

Kiddush Levana During the Megilla?!

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There is an exceptional monthly Mitzva that Chazal singled out by designating one who fulfills it as akin to greeting the Presence of the Shechina. That Mitzva is Kiddush Levana, the bracha and following short ceremony of pesukim recited at the beginning of every Jewish month, upon clearly seeing the moon's radiant light.[1]

The Gemara cites proof to this assessment from the Torah's choice of similar descriptive terms of the first Mitzva given to Kal Yisrael as a nation: "Hachodesh Hazeh Lachem" (Parashas Bo, Shemos Ch. 12: 12; recounted as Parashas Hachodesh) and that of Az Yashir by Krias Yam Suf: "ZehKeili V'Anveihu" (Parashas Beshalach, Shemos Ch. 15: 2). Hence, by fulfilling the Mitzva of 'Birchas Hachodesh B'zmano' (a.k.a. Kiddush Levana), it is as if one is greeting the Shechina (which was overtly manifest at the Splitting of the Sea).[2]

What Time is Kiddush?

However, it is not so clear from the Gemara when the proper time to perform this Mitzva actually is. We know that at the start of the lunar cycle (which takes 29 days, 12 hours, and 793 chalakim),[3] every Rosh Chodesh, the moon appears almost non-existent, and slowly waxes until the full moon mid-month. After its apex, it slowly wanes until the end of the month and then the monthly cycle starts anew.

Rav Yochanan states that this Mitzva can be fulfilled "ad shetismalei pegimasah,"until the moon becomes full from its deficiency. There is an apparent machlokes between Rav Yehuda and Nahardai when exactly that is, with Rav

Yehuda maintaining up until 7 days after the New Moon and Nahardai stating that we have up until the 16th of the month.[4]

However, several authorities understand that Rav Yehuda and Nahardai are not truly arguing, but rather that Rav Yehuda was referring to the starting time for Kiddush Levana, day 7, whereas Nahardai was referring to the last possible time, until the 16th, meaning the night of the 15th.[5] Yet, Maseches Sofrim[6] qualifies this, teaching that as it is akin to greeting the Shechina, Kiddush Levana should be recited on Motzai Shabbos, when one is 'mevusam' (ostensibly, 'perfumed') and dressed in his Shabbos finery.[7] On the other hand, Rabbeinu Yona argues that this quote is not referring to people, but rather the moon, when its light is 'sweet' and people start getting benefit from the moon's illumination, meaning from after the 3rd day of the month.[8]

Further complicating matters, based on their understandings of the requirements, various Rishonim set different starting times for this Mitzva, leading to several divergent shittos among Klal Yisrael as to from when one can and / or should recite Kiddush Levana:[9]

One Day: Many Rishonim (and several Acharonim), including the Rambam, rule that Kiddush Levana may be recited from after the first day of the month.[10]

Three Days: Following the precedent of Rabbeinu Yona, many Ashkenazic (and several Sefardic) poskim maintain that one may (and some say should) recite Kiddush Levana from this time, and maintain that it is certainly preferable in the winter, when clear views of the moon's luminosity may be scarce.[11] [12]

Seven Days: Although he cites several opinions in his Beis Yosef commentary on the Tur, when he codified the halacha in his Shulchan Aruch, Rav Yosef Karo ruled

unequivocally that Kiddush Levana should be recited only after the seventh day.[13] He bases his ruling on a teshuva from Rav Yosef Jiktilia, an early master Kabbalist (he lived approximately 750 years ago) and esteemed author of Shaarei Orah.[14] As this is the Shulchan Aruch's definitive psak, it is the most common minhag, and definitively followed by Sefardic Jewry.[15] [16] [17]

Motzai Shabbos: As mentioned previously, optimally Kiddush Levana should be recited on Motzai Shabbos. However, if worried that by waiting until Motzai Shabbos we will miss out on our chance for Kiddush Levana, then practically it should be performed during the week.[18]

Earlier in Winter: Many authorities write that although it may be preferable to wait until a Motzai Shabbos after seven complete days from the beginning of the month to perform Kiddush Levana, nonetheless, in the winter months, with a likely probability of being unable to recite Kiddush Levana due to lacunae of lunar luminosity, it would be preferable to perform it earlier, on a Motzai Shabbos after three days, and possibly even during the week (depending on individual situation).[19]

Mitzva Kiyumis or Chiyuvis?

Although stories abound regarding contemporary Rabbanim and the great lengths they would go to to properly observe this important Rabbinic, if somewhat fleeting, Mitzva, including hiring a helicopter to fly above the clouds[20] or even taking flights to areas where the 'air is clear',[21] all to get a clear glimpse of the moon, nonetheless, it is not entirely clear from the words of the poskim, what type of Mitzva Kiddush Levana truly is.

Is it considered a Mitzva Kiyumis, meaning a Mitzva that one fulfills when seeing and blessing the moon during this timeframe, similar to the Mitzva one fulfills when making the blessing upon seeing lightning or hearing thunder? If so, one would not be under a specific obligation to be mekadash the levana, but rather if he sees the moon during the correct timeframe, he is required to make the bracha. However, if it is considered a Mitzva Chiyuvis, a mandated Mitzva, then he would be obligated to seek out a clear view of the moon in order to make the bracha.

The Noda B'Yehuda's Purim Psak

A practical difference between these two understandings of the Mitzva was highlighted when the renowned Rav of Prague and Gadol Hador of his time, the Noda B'Yehuda, Rav Yechezkel Landau zt"l(1713 – 1793), issued a groundbreaking psak.[22] The Noda B'Yehuda noted that generally speaking, the last night of a month one can safely perform the Mitzva of Kiddush Levana is the night of the 14th.[23] As Purim is the only holiday that falls out on the 14th of a month, he posed a fascinating question:

What should a congregation do if due to inclement weather and overcast skies they were unable to recite Kiddush Levana the whole first half of a month, and the first time the moon was clearly visible was in the middle of the leining of the Megillah?

The Noda B'Yehuda's surprising response was that the entire tzibbur should stop the reading, go outside and recite Kiddush Levana![24] Afterwards, they should immediately resume the Krias HaMegillah where they left off. He qualifies that this ruling is only applicable if the entire tzibbur was unable to perform Kiddush Levana up until that point, as certainly one's individual lack of Kidduah Levana would not warrant an entire congregation's interruption of the Pirsumei Nisa of Krias HaMegillah.

The Noda B'Yehuda cites several reasons why this is the appropriate ruling:

There is a machlokes between the Magen Avraham and the Bechor Shor regarding one who is in the middle of reciting Krias Shema and hears thunder, whether he should stop and recite the bracha for hearing thunder or not. The Magen Avraham writes that as the bracha mandated upon hearing thunder is due to Kavod Hashem, one should pause his recital of Krias Shema momentarily and recite the bracha.[25] He explains that this pause should certainly be deemed more significant than the allowance for certain interruptions whilst in the middle of reciting Krias Shema given in specific situations simply for Kavod Bassar V'Dam ('flesh and blood'; meaning human honor).[26]

The Bechor Shor, on the other hand, argues that as since the entire Krias Shema is essentially Kavod Hashem, one cannot pause while performing a more important type of Kavod Hashem merely to recite a lesser one, such as the bracha on thunder. As such, in that situation, he mandates continuing Krias Shema without pausing.[27] Although there does not seem to be a clear consensus on this debate,[28] the Noda B'Yehuda applies it to our case and asserts that we certainly may rely upon the Magen Avraham's shittah b'shaas hadchak, as this very well may be the last opportunity for the month to recite Kiddush Levana at all.

