

## קידוש והבדלה מן התורה מנין הרב צבי איינשטטר

The Rambam writes in א: הלכות שבת כט: that it is a *mitzvas aseh* to be *mekadesh* Shabbos orally, as the *posuk* states, (שמות כ, ט) "זכור את יום השבת לקדשו". One must mention Shabbos both as it begins as well as when it ends, i.e. the recitation of *Kiddush* and *Havdala*, respectively.

The question is, where is *Havdala* mentioned in the *posuk* quoted by the Rambam? We can see *Kiddush* from "לקדשו", but where does he get *Havdala* from? How do we know that we must also recite *Havdala*, maybe *Kiddush* alone fulfills the *posuk*'s obligation?

The Magid Mishnah brings the *mekor* for *Havdala* as being a *posuk* from *Parshas Shemini* (ויקרא י, ט), "ולהבדיל בין הקדש ובין החול". The *gemara*: *darshens* this *posuk* as referring to *Havdala*. The Kiryas Sefer brings this *mekor* as well.

[This *derasha* has been made well-known by HaRav Chaim Kanievsky, *shlit"a*, because many people come to him for a *beracha* to have a baby boy and he references this *gemara*, instructing them to make *Havdala* specifically with wine, not grape juice. The *gemara* brings *Havdala al yayin* as a *segula* to have a boy because this *posuk* is closely followed by (ויקרא יב, ב) "אשה כי תזריע וילדה זכר...".]

There is another *mehalech* in the Rambam. The Netziv, in *She'iltos 166*, brings an alternative *girsas* in the *gemara* פסחים קו. from *She'iltos Ksav Yad*. He also cites the *Machria* (written by Tosafos Rid) as having this *girsas*. This *girsas* has an additional line which asks how we learn *Havdala* from the *posuk* of "זכור את יום השבת לקדשו", and answers that the word "את" functions as a *ribuy* to include *Havdala* as well. If you look carefully in the *Meforash* (which takes the place of Rashi) in נזיר ד, you can see that he must have had this *girsas* as well.

On the other hand, many Rishonim are of the opinion that *Havdala* is a *din derabonon*. The Magid Mishnah on this Rambam says others hold it is *derabonon*; R. Akiva Eiger in *Hilchos Havdala* רצו ס"י proves this notion from Tosafos; and the Rosh in נזיר ד, also holds this way.

In the last *sif* in רצו ס"י, the Shulchan Aruch discusses the principal *nafka mina* in whether *Havdala* is *de'oraisa* or *derabonon* and that is whether women are *mechuyav* in it. The Shulchan Aruch states that women are indeed *mechuyavos* because of the our *posuk*, "זכור את יום השבת לקדשו". The *gemara*: ברכות כ: explains that "זכור" and "שמור" in the *Aseres Hadibros* were said simultaneously and therefore anyone *mechuyav* in *shemiras Shabbos* is also *mechuyav* in the *zechira* side of Shabbos. This yields that both men and women are *mechuyav* in all of *hilchos Shabbos*, including *Havdala* as it is part of *zechiras Shabbos*. However, the Shulchan Aruch does mention that there are opinions who disagree and hold that women are in fact *patur* from *Havdala*. This is the opinion of the Orchos Chayim who holds that *Havdala* is not part of "זכור את יום השבת לקדשו", rather it is a stand-alone *mitzvah derabonon*. As such, women are not *mechuyav* in *Havdala* since women are generally *patur* from *mitzvos aseh shehazman gramma*. Because of this, the Taz *paskens* that a woman cannot recite *Havdala* herself because we must be *choshesh* for the *shitah* of those who hold it is a *mitzvah derabonon*.

*Lema'aseh*, the Mishnah Berura *paskens* that we can be *someich* on the first *shita* in Shulchan Aruch and a woman can recite *Havdala* for herself. He reasons that on the *tzad* that it is *de'oraisa*, then she obviously must do so. On the *tzad* that it is *derabonon*, we still hold that women can perform *mitzvos shehazman gramma*

if they so choose. Yet, there is still an active *nafka mina* that a woman cannot recite *Havdala* to be *motzi* a man because she is only *b'safek chayiv m'de'oraisa*, whereas the man has a bona fide *chiyuv de'oraisa*.

