case of mitasek, (Ha-rav Aharon Lichtenstein, R. Ezra Bick, R. Daniel Wolf, and R. Mordechai Willig, from conversations in January 2000).

A possible proof for the opinion that this case is shogeg can be found in the gemara on Shabbat 12b. The gemara there states that one who accidentally tilts an oil lamp on Shabbat, while engrossed in learning, in order to improve the illumination is obligated to bring a korban chatat, which indicates that it is a case of shogeg. Is not our case analogous to the gemara's? Yet, one may counter that tilting an oil lamp involves some

thought, and thus it could only be accomplished by one who momentarily forgot it was Shabbat, and not through a knee-jerk response. Our case, though, deals with one who through a conditioned response performed the simple action of turning on the light switch. This, one may argue, is not shogeg, but mitasek.

An important implication to this debate is whether one may benefit from the illumination of the light. If the act is considered a shogeg, then we are generally stringent with regard to benefiting from melakha forbidden by Torah law (such as turning on an incandescent light) even if it is performed by a shogeg, unless there is a genuine need, in which case we are lenient (OC 318:1, and MB 318:7).

However, if the act is considered a mitasek, then it depends on whether a mitasek commits some violation, despite the exemption from a korban chatat, or none at all (see next shiur). If it involves a violation, then one is forbidden from benefiting, as above; if, on the other hand, it incurs no violation, then benefiting from it is clearly permitted. It would appear that if the act is considered a mitasek, the halakha is that one may be lenient and benefit from it. See "Yalkut Yosef" #4, Shabbat, Vol. 3, no. 318, n. 30, and Vol. 5, p. 223, par. 3 and n. 3.

2. LACK OF MOTOR COORDINATION

a) A person who reaches for an object on the grass, and inadvertently pulls up grass instead (normally a violation of "kotzer," reaping; missing 1-3).

b) A person who intends to kick or throw an object only a short distance in a public domain, and unintentionally kicks or throws it 4 "amot," i.e. about eight feet, (normally a violation of "hotza'a," carrying; missing 2 and 3).

c) A person who intends to pluck an apple and accidentally plucks a nearby pear instead (Keritot 19b-20a; Rashi ibid.; Rambam, Shabbat 1:8,9; missing 1). However, Rishonim dispute whether the situation where a person who intends to pluck apple "A" and accidentally plucks apple "B" is considered mitasek (Rashi, Keritot 19b, s.v. Afilu; Pesachim 33a s.v. She'im; Ra'avad, Shabbat 1:10) or is not, making one liable (Rambam, Shabbat 1:10; Tosafot, Keritot 19b, s.v. Lashon). The disagreement hinges on whether one considers acting upon a different but identical object (guf) a failure in craftsmanship. The normative ruling appears to be that this case is mitasek (Chayei Adam 9:8). For further research see Lechem Mishna, Shabbat 1:10.

d) A person intends to pluck a fig and then a grape, but accidentally plucks a grape and then a fig (Rambam, Shabbat 1:9; missing 3).

3. PREOCCUPATION

a) A person who leans against a wall to rest and unintentionally turns on the light switch. (missing 1-4).

4. MISTAKEN IDENTITY

a) A person thinks that he or she is picking up a detached vegetable when in fact the vegetable is still attached to the ground (missing 2-4).

b) A person thinks that he or she is cutting a detached vegetable when in fact the vegetable is growing from the ground (missing 4). Rishonim dispute whether this last category is mitasek (Tosafot, Shabbat 72b, s.v. Mitkaven; Pesachim 33b s.v. Nitkaven; Sanhedrin 62b, s.v. L'hagbiah; Magid Mishna, Shabbat 1:8, Ramban cited ibid.) or shogeg (Rashi, Keritot 19b, s.v mitasek, and Rambam, Shabbat 1:8). The normative

ruling appears to be that this category is mitasek (SSK, Vol. 3, in the section "Mevo Le-hilkhot Shabbat", p.21, no. 29).

The next shiur will discuss whether or not mitasek incurs some violation, and whether or not one must prevent mitasek on Shabbat by, for example, taping up one's light switches.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur No.22: Issur Melakha and the Shabbat Day of Rest - Part VII

The previous shiur discussed how mitasek does not fulfill the conditions of melekhet machshevet (craftsmanship), and the variety of instances which may be defined as mitasek. What remains unclear is whether a mitasek act is considered a violation of Shabbat and whether one must take precautions to avoid the occurrence of mitasek.