There is a Talmudic dictum of 'Tadir V'She'aino Tadir, Tadir Kodem', that if one has the opportunity to perform one of two Mitzvos, he should give precedence and begin with the one that is performed more frequently.[29] Since Kiddush Levana is performed monthly and Krias HaMegillah biannually, this dictum counsels us to perform Kiddush Levana first.

Although one may argue that Kiddush Levana is a Mitzva Derabbanan and thus 'Tadir Kodem' should not be sufficient reasoning to push off the Pirsumei Nisa of

Krias HaMegillah, as it is mandated as a 'Mitzvas Asei D'Divrei Kabbalah',[30] conversely, the Noda B'Yehuda asserts that that assessment only holds true regarding the ikar Krias HaMegillah on Purim day.[31]

In his opinion, the Megillah reading on Purim night is classified as a regular Mitzva Derabbanan.[32] Hence, the rule of 'Tadir Kodem' still holds true, as both Mitzvos share equal footing, since both are classified as Mitzvos Derabbanan. Especially in this specific instance, as Kiddush Levana is a Mitzva Overes (a fleeting Mitzva), which if we do not fulfill immediately we may not be able to perform at all, whereas the Megillah may still be read for the rest of the night, the ruling to pause the Megillah reading for the tzibbur to recite Kiddush Levana, is the correct course of action.[33]

Opposing Principles and Mitzva Maxims

However, opposition to the Noda B'Yehuda's novel ruling was not long in coming. Later authorities raised several points of contention to his approach:

There is a well-known Talmudic dictum of 'Ha'Osek B'Mitzva Pattur Min HaMitzva', if one is involved in performing one Mitzva, he is (at least temporarily) absolved from performing a different Mitzva that may arise.[34] Hence, while performing the Mitzva of Krias HaMegillah, how can we justify a congregation stopping in the middle of the public Megillah reading, simply to perform an additional Mitzva of making a bracha on the moon?[35]

There is a different Talmudic dictum of 'Chovas HaYom Adif', that a Mitzva that pertains specially to that specific day maintains preference over others. Although there is debate in the Gemara whether or not this rule trumps that of 'Tadir Kodem' regarding which bracha to make first during Kiddush on the first night of Sukkos,

the Gemara concludes that indeed the bracha of Leisheiv BaSukka ('Chovas HaYom') should be recited before Shehechyanu ('Tadir'; as it is recited on every Yom Tov, not just Sukkos), due to this dictum.[36] Applying this principle to our case should mean that Krias HaMegillah, which is the Mitzvas HaYom of Purim, should take precedence to that of Kiddush Levana, which is in fact germane for the beginning of every month. Accordingly, why should we interrupt the fulfillment of the Chovas HaYom solely for Kiddush Levana?[37]

There is a third Talmudic dictum of 'Ain Maavirin Al HaMitzvos', or not to pass by a Mitzva.[38] According to Tosafos, this precept applies when one has the choice and ability to perform two Mitzvos and is unsure with which one to start, he should not pass over a Mitzva but rather observe the first one that comes his way.[39] Although generally speaking, 'Tadir Kodem' would take preference over 'Ain Maavirin', as mentioned previously, that is when two equal Mitzvos present themselves at the same time. In our case, the second Mitzva which is 'Tadir', Kiddush Levana, is only presenting itself while in the middle of performing the Mitzva that 'arrived first'. Accordingly, how can we stop the observance of a Mitzva, especially one that is public Pirsumei Nisa, just because another Mitzva, particularly a Mitzva Derabbanan, 'showed up' in the middle?[40]

It is not so clear-cut that the Purim night Megillah reading is classified as a Mitzva Derabbanan, and there are many who are of the opinion that the Leil Purim Krias HaMegillah shares the status of the daytime reading – that it is similarly considered a 'Mitzvas Asei D'Divrei Kabbalah. According to these shittos, the Mitzva Derabbanan of Kiddush Levana should not be able to interrupt the 'Mitzvas Asei D'Divrei Kabbalah' of Krias HaMegillah.[41]

It seems from his psak that the Noda B'Yehuda must have held that Kiddush Levana is a Mitzva Chiyuvis, a mandated Mitzva, to have the 'strength' to interrupt Krias

HaMegillah. Yet, such a classification is not so straightforward, as it can be argued that it is essentially a Mitzva Kiyumis, since if one does not see the moon during the prerequisite timeframe he would not be obligated to perform Kiddush Levana.[42] Consequently, if this classification is accurate, then Kiddush Levana should not be considered a true 'Tadir', and thus lacking the ability to interrupt Krias HaMegillah.

Although due to these salient points, the poskim who raised each of these objections ruled that we should not interrupt the Megillah reading simply to perform Kiddush Levana, on the other hand, it nonetheless seems that practically the common consensus is indeed to follow the psak of the Noda B'Yehuda in this instance, as holds true in almost every case.[43] Indeed, the majority of poskim accepted his psak and maintain that a congregation should interrupt the Krias HaMegillah to recite Kiddush Levana if until that point they were unable to perform this Mitzva.[44]

Kiddush During Krias Shema?

However, that is not all, folks. At the end of his far-reaching teshuva, the Noda B'Yehuda adds that the same din would apply if one was unable to recite Kiddush Levana the whole beginning of the month, and then when in the middle of reciting Krias Shema on the last relevant night the moon suddenly put in a surprise shining appearance. Although preferable to finish the paragraph, so the interruption should be 'bein haperakim', nonetheless, if not an option due to strong prospect of disappearing moon, he rules that one should still interrupt his Shema recital for Kiddush Levana, even though it is certainly not 'Tadir' vis-à-vis the twice daily Mitzva Deoraysa of Krias Shema.

The Noda B'Yehuda contends that this certainly applies if one has not yet started Maariv on the last available night and the moon suddenly showed up, that Kiddush

Levana should be recited before Maariv. Not one to rest on his laurels and rule exclusively for others, he concludes his teshuva stating that he personally conducted himself this way many times in such a situation, having Kiddush Levana precede Maariv.

Similar to his ruling regarding Krias HaMegillah, this psak was accepted by virtually all later authorities.[45] However, as the Mishnah Berurah[46] points out, this allowance for Kiddush Levana in the middle of Krias Shema is only referring to making the actual bracha of Kiddush Levana ('asher b'maamaro bara shechakim'), not the additional prayers that are part of Kiddush Levana.

As Rav Asher Weiss notes,[47] from the wide acceptance of the Noda B'Yehuda's psak, as well as the divergence of several important halachic nuances in contrast to other brachos of Re'iyah,[48] and the Gemara's unique designation of Kiddush Levana as comparable to greeting the Presence of the Shechina, in the final analysis, it is clearly evident that Kiddush Levana is conclusively considered a Mitzva Chiyuvis, a mandated Mitzva, and not simply a Mitzva Kiyumis.

Thanks are due to Rabbi Eliyahu Lev, whose shiur was the impetus for this author's research on topic.

This article was written L'Iluy Nishmas Yisrael Eliezer ben Zev and Shoshana Leah bas R' Yaakov Eliezer, L'zechus for Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua teikif umiyad, and l'Refuah Sheleimah for Mordechai ben Sarah, and Shayna bas Fayga.

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His first English halacha sefer is due out shortly.

[1]Gemara Sanhedrin (42a).

[2]It is worthwhile to read the Abudraham's explanation (pg. 392 s.v. v'garsinan) of this maamar Chazal. On the chavivus and importance of the Mitzva of Kiddush Levana and the shemira it offers, as well as the various versions of the famous story cited by Gedolei HaDoros that performance of this Mitzva stopped a Jew's murder, see Alpha Baysa Tinyasa D'Shmuel Ze'ira (vol. 2, pg. 631 – 634).

