

Making Havdalla with Shemitta Wine

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Although we are currently in the Eighth year (Shenas Hasheminis) of the Shemitta cycle, and hence actually post-Shemitta, all the same, now is the time when many Shemitta Sheilos first occur, as much Kedushas Sheviis produce only now starts flooding the marketplace and becoming commercially available. The vigilant consumer must remain on high alert to know how to properly deal with these 'holy fruit'.^[1] This includes "Holy Wine" that is currently easily obtainable.

As detailed at length in previous articles,^[2] Chazal derived several essential Shemitta halachos from several pesukim in Parshas Behar that pertain to preserving the sanctity of Kedushas Sheviis produce.

Regarding to the Shemitta year, the Torah states "V'haysah Shabbos Ha'aretz Lachem L'achlah...V'livhementachah V'lechayah Asher B'artzechah Tihyeh Kol Tevuasah Le'echol - And the Resting of the Land should be for you to eat... and for your domesticated animals and the wild animals in your fields, all the produce should be for consumption."^[3]

Personal Uses

One important halacha that is inferred from these pesukim is:

Lachem- for you, lechol tzarcheichem, for all of your needs. (Sukkah 40a and Bava Kamma 102a)

According to the Mishnah, and duly codified as halacha, Kedushas Sheviis produce is not only permitted to be eaten, it is even allowed to be utilized in whichever manner the owner deems it necessary: including drinking, anointing, dyeing, and even lighting.

However, there is a very important caveat, namely that the owner's use of it during Shemitta must be that product's main use year round. Otherwise, it would be considered 'ruining' the 'holy' fruit and duly prohibited, as inferred from the pasuk.[4]

L'achlah- for you to eat, and not for hefseid, letting go to waste. In other words, one may not needlessly waste fruits containing Kedushas Sheviis. (Pesachim 52b)

Still, this maxim should not really affect our holy uses of holy Shemitta wine. This is because wine's main use is for it to be drunk, which involves direct bodily benefit (hana'ah) for us. In the immortal words of Dovid Hamelech, "V'yayin Yisamach Lev Enosh" – "(and) wine gladdens the hearts of man." [5] In fact, the great codifier of Ashkenazic psak, Rav Moshe Isserlis, better known as the Rema, concludes his writings on Hilchos Purim (as well as all of Orach Chaim) with the wise words of Shlomo Hamelech, "V'Tov Lev Mishteh Tamid," (and) one of good heart drinks often (i.e. is one who is happy with his lot)."[6] We see that wine's main purpose is to benefit us, so why should potential Shemitta restrictions for improper use trouble us? Shemitta wine should be perfectly fine for sacramental purposes, including making Kiddush and Havdalah, as anyway it is being drunk and giving the drinker direct hana'ah.

Doubling-Up Your Mitzvos

Indeed, there is a minority opinion of Rav Yitzchak de Leon, the renowned Megillas Esther, in his commentary on the Ramban's additions to the Rambam's Sefer HaMitzvos, who makes an interesting inference from the aforementioned pesukim in Parashas Behar. He writes that "Lachem L'achlah, for you to eat," is teaching us that there is an actual Mitzvah incumbent upon us (Mitzvah Chiyuvis) to partake of Kedushas Sheviis produce. Although not the normative halacha, there are still Poskim who maintain that one does indeed fulfill a Mitzvah by eating fruit imbued with Shemitta sanctity (Mitzvah Kiyumis) even though one is under no obligation to eat specifically that fruit.

According to both of these opinions, if one can ensure that all Shemitta halachos are being strictly adhered to (including proper disposal of remains), and has the option to choose a Shemitta fruit or a similar non-Shemitta fruit, it seems that there would be a preference to do so.[7] Certainly, following this minority opinion, although not the halacha, would mean that not only is it permitted to use Shemitta wine for Kiddush and Havdalah, it would actually be the preferable option.

Indeed, this is the opinion of the famed Ridbaz, Rav Yosef Dovid Willovsky, perhaps best known for his renowned commentaries on the Yerushalmi.[8] His reasoning is that instead of simply performing one Mitzvah, making Kiddush or Havdalah with regular wine, one can instead perform it with Kedushas Sheviis wine and enhance the Mitzvah with another Mitzvah. What Jew does not like a good buy-one-get-one-free bargain, especially regarding Mitzvos, with their eternal reward?

Cooking Cause for Concern

Although this idea seems to have been widely accepted regarding making Kiddush with Kedushas Sheviis wine, conversely, several Poskim raised a few concerns with using Kedushas Sheviis wine for Havdalah.