Must one take preventative measures to avoid the occurrence of mitasek by one's own hand on Shabbat, and must one take action to prevent another Jew from performing a melakha unawares? For instance, is one obligated to tape up his light switches or warn others that there is a motion detector which will turn on a light, or a video camera, or a tape recorder in the vicinity? It would seem that this question depends on whether some violation has occurred in performing a prohibited act unawares, i.e. as a mitasek. While all agree that mitasek exempts one from bringing a korban chatat, poskim dispute as to whether some violation has nonetheless occurred in the performance of a prohibited action in a mitasek manner.

R. Akiva Eiger ("Teshuvot R. Akiva Eiger," 1st ed., no. 8) argues that general mitasek (prohibited acts other than Shabbat, performed unawares) is considered a violation, and merely exempts one from bringing a korban chatat, while melekhet machshevet mitasek of Shabbat involves a rabbinical violation, but not a Torah violation. He further distinguishes within mitasek cases of Shabbat (based on Tosafot, Shabbat 72b, s.v. Nitkaven) between the performance of an intended action on Shabbat without knowledge of the situation (e.g. intending to cut a detached vegetable and discovering afterwards that it was attached) and failing on Shabbat to perform the intended action (e.g. intending to pick up a detached vegetable, and instead accidentally plucking an attached vegetable).

According to R. Akiva Eiger, the former case fulfills the requirements of melekhet machshevet; yet, although the intended action was realized, the act nonetheless falls into the GENERAL category of mitasek since it was performed unawares. One is therefore exempt from bringing a korban, but has still committed a Torah violation. The latter case, in which the intended action was not realized, falls into the narrow category of Shabbat mitasek, which does not reach the level of melekhet machshevet, and thus no Torah violation has occurred, only a rabbinical one. See also Arukh Ha-shulchan, OC 242:25.

On the other hand, many poskim are of the opinion that generally in cases of mitasek, whether on Shabbat or for other prohibitions, no violation has occurred at all (R. Ya'akov of Lisa, the Netivot, in his "Mekor Chayim," OC 431:1; the Rav zt"l, Rabbi Joseph B. Ha-levi Soloveitchik, in his "Shiurim Le-zekher Abba Mori z"l," Vol. 1, p. 30, n. 58 and "Mesora," Vol. 5, pp. 25-26; R. Yo'el Teitelbaum, the Satmar Rebbe, in his "Divrei Yo'el," 2:107). In support of this opinion, see Rambam, Hilkhot Issurei Bi'a 1:12, Ra'avad ibid. and Kesef Mishna ibid., as well as Rashi, Ramban, and Me'iri on Shabbat 72a, and Rashi on Pesachim 33a. See also R. Chayim Ozer Grodzinski, in his "Achi'ezer," 3:57; Chayei

Adam, Shabbat 9:8; Eglei Tal, "Kotzer," 24:14; "Shevitat Shabbat," p. 16. For further discussion, see "Yalkut Yosef" #4, Shabbat, Vol. 5, p. 223, par. 3 and n. 3.

[It should be noted that when shown the opinion of the Rav zt"l recorded in the "Shiurim Le-zecher Abba Mori z"l," Ha-rav Aharon Lichtenstein remarked that it was odd, inasmuch as he clearly recalled the Rav treating R. Akiva Eiger's opinion as a genuine possibility. One resolution may be that the Rav in "Shiurim Le-zecher Abba Mori z"l" was working with the opinion of Rambam, whereas R. Akiva Eiger was discussing the opinion of Tosafot. It is also possible that the Rav would agree that mitasek commits a violation where one is cognizant of what one is doing, but unaware of the current situation, as where one knows that one is carrying but thinks that the eruv is operative when it is not.]

For further research, see Keritot 19a and Pesachim 33a; Rashi ad loc.; Tosafot, Shabbat 72b, s.v. Nitkaven; Rambam, Hilkhot Shegagot 7:11; "Teshuvot R. Akiva Eiger," no. 8; and "Sefer Avi'ezri," Shegagot 7:11.

Accordingly, it would seem that R. Akiva Eiger, who believes some violation has occurred through mitasek, would advocate preventing mitasek, while others, who understand that no violation at all has occurred, would not attempt to prevent its occurrence. If so, R. Akiva Eiger's view would seem to be the correct approach in light of the following rulings.