[3]Rabban Gamliel's statement ('mekublani m'bais avi abba') in Gemara Rosh Hashana (25a). See Rambam (Hilchos Kiddush HaChodesh Ch. 6: 2 and 3), the Tur's Seder HaKvius (Orach Chaim 427 – 428), the Mishnah Berurah's Seder La'asos Luach B'Ketzara (end Orach Chaim 428), and Chazon Ish (Orach Chaim 138: 4). This comes out to 29.53059 days. According to 'Discovery' by Rabbi Shraga Simmons (pg. 31), and Hamehapeich (by Rav Zamir Cohen; vol. 4, pg. 16-17), this data has recently been corroborated by NASA: "After years of research based on calculations using satellites, hairline telescopes, laser beams, and super computers, scientists at NASA have determined that the length of the 'synodic month', the time between one new moon and the next, is 29.530588 days".

[4]Gemara Sanhedrein (41b – 42a), according to the pashut pshat in Rashi (ad loc. s.v. v'travayhu) and other Rishonim. The Tur (Orach Chaim 426: 3) seems to understand the Gemara this way as well. Accordingly, this does not mean that Rav

Yehuda held a full moon occurs on the seventh of the month, but rather that when it is half-full it is already considered 'malei mei'pegimasah.'The Kol Bo (43; cited by the Beis Yosef, Orach Chaim 426: 3 s.v. amar Rabbi Yochanan) holds that therefore lechatchilla we should perform Kiddush Levana until the seventh of the month, and if not, b'dieved one has until the 15th.

[5]See Shu"t Rama M'Fano (78), Elyah Rabba (Orach Chaim 426: 14), and Birkei Yosef (ad loc. 4).

[6]Maseches Sofrim (Ch. 20: 1). Also cited lemaaseh by the Tashbetz Kattan (87), Hagahos Maimoniyos (on the Rambam, Hilchos Brachos Ch. 10: 16; citing that was also the minhag of 'Mori Rabbeinu' (the Maharam M'Rottenberg), adding that if he needed to recite Kiddush Levana during the week, he would don a 'sarbal mechubad'), Leket Yosher (pg. 69; citing the Ohr Zarua), Tur (Orach Chaim 426: 2), and Shulchan Aruch (ad loc. 2). In Rav Karo's sefer Maggid Meisharim (Shir Hashirim; cited by the Magen Avraham ad loc. 2 and Mishnah Berurah ad loc. 4), he relates that his Maggid (essentially an angel who learned with him; see previous article titled 'The Rosh Hashanah Meat Mystery') taught him that reciting Kiddush Levana on Motzai Shabbos is a siman for a successful month. The Pri Etz Chaim (Shaar Rosh Chodesh, Ch. 3 s.v. tzemach) cites Rav Chaim Vital as saying that the reason we recite Kiddush Levana on Motzai Shabbos is because the Bais Hamikdash was destroyed and the Shechina exiled on a Motzai Shabbos. Therefore, we are "Mevasrin Chiddush Yisrael V'HaShechina" specifically on Motzai Shabbos.

[7]If so, wouldn't it be preferable to perform this Mitzva on Shabbos? For different approaches why this does not hold true, see Piskei Ricanati (86), Maharil (Sefer HaMinhagim, end Hilchos Shavuos; cited briefly by the Taz ad loc. 1), Shu"t Rama M'Fano (78), Shu"t HaRadbaz (vol. 4: 133), Ben Ish Chai (Year 2, Parashas Vayikra 26 s.v. v'ha), Shaar Hatziyun (426: 12), and Shu"t Minchas Yitzchak (vol. 2: 150,

2). An additional reason may be gleaned from Rabbeinu Bachaye (Parashas Vayishlach s.v. vayehee bayom hashlishi) regarding the need for Besamim on Motzai Shabbos as it is Yom Hashlishi Mei'Brias Ha'Adam. Practically, if the last night (and according to some, even the penultimate night) to perform Kiddush Levana falls out on Shabbos or Yom Tov, the poskim permit its recital then. See Shu"t HaBach (80), Shu"t Shvus Yaakov (vol. 3: 31; citing and then disagreeing on a nuance with his brother-in-law, Rav Dovid Oppenheim), Magen Avraham (Orach Chaim 426: 7), Pri Megadim (Mishbetzos Zahav ad loc. 1 and Eishel Avraham ad loc. 7), Shaarei Teshuva (ad loc. 5), Chayei Adam (vol. 2, 208: 15), Shu"t Shoel U'Meishiv (Mahadura Kama vol. 3: 151), Shu"t Rav Pe'alim (vol. 2, Orach Chaim 38 s.v. v'chein), Aruch Hashulchan (ad loc. 10), and Mishnah Berurah (ad loc. 12). The Butchatcher Rav (Eishel Avraham ad loc. s.v. mitzad) notes that as the aversion to reciting Kiddush Levana on Shabbos is not mentioned explicitly by Chazal, one may certainly do so during 'Tosefes Shabbos', even in the middle of Seudas Shlishis, if necessary. However, if the skies are clear, then it would be preferable to wait until after bentching.

[8]Talmidei Rabbeinu Yona (Brachos 21a in the Rif's pagination s.v. Nahardai). The Abudraham (pg. 391 s.v. v'amrinan), and later the Vilna Gaon (Biur HaGr"a, Orach Chaim 426: 1) write that this interpretation is "hanachon," the correct one. This understanding is not simply allegorical, as the Sefer Hachinuch (Parashas Pinchas, Mitzva 403; cited briefly by the Shaarei Teshuva ad loc.1) writes that it is well known to 'kol chachmei lev' that the beginning of the month, when there is lack of moonlight, has practical (mostly negative) ramifications in the physical realm. That is one of the reasons why we bring a Korban Mussaf on Rosh Chodesh, to strengthen our focus that the Koach of 'Hischadshus' comes from Hashem alone.

[9]There is also some further debate as to whether these starting times for Kiddush Levana start from the actual Molad(the actual time of the 'New Moon') – me'ais

le'ais, or days from the Molad. The Magen Avraham (Orach Chaim 426:12) understands this to depend on the wording differences between the Shulchan Aruch and Rema regarding the final time of the month when Kiddush Levana may be recited (as discussed later in the article). See also Pri Megadim (Eishel Avraham ad loc. 12) for a round-up of the various shittos, as well as Mishnah Berurah (ad loc. 20). As this inyan also is dependent on when the Molad occurs over Yerushalayim, and not necessarily one's actual location (as will be explained later on in the article), practically, most follow the shittos as counting the appropriate days from Rosh Chodesh, and not the earlier-occurring Molad.

[10] See Rambam (Hilchos Brachos Ch. 10: 16), Piskei Ricanati (86), SMA"G (Asein 27), SMA"K (end Mitzva 151), Rashal (Biur on the SMA"G ad loc.), Sefer Hakaneh (cited by the Magen Avraham ad loc. 13), Shu"t Shvus Yaakov (vol. 3: 39), and Mor U'Ketzia (ad loc. s.v. davar). As pointed out by Rabbi Dr. Eliezer Brodt, this is also the shittah of Rav Avraham ben HaRambam (Shu"t 83 and Sefer HaMaspik pg. 248), Rav Avigdor Kohen-Tzedek (cited in Drashos Maharach Ohr Zarua pg. 66; by the Ohr Zarua's son Rav Chaim), and the Tashbetz (in his recently published commentary to Maseches Brachos - 30b, pg. 186).

