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Halachos of Maariv

Parshas Vayeitzei 5785

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Enactment of the Maariv Tefilla

Enactment of Maariv

- Yaakov.** The Tannaim and Amoraim have a machlokes about the origins of Maariv. Some hold Yaakov instituted it, as it says (פיוצא) "כי, ה' יא ויפגע במקום וילן שם"; Chazal explain that one meaning of the word "ויפגע" is to daven (ברכות דף כ"ו ע"ב). We learn from here that Yaakov Avinu instituted the Maariv tefilla (רש"י עה"ת).
- Korban tamid.** Others hold the tefillos were instituted by Anshei Knesses HaGedola corresponding to the korban tamid (רש"י ברכות) (שם): Shacharis parallels the morning tamid; Mincha, the afternoon tamid; and Maariv, the offering of the limbs and fats which were not consumed by evening, which is done all night (גמ' (ברכות שם). Everyone agrees that the times for the tefillos were established according to the times when the korbanos were brought (א"רש פ"ג תפילה ה"ט).
- Optional [חובה] or Required [רשות]?**
- There is a machlokes Tannaim whether Maariv is optional or required (ברכות כז); Abaye and Rava also have a machlokes about this. The halacha follows Rava, who holds Maariv is optional, but the minhag of all Jews everywhere is to daven Maariv, and they accepted it as a chiyuv (רמב"ם פ"א תפלה ה"ז). Some halachos of Maariv emerge from the fact that it was technically established as optional.
- Chazaras HaShatz.** There is no Chazaras HaShatz at Maariv. Since at its essence it is optional, Chazal did not obligate a shliach tzibbur to be motzi everyone. Our acceptance of it as a chiyuv is not strong enough to burden the tzibbur with Chazaras HaShatz (מ"ב סי רל"ז סק"א).
- Women.** The poskim also hold that for this reason, Maariv for women retains its original optional status. They did not accept it upon themselves as a chiyuv to daven Maariv, and most of them do not daven Maariv (מ"ב סי ק"ז סק"ד).
- סמיכת גאולה לתפילה.** Although it has been established as a proper chiyuv, it is not a full-fledged chiyuv with respect to saying things necessary for davening between גאל ישראל and Shemoneh Esrei. Thus, one may announce "Yaaleh v'Yavo" or "Al HaNissim" between גאל ישראל and Shemoneh Esrei even though one who forgets them does not repeat Shemoneh Esrei (שעה"צ סי רל"ז סק"ד).

Zman for Maariv

Chachamim, Rabbi Yehuda

- The Mishna says that the end of the zman for Mincha is the beginning of the zman for Maariv, only there is a machlokes Tannaim when that is. The halacha in this machlokes is not conclusively determined, as will be explained.
- Chachamim.** The Chachamim hold the zman for Mincha is until the night. They are machmir to only daven while it is definitely day, i.e., until bein hashemashos. The zman for Maariv begins at true tzeis hakochavim.
- Rebbi Yehuda.** Rebbi Yehuda holds the zman for Mincha is until plag hamincha, which is halfway between mincha ketana and the end of the day. Right after plag, one may daven Maariv, and of course repeat Krias Shema after tzeis to fulfill the mitzva of Krias Shema in its proper time, at night (below, 11).
- Plag hamincha.** Some poskim say plag is $1\frac{1}{4}$ halachic hours before shekiya, with the twelve hours of the day starting at neitz and ending at shekiya (לדעת הגרי"א א"ח סי תנ"ט). Others hold it is $1\frac{1}{4}$ halachic hours before tzeis, with the twelve hours starting at alos and ending at tzeis (וס"ת תמ"ג).

- Krias Shema after tzeis.** It should be noted that this whole discussion is only about the tefilla of Maariv, which is d'rabanan. However, one must be sure to say Krias Shema – which is d'oraisa – in its zman, after tzeis, each person according to his opinion: either the Geonim's tzeis or Rabbeinu Tam's tzeis. Thus, if one davened Maariv before tzeis, he must repeat Krias Shema without the brachos after tzeis (ש"ע סי רל"ה ס"א).