Firstly, the mishna on Shabbat 11a rules that it prohibited according to rabbinical law to go out into a public domain ("reshut ha-rabbim") when it is almost Shabbat while carrying an object. This prohibition is apparently designed to prevent one from carrying unknowingly on Shabbat, i.e. an act of mitasek in the melakha of "hotza'a" (carrying). Furthermore, continuing in this theme, the gemara (Shabbat 12a) establishes that one is obligated according to rabbinical law to check one's pockets prior to Shabbat. Again, this is apparently to prevent one from carrying unknowingly on Shabbat.

Secondly, the mishna (Shabbat 11a) further rules that it is prohibited according to rabbinical law to read near an oil lamp, since perhaps one will come to tilt it to improve the illumination, which would be apparently a mitasek act of the melakha of "ha'avara" (creating a fire).

Finally, if the eruv is down, the Mishna Berura (365:40) rules that one must inform others of this fact to prevent them from carrying while unaware that it is down – again an apparent act of mitasek in the context of hotza'a (carrying).

If there is no violation in mitasek, why are we so keen to prevent it? It would seem that R. Akiva Eiger is unassailably the correct one.

One may counter that these cases cannot serve as proofs to R. Akiva Eiger inasmuch as they intend to prevent a situation of shogeg and not mitasek. Namely, it could be that one is prohibited from carrying in a public domain immediately prior to Shabbat and that one is required to check one's pockets immediately prior to Shabbat to prevent a shogeg violation; one may forget it is Shabbat, know full well that there is some object in his or her pocket, and walk outside. Indeed, this is Tosafot's explanation of the mishna (ibid. s.v. Shema), and it is accepted as normative by the Arukh Ha-shulchan (OC 252:17). See, however, MB 252:52-54.

Similarly, with regard to the prohibition of reading near an oil lamp on Shabbat, it could be argued that the act of tilting an oil lamp while one is engrossed in reading is a case of shogeg; one may forget that it is Shabbat because one is absorbed in a book. This explanation seems more reasonable, since the act of tilting an oil lamp requires some thought, and thus one is more likely to accomplish it having forgotten that it is Shabbat, rather than as a result of some preoccupation. Furthermore, since this prohibition is in

the same mishnaic context as the prohibition of carrying in a public domain prior to Shabbat, which is a shogeg situation according to Tosafot and Arukh Ha-shulchan, it is reasonable to assume that it too is a case of shogeg, and not mitasek. Finally, it seems clear from the continuation in the gemara Shabbat 12b that this is a case of shogeg, since the gemara says that one who accidentally tilts the lamp because he was engrossed in his learning will have to bring a korban chatat. This clearly indicates that it is not a case of mitasek, but rather one of shogeg.

Finally, it can be argued that one is required to tell others that the eruv is down since carrying while not realizing the eruv is down is a shogeg, inasmuch as one is cognizant of one's actions, i.e. that he or she is carrying an object, while unaware of the situation. However, one would perhaps not be obligated to prevent someone from performing a melakha as a mitasek.

Indeed, it is possible to argue that there can be no rabbinical legislation to prevent a mitasek which fails melekhet machshevet, since such a mitasek, even according to R. Akiva Eiger, is only a rabbinical violation, and the rule is "ein gozerin gezeira le-gezeira;" there can be no rabbinical legislation passed upon previously existing rabbinical prohibitions (see Tosafot, Shabbat 11a, s.v. Shema, and Arukh Ha-shulchan, OC 252:17).

However, Ha-rav Aharon Lichtenstein once suggested that even if the normative ruling was that mitasek committed no violation, against R. Akiva Eiger, it is possible that one should still prevent its occurrence on Shabbat in the context of Torah-proscribed melakhot. This would be true because actions of melakha, prohibited by their very nature of being melakha, may cause chillul (profanation) of the sanctity of Shabbat even when they do not conform to melekhet machshevet. See shiur No.1: Introduction.

Therefore, it would seem that one is not obligated by halakha to take advance precautions such as covering light switches, to prevent mitasek (aside from the precautions cited above), since the cases above seem to be preventing a situation of shogeg, not mitasek. Furthermore, even were we to interpret that they are precautions against mitasek, we are not empowered to form new gezeirot. (See Responsa Maharam Schick oc no.157). Nonetheless, it is an excellent idea to cover light switches, since it can prevent possible shogeg or mitasek violations (according to R. Akiva Eiger) or any chillul shabbat.

However, when one can directly prevent a person from performing melakha as a mitasek, such as preventing someone from accidentally leaning against a light switch, one should do so. This is because many poskim take the position of R. Akiva Eiger that mitasek does commit a violation; furthermore, we should strive to minimize any acts of chillul shabbat.