[11] See Bach (Orach Chaim 426 s.v. v'kasav Beis Yosef), citing that 'kibalnu mei'rabboseinu shekach nahagu kol hakadmonim shelo lechmitz es haMitzva ulekadeish osah B'Motzai Shabbos le'achar sheavru aleha gimmel yamim". He later wrote even stronger in his Shu"t HaBach (80); arguing that we do not pasken halacha from Kabbalah; and definitively rules that we should perform Kiddush Levana from after Day 3 and not wait for Day 7. This ruling is cited as proper by many authorities, and especially in the winter, including by his son-in-law, the Taz (ad loc. 3), the Magen Avraham (ad loc. 13), Pri Chodosh (ad loc. 4), Olas Shabbos (ad loc.), Rav Yaakov Emden (Siddur Yaavetz vol. 1, pg. 894; also citing this as the minhag of his father, the Chacham Tzvi), Elyah Zuta (ad loc. 7), Ba'er Heitiv (ad loc.

10), Pri Megadim (Mishbetzos Zahav ad loc. 3 and Shu"t Megidos vol. 1: 102), Chayei Adam (vol. 2, 208: 14; and especially what he cites in the parenthesis), Maaseh Rav (159), Yeshuos Yaakov (ad loc. 6), Daas Torah (ad loc. 4), Kitzur Shulchan Aruch (97: 10), Aruch Hashulchan (ad loc. 13), Mishnah Berurah (ad loc. 20 and Biur Halacha s.v. b'Motzai Shabbos), the Tukachinsky Luach Eretz Yisrael (Tzom Gedalya; citing 'Minhag Rov Ashkenazim') and Shu"t Teshuvos V'Hanhagos (vol. 2: 208). The Levush (ad loc. 4 s.v. v'nirah li) takes a middle-ground approach, writing that based on Rabbeinu Yona, if Motzai Shabbos falls out on the fifth day then we should perform Kiddush Levana, even though he generally holds to wait seven like the Shulchan Aruch; a psak echoed by the Malbushei Yom Tov (ad loc. 2) and Nachalas Tzvi (ad loc.).

[12] Although the Rema (ad loc. 2), citing the Maharil (Hilchos Shiva Asar B'Tamuz), holds that there are exceptions to the Kiddush Levana rule – Chodesh Tishrei, when it is preferable to wait until after Yom Kippur, and Chodesh Av – when it is preferable to wait until after Tisha B'Av, and this is indeed the common minhag [see for example, Matteh Efraim (624: 4)], on the other hand, there are poskim (especially in Eretz Yisrael where this is considered 'Minhag Yerushalayim') who follow the Vilna Gaon's lead (Maaseh Rav 159), that even in the aforementioned months (as he holds every month), it is nonetheless preferable to recite Kiddush Levana at the soonest opportunity after the third day and not wait any longer, in order to 'chap' the Mitzva right away [following Chazal's dictum of 'Im Ba'as Mitzva L'Yadcha Al Tachmitzena' (Mechilta; as cited by Rashi in his commentaries to Shemos Ch. 12: 17 s.v. u'shamartem and Megillah 6b s.v. ain)]. See Nishmas Adam (vol. 1, 68: 1; ruling like the Sefer Chassidim, 878, that we should always attempt to fulfill a Mitzva at the earliest opportunity), Biur Halacha (ibid. s.v. b'Motzai Shabbos and v'lo; also citing the Beis Meir), the Tukachinsky Luach Eretz Yisrael (Tzom Gedalya), Halichos Shlomo (Moadim vol. 2, Ch. 1, Orchos Halacha 108 s.v. v'rabbeinu), Halichos Even Yisrael (Moadim vol. 2, Ch. 11: 2), and Shu"t

Teshuvos V'Hanhagos(vol. 2: 208). There are also other related minority opinions on topic. For example, the Levush (ibid.) held that it is preferable to perform Kiddush Levana prior to Yom Kippur, in order to gain an extra Mitzva to hold us in better stead before Yom HaDin. The Mahari M'Bruna (Shu"t 14) held that one need not wait until after Tisha B'Av for Kiddush Levana as 'd'lo adaif aveilus yeshana mei'aveilus chadasha'. The Ben Ish Chai (Shu"t Rav Pe'alim, vol. 2, Orach Chaim 38 s.v. v'hinei) writes that in places where summer is the rainy season (i.e. India), if Chodesh Av is cloudy or rainy for 6 straight nights or when Tisha B'Av falls out on Shabbos, then Kiddush Levana may be recited prior to Tisha B'Av (but leshittaso, only after 7 days), relying on the Mahari M'Bruna.

[13]Shulchan Aruch (Orach Chaim 426: 4). Although it is noteworthy that several authorities, including the Bach (Shu"t HaBach 80), Nachalas Tzvi (ad loc.), the Chida (Machzik Bracha ad loc., Shiyurei Bracha Hamelukat and in his sefer Ayin Tov, 18: 76), Pri Megadim (ibid. and Shu"t Megidos vol. 1: 102), and Aruch Hashulchan (ibid.) questioned why the Shulchan Aruch did not even cite the Rambam's opinion, and instead paskened for the general populace al pi Kabbalah, which is certainly not de riguer for him, this author proposes that perhaps the answer lies in the fact that in his Maggid Meisharim (Shir Hashirim), Rav Karo relates that his Maggid taught him that this was indeed the correct psak from a Kabbalistic perspective. On the other hand, and quite interestingly, as recently pointed out to this author by Rabbi Dr. Eliezer Brodt, Rav Akiva Yosef Schlesinger (Beis Yosef Chodosh, 5765 edition, pg. 424, Bedek Habayis) cites this case as an example of the Beis Yosef not utilizing the teachings of his Maggid for halachic psak, as he does not quote him regarding this topic in his Beis Yosef commentary. However, in this author's estimation, that would be a difficult contention to prove, as it is entirely possible that the Maggid taught him this halacha after Rav Karo completed his Beis Yosef commentary, but prior to him codifying it in his Shulchan Aruch (as there were more than 20 years between the time when he finished his Beis Yosef until he wrote the Shulchan

Aruch, and more than 40 years from when he started writing Beis Yosef). Moreover, as mentioned previously, the Magen Avraham, Mishnah Berurah, and other authorities do quote this teaching of the Maggid Meisharim with halachic authority, strongly implying that they understood that the Shulchan Aruch's psak was based on this as well. Although the Minchas Elazar (Nimukei Orach Chaim, 426: 1, pg. 273) wrote that in his estimation, the Maggid Meisharim's teachings and psakim were only meant for Rav Karo himself and not necessarily the general populace (including this one; although it seems from his words that he did not actually see the Maggid Meisharim inside, as he erroneously quotes the Maggid Meisharim as arguing on Rav Jiktalia and holding that Kiddush Levana must be performed on Motzai Shabbos, presumably even after three days), nonetheless, from the understanding of other Poskim, it stands to reason that this ruling, combined with Rav Jiktalia's similar psak, both from a Kabbalistic perspective, may have been reason enough for Rav Karo to rule accordingly, and not following the Rambam's precedent.

[14]Although it seems that several of the Poskei Hadoros did not see Rav Jiktalia's actual teshuva, nonetheless it is extant. As pointed out by Rabbi Dr. Eliezer Brodt, this teshuva was paraphrased by the Beis Dovid (of Salonika; 132, pg. 32b), and later printed in full in the Sefer HaYovel 'Emes L'Yaakov' (Berlin, 5697 / 1937; pg. 167).

