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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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.

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

(1) May the Minhah service be recited after sundown?
(2) May the Maariv service be recited before sundown?

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

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.

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 Hayyim 233:1.
The first option, that of Rabbi Yehuda, is predicated on a system of "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 dawns the minhah service from six and one-half onward has fulfilled his obligation — during what is commonly referred to as the time of menahel, the truly appropriate time for the recitation of menahah is from nine and one-half onward (half the time between this nine and one-half hour starting point and sunset). This relatively narrow window of time, commonly referred to as minhah, would allow the recitation of minhah before sunset, but Rabbi Yehudah would nonetheless allow for the immediate subsequent recitation of maariv:

It is a simple and obvious matter that once the time for reciting minhah has passed, the time for reciting maariv has begun. On this matter, the Tosefot, the Rosh and all of the glossers agree.²

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

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

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 (הדרה שיעשות ה疝ות WANT ORGANIZATION מנה להב"ם). That is to say, one should adopt either the position of Rabbi Yehudah or that of the hamma'am and practice it consistently, so as to avoid reciting minhah before sundown and maariv after minhah on the same day. However, both the Shulhan Arukh and the gloss of the Remah make it clear that, either minhah or maariv — in an emergency — or 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 minhah after minhah and maariv before sundown because of the difficulty in gathering a minyan together a second time.⁵

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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: דיעסיה כמְרִי עבֵד ודעֵבִי כמְרִי עבֵיד. Though the natural tendency is to seek one opinion to follow, in this particular instance, one can follow either Rabbi Yehudah or the מָחָה, and the appropriate hours forплавֶרֵי מָחָה and מָחָה 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 מָחָה after מָחָה and מָחָה 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☆ כדית זהות. (Obviously, the option of davening מָחָה מָחָה after מָחָה but before sundown applies only to weekdays, and not to שְָברְתָה קֶשֶׁת and מָחָה). There is not, however, any halakhic ground on which to base davening מָחָה after sundown, or מָחָה before מָחָה מָחָה. 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.☆

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 מָחָה 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 מָחָה מָחָה 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 מָחָה is to accommodate the Kaddish need of mourners, then whether or not מָחָה 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 מָחָה would at any rate be inappropriate. If, however, the questions to our Committee are motivated by a desire is to add as many קָדְישִׁים 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 מָחָה into an inappropriately late slot, a better idea comes to mind. A מָחָה קָדְישִׁים session would facilitate the recitation of a מָחָה מָחָה. Let that לִימַד מָחָה מָחָה precede מָחָה, 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.

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