Rav Yechiel Michel Tukachinsky and Rav Avrohom Yitzchok HaKohen Kook, utilizing a novel approach, advised not to use Shemitta wine for Havdalah.[9] They posit that since women generally do not lechatchilah perform Havdalah nor drink Havdalah wine,[10] Havdalah may not be fully considered a common enough use to allow its performance with Shemitta wine.

This idea, that if some cannot use Kedushas Sheviis produce then it becomes forbidden for others, stems from a Mishnah regarding the prohibition of cooking a Kedushas Sheviis vegetable in Terumah oil, as it will likely end up getting ruined.[11] According to the explanation of Rav Efraim Yitzchak, Dayan in Premishla, better known by the name of his commentary on Seder Zeraim, the Mishnah Rishonah, since Terumah produce may exclusively be eaten by a Kohen, this “minimizing use” is what forbids its consumption for the rest of us when cooking Kedushas Sheviis vegetables in Terumah oil.[12]

On the other hand, several Poskim argue,[13] explaining that this approach, as well as its application to making Havdalah with Kedushas Sheviis wine, seems to be a chiddush (quite novel), as well as a chumrah yeseira (an unfounded stringency) that is not the common minhag.

These Poskim point out that other Rishonim do not seem to agree with this explanation, rather understanding the Mishnah’s warning that the Shemitta vegetable may end up getting Tamei, burnt, or used after Biur (this will be explained later in the article), all of which would be akin to causing its loss, and

hence, prohibited.[14] Moreover, the Rambam allows cooking a small amount of Shemitta vegetables in Terumah oil, as long as one intends to eat it right away – ensuring that no hefsek (loss) occurs.[15] These Poskim assert that drinking a cup of Havdalah wine should not be afforded any less consideration, as it is also immediately drunk after reciting Havdalah.

Furthermore, according to the vast majority of Poskim, women actually can make Havdalah if necessary. It is simply the common minhag and preference that they do not.[16] Hence, these Poskim conclude, it would be a non-compelling comparison to the case of cooking Shemitta vegetables in Terumah oil, which would be actually prohibited from a halachic perspective. Therefore, it would seem that this argument is not the main one for not allowing Shemitta wine for Havdalah.

Cup Runneth Over

To be more precise, the main objection that many Poskim have for making Havdalah with Shemitta wine is not due to the actual act of making Havdalah itself, but rather due to several of its corollaries – the traditional overflowing of the Havdalah wine, as well as extinguishing the Havdalah candle in / with it.

As is well known, the Rema cites performing these specific actions as part of the Havdalah process as a Siman Bracha – a Siman Tov (a blessed and good omen) for the new week being ushered in, as well as Chavivus HaMitzvah (showing affection for the Mitzvah).[17] Although these ‘extras’ have long become part-and-parcel of how much of Klal Yisrael makes Havdalah, they are precisely the cause as why many Poskim object to making Havdalah with Kedushas Sheviis wine. As overflowing the cup, and hence, essentially wasting the wine, is

what brings the Siman Bracha to our homes, how can this be done with Kedushas Sheviis wine, which is prohibited from being wasted?

One approach to this dilemma is given by Rav Ben Tzion Abba Shaul, who maintains that since Kedushas Sheviis produce can be used in the same manner as its counterpart non-Shemitta produce normally is,[18] the same should apply here as well. Since we customarily overflow our Kos Havdalah and extinguish our Ner Havdalah using the spilled wine year-round, this has become considered normal uses of Havdalah wine. Ergo, in his opinion, both of these actions, as well as putting its drops into our eyes, are actually permitted with Shemitta wine as well.[19]

On the other hand, most other contemporary Poskim disagree, arguing that doing these Havdalah extras would be forbidden with Shemitta wine. Since spilling wine is not considered wine's main use, and one receives no direct benefit from it, it might be more accurately defined as wasting (certainly extinguishing a flame in it would be), and many authorities prohibit doing so with Shemitta wine.[20] Therefore, although technically it would indeed be permitted to use Kedushas Sheviis wine for the actual Havdalah itself, the majority consensus is that it still should not be used any time one may not come to finish the entire cup. In fact, they rule that one must be careful not to spill it, nor use it to put out the candle; rather, if one wishes to use Kedushas Sheviis wine for Havdalah, they maintain that he must ensure that it not only is "good 'till the last drop," but that he drinks every last drop (even the overflow that spilled onto the saucer or plate). Definitely not necessarily the easiest way to make Havdalah!