[15]See the Shulchan Aruch Harav's Piskei Siddur (Kiddush Levana), Machzik Bracha (ad loc. 6), Ben Ish Chai (Year 2, Vayikra 23; who actually seems to state (rather briefly) a different Kabbalistic reason for this psak), Kaf Hachaim (ad loc. 61), Rav Mordechai Eliyahu's Darchei Halacha glosses on the Kitzur Shulchan Aruch (97: 10 and 11), and Yalkut Yosef (Kitzur Shulchan Aruch, Orach Chaim 426:26).

[16] Truthfully, it seems that there are actually two separate reasons for this and hence two separate nuanced opinions, and minhagim. As mentioned previously, there are those, including the Rema M'Fano (Shu"t 78) and Elyah Rabba (ad loc. 14) who understood the opinion of Rav Yehuda in the Gemara to be stating that the starting time for Kiddush Levana is day 7. Accordingly, they understood the position of the Shulchan Aruch et al., and even according to the Kabbalistic view, to allow reciting Kiddush Levana on the night of the 7th, and not after the 7th [although this assessment is questioned by the Chida (Birkei Yosef ad loc. 4) and Shaarei Teshuva (ad loc. 10), as Rav Jikitalia, and later the Shulchan Aruch explicitly state "after seven days," due to Kabbalistic reasons]. They hold that if the 7th falls out on Motzai Shabbos, it would certainly be preferable to recite it then and not wait an additional night. Rav Ovadiah Yosef (Shu"t Yechaveh Daas vol. 2: 24) cites other sefarim who hold this way as well, and ultimately rules that although it would generally be preferable to wait until after seven days, as per Rav Jikitalia's Kabbalistic teshuva, nonetheless in the winter months "rau'i lehoros" like the Rama M'Fano. He concludes that in countries where the moon is generally not visible for much of the winter, it would even be preferable to perform Kiddush Levana after the 3rd day, like most Ashkenazic poskim, and not wait simply to satisfy all opinions and thus possibly lose out on performing the Mitzva at all. On the other hand, the Minchas Elazar (Nimukei Orach Chaim ibid.) concludes that since the minhag to wait a full seven days was confirmed by the "Giborim, Gedolim V'Abirim, Avosai, V'Rabboseinu Hakedoshim zy"a, b'vaday ain lazuz m'divreihem u'minhageihem."

[17] There seems to be a fiery debate as to what the Arizal held as proper to do. The Mikdash Melech on the Zohar (Parashas Va'eira 30b), citing the controversial Chemdas Hayamim, writes that the Arizal ruled not to perform Kiddush Levana until seven days from the Molad. However, the renowned Kamarna Rebbe, Rav Yitzchok Isaac Safran, in his Zohar Chai (Parashas Va'eira 31 s.v. v'hinei; see also Heichal Habracha, Seder Kiddush Levana) calls this "sheker v'chazav" and "divrei hevel", as

there is no mention of this shittah in the Kisvei Arizal. Moreover, in Pri Eitz Chaim (Shaar Rosh Chodesh, Ch. 3 s.v. L'Harav Chaim Vital), it cites the Arizal's talmid muvhak, Rav Chaim Vital as maintaining that Kiddush Levana should be performed on Rosh Chodesh itself, as that is when it is "mechudeshes." He adds that he is dismayed that he only found this out in his old age, and therefore is writing for "Doros Yisrael," that they should be aware that it is "muttar u'mitzva" to recite Kiddush Levana right when one sees the moon, even on Rosh Chodesh itself, "like the true opinion of the Arizal." Yet, the Minchas Elazar (Nimukei Orach Chaim ibid.) defends the shittah of the Arizal mandating waiting seven days, adding that the famed siddur of Rav Shabsi Sofer of Premishlan (vol. 2, 91b) also writes to wait seven days to perform Kiddush Levana, citing an allusion to this from the Zohar's Raya Mehemna on Parashas Pinchas. Thanks are due to my talmid R' Arron Abramson for pointing out this fascinating debate.

[18]See Rema (ad loc. 2); citing precedent from the Terumas Hadeshen (35). This is followed by virtually all later authorities. On the other hand, see Nishmas Adam (vol. 1, 68: 1), who opines that the Sefer Chassidim (878) would not agree with the Terumas Hadeshen to wait at all until Motzai Shabbos, but rather as he holds one must grab the first opportunity to perform a Mitzva, the same would apply to Kiddush Levana as well, and would be preferable to recite it during the week at the earliest opportunity. He repeats this assessment briefly as the preferred option in his Chayei Adam (vol. 2, 208: 14, in the parenthesis), which would then come out ruling akin to the Vilna Gaon. See also Shaar Hatziyun (ad loc. 21).

[19]Including the Levush (ibid.), Magen Avraham (ibid.), PriMegadim (ibid.), Chayei Adam (ibid.), Yeshuos Yaakov (ibid.), Maharsham (Daas Torah ibid.), Kitzur Shulchan Aruch (ibid.), Butchatcher Rav (Eishel Avraham ad loc. s.v. hagvul), Aruch Hashulchan (ibid.), and Mishnah Berurah (ibid. and Shaar Hatziyun ad loc. 20; where he adds that if a tzibbur is gathering to recite Kiddush Levana after the third

day during the week, it is preferable to join them unless he is certain there will be another tzibbur reciting Kiddush Levana on Motzai Shabbos). See also Shu"t Yechaveh Daas (vol. 2: 24). As mentioned previously, others, including the Vilna Gaon (Maaseh Rav ibid.) maintain preference to always perform Kiddush Levana at the first opportunity after three days, and not even wait for Motzai Shabbos.

[20]As this author has heard several times over the years about "Mein Alte Shachein", the famed Bobover Rebbe, Rav Shlomo Halberstam zy"a.

[21]As revealed about renowned kashrus expert Rav Chaim Goldzweig zt"l at his levaya and was recently featured on Rabbi Yosef Wikler's 'Kashrus on the Air' radio show [accessible at: <https://soundcloud.com/jroot-radio/yosef-wikler-oct-22>].

[22]Shu"t Noda B'Yehuda (Kama, Orach Chaim 41).

[23]This is because although one technically has up until half the month or half of 29 days, 12 hours, and 793 chalakim from that month's Molad (the actual time of the 'New Moon') [see Tur, Shulchan Aruch and Rema (Orach Chaim 426: 3; citing Shu"t HaMaharil 19) and Pri Chodosh (ad loc. 3); and although the Pri Megadim (ad loc. Eishel Avraham 13) grapples with whether or not this is truly a nuanced machlokes, or perhaps three distinct shittos, and the Mishnah Berurah (Biur Halacha ad loc.s.v. v'lo) implies this way as well, conversely, the Aruch Hashulchan (ad loc. end 11) understands the Shulchan Aruch and Rema to be agreeing, just expressing themselves using their own terminology], nonetheless, this does not include the 16th of the month and generally does not translate to including the fifteenth of the month for much of the Jewish world either, as this zman follows the Molad and its halfway point as they occur in Yerushalayim. Hence, when that time transpires, although in Europe it may still be night and thus enable the reciting of Kiddush Levana, on the other hand, seven hours earlier on the United States' east

