

TWO QUESTIONS ON THE TIMING OF PRAYER SERVICES: HOW LATE MAY ONE RECITE MINHAH AND HOW EARLY MAY ONE RECITE MAARIV?

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This paper was approved on May 25, 1994, by a vote of ten in favor, one opposed and six abstaining (10-1-6). Voting in favor: Rabbis Elliot N. Dorff, Jan Caryl Kaufman, Judah Kogen, Vernon H. Kurtz, Paul Plotkin, Mayer Rabinowitz, Avram Israel Reisner, Joel Roth, Gerald Skolnik, and Gordon Tucker. Voting against: Rabbi Kassel Abelson. Abstaining: Rabbis Ben Zion Bergman, Myron S. Geller, Arnold M. Goodman, Aaron L. Mackler, Lionel E. Moses, and Joel E. Rembaum.

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

שאלה

With regard to the timing of weekday afternoon and evening services, two questions have been addressed to our Committee.

- (1) May the מנחה service be recited after sundown?
- (2) May the מעריב service be recited before sundown?

תשובה

Regarding these questions, two equally valid options have been endorsed by the Shulhan Arukh and subsequent פוסקים:

ואסיקנא דעביד כמר עביד ודעביד כמר עביד.

And it has been decided, that one who practices according to the one sage, let his practice be that way; and if another practices according to the other sage's opinion, then his practice is also legitimate.¹

Both of these opinions are grounded in the original mention and subsequent discussion of this issue in Mishnah Brakhot 4:1 and Massekhet Brakhot 27a.

¹ S.A. Orah Hayim 233:1.

The first option, that of Rabbi Yehuda, is predicated on a system of *שעות זמניות* (“seasonally correct hours” calculated by totaling the number of minutes from sunrise to sunset and dividing by twelve). Rabbi Yehudah holds that, although one who davens the *מנחה* service from six and one-half *שעות זמניות* onward has fulfilled his obligation – during what is commonly referred to as the time of *מנחה גדולה* – the truly appropriate time for the recitation of *מנחה* is from nine and one-half *שעות זמניות* until *פלג המנחה* (half the time between this nine and one-half hour starting point and sunset). This relatively narrow window of time, commonly referred to as *מנחה קטנה*, would allow the recitation of *מנחה* until ten and three-quarter *שעות זמניות*. *פלג המנחה* is therefore, by definition, one and one-quarter *שעות זמניות* before sunset, but Rabbi Yehudah would nonetheless allow for the immediate subsequent recitation of *מעריב*:

דזהו דבר פשוט דכשכלה זמן תפילת מנחה מתחיל זמן תפילת ערבית כן
הסכימו רבותינו התוספות הרא"ש וכל הפוסקים.

It is a simple and obvious matter that once the time for reciting *מנחה* has passed, the time for reciting *מעריב* has begun. On this matter, the Tosafot, the Rosh and all of the *פוסקים* agree.²

The only stipulation for this early recitation of *מעריב* is that after *צאת הכוכבים* (the visible appearance of three stars in the sky) one should repeat the recitation of the *שמע* (all three paragraphs) without any of the accompanying blessings. This owes to the fact that the true time for reciting the evening *שמע* is after three stars have been seen in the sky.³

The second option sanctioned by the Shulhan Arukh is that of the *חכמים*. Like Rabbi Yehudah, the *חכמים* also maintain that, although the truest beginning time for *מנחה* is nine and one-half *שעות זמניות*, one who recites *מנחה* from six and one-half *שעות זמניות* onward has fulfilled his obligation. (This earlier time is when the afternoon *tamid* sacrifice was offered in cases when Erev Pesah fell on Shabbat.)⁴ Unlike Rabbi Yehudah, however, the *חכמים* hold that *מנחה* may be recited until *שקיעה* (sunset), and *מעריב* immediately thereafter. If *מעריב* is recited between sunset and the appearance of three stars, then the *שמע* would still have to be repeated at a later hour, after dark. One could, however, obviate that need by reciting *מנחה* up to the time of sunset and then waiting until the appearance of three stars to recite *מעריב*.

