

# HALOCHOSCOPE <sup>TOI</sup>

Someone was informed on Shabbos of the death of a relative. On *Motzoei Shabbos*, he may not recite *Havdalah* over wine. Should he listen to *Havdalah* recited by someone else, or should he wait until the next day to recite it after the funeral?

The issues:

(A) *Aninus*, the state of one occupied in the burial of his relative

(B) *Havdalah* over wine

(C) Delaying reciting *Havdalah* over wine to the next day

(A) *Aninus*

*Aninus* is a Scriptural concept. *Kodshim* are offerings made in the *Bais Hamikdash*. Most offerings were not totally burned on the *Mizbeiach*, but parts were burned and parts were eaten. *Maaser Sheini* is a tithe separated from produce four of the seven years of the agricultural cycle. This tithe was to be taken to Yerushalayim and eaten there. It could also be redeemed outside Yerushalayim for money which was then spent on food in Yerushalayim. An *Onen* may not eat both of these. An *Onen* may not perform the *Avoda*, priestly service in the *Bais Hamikdash*. Rabbinically, an *Onen* should not fulfil any positive Mitzvah, including all Scriptural and Rabbinical Mitzvos and Brochos. He may not violate any negative Mitzvos.

Scriptural *Aninus* applies the entire first day of bereavement, including after the burial. Rabbinically, it is extended to the night as well. The state of *Aninus* applies to the immediate relatives of the deceased who are obliged to mourn for him. Until the burial they are all considered *Onenim*, with certain rare exceptions. After the burial, Rabbinical *Aninus* ceases and *Aveilus*, mourning, begins.

Defining the *Onen's* refraining from all Mitzvos is the subject of two debates. First, some *Poskim* maintain that this is a Scriptural element of the Mitzvah of *Aninus*. The majority consider it Rabbinical. Second, the *Poskim* disagree on whether the *Onen* is excused or forbidden to fulfil the Mitzvos. According to the view that he is excused, he is not meant to perform the Mitzvos but may adopt stringency upon himself. He may fulfil Mitzvos if he wishes. Those who follow this view should be careful to make sure that when they do perform the Mitzvah they have pure intentions. The other view maintains that he is forbidden to fulfil the Mitzvos. This is the prevailing practice in Ashkenazi communities.

Two reasons are given for the exemption of *Onenim* from Mitzvos. Both are part

of one reason, but vary in where the emphasis lies. Thus, many Poskim conclude that both apply. One reason is that the relatives are preoccupied with the burial. Since they are the main people upon whom this duty is imposed, they do not have time for other Mitzvos. The term used is “[the Onen] has no one else to carry his load.” Some commentaries call this *Tirda*, preoccupation. Burial is a Mitzvah, and automatically takes up their time attention. They are thus exempt from fulfilling other Mitzvos during this time, based on *Ha’osek Bemitzvah Patur Min Hamitzvah*, one preoccupied with one Mitzvah is exempt from any other Mitzvah. Though the Talmud never mentions Onen in connection with this concept, some commentaries compare Onen with *Chasan*, a groom, who is exempt due to *Tirda*. A groom’s exemption is mentioned in connection to *Ha’osek Bemitzvah*. Onen’s exemption could be due to the Mitzvah of burial, or the *Tirda* is sufficient regardless of whether it is a Mitzvah *per se*. *Tirda* is, after all, the reasoning behind *Osek Bemitzvah*. According to this reason, some Poskim maintain that the Onen is permitted to practice stringency and to perform Mitzvos.

The other reason is *Kavod Hamais*, honor of the deceased. The Onen should show respect to the deceased by focusing on the needs and actual burial. He should not focus on other matters, such as Mitzvos. When done properly, a Mitzvah requires attention and can also be time-consuming. According to this reason, the Onen may not practice stringency. The Yerushalmi seems to use the case of Shabbos and Yomtov to distinguish between the reasons. If it is because he has no one else to take care of it, on Shabbos he should not be taking care of it anyhow. Therefore, on Shabbos he is obliged to perform Mitzvos. *Kavod Hamais* would apply on Shabbos. However, the Poskim point out that *Kavod Hamais* only applies at a time when the Onen could actually arrange the burial. Since this is not permitted on Shabbos, it does not apply then.

Burial is meant to be the focus of the thoughts of the Onen. Even if the relatives designate one family member to take care of it, many Poskim maintain that the others remain Onenim. Only if one Onen is in another city, do the Poskim debate his status. If the entire burial is taken care of by a group of pall-bearers, or the *Chevra Kadisha*, once the Onen takes leave of the body of the deceased, handing it over to the charge of the group, Aninus ceases. [See Brochos 17b-18a, Yerushalmi, Moed Katan 14b 19a 20a, Sukah 25a-26a Poskim. Tur, Shulchan Aruch Orach Chaim 71:1-2, Yoreh Deah 341:1-3, commentaries, (Aruch Hashulchan) Sdei Chemed I:p. 71, V: Aninus 13.]

#### (B) Havdalah on wine

This Mitzvah is derived from the *Pesukim* that teach us the Mitzvah of *Kiddush*. The Torah instructs us to remember the Shabbos day to sanctify it. The word remember can also mean “mention”. The Torah is telling us to mention the holiness of Shabbos to make it holier for us than each other day of the week. Thus, we verbally sanctify Shab-

bos as it begins, distinguishing it from the preceding days. *Kiddush* means sanctification. To highlight the holiness properly, we also distinguish it from the following days. Hence, the Mitzvah to recite *Havdalah*, “distinction,” at the end of Shabbos.