What about *Havdala* to close out Yom Tov? The Magid Mishnah, in יח: כט: הלכות שבת כט: יח, says that *Kiddush* on Yom Tov is *derabonon*, and that must be because the *mekor* which Rambam brought for Shabbos explicitly states "זכור את יום השבת לקדשו". *Lichorah*, this should depend on the *machlokes* which we brought above for the *mekor* of *Havdala m'de'oraisa*. If we learn it from this same *posuk*, then Yom Tov *Havdala* would be *derabonon* just as Yom Tov *Kiddush* is, but if we learn *Havdala* from the *posuk*, "וילהבדיל בין הקדש ובין החול", then *Havdala* is *de'oraisa* both on Shabbos and on Yom Tov.

The Pri Megadim discusses this question, and cites the Shita Mekubetzes (which in this case is actually the Ritva) in מס' ביצה ד: , who states that Yom Tov *Havdala* is *de'oraisa* because of the *posuk*, "וילהבדיל בין הקדש ובין החל". Likewise, the Kovetz Shiurim on that *gemara* quotes the Rash m'Shantz as having this same *cheshbon*.

With this, we now have an interesting phenomenon and an intriguing riddle: When is *Kiddush* only *m'derabonon* but *Havdala* still *m'de'oraisa*? The answer, of course, is Yom Tov according to what we've said.

There is a question on the Pri Megadim because he states that if *Kiddush* is *m'derabonon* then *Havdala* is as well. Why must that be so if we have their *chiyuvim* coming from two different, independent *pesukim*? We can answer this with a Pri Megadim in another place. He says that Rambam himself only learns *Kiddush* and *Havdala* from the singular *posuk* of "זכור את יום השבת לקדשו", and makes no mention of any other *mekor*. He asks how the Magid Mishnah can posit that the *mekor* for *Havdala m'de'oraisa* is from the other *posuk* of "וילהבדיל בין הקדש ובין החל"? He therefore concludes that the Magid Mishnah is just bringing the other *posuk* as an *asmachta*, but the actual *mekor* is that which the Rambam quoted- "זכור את יום השבת לקדשו". This is why Pri Megadim holds that *Kiddush* and *Havdala* by Yom Tov are both *m'derabonon*.

Yet, this Pri Megadim is still a bit *tzarich iyun*. It is clear that the Magid Mishnah is bringing the new *posuk* because he is bothered that the Rambam didn't cite a *mekor* for *Havdala*. If the Magid Mishnah is bringing the new *posuk* as merely an *asmachta*, and it is only *m'derabonon*, then he hasn't solved his issue.

The question which we must deal with is how to learn this Magid Mishnah. Before that, I would like to handle another question.

We know that there are three *shitos* in *Kiddush* being *m'de'oraisa*. One definitely must say the words of *Kiddush*. However, Rambam holds that holding wine as part of *Kiddush* is only *m'derabonon*. Tosafos, on the other hand, both in מס' ברכות as well as in מס' שבועות, brings a *shita* in between the first two which holds that one must hold wine *m'de'oraisa* during *Kiddush*, but need not drink any of it. Drinking the wine is only *m'derabonon*. The most extreme *shita* is that of the Mefaresh in מס' נזיר ד. , and a few other Rishonim (Sefer HaYashar l'Rabbeinu Tam, who is also quoted in Tosafos haRosh), who hold that drinking the wine is also *m'de'oraisa* part of *Kiddush*.

The question is what about drinking wine by *Havdala*? Are there the same three *shitos* as by *Kiddush* or is *Havdala* a separate *halacha*?

If we go with the She'iltos, that *Havdala* is *m'de'oraisa* from the same *posuk* as *Kiddush*, it would follow that the *halachos* of *Kiddush* would apply equally to *Havdala*. If we go with the other *posuk* as the *mekor* for *Havdala*, still the *inyan* of wine might be *m'de'oraisa* because that is the *posuk* which is tied to the *gemara* in מס' שבועות about making *Havdala* on wine being a *zechus* to have baby boys. This is because wine is mentioned immediately before the *posuk* of "וילהבדיל בין הקדש ובין החל".