To take another case, must one warn others not to open a refrigerator whose light has not been disabled? Similarly, must one warn others that there is a motion detector which will turn on a light, or a video camera which will record their image, or a tape recorder which will record their voice, in the vicinity? Based upon the above, it would seem that one should issue a warning in such circumstances. Yet there may be room to distinguish, inasmuch as these cases are acts of mitasek performed through a pesik reisha, an act with an inevitable consequence of melakha, rather than a direct melakha.

R. Shlomo Zalman Auerbach zt"l, in his ("Minchat Shlomo" 1, p. 549), asserts that in a case of mitasek performed in the context of pesik reisha de-lo nicha lei, an inevitable but undesired consequence, it is possible that one may allow the mitasek to occur even according to R. Akiva Eiger. Thus, if one would consider refrigerator lights, motion detectors and recordings of a video camera and tape recorder as pesik reisha de-lo nicha

lei, then there may be room to allow the mitasek to occur. However, R. Auerbach is concerned that perhaps mechanisms designed in this manner are considered direct action, not pesik reisha.

The next shiur will discuss other methods and instances which do not fulfill the conditions of melekhet machshevet, and may therefore be used to engineer leniencies under certain conditions.

The Laws of Shabbat
By Rabbi Yosef Ben David

Shiur #23: Issur Melakha and the Shabbat Day of Rest - Part VIII

SHINUI

1. Introduction

We have discussed until now three of the eight possible ways to fail meeting the conditions of melekhet machshevet – melakha she-eina tzrikha le-gufa, davar she- eino mitkaven, and mitasek. Let us now turn to a fourth situation that does not fulfill the standards of craftsmanship – shinui (deviation) or ke-le'acher yad (lit. back of the hand), which refers to performing melakha in an unusual manner. See Rashi, Shabbat 153b, s.v. ke-le'acher yad.

Performing a melakha on Shabbat in an unusual manner from which it is normally performed during the week does not incur a Torah violation, but is forbidden rabbinically. (Rambam, Shabbat 11:14, OC 301:7, 328:35, Shulchan Arukh Ha-rav 301:2, and Chelkat Mechokak EH 123:5.)

Examples of performing melakha through a shinui include performing the melakha of hotza'a (carrying an object from a private domain to a public one or vice versa, or the distance of four cubits in a public domain) by carrying an object, usually carried by hand, in one's mouth (Shabbat 92a), or performing the melakha of koteiv (writing) by writing with the left hand when one normally writes with the right hand (Shabbat 103a and mishna ibid. 104b).

2. Application

Poskim dispute, however, whether it is permitted, in instances involving illness (such as a choleh she-ein bo sakana – one who is suffering from a serious but non-life threatening illness) to perform a melakha, forbidden by the Torah, in the manner of a shinui. The simple reading of many Rishonim (such as Ramban in Torat Ha-adam 4a and Rashba Shabbat 129b) leads one to conclude that it is permitted (Eglei Tal no. 38, note 10, p. 93b, and Yalkut Yosef, vol. 4, Shabbat #4, no. 328, note 12).

Indeed, this lenient ruling is declared normative by the Shulchan Arukh Ha-rav (328:19), the Ketzot Ha-shulchan (134:4), the Eglei Tal (melechet tochen, no. 18, and no. 17, par. 38, note 10) and many other poskim (see Yalkut Yosef ibid.). Some poskim even extend the leniency to situations of intense pain or serious financial loss (Eglei Tal, Choresh 12:8). This seems to be based on the understanding that shinui is a very lenient form of rabbinic stricture (Rashi, Pesachim 66b, s.v. she-yesh, and Chazon Ish, OC 56, end of note 4, Eglei Tal, Dash, 17:34 in notes). It appears, though, that this leniency may be employed only when preferable alternatives, such as employing a shinui on a rabbinic prohibition or asking a non-Jew to accomplish the act, cannot be utilized (Yalkut Yosef ibid.).