With regard to both of these opinions, the sources are clear that either one is a valid option (a precedent for more than one valid option which long predates our own Committee!). The only caveat offered by the Shulhan Arukh is that consistency is called for (והוא שיעשה לעולם כחד מיניהו). “But one should practice always according to *one* of them”). That is to say, one should adopt either the position of Rabbi Yehudah or that of the *חכמים* and practice it consistently, so as to avoid reciting *מנחה* after *פלג המנחה* and *מעריב* before sundown on the same day. However, both the Shulhan Arukh and the gloss of the Remah make it clear that, either *בשעת הדחק* – in an emergency – or *בדיעבד* (once one has already done so), such inconsistency does not render the prayer invalid. The Arukh Hashulhan, quoting the Magen Avraham, also makes reference to the existing practice of davening *מנחה* after *פלג המנחה* and *מעריב* before sundown because of the difficulty in gathering a minyan together a second time.⁵

² Arukh Hashulhan, Orah Hayyim 233:1.

³ Ibid., Orah Hayyim 235:8.

⁴ See Rambam, M.T. Hilkhot T’fillah 3:1.

⁵ Arukh Hashulhan, Orah Hayyim 233:10.

Conclusion

The two options available to us are, therefore, clear: **דעביד כמר עביד ודעביד כמר עביד**. Though the natural tendency is to seek one opinion to follow, in this particular instance, one can follow either Rabbi Yehudah or the **הכמים**, and the appropriate hours for **מנחה** and **מעריב** will vary accordingly, as I have outlined. It is fair to say as well that, although it is certainly preferable to follow either opinion consistently, there is ample precedent for a synthetic approach, davening **מנחה** after **המנחה** **פלג** according to the **הכמים** and **מעריב** immediately thereafter according to Rabbi Yehuda. If such a synthesis enhances the possibility of assembling a minyan, it would be far better than davening without benefit of a minyan. Someone needing to recite Kaddish might well claim that such a circumstance constitutes a legitimate **שעת דחק**. (Obviously, the option of davening **מעריב** after **המנחה** before sundown applies only to weekdays, and not to **שבתות** and **חגים**). There is not, however, any halakhic ground on which to base davening **מנחה** after sundown, or **מעריב** before **המנחה** **פלג**. Those living in Arctic latitudes, where at certain times of year there is no darkness for months, must simply select and adopt a time frame consistent with a given community in the lower latitudes and follow it.⁶

One cannot help but assume that the reason for these questions having reached the CJLS is an effort to stretch the parameters of acceptable times for evening prayers, so as to more easily accommodate the realities of our congregants' schedules – particularly as regards the issue of reciting **מנחה** after dark. It is, without doubt, easier to secure an evening minyan later in the day than earlier. During the winter months, this virtually assures that the minyan will be taking place when it is already dark out. Are we allowed to wait until people get home from work and eat, and then do a **מנחה/מעריב** service because that is when we can get a minyan? The answer to that question must be no, as the sources are clear, and there is no overwhelming reason to call such a clear ruling into question.

A final thought: If the rationale behind the question of a late **מנחה** is to accommodate the Kaddish need of mourners, then whether or not **מנחה** is recited, it is important to remember that the *yahrzeit* which fell on the preceding Jewish date has already concluded once darkness has descended. In that context, the Kaddish which would be recited after **מנחה** would at any rate be inappropriate. If, however, the questions to our Committee are motivated by a desire to add as many **קדישים** as possible to a service so as to elevate the soul of the departed closer to ultimate reunification with the Source of all spirit, according to the mystical understanding of Kaddish, then in lieu of forcing **מנחה** into an inappropriately late slot, a better idea comes to mind. A **דבר תורה** or **לימוד** session would facilitate the recitation of a **קדיש דרבנן**. Let that **לימוד** and Kaddish precede **מעריב**, and the problem has been at least slightly ameliorated. It has also been suggested in this regard that, from a spiritual perspective, Torah study dedicated to a person's memory on his or her *yahrzeit* is as efficacious in elevating the soul of the departed as is the recitation of Kaddish. In the absence of a minyan at the appropriate time, this affords another option.

⁶ See Shaarei Teshuvah, S.A. Orah Hayyim 344.