However, it is known that Rav Shlomo Zalman Auerbach would use Sheviis wine for Havdalah while being careful not to let the cup overflow, and was not worried about the few drops that would naturally spill. Several other Poskim, including Rav Moshe Sternbuch, as well as Rav Shmuel Halevi Vosner conclude similarly, that one need not worry about a spill of several drops that one would not ordinarily concern himself with, as this is the normal way one drinks.[21] However, most agree that one should not purposely spill his Shemitta wine while making Havdalah.

Pondering Preferences

This leads us to an interesting question. If most Poskim maintain that one may not do the Havdalah extras with Kedushas Sheviis wine, then would it be preferable to perform Havdalah with all the trimmings using non-Shemitta wine, or to make Havdalah with Kedushas Sheviis wine – without overflowing the cup, putting its drops in our eyes and pockets, or extinguishing the candle with it?

Not just a hypothetical question, it is reported that this exact question was asked to Rav Yosef Shalom Elyashiv, as well as later his son-in-law, Rav Chaim Kanievsky. Both replied that as long as there are no other potential issues involved, it would be preferable to make Havdalah with Kedushas Sheviis wine, while being careful not to spill it et al. Rav Elyashiv explained that all of these extras are considered 'Chibub Mitzvas Havdalah,' whereas if people would refrain from obtaining Otzar Beis Din wine[22] - which assists in farmers being able to properly observe Shemitta[23] – simply due to this rationale of not using it for Havdalah, then it may cause irreparable damage to the observance of the Mitzvah of Shemitta. Hence, in their opinion, 'Kiyum Mitzvah' would trump 'Chavivus HaMitzvah.' [24]

The Biur Necessities of Wine

Of course, it goes without saying that this remarkable ruling is only applicable when there are no other halachic concerns regarding the Kedushas Sheviis wine. These include its presence is exclusively in Eretz Yisrael (as using, and even just having Kedushas Sheviis wine in Chutz La'aretz hosts an additional set of problems, and certainly if it was purchased in a normal manner),[25] as well as this Havdalah taking place prior to the wine's Zman Biur (or after one properly performed Biur).

This halacha detailing the obligation of 'Biur' for Shemitta produce is learned from Parashas Behar (ibid.) as well:

V'lechayah Asher B'artzechah -the fact that the Torah stressed that Shemitta produce is also relevant to wild animals teaches us that one may partake of such produce in his own home, but only as long as it is still available to the animals in the wild. After that time, one must remove such produce from his home and relinquish all property rights to the fruit. This action is known as Biur. (Taanis 6b, Pesachim 52b, Nida 51b, and Sifra / Toras Kohanim, Parashas Behar 1: 7)

According to most authorities, 'Biur' is accomplished by taking Kedushas Sheviis produce out of the house to a public place and giving up all rights to the fruit, announcing it as 'hefker' in front of three people.[26] After that, once one properly performs Biur he may actually reacquire the produce himself.[27]

Every type of fruit has its own specific Zman Biur, time of year when this must be performed, as it depends on when each species of fruit is no longer commonly available in the fields. The Gemara (Pesachim 53a) informs us of the Biur dates of four types of fruit: dried figs on Chanuka, dates on Purim, grapes on Pesach, and olives on Shavuos - all in the eighth year.

Since we know that the Zman Biur for grapes, and therefore wine as well, is Pesach of the eighth year, that means that anyone wanting to use Kedushas Sheviis wine on this upcoming Pesach must perform Biur on Erev Pesach on all of his Shemitta wine. One more exciting thing to do on busy Erev Pesach - this means mandating lugging all of your wine bottles out to the street and publicly declaring them hefker. If one did not do so, according to most Poskim, all of his Kedushas Sheviis wine would be prohibited.[28] Talk about Erev Pesach pressure. But don't worry, according to most Poskim, after a successful Biur, you may simply reacquire your wine, and it is Havdalah-ready again.

In conclusion, we see that at least in Eretz Yisrael, it may be preferable to make a cautious Havdalah with Kedushas Sheviis wine; nonetheless, certainly while fulfilling a Mitzvah, one would not want to Chas V'shalom be transgressing others. Although the potential issues raised are just several matters of concern when dealing with Kedushas Sheviis produce, who would have thought that a seemingly simple Havdalah could be so complex?

Yet, this demonstrates, why it is advisable for all of us, including those in Chutz La'aretz, and even in the eight year (Shemini), and perhaps gives us the impetus, to become proficient in Hilchos Sheviis. Certainly a worthwhile investment.

Note: This article is not intended to serve as an exhaustive guide, but rather to showcase certain aspects of the intricate and myriad halachos of produce imbued with Kedushas Sheviis.

For any questions, comments or for the full Mareh Mekomos / sources, please email the author: yospitz@ohr.edu.

