

Taking a Taxi in Israel on Motza'ei Shabbos Aryeh Lebowitz

The Problem. The 'הלכה א' כ"ט פרק שבת הלכות רמב"ם rules that just as one is biblically obligated in the מצוה of reciting קידוש, he is also מצוה to recite הבדלה on שבת מוצאי שבת. The מצוה מלאכה rules that one may not engage in any מלאכה prior to reciting הבדלה. The רמ"א שם cites an opinion that this prohibition from doing מלאכה only applies to tedious and time consuming מלאכות such as writing and weaving, but not to simple acts like lighting a candle or carrying in a place that does not have an עירוב.

The Torah prohibits placing a stumbling block in front of a blind person. הל' interpret this פסוק to be a reference to the prohibition of aiding another Jew in sinning. When one calls a taxi on שבת מוצאי שבת in ארץ ישראל, in all likelihood the driver will be a non-religious Jew who has not recited הבדלה. On the surface it would seem that it should be prohibited to ask the driver to drive you anywhere, as you are causing him to do a מלאכה prior to his recitation of הבדלה. Taking this one step further, the obligation to recite הבדלה may extend through tuesday (עיין פסחים דף קו). (עיינן פסחים דף קו). מוצאי שבת on הבדלה (שם סימן ג') (ורא"ש שם סימן ג') because one who did not recite הבדלה on שבת מוצאי שבת may still do so until tuesday. Is it possible to suggest that one is not allowed to take a taxi in ארץ ישראל until wednesday?

The Solutions. A number of פוסקים have discussed this problem, and their solutions allow us a glimpse into both their own intellectual creativity as well as a deeper understanding of the underlying principle of the prohibition to perform מלאכה prior to הבדלה.

Saying טוב שבו. The רמב"ם (שם) understands that both the מצוה of קידוש and the מצוה of הבדלה are based on the same פסוק: זכור את יום השבת לקדשו. One is obligated to mention the praises of שבת both at the onset of שבת as well as at the conclusion of שבת. The Torah does not provide a specific text to recite in order to fulfill the biblical obligation of קידוש or הבדלה. רבי עקיבא איגר (הגהות לשו"ע סימן רע"א) writes that one may fulfill his biblical obligation by merely saying "good shabbos". After all, reciting this simple phrase involves praising the day of שבת. It may be argued therefore, that just as saying "good shabbos" serves to help one fulfill his מצוה of קידוש, the phrase "טוב שבו" would serve to absolve one of his מצוה of הבדלה. (שו"ת ציץ רבי Eliezer Waldenberg) suggests that when one steps into a taxi in Israel on שבת מוצאי שבת he should greet the driver with the phrase טוב שבו. Proper etiquette would dictate that the driver respond in kind, thereby fulfilling his מצוה of הבדלה before commencing the trip.

Rejection of this suggestion. The פוסקים have pointed out that this suggested solution is halachically flawed. שמירת שבת כהלכתה פרק נה הערה ל"א reports that Rav Shlomo Zalman Auerbach distinguished between saying "good shabbos" to fulfill the מצוה of קידוש and saying טוב שבו to fulfill the מצוה of הבדלה. שמירת שבת כהלכתה, however, does not explain what the distinction is. Rabbi Waldenberg (ibid.) explains that there is no distinction between what the torah requires of us to fulfill the מצוה of הבדלה and the מצוה of קידוש, but there is a fundamental difference between the phrases טוב שבו and "good shabbos". The obligation is to mention the praises of שבת, both at the beginning of שבת (with קידוש) and at the end of שבת (with הבדלה). When one says "good shabbos" he is indeed saying something positive about shabbos. When, however, one says טוב שבו, he is not saying anything about shabbos at all. He is merely wishing the other person well for the rest of the week. Therefore, even if one can convince the taxi driver to utter this phrase, it will not serve to mitigate

the problem of having the Jew do מלאכה for you before he has recited הבדלה. It could be argued further that the nature of the obligation of קידוש and הבדלה differ fundamentally. Whereas one only has to say something positive about shabbos in order to be מקדש the shabbos, the מצוה of הבדלה may require stating a distinction between שבת and the rest of the week. If that is the case, nothing short of the phrase לחול בין קודש לחול should serve to help one fulfill his מצוה דאורייתא of הבדלה.