Do Not Be Inconsistent

- Establish a minhag.** Since the halacha is not determined conclusively like the Chachamim or Rebbi Yehuda, one may choose to follow the Chachamim or Rebbi Yehuda, provided that he sticks with one way, l'chatchila always (ש"ע סי רל"ג ס"א). If he follows Rebbi Yehuda and davens Maariv starting at plag, he must make sure not to daven Mincha after plag. If he follows the Chachamim and davens Mincha until shekiya, he must make sure not to start Maariv until after tzeis.
- One may not daven Mincha after plag, like the Chachamim, and Maariv before tzeis, like Rebbi Yehuda; that is an inherent contradiction [תרי"ג דסתרי] (ש"ע שם).
- Similarly, if one davens Maariv after plag, like Rebbi Yehuda, he must make sure to daven Mincha before plag (ש"ע שם).
- Similarly, someone who davens Mincha after shekiya must make sure to wait until after tzeis to daven Maariv to avoid contradictory practices.
- Two days.** Some hold this is even true on two different days, i.e., one should not follow the Chachamim on one day and Rebbi Yehuda on the other, and certainly not on the same day (מ"ב סי ק"ז). However, others are meikel. They hold it is only on one day that one may not be inconsistent, but on two different days, it is mutar. This is akin to the halacha of שני שבילין: when the shaila comes up twice, one time after the other, it is not considered contradictory (מחזיק). (ברכה להחיד"א סק"ב, תורת חיים סק"ד, קה"י ברכות סי א).
- B'dieved.** If one already davened in a contradictory way, even in one day, he is yotzei and does not need to daven again (ש"ע שם).
- Pressing situation.** In places where people gather for Mincha and if they would not daven Maariv right afterward, no one would come back and there would be no minyan for Maariv, the poskim are meikel to allow both Mincha and Maariv after plag in this pressing situation (מ"ב סי רל"ג סק"א). Still, it is better to make sure to at least daven Maariv after shekiya if they are able to (מ"ב סי רס"ז). They should also repeat Krias Shema [and Sefiras ha'Omer (see Issue 132, par. 12)] after tzeis.
- Shabbos night.** Even those who are careful to daven Maariv after tzeis during the week may daven after plag on Shabbos night. Since it is a mitzva to add to the kedusha of Shabbos and one already took in Shabbos, he can rely on Rebbi Yehuda, that it is night with respect to tefilla (מ"ג סי רס"ז סק"א, מ"ב סי רל"ג סק"ב). L'chatchila he should daven Mincha before plag to avoid inconsistency, as mentioned (see Issue 95 at length).
- Nevertheless, if one is late and did not manage to daven Mincha before plag, in a pressing situation he may still daven Mincha and Maariv after plag, as we are more meikel about this on Shabbos night (דרך החיים הובא במ"ב שם). It is still preferable to at least daven Maariv after shekiya (מ"ב וביאה"ל שם).
- Women.** Women who are busy taking care of the home are considered to be in a pressing situation and may daven in a way that is considered inconsistent, e.g., Mincha and Maariv after plag and before tzeis (כ"פ החיים סי רל"ג סק"ט).

Latest Time for Maariv

Krias Shema

22. L'chatchila one should say Krias Shema right at tzeis to fulfill זריזין מקדימים למצוות. The Chachamim determined that the l'chatchila zman is until chatzos (להרבה ראשונים, עיי ביאה"ל ד"ה זמנה). If one was lax and said it after chatzos but before alos, he is yotzei (ש"ע סי' רל"ה). If he didn't say Shema due to oneis, e.g., he was ill or drunk, he is yotzei by saying it until neitz (ש"ע סי' ט"ד).

Maariv

23. **L'chatchila until chatzos.** Some poskim hold it is only Shema which should be said before chatzos l'chatchila (above, 22), but the tefilla of Maariv may l'chatchila be said all night until alos (אורח נאמן סי' ק"ח). Others hold one should l'chatchila also daven Maariv before chatzos (ערוה"ש סי' כ"ב). (ק"ח סק"ז, קצוה"ש סי' כ"ז סק"ג, פמ"ג סי' ק"ח משב"ז סק"ג).
24. **Until alos.** One may only daven Shemoneh Esrei until alos. After that, he may not, as Maariv was instituted for the night, and after alos is considered day for all purposes (מ"ב סי' רל"ה סק"ד).
25. **Oneis.** If one davens and says Shema after alos and before neitz due to a situation beyond his control (above, 22), he should say the brachos of Shema and Shema, but not the bracha of alos, as after alos is not "a time of lying down" [זמן שכיבה]. Also, he should neither say לעולם ה' לברוך nor daven Shemoneh Esrei, as mentioned (מ"ב סק"ד).