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[1]Kedushas Sheviis status for olives, grapes, and the five grains is determined by when they are one-third grown, no matter when actually picked, plucked, or procured. See Rosh Hashanah (12b-13b), Rashi and Tosafos (ad loc. s.v. v'hazeisim), Tosefta (Sheviis Ch. 2: 10), Yerushalmi (Sheviis Ch. 2, Halacha 5), Rambam (Hilchos Shemitta V'Yovel Ch. 4: 9), and Chazon Ish (Sheviis 7: 15 s.v. tevuah). Hence, although technically post-Shemitta, now is the time when such "Holy Wine" abounds.

[2]Shemitta Basics: 'Kedushas Sheviis Produce' and 'Fruit Use and Fruit Juice'.

[3]Parashas Behar (Vayikra Ch. 25: 6-7).

[4]See Mishnayos Sheviis (Ch. 8: Mishnah 2), Yerushalmi Sheviis (Ch. 7: Halacha 1), Tosefta Sheviis (Ch. 6: 1-3), Rambam (Hilchos Shemitta V'Yovel Ch. 5: 1-5), Ra"sh (on Mishnayos Sheviis ibid.), Aruch Hashulchan HaAsid (Hilchos Shemitta V'Yovel 24: 3; however he classifies this as a separate issur and not that of 'ruining'), Sefer HaShemitta (Ch. 7: 4), Chazon Ish (Sheviis 10: 4), and Shu"t Minchas Yitzchak (vol. 8: 102). This topic was delineated at length in a previous article titled 'Kedushas Sheviis Produce'.

[5]Tehillim (Ch. 104: 15).

[6]Rema (Orach Chaim 697: 1), citing Mishlei (Ch. 15: 15; see Rashi ad loc.).

[7]Rav Yitzchak de Leon, the renowned Megillas Esther, in his commentary on the Ramban's additions to the Rambam's Sefer HaMitzvos (Mitzvas Asei 3; see also the Mishneh L'Melech's Derech Mitzvosecha appended to his Prashas Drachim), writes that he understood the Ramban to mean that he held eating Kedushas Sheviis produce is a Mitzvah Chiyuvis. Others who share this assessment of the Ramban's shittah include the Tashbetz (Zohar Rakiya al Ha'azharos, Mitzvas Asei 66:36) and the Maharit Algazi (in his commentary on the Ramban's Hilchos Challah, 2:14). See also Sefer HaShemitta (Ch. 7:2, and footnote 2). However, most other authorities disagree with his assessment, including the Megillas Esther himself, maintaining that there is no Mitzvah to specifically consume Shemitta produce. In fact, several other Poskim, most notably the Chazon Ish (Sheviis 14: 10, s.v. v'lamdanu; based on the Tosefta, Sheviis Ch. 6: 1), understand that the Ramban would even agree with this as well. In a similar vein, the Kamarna Rebbe (Otzar Chaim Hakatzer, Mitzvos Asei Shelo Nimnu, Mitzvah 3) explains that even according to the Ramban, due to the double language of the pesukim, 'achillha' in this context actually refers to

being 'mafkir' Shemitta produce, and not doing any 'sechorah' with it. See also Aruch Hashulchan Ha'Asid (Hilchos Shemitta V'Yovel 24: 6), Shu"t Seridei Aish (new edition; Yoreh Deah 90: 1), Derech Emunah (vol. 4, Hilchos Shemitta V'Yovel Ch. 5: 2 and Biur Hahalacha ad loc.), Shu"t Ohr L'Tzion (Sheviis Ch. 2: 1), Mishmeres HaSheviis (Ch. 15, footnote 37), and Sefer Dinei Sheviis Hashalem (Ch. 16: 1) whom all rule similarly. However, see Toras Ha'Aretz (vol. 1: 8, 26), Sefer HaShemitta (Ch. 7, footnote 2), and Shu"t Shevet Halevi (vol. 4: 232, 4; printed at the end of the sefer), who nevertheless maintain that one still fulfills a Mitzvah Kiyumis upon consuming Peiros Sheviis. See also Kovetz M'Beis Levi (vol. 16, pg. 34, footnote 3) who posits that based on this and with all other factors being equal, it is preferable to eat a fruit containing Kedushas Sheviis than eating one that does not, especially if by choosing the other one, the 'holy' fruit might not get eaten and possibly go to 'waste'. In a similar vein, see Chut Shani (Shemitta, pg. 344) and Minchas Asher (Sheviis, Tinyana 10), who conclude that the Chazon Ish's shittah is indeed correct in the Ramban's opinion and there is no inherent Mitzvah incumbent upon us to eat Kedushas Sheviis produce. Yet, they posit from the fact that the Torah stressed 'L'achlah,' nevertheless shows that Hashem wants these fruits to be eaten and not to go to waste.

