

Seder, and other Yom Tov Observances, Before Dark.

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You shall tell your child on that day...

Question: What is the earliest time that one may perform the assorted positive mitzvot and practices of the Jewish festivals, on first or second day of Yom Tov? Must one wait until after sundown, or after dark? Of particular interest is the Passover Seder, including Kiddush and the other three cups of wine, the recitation of Maggid and Hallel, and eating karpas, maror and matzah. Is there any difference in practice between first and second Seder, or Seder that falls on a Saturday night? What about other festivals, including Shavuot, Sukkot and Shemini Atzeret/Simhat Torah?

Response

I. General Introduction

Judaism, as a way of life and a legal system, is very sensitive to the flow of time and seasons. Many mitzvot, in particular those related to prayer and ritual, are bounded by the limits of specific times of day. The Talmud itself begins with a contemplation of the earliest and latest times for evening prayer. The major festivals of Rosh Hashanah, Yom Kippur, Sukkot, Shemini Atzeret/Simhat Torah, Passover and Shavuot, draw their power from connection to specific seasons and dates. The evening of each festival is celebrated with candlelighting, a special Ma'ariv liturgy, and other distinctive observances. For all (except Yom Kippur), Kiddush and a festive meal are part of the observance, as part of an obligation to “rejoice” on the festival.² Some of these practices (like eating matzah at the Seder, or eating in the Sukkah) are of Biblical origin. Others (like hakafot on Simhat Torah, or *Tikkun Layl Shavuot*) were instituted by rabbinic decree or emerged as popular custom.

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.

¹ With thanks to Rabbis Miriam Berkowitz, Eliezer Diamond, and Ethan Tucker, whose writings inspired this paper, and many members of the CJLS whose thoughtful comments improved it

² Below, we will address the question of whether the meal, and “rejoicing” necessarily constitute a “mitzvah” in the formal sense.

In setting the earliest time for these observances, we are mindful that the Jewish day begins with the evening, which is defined as beginning either with sundown or dark, and in general we err on the side of caution in choosing which one will apply. It is for that reason that Shabbat and festivals generally begin before sundown and end after dark. When the sources indicate that a mitzvah must be performed at night, it is commonly assumed that after dark is the preferred time.

This approach creates a challenge, experienced most broadly in observance of the Passover Seder, but reflected in our observance of other holidays as well. The Passover Seder is one of the most essential ritual practices of Judaism, exercising both halachic and sociological imperatives. Halakhically, eating of the Paschal Lamb and circumcision are the only two positive commandments whose omission leads to *karet*, “being cut off” from the Jewish people.³ This importance is reflected sociologically as well. Over 70% of American Jews participate in a Passover Seder, and even 40% who do not consider themselves Jewish by religion participate in one.⁴ Over 80% of Israeli Jews who consider themselves “secular” participate in a Seder⁵.

And yet, our sensitivity to the time-bound nature of the Seder creates a dilemma. Many important halachic sources indicate that the Seder must begin after nightfall based on the premise that many of the mitzvot of the Seder must be observed “at nighttime.” This means a start time, even for first Seder, at roughly the time that Shabbat would end that week. With the advent of daylight savings time, that could lead to a start of 9:00 PM or later in many communities.⁶ For those who observe a 2nd Seder, the challenge is even greater, as it is often presented that one may not light candles, recite Kiddush, or in any way prepare for 2nd day Yom Tov during the first day of Yom Tov, so the 2nd Seder might not begin until significantly after nightfall. Attending a synagogue Ma’ariv service and returning home would of course further delay the start time

Beginning a Seder at 9:00 PM or later presents a challenge for many who would want to participate. It creates substantial pressure to rush or abridge Maggid, the telling of the story. In addition, the Seder should be entered with an appetite for the matzah, and many would not be able to maintain an appetite at that hour, or would be forced to eat earlier.

One might argue that there are other Jewish practices that can be difficult or inconvenient, and eating dinner or going to bed 2 or 3 hours later than usual is a sacrifice that many would make in order to participate in another meaningful cultural event. However, this is not merely an issue of preference or convenience. One of the essential mitzvot of the Seder is retelling the Passover story to one’s children or to others: *v’higaddeta L’vincha*.⁷ Indeed, one has not fulfilled the mitzvah of the Seder without telling the story to one’s children,

³ Mishnah Keritot 1:1,

⁴ Pew Research Center “Portrait of Jewish Americans.”

⁵ <http://www.timesofisrael.com/majority-of-israeli-secular-jews-attend-passover-Seder/>, April 1, 2012, retrieved July 28, 2014.

⁶ For example, in 5776, sundown in New York on Seder night was at 7:33 PM, leading to a start time of 8:15. In Atlanta, sundown was 8:15 PM, meaning that nightfall on Seder night was at 8:57 PM!

⁷ Exodus 13:8

students, or others.⁸ Much of the Seder, from the four questions to the afikomen is structured around engaging children to ask questions and internalize the story of the Exodus. The “four sons” are included in the Seder, reflecting three of the four different passages in the Torah that command retelling the story to one’s children, in order to reinforce this message, and to help those present recognize that different children may need different pedagogic approaches. Staying up a bit later than usual is indeed part of the excitement of Seder, but there is still a point in time at which even older children will not be able to participate fully.