However, other poskim understand the Rishonim differently. They claim that these Rishonim were not discussing melakhot forbidden by the Torah but, rather, rabbinic prohibitions, and thus it is only with regard to rabbinic violations involving an ill person that a shinui may be employed. Indeed, this is the ruling of the Taz, Magen Avraham, and Vilna Gaon (MB 328:57) and the Mishna Berura (Sha'ar Ha-tziyun 496:9) based on the simple reading of the Shulchan Arukh OC 328:17. [See, however, Megillat Sefer (no. 27, note 4) who asserts that there is in fact no debate, and all agree that where a fundamental differeally, on Shabbat we are commanded "shamor ve- zakhor," observe and remember (see Shemot 20:8 and Devarim 5:12; and Shevuot 20b and Berakhot 20b). The Torah also informs us that Shabbat is a day of "shabbaton" (a solemn day of rest - Shemot 17:23). We are also enjoined to observe "kavod ve-oneg Shabbat" (the honor and delight of Shabbat); commentators debate whether this is a biblical or rabbinic command. (See Rambam, Laws of Shabbat, chap. 30, Ramban Shemot 20:8 and Vayikra 23:2.) While "shamor" refers to issur melakha, forbidden work, "zakhor" (see Ramban Shemot 20:8) and "shabbaton" (see Ramban Vayikra 23:24; gemara Shabbat 114b; however, see also Rambam Sefer Ha-mitzvot, positive commandment 157) refer to the positive mitzvot associated with the sanctity of Shabbat. For example, "zakhor" demands that one sanctify Shabbat through kiddush, while "shabbaton" requires one to maintain the Shabbat as a day of rest, even from 5a. See also Chazon Ish 56:4, Yabia Omer vol. 5, 33:3, and SSK 33:2, n. 17 and 17*.]

3. Definition

A significant issue in the mechanics of shinui is whether it is sufficient for the shinui to take place merely in the manner that the melakha is normally implemented, or must it also affect the outcome of the melakha. For instance, when a right handed person writes with his left hand, not only is the form through which the action takes place different, but generally the outcome – the appearance of the writing - is affected as well. However, what would the law be if a right handed person creates letters and words, while writing in an unusual manner, e.g. with his left hand, that are identical to the letters and words he writes in the normal manner?

Rabbi Avraham Borenstein writes in his Sefer Eglei Tal (Intro. #3) that while outside the realm of Shabbat this type of shinui would not affect the definition of the act, on Shabbat no Torah violation has occurred (though it is forbidden rabbinically) inasmuch as melakha on Shabbat must meet the high standards of melekhet machshevet which require normal performance of the melakha. See also Tosefot and Rosh on Bechorot 25a, and Shevitat Shabbat, melechet dash 4:6. [See, though, Megillat Sefer (no. 27, note 4) who asserts that an unusual manner can only be defined as a shinui if it is a fundamental differentiation affecting the quality of the melakha.]

For further research: Does a shinui refer to employing a tedious manner of performing the melakha, or merely a different manner than during week? See Shabbat 92b and Tosafot ibid. s.v. ve-im timtzei lomar, Ran, Shabbat 103a, end of s.v. amar Abaye, Rashi, Pesachim 66b s.v. she-yesh, Chayei Adam 9:2, Eliyahu Rabba 340:11, Avnei Nezer 209:9, Chazon Yechezkel on Tosefta Shabbat 10:11, Shulchan Arukh Ha-rav 301:2, and Kalkelet Ha- shabbat 2:3.

4. Electrical Appliances

May the leniency of the Eglei Tal be applied to turning on an electrical appliance in an unusual manner, such as with one's elbow? In this case, although the external act of turning on a switch occurs in an unusual manner, the fact remains that ACTION of the melakha, i.e. creating the electrical contacts, occurs in the identical fashion as when turned on in the normal manner. Is this latter instance defined as a shinui?

It seems that the consensus among poskim is that in order for an action to be defined as a shinui, it must either be a component of the actual action of the melakha (such as connecting electrical contacts, as opposed to an external action such as flipping a light switch), or it must affect the quality of the outcome. According to this opinion, turning on an electrical switch with one's elbow does not meet either requirement. See "Dental Emergencies on Shabbat and Yom Tov" by Rav Moshe Tendler and Dr. Fred Rosner, in Journal of Halacha and Contemporary Society, 14:49, 52, 1987, where Rav Moshe Feinstein zt"l is quoted as identifying with this opinion based upon his interpretation of the Eglei Tal (intro. #3).

[See, however, "Modern Technology and the Sabbath" by Rav Michael Broyde, in the Journal of Halacha and Contemporary Society, vol. 23, pp. 92-94, which understands that, contrary to the opinion expressed here, the consensus in poskim is that turning on electrical appliances with one's elbow, for instance, is defined as a shinui for melakha prohibited by the Torah. Also, see Chazon Ish OC 56, end of note 4, who emphasizes the difficulty in applying the definition of shinui to different cases; see as well, Rambam Shabbat 12:14 in this connection.]