[8]Beis Ridbaz glosses to Pe'as Hashulchan (Sheviis, Ch. 5: 18, haghah; cited in Dinei Sheviis Hashalem, Ch. 32, 1: 4).

[9]Sefer HaShemitta (Ch. 7: 3, footnote 4) and Shabbos Ha'aretz (Kuntress Acharon to seif 22). See also Shemiras Shabbos Kehilchasa (vol. 2, Ch. 60, footnote 55).

[10]See Rema (Orach Chaim 296: 8), Bach (ad loc.), Magen Avraham (ad loc. 4; citing the Shelah), Elyah Rabbah (ad loc. 4), Tosefes Shabbos (ad loc. 5), Shulchan Aruch HaRav (ad loc. 19), Chida (Birkei Yosef ad loc. 7), Chayei Adam (vol. 2, 8: 12), Kitzur Shulchan Aruch (96: 7), Ben Ish Chai (Year 2, Parshas Vayetzei 22), Aruch Hashulchan (Orach Chaim 296: 5), Mishnah Berurah (ad loc. 6), and Kaf Hachaim (ad loc. 14; see also ad loc. 55, where he maintains that women may not perform Havdalah at all). As an aside and quite interestingly, the not drinking Havdalah wine, first cited by the Magen Avraham quoting the Shelah, is not brought by the Shulchan Aruch HaRav, Chayei Adam, nor Ben Ish Chai.

[11]Sheviis (Ch. 8, Mishnah 7).

[12]See Mishnah Rishonah (ad loc.)

[13]See Bris Olam (Sheviis 5: 3), Chut Shani (Sheviis, pg. 263), and Shemiras Haguf V'Hanefesh (vol. 2: 131, end footnote 5 s.v. heyos). The Beis Ridbaz made a similar assessment as well.

[14]See, for example Rashi and Tosafos to Zevachim (75b s.v. Sheviis), and the commentaries of the Rambam, Ra"sh, Bartenura, and Tifres Yisrael to our Mishnah (ad loc.).

[15]Rambam (Hilchos Shemitta V'Yovel Ch. 5: 4), see Kessef Mishneh (ad loc.).

[16]See Shulchan Aruch and Rema (Orach Chaim 296: 8) as well as Bach (ad loc. end, s.v. aval), Magen Avraham (ad loc. 11), Pri Megadim (Mishbetzos Zahav ad loc. 7), Mishnah Berurah (ad loc. 35), and Aruch Hashulchan (ad loc.

5) [and not like the Taz (ad loc. 7; who understands that women may not make Havdalah due to it being a Mitzvas Asei Derabbanan Shehazman Grama)]. See also MV"R Rav Yosef Yitzchak Lerner's excellent Shemiras Haguf V'Hanefesh (vol. 2: 131, 2) at length. This understanding can perhaps best be illustrated by several semi-common scenarios – see, for example, Shu"t Shevet Halevi (vol. 4: 54, 7) regarding a woman who is weak from fasting and is waiting for her husband to come home from shul on Motza'ei Yom Kippur – that she should make Havdalah herself. Moreover, when Tisha B'Av occurs on Motza'ei Shabbos and a woman needs to break her fast over the course of Sunday, according to the vast majority of Poskim, she should make Havdalah herself. This topic was detailed at length in a previous article titled 'How to Make Havdalah when Motza'ei Shabbos is Tisha B'Av'.

[17]Rema (Orach Chaim 296: 1).

[18]This was discussed at length in a previous article titled 'Fruit Use and Fruit Juice.'

[19]Shu"t Ohr L'Tzion (Sheviis, Ch. 2: 6).

[20]Additionally, one may not even put the customary several drops in the eyes and pockets; all of the above are not the ordinary way to drink wine. Hence, according to the majority consensus, all of these Havdalah extras are forbidden with Shemitta wine. See Sefer HaShemitta (pg. 31: 4), Shabbos Ha'aretz (Kuntress Acharon to seif 22), Shemitta Kehilchasah (Ch. 3: 11), Derech Emunah (vol. 4, Hilchos Shemitta V'Yovel Ch. 5, Tziyun Hahalacha 19), Bris Olam (Sheviis, Ch. 5: 3), Chut Shani (Shemitta, pg. 218), Mishpetei Aretz

(Sheviis, Ch. 21: 5 and 6), Mishnas HaGri"sh (pg. 83), Dinei Sheviis Hashalem (Ch. 16, s.v. Shimushei Mitzvah 3), and Yalkut Yosef (Sheviis, Ch, 22. 7).