In addition, many observant Jews invite others, who might not otherwise have a traditional Seder experience, to join them. Such a late start time is likely to dissuade others from participating at all. Conversely, observant Jews who find themselves expected to attend a Seder hosted by less observant family may be able to keep their meal chametz-free far more easily than they can dictate a start time that is unacceptable to the hosts.

This is not merely an issue of convenience. The halakhic mandate to observing the Seder at the mandated time is often directly at odds with the halakhic mandate for the seder to meet its primary pedagogic and spiritual goals. These conflicting mandates create a dilemma. The primary goal of this paper is to assess a range of options that have been proposed to address this dilemma. They can be divided into three major categories, each with several possible sub-approaches. Communities and families must assess the appropriateness of each approach for their own circumstances.

1. Begin Seder after nightfall, with various techniques to increase the chances of success-
 - a. encouraging naps for all,
 - b. eating a full meal before the Seder
 - c. serving an extensive crudité platter for karpas so that people are not hungry during Maggid.
 - d. Having a “model Seder” for children earlier in the afternoon, and then letting them drop off to bed at whatever point they need to.
2. Begin the Seder with Kiddush at sundown, or “plag haminha” (about 75 minutes before sundown) EITHER:
 - a. Without concern for pacing,
 - b. Ensuring that matzah and maror are eaten no earlier than nightfall.
3. Begin earlier than nightfall, but do the Seder “out of order” so that certain key elements happen at the appropriate time

Special considerations must be addressed with respect to a second night Seder, or a Seder held on a Saturday night.

However, as noted above, these issues do not apply only to Seder. Many Jewish communities are located in countries where daylight savings time is observed for most of the major Jewish holidays. The conclusions we draw here also have implications for

- Timing of Ma’ariv, Kiddush and festive meal for all holidays, including Rosh Hashanah, the last days of Passover, and second days Yom Tov
- Sukkot (with particular attention to the first meal in the sukkah)

⁸ See Maimonides, *Hilkhos Hametz u’Matzah*, 7:1-2.

- Waiting until the end of Sukkot to begin Shemini Atzeret and the timing of evening hakafot on Simchat Torah.
- Shavuot and the potential need to wait until the completion of the Omer before beginning the festival.
- Purim (though not formally a Yom Tov).

II. Issues Related to All Festivals

The fundamental question at stake is whether positive commandments that are mandated to be fulfilled at night time may be fulfilled during the day. One could furthermore ask conceptually whether in doing so, one is simply fulfilling those mitzvot on what is still the previous day, or whether in order to do so, one must actually begin the new festive day.

II:A. Observing Night-Time Mitzvot during the Day

There are a number of daily mitzvot that are normally associated with the night time. The traditional sources are divided as to whether they may be truly fulfilled before dark, or, perhaps if they are performed before dark, they must be repeated after dark to fulfill the mitzvah. So, for example, there is a wide consensus that even on a weeknight, one may recite Ma'ariv (including the Shema, which is a toraitic commandment) any time after *plag haminhah* (about 75 minutes before sundown, often referred to simply as “plag”),⁹ even though the sun has not yet set. However, some who hold this view hold that one’s obligation to recite the Shema is not truly fulfilled by reciting it early, and the Shema must be recited again after *tzeit*, but this view is by no means universal.¹⁰ Similarly, one may fulfill one’s obligation to count the Omer before sundown if that is when one has the opportunity to pray with a minyan. There is a tension between the ideal (counting after dark) and the real (counting with the congregation, when one might forget to count later). It seems that in many communities, the common practice was for the congregation to count with a bracha before dark, and even before sundown. The poskim generally did not like this practice, and advised those who were scrupulous to anticipate counting again later, after dark, and therefore count with the congregation but without reciting the bracha. Never the less, in fact one has not lost out if one does not manage to return and count again later.¹¹ De facto one has fulfilled one’s obligation even by counting before sundown, even though this is not the preference of the *poskim*. However, there is reason to differentiate between the mitzvot of *Keriat Shema* and counting the Omer, which apply on regular weekdays, and those mitzvot specifically associated with Shabbat and Festivals.

⁹ See Appendix for a list of different time definitions.

¹⁰ See Rabbi Gerald Skolnik’s analysis in “Two Questions on the Timing of Prayer Services: How Late May One Recite Minhah and How Early May One Recite Maariv,” Responsa of CJLS 1991-2000 p. 50. Skolnik cites Arukh Hashulhan OH 235:8, to say that if one does this, one must repeat the Shema after nightfall. This is Rashi’s view on Berakhot 2a, but Tosafot there (s.v. *me-eimatai*) holds that the recitation before sundown is sufficient.

¹¹ Shulhan Arukh OH 489:3, see Isserles gloss there and Biur Halacha, s.v. *mib’od yom* There is some debate as to whether this applies between sundown and dark or before sundown as well, but the plain sense of the Shulhan Arukh is that we are talking about daylight hours presumably after plag and before sundown. Thanks to Rabbi Paul Plotkin for encouraging a careful read of this issue.