coast, it is not usually late enough to recite Kiddush Levana, even according to the Magen Avraham (ad loc. 13) and Chayei Adam's (vol. 2, 118: 14) shittah that one may still recite Kiddush Levana me'ais la'ais (to the exact minute) of half a lunar month from the Molad [see however, Aruch Hashulchan (ibid.) who disagrees with this understanding]. See the annual Tukachinsky Luach Eretz Yisrael (Tishrei, Yedios L'Shaos HaMolad), and Rav Yosef Eliyahu Henkin's Ezras Torah Luach (Bereishis, He'aras HaGRYE"H), as well as his Eidus L'Yisrael (pg. 146) and Shu"t Gevuros Eliyahu (vol. 1 – Orach Chaim 123: 4 and 124: 2). Although there are several Gedolim, including the Chasam Sofer (Shu"t Orach Chaim 102) and the V'Heishiv Moshe (Shu"t 14) who ruled that b'shaas hadchak one may rely upon the zman as it would occur in his own location [following the minority opinions of Talmidei Rabbeinu Peretz and the Meiri as cited by the Shiyarei Knesses Hagedolah (ad loc. Hagahos on Tur, 2), that even the sixteenth of the month is acceptable; see also She'arim Metzuyanim B'Halacha (vol. 2, 97: 9) who cites several Admorim, including the Yitev Lev and Apta Rav, who relied upon this ruling b'shaas hadcha, and Rav Yona Merzbach's maamar in Kovetz Moriah (Nissan-Iyar 5722)], and the Mishnah Berurah (Biur Halacha ad loc. s.v. v'lo; 'efshar sheyeish lismoch') and Rav Henkin held that one may rely on this b'dieved as long as it was still the fifteenth (not the 16th), nonetheless, most poskim reject this understanding completely. See for example, Shu"t Dvar Shmuel (216), Shu"t Avnei Tzedek (Orach Chaim 46), and Shu"t Sefer Yehoshua (14; also citing the 'Gaon M'Lissa', better known as the Chavas Daas or Nesivos Hamishpat). Rav Yosef Shalom Elyashiv and Rav Chaim Kanievsky are cited as ruling this way as well (Yagel Yaakov; Dardak; Teshuvos HaGRY"E Henkin zt"l, pg. 140-141, footnote 236). Putting it simply, since the Gemara (Sanhedrin ibid.) qualifies the time for this bracha, stating that it is until the moon is 'shetimalei pigamaso', once this occurs at the exact midpoint of the lunar month, past that time is simply too late. [Additionally, in his hagahos on the SMA"K (end Mitzva 151: 34), Rabbeinu Peretz writes "ad shtimalei pigamasa, v'lo

yud-vav b'chlal"; quite the opposite of how his talmid is quoted by the Shiyarei Knesses Hagedolah]. As Rav Tukachinsky writes, it is 'kasheh lazuz m'psak HaRema,' especially as often the 'Molad Ha'amiti' actually occurs earlier than announced and hence one does not truly have until complete days to be mekadesh the levana. Other Gedolim, in this situation, during the winter with no visible moon until past halfway through the month, ruled to recite Kiddush Levana without shem u'malchus [Yeshuos Yaakov (ad loc. 5); in order not to be 'nichnas b'chshash safek bracha b'chinam'; however, the Sefer Yehoshua (ibid.) dismisses this idea, but the Ben Ish Chai (Shu"t Rav Pe'alim, vol. 2, Orach Chaim 38 s.v. ha'oleh) supports this solution for one in this situation], or that only one person should recite the bracha properly and have kavanna to be motzi the tzibbur [Rav Shlomo Kluger in his Hagahos Chochmas Shlomo on the Shulchan Aruch (ad loc.); in this manner it would minimize any potential Aveirah, which is only being committed to help the masses desperate to fulfill a Mitzva B'Tzibbur; however, it seems that the Yeshuos Yaakov would not agree to this], or to recite the bracha on the last night even if the moon is not clearly visible, as long as its light (shine) is discernible [Shu"t Sefer Yehoshua (ibid.); he compares this to a blind person being obligated me'ikar hadin to recite Kiddush Levana, as he still receives benefit from the moon [Shu"t Maharshal (76); cited lemaaseh by the Magen Avraham (ad loc. s.v. nashim), Elyah Rabba (ad loc. 7), Pri Chodosh (ad loc.), Chayei Adam (vol. 2, 218: end 14), and others; however, the Chavas Daas (in his teshuva printed ad loc.) argues that this is non-comparable and does not accept this rationale, as the Shulchan Aruch and Rema (ad loc. 1; see also Shu"t Radbaz, vol. 1: 341 and Magen Avraham, ad loc. 1) ruled explicitly that the moon must be clearly visible to recite this bracha], or to recite the bracha 'derech limudo' by reading out the passage from Gemara, Rif, or Rambam [Shu"t Yagel Yaakov (Orach Chaim 60; citing sefer Derech Pekudecha, end Mitzva 20, Hagahah 5); however, Rav Ovadia Yosef (Shu"t Yabea Omer vol. 6, Orach Chaim 38) argues extensively against doing this and effectively concludes

that if that is the only option, in such a situation, 'shev v'al taaseh adif'). A novel combination approach is given by the Yagel Yaakov (Shu"t vol. 1, Orach Chaim 60), who writes that one time when he was stuck in this situation, the fifteenth of the month was Shabbos. He noted that as it was winter time, the moon was already shining early. He writes that he performed Kiddush Levana at the 'beginning of Motzai Shabbos', when it was still technically daytime (the 15th), at the beginning of Seudas Shlishis (akin to the Butchatcher Rav's assessment cited in a previous footnote), before 6 o'clock [as there is a minority opinion that a halachic 'day' is officially 12 hours and thus technically ends at 6 P.M.; see the Shach's (Yoreh Deah 184: 7 and Nekudos Hakessef ad loc.) explanation of the Aviassaf's shittah], while reading the nusach out of a Gemara. He maintained that with all of the above factors, combined with the Chasam Sofer's ruling, this was the preferred practice in his situation. On a similar note, and although the Rema (ad loc. 1), citing the Agur (591), rules that Kiddush Levana must be recited at night, and the Mishnah Berurah (ad loc. 2) and other Acharonim understand this to be excluding Bein Hashmashos [in the words of the Kitzur Shulchan Aruch (97: 7): 'vaday layla'; Aruch Hashulchan (ad loc. 5): 'layla mamash'], nonetheless, Rav Ovadia Yosef (Shu"t Yabea Omer vol. 5, Orach Chaim 36) asserts that b'shaas hadchak, on the last possible night, if the moon is clearly shining, one may perform Kiddush Levana from Shkiya (as then it is technically night). Moreover, if the moon only first appeared after Alos Hashachar, but before HaNeitz Hachama on the 16th and is clearly visible, one may recite Kiddush Levana then as well. This is because, halachically speaking, both these times are technically still b'geder night and not actually 'day'. He cites proof to this assessment from the many Rishonim who allowed the recital of Kiddush Levana from the first day of the month, when it is barely visible, and one certainly is not receiving hana'ah from its light at that point. Although certainly not optimal, he nonetheless maintains that as it is the last possible time to perform Kiddush Levana that month, one may rely upon this b'shaas hadchak. A possible precedent to this

ruling may be gleaned from the Chasam Sofer's noted grandson, the Hisorerus Teshuva (Shu"t vol. 1: 119; see also his posthumously published glosses printed at the end of the Mossad Rav Kook's Meiri on Mikvaos, 6, permitting making Kiddush Levana when only part of the moon is visible), who rules similarly regarding Ner Chanuka, that if one was unable to light the entire night until Alos Hashachar, although not optimal, he may still do so at that time. Rav Nissim Karelitz (Chut Shani, Hilchos Yom Tov, Kovetz Inyanim 12) agrees with this assessment, as Kiddush Levana is dependent on seeing the moon clearly – which may still be the case after Alos Hashachar. On the other hand, The Yaskil Avdi (vol. 8, O.C. 20:53) rejects this psak, maintaining that there is no hetter to recite Kiddush Levana after Alos Hashachar, as it is already considered daytime, and is akin to "mevorchin l'shilton acher b'zman shiltona hi, blessing one king during the reign of another."