Issur to Eat before Maariv

Krias Shema

26. **Starting a meal.** One may not start eating a meal within half an [halachic (מ"ב סי' רל"ב סק"ז)] hour of the zman for the evening Krias Shema (ש"ע סי' רל"ה ס"ב), i.e., tzeis (מ"ב סק"ט). This is because a person's meal might drag out, leading him to forget to say Krias Shema. In Eretz Yisroel, where the Geonim's tzeis is about twenty minutes after shekiya, one may already not start eating about ten minutes before shekiya.
27. **Started.** If one mistakenly started a meal after zman Krias Shema arrived or within half an hour of the zman, he must stop eating at tzeis; say Krias Shema, which is d'oraisa, without the brachos, which are d'rabanan; continue his meal; and daven Maariv with Birchos Krias Shema later (ש"ע סי' רל"ה ס"ב).
28. **Began permissibly.** If one began permissibly, i.e., more than half an hour before, he does not need to stop as long as he has time to say Krias Shema after his meal (מ"ב שם סק"א).

Maariv

29. **Starting.** For Maariv as well, one should l'chatchila not start eating a meal within half an hour of tzeis – neither a big meal, e.g., a wedding meal, nor a small meal, e.g., supper at home or a Shabbos seuda (מ"ב סק"ז).
30. **Started.** If one started a meal within this time, he does not need to stop eating to daven as long as there is time to daven afterward, as tefilla is d'rabanan (ש"ע ומ"ב שם).

Small Amount

31. One may eat a small amount of food [טעימה] even after the zman for the evening Shema arrives. The permissible amount is: up to a k'beitza of bread (מ"ב שם סק"ז); up to a k'beitza of pas haba'a b'kisinin (שעה"צ סי' רפ"ז סק"ז, מ"ב סי' תרל"ט סק"ז); even a larger amount of cooked mezonos without making it into a proper meal [קביעות]; and even a large amount of fruit or sweets (מ"ב סי' רל"ב). One may also drink a lot, as long as it is not intoxicating drink (מ"ב שם סק"ה).

Appointing a Shomer

32. If one appoints a person of at least bar mitzva age (ערוה"ש סי' ע"ה) who is not eating at the meal to remind him to daven after the meal, he may begin eating even if the zman to daven has arrived (מ"ב סי' רל"ה סק"ז). Also, if one began when he shouldn't have but then appoints a shomer, he may continue his meal (הגר"ח קנייבסקי, אשי ישראל פ"ז הע' ס"א).
33. If multiple people have not davened and are sitting down to eat a small meal, each one can appoint another one as a shomer, because when there are lots of people, they will remind each other (מ"ב בהקדמה לסי' תרס"ט, א"א בוטשאטש סוף סי' רל"ב).
34. **Phone as shomer.** One may set an alarm clock, e.g., on his phone, as a reminder to daven; that has the status of a shomer. But when he hears it ring, he must stop right away and daven, not postpone the alarm for later (שבות יצחק ח"ב פ"ג אות ג) (הגרש"א).
35. **Set minyan.** The poskim say that if a person has a set minyan for Maariv that is generally part of his daily schedule, he may be meikel to eat beforehand, relying on the fact that he will follow his routine and not forget to daven. The fixed time is like his shomer (ע"פ ערוה"ש) (ע"פ ערוה"ש) ש"ת אג"מ ח"ד סי' צ"ט, ששיכ פ"ו הע' י"ב בשם הגרש"א (סק"ט), שעה"צ סק"ט, ש"ת אג"מ ח"ד סי' צ"ט, ששיכ פ"ו הע' י"ב בשם הגרש"א).

36. Similarly, even if one does not have a specific set minyan, but he knows that he always goes to daven at a shtieblach at a particular time, e.g., he davens Maariv there after night seder, he may be meikel, relying on the fact that he will not forget and deviate from his daily schedule (פוסקים).