[21]Halichos Shlomo (Moadim vol. 2, Pesach Ch. 9: footnote 242) and Shemitta Kehilchasah (Ch. 3: footnote 11); Rav Vosner's opinion is cited in Dinei Sheviis Hashalem (Ch. 32, 1: 12). As mentioned previously, Rav Ben Tzion Abba Shaul (Shu"t Ohr L'Tzion ibid.) certainly took no issue with minute spillage of Shemitta wine.

[22]The institution of Otzar Beis Din and all related issued were discussed at length in a previous article titled 'Shemitta Sheilos: 'Using Arbah Minim of Sheviis.' Basically, it is based on the Tosefta (Sheviis Ch. 8; 1 - 3) [and cited by several Rishonim, including the Ramban (Parashas Behar, Ch. 25: 7), the Rash and Rosh in their commentaries to Mishnayos Sheviis (Ch. 9, Mishnah 8), and the Raavad (Hilchos Shemitta V'Yovel Ch. 7: 3)] that explains that during Shemitta, Beis Din has the right to gather (hefker) Kedushas Sheviis produce to store and distribute it as they see fit in small quantities. The Tosefta also mentions that they may appoint workers to aid with their task. Often, after a farmer signs over his fields for the Beis Din to control, they hire back the farmer to perform permitted work to enable the collection and distribution of the Kedushas Sheviis produce, as he knows his own fields and business best. In this manner this also allows the Shemitta observant farmer to collect back at least a small portion of the money he is losing by letting his land lay fallow. Although one may not actually pay for Kedushas Sheviis produce, as it is halachically hefker, and as explained in previous articles, there is an 'Issur Schoirah' on business transactions with Shemitta produce, nonetheless, the Otzar Beis Din workers may get paid for their time and effort as well as distribution costs. However, this means that the price one pays for Otzar Beis Din Kedushas

Sheviis produce must be significantly and substantially less than one would generally pay for such produce in an ordinary year. Additionally, such produce may not be bought in the regular manner, but rather acquired (as one is not actually purchasing, but rather receiving a distribution, with payment exclusively reserved for necessary operating costs) on credit or in advance, with no regard to the actual weight or amount of each individual item. Of course, since Otzar Beis Din produce contains Kedushas Sheviis it must be treated as such, with all of the nuances that entails.

[23] Many contemporary Gedolim, most notably the Chazon Ish, championed the cause of setting up Otzar Batei Dinim to enable distribution of Kedushas Sheviis produce, which still has to get from the field to the consumer, as well as ensuring proper Shemitta observance. See Chazon Ish (Sheviis 11: 7 and 12: 6 and 8) and Kovetz Igros Chazon Ish (vol. 2: 73). Orchos Rabbeinu (old print vol. 2; new print vol. 3) dedicates an entire chapter (titled 'Otzar Beis Din') describing how the Chazon Ish attempted to set up properly run Otzar Batei Dinim across Eretz Yisrael every Shemitta. Mishpetei Aretz (Sheviis pg. 230-232) prints the Chazon Ish's actual instructions to storekeepers and suppliers on how to properly set up and distribute Otzar Beis Din produce. See also Shu"t Mishnah Halachos (vol. 9: 319) as well as the 'Michtavim' printed in the back of Chut Shani on Hilchos Yom Tov v'Chol Hamoed (pg. 371-372) from Rav Yosef Shalom Elyashiv and Rav Nissim Karelitz on the importance of establishing Otzar Batei Din. For more on the nuances of Otzar Beis Din and its relevant halachos and how they are properly applied, see the 'Kuntress Otzar Beis Din' in Chut Shani on Shemitta, Derech Emunah (vol. 4, Hilchos Shemitta V'Yovel Ch. 6: 19), Orchos Rabbeinu (old print vol. 2; new edition vol. 3 - Ch. 'Otzar Beis Din'), Shemitta Kehilchasah (Ch. 3: 16), Mishpetei Aretz (Sheviis Ch.