[24]

As the Mishnah Berurah (Biur Halacha ad loc. end s.v. v'lo) points out, this is only referring to making the actual bracha of Kiddush Levana ('asher b'maamaro bara shechakim'), not the additional prayers that are part of Kiddush Levana.

[25]Magen Avraham (Orach Chaim 66: 5).

[26]See Mishnah in Brachos (13a) and following Gemara, as ruled by the Tur and Shulchan Aruch (Orach Chaim 66: 1), following the psak of the Rosh (Brachos Ch. 2: 5; citing the Gaonim) and Tosafos (Brachos 13b s.v. shoel).

[27]Bechor Shor (Brachos 13a).

[28]Others who remain uneasy with the Magen Avraham's psak include Rav Akiva Eiger (Hagahos ad loc. s.v. yafsik), the Elyah Rabba (ad loc. 5; who simply writes

that the Magen Avraham's words are 'aino muchrach'), the Shaarei Teshuva (ad loc. 5), Levushei Srad (ad loc.), and the Mishnah Berurah (ad loc. 19), who uncharacteristically does not issue a definitive ruling, even after citing that the Chayei Adam (vol. 1, 20: 4) seems to imply like the Bechor Shor as well. On the other hand, the Maamar Mordechai (ad loc. Divrei Mordechai 2) writes that there must be a printing mistake in the Elyah Rabba, as the Magen Avraham's psak is indeed correct. The Aruch Hashulchan (ad loc. 6) rules like the Magen Avraham as well (as the bracha on thunder is considered a 'heishiv' and not a 'shoel'; similar to Rav Akiva Eiger's understanding of the Magen Avraham's position).

[29]This klal is found throughout Shas, including Brachos (51b), Pesachim (114a), Sukka (54b and 56a), Megillah (29b), and Zevachim (90b - 91a). A prime Biblical example of this rule's application is that even on Shabbos, Yom Tov, and Rosh Chodesh, the Korban Tamid, the communal daily sacrifice, was offered before the Korban Mussaf, the special sacrifice exclusive for those particular days. [See Bamidbar (Parashas Pinchas) Ch. 28 and Gemara Zevachim (89a)].

[30]This question holds true leshittaso, as the Noda B'Yehuda himself (Tzla"ch, Brachos 51b) is of the opinion that the 'Tadir' of a Mitzva Derabbanan does not take precedence over a Mitzva Deoraysa. The Pnei Yehoshua (ad loc. s.v. b'Mishnah) also concurs with this assessment. On the other hand, the Shaagas Aryeh (Shu"t 22) and the Melo Haro'im (erech Tadir Kodem 20) hold that 'Tadir' of a Mitzva Derabbanan trumps an Aino Tadir of a Mitzva Deoraysa. The Sdei Chemed (Klalim, Os Tav 49) cites this as the Radbaz's shittah as well (Teshuvos Hachadashos 251) that 'Tadir Derabbanan Kodem Aino Tadir Deoraysa', but adds that regarding Mikra Megillah, as it is Divrei Kabbalah is "k'Divrei Torah Dami".

[31]As the obligation of reading the Megillah on Purim is alluded to in the Megillah itself (Esther Ch. 9: 28) 'V'hayamimha'eilah nizkarim v'naasim b'chol dor v'dor',

specifying daytime. The Noda B'Yehuda argues that the Megillah reading on Purim night is classified as a regular Mitzva Derabbanan. He brings proof to this position from a diyuk in Tosafos (Megillah 4a s.v. chayav). However, see also Ohr Somayach (Chiddushim to Megillah 4a) and Sdei Chemed (Asifas Dinim, Maareches Purim 9 s.v. v'ra'isi), who raise issue with this assertion.

[32]The Shaagas Aryeh (Turei Even, Megillah 4a s.v. k'gon) concurs with this assessment that Krias HaMegillah on Purim night is only considered a Mitzva Derabbanan and not part of the ikar chiyuv. This is implied as well from Maseches Sofrim (Ch. 21: 8; see the peirush of the Nachalas Yaakov ad loc.), the Ran (Megillah 1a in the Rif's pagination s.v. ela bakfarim), the Ohr Zarua (vol. 2: 369), and the Ohel Moed (vol. 2, 62a). On the other hand, other Rishonim, including the Rashba (Megillah 4a), Ritva (Megillah 2b), and Rokeach (end 363) seem to understand that the obligation of Krias Megillah at night is also part of the Divrei Kabbalah. Additionally, the Mishneh L'Melech (Hilchos Matnos Aniyim Ch. 8: 1) writes that that 'b'lashon bnei adam" 'laylos' is included as part of 'yamim'. Conversely, the Chida (Birkei Yosef, Orach Chaim 687: 1) implies that he concurs with the Noda B'Yehuda's assessment, as he maintains that if one forgot or was unable to read the Megillah at night, he is exempt from 'tashlumin' of making it up; a position unlikely if it was mandated as a 'Mitzvas Asei D'Divrei Kabbalah'. For more on this debate, see Shu"t Yabea Omer (vol. 1, Orach Chaim 43: 2 – 14) at length.

[33]In an important related note, the Sdei Chemed (Klalim, Os Tav 47) points out a klal from the Shulchan Aruch Harav (Orach Chaim 431, Kuntress Acharon 1 s.v. u'mah) that 'Tadir Kodem' is only applicable to two Mitzvos on equal footing in terms of timing. However, if one Mitzva is a Mitzva Overes and the other is not, even if it is more frequently performed, nonetheless 'Tadir Kodem' is not invoked, but rather 'd'chayav l'kayem shteihen'.

[34]Mishnah and following Gemara in Sukka (25a – 26a). See also Rema (Orach Chaim 38: 8), who explains that this rule is generally invoked, with the exception being if one can satisfy both Mitzvos 'k'echas', without any additional tircha. Making an entire congregation stop the Megillah reading in the middle to go outside and perform Kiddush Levana, and then re-enter the shul and resume reading would presumably be considered 'tircha'.

[35]See Shu"t Maharshag (vol. 3: 5, 5) and Shu"t Sefer Yehoshua (Babad; Psakim U'Ksavim 244). The Maharshag opines that this in fact was the Bechor Shor's and Rabbi Akiva Eiger's main point of contention with the Magen Avraham's ruling regarding hearing thunder in the midst of Krias Shema..

[36]Gemara Sukka (56a). Although there are different sevaros debated back and forth in the Gemara, this still seems to be the rationale of the Gemara's conclusion as halacha according to the 'pashut pshat'.

[37]See Shu"t Maharam Schick (Orach Chaim 50 s.v. v'al pi) and Rav Shlomo Kluger's Shu"t Shnos Chaim (131). However, the Machazeh Avraham (Shu"t, Orach Chaim 126 s.v. amnam) disagrees with this application of proof from the Gemara in Sukka, asserting that the scenarios are not truly analogous. He explains that regarding the Mitzva of sitting in the Sukka, it can be argued that every second of sitting in the Sukka is considered a different Mitzva. Accordingly, it is not only due to Chovas HaYom why the bracha of Leishev BaSukka is recited before Shehechyanu on the first night of Sukkos, but rather that Yeshiva B'Sukka is also considered a Mitzva Overes; a parallel not extant in our case of Krias HaMegillah.

[38]This klal is found throughout Shas, including Pesachim (64b), Yoma (33a –b, 58a, and 70a), Megillah (6b) and Menachos (64b).

[39]Tosafos in Yoma (33a s.v. ain), Megillah (6b s.v. mistaver), and Menachos (64b s.v. eeba'is).