However, the Tosafos Rid in פרק ערבי פסחים and R. Akiva Eiger in סי' רצו both prove that wine by *Havdala* must be *m'derabonon*. They cite the *gemara* לג. ברכות which states that the original institution of

*Havdala* was *mekuyam* simply in *tefila*, without drinking any wine. This was because people were impoverished and did not have wine. While this alone would seem to indicate that *Havdala* wine must not be *m'de'oraisa* as Chazal would not come along and ignore a *mitzvah de'oraisa*, some might argue that maybe Chazal were *matir* because the people were in a *matzav* of *oneis* despite wine being *m'de'oraisa*. Yet, the *gemara* continues on to ask that even later on when people did have more money and could afford wine, maybe the original *takana* remains in place and wine is not necessary for *Havdala* as people can be *yotzei* during *tefila*. This surely means that the *inyan* of wine cannot be *m'de'oraisa*, because otherwise the *gemara* could not ask such a question. (The Magid Mishnah in ו: שבת כט: is *meramez* to this *rayuh*.)

The question on this is that the Mefarsh (נזיר ד.) and Sefer HaYashar and a few other Rishonim say that if one proclaims himself a *nazir*, he may still drink the *Havdala* wine because he is a *mushba v'omeid meiHar Sinai*. Before he puts the *chiyuvim* of *nazir* upon himself, he is already bound by the *halacha* of *Havdala* wine and therefore the *kabolas nezirus* cannot supersede this preexisting *chiyuv*. These Rishonim hold that *Havdala* wine is *m'de'oraisa* which is in direct conflict with the *gemara Berachos* mentioned above. The Tosafos Rid asks this question in פרק ערבי פסחים.

If we answer our first question on how to learn the Magid Mishnah which brings "וילהבדיל בין הקדש ובין החל" as the *mekor* for *Havdala m'de'oraisa* when Rambam is silent about it, then we can answer this question as well.

I would like to propose the following *teretz*: The *posuk* of "וילהבדיל בין הקדש ובין החל" is not a *mitzvah* directive. It does not state, "ויהבדלת" or any such *lashon* of command. It is stating a fact that there is a *hevdel* between *kodesh* and *chol*. Maybe the Magid Mishnah means that when the Torah says, "זכור את יום השבת", לקדשו, it means that one must mention the praises of Shabbos, its *kedusha*, and what makes it so special. How do I know when which praises to say? The *gemara*: שבועות יח: is telling us that the distinction of Shabbos to *Chol* is very important to make mention of. Chazal saw this *hevdel* being *choshuv* in the Torah's eyes as a *giluy milsa* that part of the *shevach* of Shabbos is mentioning the *hevdel* between *kodesh* and the mundane. The Magid Mishnah is pointing us to the fact that stating the *hevdel* is part of "זכור את יום השבת לקדשו", which is why we must mention it both at the beginning of Shabbos and at its close.

With this, we can answer why some Rishonim say that the wine of *Havdala* is *m'de'oraisa*. They are learning that *Havdala* is a *kiyum* of "זכור את יום השבת לקדשו". They learn that while one is certainly *yotzei* by merely saying *Kiddush*, saying more praise of Shabbos is *mosif* in the *kiyum* of this *mitzvah*. Because reciting *Havdala* is adding to the praise of Shabbos (as learned from "וילהבדיל בין הקדש ובין החל"), one accomplishes a *kiyum* of the *mitzvah de'oraisa*. It is not a *chiyuv* per say, but it is part of the *mitzvah*.

We can now understand why one who says, "הריני נזיר", may still drink *Havdala* wine. Oneg Yom Tov (at the beginning of his sefer) and Meromei Sadeh (שבועות כה.) both explain that even a *kiyum aseh de'oraisa* qualifies as being *mushba v'omeid meiHar Sinai* and pushes off *nedarim*. Therefore, the *Havdala* wine, being a *tosefes* of "זכור את יום השבת לקדשו", has full weight to push off his new *nezirus*.

This also explains the *gemara* לג. ברכות in which we see that *Havdala* wine is not necessary. Since *Havdala* is only a *mitzvah kiyumis*, Chazal did not require it to be recited over wine because people simply could not afford it. Once this was established, it did not change just because people became better-off.

In summation, we are saying that there are three *shitos* about *Havdala* wine: One is that *Havdala* is totally *m'derabonon*, following the second *dei'ah* in Shulchan Aruch. Second, Rambam learns it as a *chiyuv de'oraisa*, which we had two different *mekoros* for (our two *pesukim*). Finally, I am proposing a third *shita* that it is a *mitzvah kiyumis m'de'oraisa*.