13), Dinei Sheviis Hashalem (Ch. 20), Yalkut Yosef (Sheviis Ch. 18, 'Otzar Beis Din'), Shu"t Minchas Shlomo (Tinyana 123: 11), Shu"t Mishnah Halachos (vol. 9: 319), Minchas Shlomo (Sheviis Ch. 9: 8, pg. 250), Rav Tzvi Cohen's 'Shemitta' (Ch. 23), and Kara Shemitta (Ch. 9: 6, 'Otzar Beis Din'; he also details the first Otzar Beis Din set up in modern times - in 1910, for the Rechovot vineyards of Rav Tzvi Hirsch Kahn, author of Imrei Tzvi, by the Badatz of Yerushalayim, consisting of such luminaries as Rav Yosef Chaim Sonnenfeld, Rav Chaim Berlin, and Rav Tzvi Pesach Frank). On the other hand, many Poskim were and are wary of the Otzar Beis Din system, as it unfortunately lends itself to abuse. See the Badatz's Dvar HaShemitta (5775, pg. 30-31 and 50), citing Rabbanei Yerushalayim of over 100 years ago, that they never accepted 'Otzar Beis Din' as a practical means of allowing distribution of Kedushas Sheviis produce, as the system regrettably can lend itself to abuse by unscrupulous individuals, especially if it is not run properly. They cite examples of 'Otzar Beis Din' produce somehow finding its way into supermarkets and being sold in the normal manner, quite counter-indicative of its halachic Kedushas Sheviis status. Unfortunately not an uncommon occurrence, this author has seen Otzar Beis Din produce being sold in regular stores (ostensibly with reliable hechsherim) this past Shemitta year by weight and price. The Star-K's Kashrus Kurrents article titled 'Shemitta 5775' refers to a great deal of wine produced under the auspices of Otzar Beis Din that ended up in supermarkets... in the Unites States. See also Minchas Asher (Sheviis, Tinyana 48b) who cites an example of Esrog merchants abusing the Otzar Beis Din system by reserving top quality Esrogim for 'Admorim and Mechubadim'. Similarly, Orchos Rabbeinu (new print vol. 3, pg. 260-261: 3-4) relates that certain years the Steipler Gaon would not rely on an Otzar Beis Din for Esrogim, as he held that they (perhaps those specific ones) were improperly run, and charging too high of a price to only include

actual expenses. Unfortunately, abusing the Hetter of Otzar Beis Din seems to be the norm nowadays (or at least 'a norm'), to this author's great consternation. Other contemporary Poskim who were wary of 'Otzar Beis Din' include Rav Moshe Sternbuch (Shemitta Kehilchasah Ch. 3: 16; Moadim U'Zmanim vol. 8, Lekutei Ha'aros to vol. 6: 54; and Teshuvos V'Hanhagos on Sukkos pg. 345 and pg. 357 - 358), Rav Mordechai Eliyahu (Shu"t Maamar Mordechai vol. 5, V'shavsah Haaretz, 11; he additionally notes that the Rambam did not cite such a provisio) [Others however, 'answer up' that 'Otzar Beis Din' is an 'eitzah', not a chiyuv, and that is why the Rambam did not need to mention it], and the Karlsberg Rav, Rav Yechezkel Roth (Shu"t Emek Hateshuvah vol. 2: 1). See also the ma'amar on the inyan of how Otzar Batei Din are commonly run (as potentially opposed to how they are supposed to be run) in Kovetz Beis Aharon V'Yisrael (Av-Elul 5782), as well as Rav Yirmiyohu Kaganoff's excellent recent article titled 'Otzar Beis Din orHetter Otzar Beis Din?'

[24]Kovetz Halichos Sadeh (Issue # 196; Av 5576, pg. 5-7). Rav Chaim added that one would not need to perform Hataras Nedarim, as there is no known minhag of specifically overflowing or extinguishing candles with Kedushas Sheviis wine, and one's daas of doing so would be when one one is halachically able to do so, i.e. when using regular wine that contains no Shemitta concerns.

[25]Using Kedushas Sheviis wine in Chutz La'aretz hosts an additional set of problems, including that of taking Shemitta produce out of Eretz Yisroel: B'artzechah - in your land, and not in Chutz La'aretz, meaning that Kedushas Sheviis produce may not be exported from Eretz Yisrael (Mishnayos Sheviis Ch. 6, Mishnah 5; see commentaries ad loc.), as well as L'achlah- for you to eat, and not for sechora, merchandise or commercial use (Avodah Zarah 62a and Bechoros 12b; see also Mishnayos Sheviis Ch. 8, Mishnah 3 and 4) - hence, one

may exclusively obtain Kedushas Sheviis produce in a non-standard manner. Although most Poskim maintain that b'dieved one may indeed partake of them (although one should be aware that the exporters and importers most likely relied upon Hetter Mechirah; which is not a simple proposition, as delineated in previous articles), this allowance, however b'dieved, is strictly prior to the fruit's Zman Biur. Otherwise they are assur, but still must be treated with proper Kedushas Sheviis status (as explained above). These are important issues to be aware of, and if possessing Shemitta wine in Chutz La'aretz on Erev Pesach, one must ascertain what to do from a knowledgeable halachic authority. Taking all of the above into account, it would certainly seem that with all of the inherent issues with Kedushas Sheviis wine in Chutz La'aretz, using a non-problematic wine for Havdalah would undoubtedly be a preferred option. For detailed treatments on these subjects, see previous articles titled 'The Perplexing Puzzle of the Possibly Purloined Peppers' and 'Shemitta Sheilos: Using Arbah Minim of Sheviis.'