5. Rabbinic Prohibitions

It appears, though, that with regard to RABBINIC prohibitions, there is greater latitude given to employing a shinui for a very ill person whose life is not in danger (MB 328:54 and SSK 33:2). This is certainly true when the shinui is a fundamental one, and perhaps even more so for a shinui be-alma (a non-fundamental differentiation). See Sha'ar Ha-tziyun 496:9, and Megillat Sefer no. 27, note 4. It must be noted, though, that the leniency of shinui involving a rabbinic prohibition does not apply to rabbinic prohibitions of the melakha she-eina tzricha le-gufa type (MB 278:3) as it is the most serious of the rabbinic strictures (MB 342:1).

Thus, if one assumes that generally the use of electric appliances (not including incandescent lights) are a rabbinic prohibition, it is possible that a Jewish doctor may be able to treat a patient who is in intense pain with electrical medical equipment turned on through a shinui. Furthermore, a very ill patient (whose life is not in danger) would be able to raise or lower an electrically operated bed by activating it through a shinui to alleviate intense pain or for some other great necessity such as eating. However, it appears that Rav Moshe Feinstein zt"l (ibid.) did not apply the leniencies of shinui to turning on electrical appliances via a non- fundamental differentiation (such as with one's elbow).

6. Drastic Deviations

Although performing a Torah melakha through a shinui is rabbinically prohibited, certain deviations that change or negate the character of the melakha are permitted. For instance, mashing a banana with the handle of a spoon or fork is permitted. It is not a violation of melekhet tokhen (grinding) since it is a drastic deviation (MB 321:25).

About the Author



Rabbi Yosef Netanyahu Ben David

The Rosh Yeshiva grew up in San Diego, California and learned in Yeshivat Torah Emet as a talmid of Maran Hagaon Harav Chaim Pinchos Scheinberg zt"l. He received Semichah from Rabbi Aaron Gartner, Rav Yaakev Agavir. For twelve years, he taught and inspired talmidim in various yeshivas who still have a very close connection with him today. Patient and determined, the Rosh Yeshiva always believed in every bochur. He is a sought out speaker worldwide. He is also the Rov at the Kav Halacha Beis Hora'ah, and the author of Ethics of Interpersonal Conduct (Halacha) and The Jewish Halacha Series.

The Rosh Yeshiva devotes his entire life to the success of every bochur, always concerned about their spiritual and physical well-being. Here every bochur is unique and is encouraged to reach his full potential. With constant encouragement, overflowing love, and infinite patience, every bochur is nurtured and developed to be an accomplished ben-Torah. Yeshiva Beit David is a yeshiva designed for post-high school students looking for a focused yet relaxed atmosphere in which to grow. Our warm, down to earth Rebbeim are ready to help you have a productive, enjoyable and inspiring year. The yeshiva aims to give boys an authentic and honest Torah Hashkofa with, exceptionally dedicated rebbeim in an atmosphere that exudes warmth and tremendous simchos hachaim This is handed over not just through exciting and interactive Shmoozen and vaadim but with a living example of the Rosh Yeshiva and Rebbeim. A major part of this enterprise is to encourage a genuine understanding of spirituality which begins with making G-d a real and important part of our lives.

Personal Growth

Each boy is able to grow with his own personality and characteristics without suppression of his traits, interests and most importantly sense of humour. The Yeshiva views each boy's individuality as a blessing to be nurtured. An inquiring, questioning mind is highly regarded in the Yeshiva. Outlets, tiyulim and activities are built into the semester to ensure that each boy remains well-rounded, healthy and productive. Here every bochur is unique and is encouraged to reach his full potential. With an emphasis on retaining a thorough knowledge of every sugya and completing the masechtah, the bochurim are trained to set goals and to reach them at all costs. Character development and interpersonal relationships are a key area in the bochurim's growth as they are carefully molded to be the future leaders and role models of Klal Yisroel.

Hanholo

The qualification for being on the Beit David hanhola is primarily a commitment to care for and nurture a boy as if he were one's own child. As a result the Rebbeim take a very broad and devoted approach to their role providing support and guidance on every possible front. This includes ensuring a boy is settled, happy with accommodation, socially integrated, engaging in his preferred outlets, balanced in his learning. Whether it be on major issues or the finest details in learning or extra-curricular matters. The Rosh Yeshiva Rabbi Yosef Netanyahu Ben David makes every effort to give every bochur a loving and caring environment, and gives every bochur a chance to learn with him individually. Through his love and sensitivity for every bochur who enters the yeshiva, he builds every bochurs self-esteem, enables them to make and accomplish goals, and to succeed in Torah and in building exceptional middos.