Rabbi Moshe Shternbuch (שו"ת תשובות והנהגות סימן קס"א) writes that there is no problem in having a Jew who has already performed מלאכה before הבדלה, continue to perform מלאכה for you. Rabbi Shternbuch explains that whereas one would be in violation of a new איסור each time he does new מלאכות on shabbos, the איסור of מלאכה before הבדלה is one long איסור regardless of how many acts of מלאכה are performed. Therefore, once the driver has done any form of מלאכה before arriving at your house (and after the conclusion of shabbos) there is no problem with asking him to continue to do מלאכה before הבדלה because his איסור is the same whether he does one מלאכה or ten מלאכות.

Rejection of this explanation. It seems that following Rav Shternbuch's logic could lead us to an absurd conclusion. If there is no additional איסור in doing multiple מלאכות before הבדלה, one who has already done a מלאכה before הבדלה should be permitted to continue doing מלאכות, even לכתחילה, because the additional מלאכות do not involve a new prohibition. Furthermore, there does not seem to be any evidence to the suggestion that the איסור is one elongated איסור regardless of the amount of מלאכה done.

Rabbi Shternbuch (ibid.) offers another suggestion to solve the problem of the non-religious Israeli taxi driver. Rav Shternbuch explains that the reason we are not permitted to do מלאכה before הבדלה has nothing to do with shabbos extending until הבדלה. Rather, the rabbis were concerned that if one started doing מלאכות before הבדלה he would neglect to recite הבדלה entirely. This is evidenced by the way the רמב"ם phrases the איסור מלאכה before הבדלה. The רמב"ם פרק כ"ט מהלכות שבת הלכה ה' writes that "one may not eat before reciting kiddush on Friday night and *similarly* one may not do מלאכה before הבדלה", clearly equating the two הלכות. The reason one cannot do מלאכה before הבדלה is the same reason one may not eat before קידוש, lest he get so involved that he will neglect the מצוה. In fact, based on this idea, the Brisker Rav ט"ט פרק כ"ט הלכות שבת פרק כ"ט (חידושי הגרי"ז על הרמב"ם הלכות שבת פרק כ"ט) explains why the רמב"ם allows certain מלאכות before הבדלה, but not others. Only מלאכות that are very involved and would likely cause one to neglect הבדלה are forbidden. Therefore, concludes Rav Shternbuch, one who never plans on reciting הבדלה, even if he remembers, is not subject to the prohibition that is based on a concern that he might forget. Rabbi Eliezer Waldenberg (שו"ת ציץ אליעזר חלק י"א סימן ל"ד) offers a similar explanation to Rav Shternbuch, from a slightly different angle. Rabbi Waldenberg also bases his reasoning on the idea that the prohibition to do מלאכה before הבדלה is not a result of an extended shabbos, but out of concern that one may forget הבדלה. This is similar to the הלכה that one may not eat before davening, as we are concerned that he will get too involved in his meal and neglect תפילה. Rabbi Waldenberg argues that the prohibition only applies to one who will eventually recite הבדלה. One who will never recite הבדלה is not in violation of doing מלאכה before הבדלה, but of neglecting הבדלה entirely, something that the Jew who calls the taxi has not aided the driver in violating. After all, argues Rav Shternbuch, would one suggest that a non-religious Jew is never allowed to eat because

he is eating before davening. Clearly by eating breakfast he is not in violation of eating before davening, because he is in violation of skipping davening entirely.

Conclusion. We have raised and addressed the question of whether one is permitted to take a taxi driven by a non religious Jew on מוצאי שבת. We have pointed out that there is no halachic benefit (outside of common courtesy) to have the driver say שבווע טוב before beginning the ride. We have concluded, though, that taking the taxi is permissible based on a deeper understanding of the prohibition to perform מלאכה before הבדלה on מוצאי שבת. This is a clear example of how an understanding of the underlying principles of a particular הלכה can reveal that what seems to be a major issue actually poses no halachic problem whatsoever.