[40]See Rav Shlomo Kluger's Shu"t Shnos Chaim (131). See also the Mahari Assad's Shu"t Yehuda Yaaleh (vol. 2, Yoreh Deah end 310) who debates whether 'Tadir' trumps 'Pirumei Nisa', and although citing the Noda B'Yehuda as proof that it should, he nonetheless concludes 'tzarich iyun'. On the other hand, it would seem that according to the Chacham Tzvi's (Shu"t 106) assessment of 'Ain Maavirin Al HaMitzvos', the Noda B'Yehuda's psak could be deemed accurate. The Radbaz (Shu"t vol. 4: 13) rules that a prisoner who is given a one day furlough from his imprisonment, meaning he is given a 'get out of jail card' for any one specific day of his choosing, should request to be immediately released and perform the first Mitzva he can, regardless of its importance, due to 'Ain Maavirin Al HaMitzvos'. The Chacham Tzvi argues that this would not necessarily apply, as waiting (even until the next day) to rather perform a 'Mitzva Min HaMuvchar' instead, would not violate this dictum. Accordingly, it would seem that he would concur with the Noda B'Yehuda's psak, if Kiddush Levana would be deemed in this situation a 'Mitzva Min HaMuvchar' (possibly due to its being a 'Mitzva Overes'; which admittedly may still not classify it here as 'Mitzva Min HaMuvchar'). However, the Chayei Adam (Nishmas Adam vol. 1, 68: 1) argues on this understanding at length, ultimately defending the Radbaz's position, and concluding with the Sefer Chassidim's (878) shittah that one should always perform whichever Mitzva comes his way at the first possible opportunity. Indeed, elsewhere, the Nishmas Adam (vol. 1, 13: 2) definitively rules that 'Ain Maavirin Al HaMitzvos' is a din Deoraysa, citing proof from Tosafos in Yoma (33a s.v. ain).

[41]As cited in previous footnotes. Rav Mordechai Eliyahu, in his Darchei Halacha glosses to the Kitzur Shulchan Aruch (97: 14) rules this way lemaaseh and not like the Noda B'Yehuda. Others who invoke this understanding include the Sdei Chemed

(ibid.), however, and quite interestingly, although he argues on the Noda B'Yehuda's proof to his position, nevertheless, he does not explicitly argue on his psak.

[42]See Shu"t Dvar Yehoshua (vol. 2: 13). He cites proof to this position from the Shaagas Aryeh's (Shu"t 28) categorization of wearing tzitzis. Although this is a daily Mitzva, he explains that it cannot truly be considered a 'Tadir' as there is no actual obligation to wear them; rather, when one wears them, he fulfills the Mitzva of wearing tzitzis. The Dvar Yehoshua asserts that the same should apply in our case. Rav Isser Zalman Meltzer zt"l is quoted (see Minchas Asher al HaTorah, Parashas Bo, 15: 4, citing an article in the 'HaNe'eman' newspaper from 5716 / 1956) as taking this position as well (although not necessarily regarding this specific scenario), that Kiddush Levana is considered a Mitzva Kiyumis. One can also make the case for this position from the fact that the Yerushalmi (Brachos 65a) as well as several eminent Rishonim, including the Rambam (Hilchos Brachos Ch. 10: 16), SMa"G (Asein 27), SMa"K (end Mitzva 151), and Abudraham (Hilchos Brachos s.v. Haro'eh Levana), place the halachos of Kiddush Levana among the rest of Hilchos Birchos HaRe'iyah.

[43]See the introduction to Machon Yerushalayim's recent Shu"t Noda B'Yehuda Hashaleim (vol. 1, pg. 13 s.v. doro and v'lo).

[44]See the Chida's Machzik Bracha (Orach Chaim 426, Kuntress Acharon 4), Shaarei Efraim (Shaar 6: 57), Kitzur Shulchan Aruch (97: 15), Shu"t Imrei Noam (Horowitz - Jikob; vol. 1: 31; who emphatically declares that the Noda B'Yehuda is correct, but asserts that his ruling should hold true even if the Megillah reading was not the last potential time to perform Kiddush Levana), and Kaf Hachaim (Orach Chaim 426: 56), who rule like the Noda B'Yehuda explicitly regarding Krias HaMegillah. Many others simply cite his psak lemaaseh regarding Kiddush Levana

during the more stringent and Biblically mandated Krias Shema; this would certainly apply with interrupting the Megillah for Kiddush Levana as well.

[45]See for example Machzik Bracha (Orach Chaim 426, Kuntress Acharon 3), Shaarei Teshuva (ad loc. 9), Shaarei Efraim (ibid.), Shu"t Imrei Noam (ibid.), Kitzur Shulchan Aruch (97: 14), Chayei Adam (vol. 2, 218: end 13; regarding preceding Kiddush Levana to Maariv when necessary), Aruch Hashulchan (Orach Chaim 426: 9), Mishnah Berurah (Biur Halacha ad loc. end s.v. v'lo), and Kaf Hachaim (ad loc. 55)

[46]Biur Halacha (ibid.).

[47]Minchas Asher al HaTorah (Parashas Bo, 15: 4).

[48]Rav Asher Weiss gives several examples of this: 1] As opposed to Kiddush Levana which one has at least a week to perform no matter how many times he sees the moon, regarding a standard bracha of Re'iyah, although there is some debate about this, the consensus is that one only makes the bracha the first time one sees (or hears) the occurrence that mandated the bracha (i.e lightning, thunder etc.) [See Biur Halacha (218: 1 s.v. makom), Mishnah Berurah (227: 12), and Shaar Hatziyun (ad loc. 17). Although Rav Moshe Sternbuch (Shu"t Teshuvos V'Hanhagos vol. 2: 208) mentions that some claim that Rav Chaim Volozhiner and the Shaagas Aryeh held that one is obligated to perform Kiddush Levana the very first time one sees the moon in the month (similar to Birchos HaRe'iyah), nonetheless, both Rav Sternbuch and Rav Weiss express astonishment at such an unprecedented idea, and cast aspersions on the shemua's authenticity.] 2] As mentioned in a previous footnote, a blind person is obligated me'ikar hadin to recite Kiddush Levana since he still receives benefit from the moon. Although there is some debate about this as well, and some prefer that he does not recite the bracha

himself, nonetheless this is the *ikar hadin* [aside for *mareh mekomos* presented previously, see *Biur Halacha* (426: 1 s.v. *nehenin*, at length); however, it seems that Sefardic *poskim* are more *notteh* that a blind person cannot make *Kiddush Levana* due to *safek brachos lehakel*, as both the *Maharikash* (*Erech Lechem ad loc.*) and *Radbaz* (*Shu"t vol. 1: 341*) seem to argue on the *Maharshal's* understanding and *psak* – see the *Chida's Birkei Yosef* (*Orach Chaim 224: 1*) and *Machzik Bracha* (*ad loc. 229: 6*), *Ben Ish Chai* (*Year 2, Parashas Vayikra 24*), *Kaf Hachaim* (*Orach Chaim 426: 2*), and *Shu"t Yechaveh Daas* (*vol. 4: 18, footnote 12*).] As a blind person would not make any other of the *Birchos HaRe'iyah*, this proves that *Kiddush Levana* is not halachically classified as a standard *Mitzva Kiyumis*, but rather a *Mitzva Chiyuvis*. *Rav Weiss* adds that the *Chazon Ish* ruled this way as well in the aforementioned '*HaNe'eman*' article from 5716, arguing on what was quoted in the name of *Rav Isser Zalman Meltzer* [which *Rav Weiss* contends was likely misquoted, as in his opinion, the rationales presented by the author in *Rav Meltzer's* name was "*klushim u'mevulbalim*"].

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.

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