ברוך ה' לעולם

Enactment of ברוך ה' לעולם

37. Shuls were originally in fields, and people were afraid to stay late in the fields until the zman for Maariv. Chazal enacted the saying of these pesukim, which mention Hashem's name 18 times, corresponding to the 18 brachos of the Maariv Shemoneh Esrei, followed by Kaddish. Even though we now daven Maariv in shuls, the original minhag was not annulled (מ"ב שם סק"ה).
38. **One may not interrupt between the bracha of Shemoneh Esrei and Shemoneh Esrei of Maariv.** The bracha of השכיבונו is not a hefsek, as it is related to geula. Bnei Chutz l'Aretz who say לעולם ה' לברוך should not interrupt between יראו עינינו וכו' and Shemoneh Esrei, as Shemoneh Esrei should be next to לעולם ה' לברוך itself does not constitute a hefsek, as it is "an extended geula" (מ"ב סק"ו). Saying לעולם ה' לברוך on Shabbos night between גאל ישראל and Shemoneh Esrei is also not a hefsek, as it is like geula – if Klal Yisroel were to keep two Shabbosos, the geula would come immediately (ש"ת סי' רס"ז). Similarly, one may announce "Yaaleh v'Yavo" or the like (above, 6).
39. **Eretz Yisroel, Chutz l'Aretz.** Today, the Sefardi minhag is not to say לעולם ה' לברוך (כנה"ג בהג"ב, כ"פ החיים סק"ב). In Eretz Yisroel, the Ashkenazi minhag is also not to say it (ס' א"י להגר"מ סי' א'). The Ashkenazi minhag in Chutz l'Aretz is to say it. There are differing minhagim on motzei Shabbos.
40. **Ben Chutz l'Aretz in Eretz Yisroel.** The minhag is for a ben Chutz l'Aretz in Eretz Yisroel to follow the local minhag and not say it (ש"ת משנה הלכות ה"ה סי' כ"ט). If one specifically wants to say it himself, he may do so if he will have enough time to daven Shemoneh Esrei with the tzibbur (ש"ת אג"מ ח"ב סי' ק"ב).
41. **Ben Eretz Yisroel in Chutz l'Aretz.** A ben Eretz Yisroel visiting Chutz l'Aretz does not need to say this bracha. He should extend Krias Shema and its brachos a bit so it does not look like he is separating himself from the tzibbur by sitting quietly while everyone is davening. However, if one is the shliach tzibbur, he should say this bracha with the tzibbur and not deviate from the local minhag (משמרת שלום כ"ב, ב', אג"מ שם, ש"ת להורות נתן ח"א סי' י"ג).

Various Halachos

Came Late to Maariv

42. If one comes late to Maariv and finds the tzibbur in the middle of Krias Shema or its brachos, and he will not have time to daven Shemoneh Esrei b'tzibbur with them, and it is not likely there will be a minyan to daven with afterward (מ"ב סי' רל"ו סק"ב), he should wait and start Shemoneh Esrei with them and say Birchos Krias Shema and Shema after Shemoneh Esrei. This is because tefilla b'tzibbur is more important than Shemoneh Esrei after גאל ישראל at Maariv (ש"ע סי' רל"ו ס"ג, מ"ב שם).
43. If one started Krias Shema and its brachos with the tzibbur but will not have time to finish before they start Shemoneh Esrei, he should not skip any of Shema or its brachos to daven with the tzibbur. In Chutz l'Aretz, one may skip לעולם ה' לברוך (מ"ב שם סק"א).
44. **ברוך ה' לעולם.** Some poskim hold that when one says Birchos Krias Shema after Shemoneh Esrei, he can also say לעולם ה' לברוך then ברוך ה' לעולם (ט"ז, א"ר, ח"א). However, others hold one should never say ברוך ה' לעולם after Shemoneh Esrei, as it is only a minhag, and the minhag is only to say it in its place (הגר"א, מעשה רב). Thus, it is proper not to finish the bracha of יראו עינינו וכו'; one should only say until the words "כי אין לנו מלך אלא אתה" (מ"ב סי' רל"ו סק"א).

Number of People Needed for Kaddish

45. **Nine mispallelim.** If the shliach tzibbur wants to start Kaddish Tiskabel after Shemoneh Esrei before ten people are done davening, he may, strictly speaking, count on one person who is still mid-Shemoneh Esrei. In other words, it is enough to have eight people answering besides the shliach tzibbur (ש"ע סי' נ"ה סי' ט"ו); see Issue 65, par. 37).
46. **Majority answering.** Many poskim hold one can start when there is a majority, i.e., six people, answering (מ"ב שם סק"ב). If people are in a rush to get to work and it will otherwise be a great burden, this can be relied on. However, l'chatchila, it is proper to wait until there are nine people answering (דרישה שם סק"א) or the majority of an average tzibbur (סידור יעב"ץ).

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