[26]See Ramban (Parshas Behar Ch. 25: 7), Rosh (Sheviis Ch. 9, Mishnah 8: 5), Rash (ad loc.), Minchas Chinuch (Parshas Behar, Mitzvah 329: 7), Shu"t Maharit (vol. 1: 43), Shaarei Tzedek (19: 4 and 5), Pe'as Hashulchan (27: 3), Pnei Yehoshua (Pesachim 52b), Aruch Hashulchan Ha'asid (Hilchos Shemitta V'Yovel 27: 8), Beis Ridbaz (Sheviis, Ch. 12: 7), Chazon Ish (Shemitta 11: 6 and 7; 14: 13; and 26, Seder HaSheviis 1 end s.v. pri), Shemitta Kehilchasah (Ch. 3: 20), the Badatz Eidah Hachareidis' Dvar HaShemitta, Pesakim V'Hora'os 4, pg. 55 - 56), and Sefer Dinei Sheviis Hashalem (Ch. 21). When the Zman Biur for a specific fruit arrives, the Mishnah (Sheviis, Ch. 9: Mishnah 8) teaches us that one may still keep enough of that particular fruit for three meals worth for every member of the household. However, there is another opinion, that of

the Rambam (Hilchos Shemitta V'Yovel Ch. 7: 1-3) that Biur refers to actually destroying said produce when it is no longer available in the field. As mentioned, this is not the normative halacha and Ashkenazim certainly follow the shittah of the Rosh, Rash, and Ramban, of removing it from the house and making it hefker, as cited by the aforementioned Poskim. [Interestingly, the Chochmas Adam (Shaarei Tzedek Ch. 19: 4 and 6) expresses preference to fulfilling Mitzvas Biur al yedei Sereifah, like the shittah of the Rambam.] However, whether Sefardim need be machmir for the Rambam's shittah is a matter of dispute between contemporary Sefardic authorities, with Rav Ben Tzion Abba Shaul (Shu"t Ohr L'Tzion, Sheviis Ch. 3: 4) ruling to be machmir and Rav Ovadiah Yosef (Ma'ohr Yisrael vol. 2, pg. 105; also cited in Yalkut Yosef, Sheviis, Ch. 21: 1, pg. 468) maintaining that making the produce hefker is sufficient.

[27]This is due to the fact that the halacha follows Rabbi Yosi's opinion - see Mishnayos Sheviis (ibid.), Tosefta (Sheviis Ch. 8: 4); Yerushalmi (Sheviis Ch. 9, Halacha 4), Chazon Ish (Hilchos Sheviis 11: 6 and 26, Seder HaSheviis 1 s.v. pri), and Shu"t Minchas Shlomo (Tinyana 123: 10 and vol. 3: 132, 13).

[28]The majority of Poskim maintain that if Biur was not performed, the Shemitta wine becomes prohibited. See Shu"t Dovev Meisharim (vol. 3, 1: 3), Shu"t Har Tzvi (Orach Chaim vol. 2: 68), Chazon Ish (Sheviis Ch. 15: 7), Even Yisroel (vol. 2, Hilchos Ma'achalos Asuros Ch. 13: 25), Halichos Even Yisroel (pg. 157 - 158), Halichos Shlomo (Moadim vol. 2, Pesach Ch. 9, footnote 69), Orchos Rabbeinu (new version 5775; vol. 3, pg. 330), Minchas Asher (Sheviis, Tinyana 38), and Sefer Dinei Sheviis Hashalem (Ch. 21). On the other hand, Rav Asher Weiss (Minchas Asher on Sheviis; Tinyana 42) offers an alternate solution and novel approach, utilizing a tziruf to be meikel b'shaas hadchak and

hefsed merubah, as there are those, including the Chochmas Adam (Shaarei Tzedek Ch. 19: 5; citing the Sefer HaChareidim) and Rav Yechiel Michel Tukachinsky (Sefer HaShemitta Ch. 9: 10), who hold that b'makom oness(duress), not performing Biur will not prohibit the produce. See also Yalkut Yosef (Sheviis Ch. 22: 2-5, 7, and 9; pg. 479-483) who holds similarly, that b'dieved there is what to rely upon that the wine did not become prohibited. Either way, it is certainly preferable to lechatchilla not come into a sheilah.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.