Though there are few direct references in the Talmud to the Scriptural nature of these Mitzvos, some imply a Scriptural obligation for *Kiddush*. In addition, there is a reference in the *Mechilta*, a Midrashic text, to both *Kiddush* and *Havdalah* being Scriptural, derived from the change of wording from *Zachor*, remember, used in *Sefer Shemos*, to *Shamor*, guard, used in *Sefer Devarim*. Furthermore, the Talmud says that a Scriptural obligation applies equally to men and women. Yet, the Talmud discusses one who bans wine upon himself. Can the ban apply to wine drunk for Mitzvah purposes? The Talmud asks rhetorically, “are people obliged to recite *Kiddush* and *Havdalah* from the time of the giving of the Torah?”, implying that the obligation is Rabbinical.

One answer to this is that the Mitzvah to verbalize the *Kiddush* and *Havdalah* is Scriptural. The Mitzvah to do it with wine is Rabbinical. Deriving the Mitzvah to remember it with wine, is considered *Asmachta*, a Scriptural link to a Rabbinical Mitzvah. Another answer is, the Scriptural Mitzvah does apply to reciting *Kiddush* over a cup of wine. However, the obligation to drink the wine is Rabbinical. A third view is that the Talmudic reference is not to be taken rhetorically, but literally, meaning that there is a Scriptural obligation for both *Kiddush* and *Havdalah*.

The Talmud says that initially the Rabbis instituted *Havdalah* to be recited during *Shemone Esrei* at *Maariv* on *Motzoei Shabbos*, then added the obligation to recite it on wine. If the primary Scriptural obligation is over wine, and the obligation for *Havdalah* is the same as that for *Kiddush*, how could the Rabbis neglect the main Mitzvah to institute their authorized version during *Tefilah*? Accordingly, the commentaries say that in the view that gives this answer the entire Mitzvah of *Havdalah* is Rabbinical.

One can fulfill the Mitzvah to recite the words through listening to another person, known as *Shomeia Keoneh*, listening is like saying. The listener need not drink the wine, and in the case of *Havdalah*, it is preferred that no-one else but the person reciting it drinks it. Having instituted the Mitzvah to drink wine for *Havdalah*, a *Brocha* is required. This is both a *Birchas Hamitzvah*, *Brocha* recited for a Mitzvah, and a *Birchas Hanehenin*, *Brocha* recited before benefiting from food. [See *Mechilta Yisro* 20:8, *Brochos* 20b 33a 51b-53b *Pesachim* 106a 117b *Nazir* 4a *Shvuos* 18b 20b (*Tosafos*), Poskim. Rambam *Shabbos* 29:1 *Chinuch* 31 (*Minchas Chinuch*), Tur *Shulchan Aruch Orach Chaim* 271 294-298, commentaries.]

#### (C) Delaying Havdalah to the next day

After Shabbos is over, the restrictions on *Melacha* cease. However, one may not do *Melacha* before reciting *Havdalah*. Some Poskim maintain that *Melacha* is forbidden

before Havdalah on wine, even if one already mentioned it in Tefilah. What if one needs to do a Melacha before Havdalah on wine? To satisfy this view, one must recite a Brocha of Havdalah. Others maintain that he has already mentioned it in Tefilah. If he forgot to mention it in Tefilah, the second view requires him only to mention it, but not to mention a Name of Hashem while doing so.

One explanation of the debate is that the reason for Havdalah is that the Troah requires mention of the words. The first view is concerned that the Mitzvah is connected to the restrictions of Melacha on Shabbos. Until a formal ending is pronounced, there is a positive Mitzvah which indirectly forces one to refrain from Melacha. In the second view, it is an independent Mitzvah to sanctify Shabbos by distinguishing it. It is fitting that we also make our own distinction by refraining from Melacha until Havdalah. The prevailing practice is to follow the second view.

It is also forbidden to eat before Havdalah on wine, even after Havdalah in Tefilah. Any time one is obliged in a Mitzvah which he might forget about if he eats, he must first fulfil the Mitzvah. If one did not get a chance to recite Havdalah on wine on Motzoei Shabbos, he may still recite it until the end of Tuesday. He does not add the usual additional Brochos on fire and spices.

An Onen may not recite the Brochos of Havdalah. He may not daven Shemone Esrei. He ~~may~~ mention Havdalah ~~without~~ mentioning Hashem's Name, and do Melacha, according to the prevailing custom. Since he is not obliged to say Havdalah on wine, he is permitted to eat. After the funeral he may recite the Brocha and Havdalah on wine. If he heard it on Motzoei Shabbos from another person, and had in mind to fulfil the Mitzvah anyhow, he should not recite it again the next day. The question is, which is preferable?

The reason he should not repeat it the next day is in accordance with the view that an Onen is excused but may adopt stringency. According to the view that he is exempt, his personal act of listening should not count as a Mitzvah at all. He should be required to repeat it the next day. Since we are unsure whether the former view is totally wrong, we may not repeat the Brocha. However, the prevailing practice of Ashkenazim is to follow the latter view. [Some say that he should listen to another person who is obliged to say it the next day (if he can find someone).] Accordingly, it is preferable not to try to discharge the obligation by listening on Motzoei Shabbos. [See Psachim 107a, Tur Sh. Ar. O.C. 299: esp. 10, Ar. Hash.21, Y.D. 341:2, commentaries. Chidushim Ubiurim of Yad Efrayim Y.D. on Aninus, 25.]