II:B. Does Reciting Ma'ariv Early Start the next Day?

There is a significant body of Jewish law which reflects on the question of whether communal or individual recitation of Ma'ariv, the evening service, ends the previous day and begins the next. The consensus of the sources is that reciting Ma'ariv does begin the next day, but many limit its power only *l'humra* (to restrict), not *l'kula* (to permit). So for example, Maharam Rottenberg¹² (14th century Germany) rules that if a person hears of a death and burial during the afternoon while it is still daylight, but after having recited the evening service, it is considered evening, and therefore too late to for one's mourning to count for that day. However, reciting Ma'ariv before sundown on Saturday evening would not permit the performance of work. Other later poskim expand on this view. So, for example, Rabbi Israel Isserlein¹³ cites Maharam Rottenberg and provides similar reasoning in other areas of halacha. For example, a get is considered to be some to be invalid if it is delivered at night. Delivery after the community has davened Ma'ariv would also invalidate the get, as if it were delivered at night, even though it is still daylight. Similarly, he rules that if a woman is beginning her "seven clean days" before going to the Mikvah and has not yet begun counting, she may not do so once the community has recited Ma'ariv. Similar views are related by the Shulhan Arukh related to Tefillin¹⁴ but not to the case of a woman awaiting her clean days, and in fact, Rabbi Moshe Isserles¹⁵ disagrees.

II:C. Shabbat as a more inclusive model

"Remembering" Shabbat through its mention in the Ma'ariv service, and through reciting Kiddush over wine, are the classic precedents for fulfilling at least some night-time mitzvot, even those of Torah origin, as early as *plag*.

It is almost universally accepted¹⁶ that one may begin all the observances of Shabbat, including candlelighting, Ma'ariv, Kiddush and the Shabbat meal, at least as early as *plag*. This is the case even though sanctification of the day ("remembering Shabbat", either through Kiddush over wine or as part of the Ma'ariv amidah) is also regarded as a Toraitic commandment.¹⁷

This is not, however, the most lenient position. Rabbi Barry Leff,¹⁸ presents Terumat Hadeshen responsum #1, as a potential precedent that a community may start Shabbat, and presumably festivals as well, even before *plag*.

II:D. Why Shabbat and Festivals are Different from Weekdays

There is a reason why even those who might be hesitant to extend night-time mitzvot into the daytime on a regular weeknight are willing to do so with regard to Shabbat or Yom Tov. There are specific practices of "*Tosefet Shabbat*", and "*Tosefet Yom Tov*" which mandate

¹² Hilkhhot Semahot 117.

¹³ Terumat HaDeshen 248

¹⁴ Shulhan Arukh OH 30:7

¹⁵ Ramo on Shulhan Arukh YD 196:1

¹⁶ Shulhan Arukh OH 267:2.

¹⁷ *Tosafot on Pesachim* 106a s.v *zokreihu*.

¹⁸ Rabbi Barry Leff "Reciting Ma'ariv early on Erev Shabbat" OH 267:2.2012b.

adding time to Shabbat and Yom Tov, and clearly have a longstanding basis in the tradition, finding mention in the Talmud¹⁹

“For Rabbi Yishmael, how do we know that we must add from ordinary time to holy time? We learn from a baraita ‘you shall afflict your souls on the ninth [of Tishrei] (Leviticus 23:32)’ I might think actually on the ninth? Therefore it says ‘in the evening’ It says ‘in the evening’, I might think the fast starts after dark? Therefore it says “on the ninth.” How then? One begins fasting before dark. Thus we learn that we add from the ordinary to the the holy. This tells me about the entry of the holiday. How do I know that the same is true for its conclusion? As it says ‘from evening to evening’”

Since Leviticus 23:32 states that Yom Kippur must begin “on the ninth, in the evening” the gemara concludes that one must begin the observances of the day before the beginning of the 10th of the month, and goes on to extend that logic to Shabbat and festivals (since it says “*shabatkhem*”- your rest day, that implies that any day of rest, including festivals is included. This commandment, of adding to the festive day, which is called *Tosefet Shabbat/Tosefet Yom Yov* is regarded by some²⁰ as of biblical degree, while others²¹ see it as a rabbinic enactment.

Rabbi Yehiel Michael Epstein, in his *Arukh HaShulhan*²² asserts that even those who might say that *Tosefet Shabbat* is not of biblical degree would still accept that once one has begun *Tosefet Shabbat*, it is considered to be night “for all purposes” including the fulfillment of biblical mitzvot that would apply at night. See below (Section IIE) for a similar analysis of the Taz, showing that the specific mitzvot of Yom Tov are different from the nightly mitzvot of Shema and counting the Omer.

The mitzvot that apply to the festivals in general, that would be subsumed in *Tosefet Yom Tov*, can be subsumed into two categories One is negative mitzvot, of which the most prominent is the prohibition of labor not related to food preparation for the day. This prohibition begins with candle-lighting, recitation of Ma’ariv, or verbal acceptance of Yom Tov, even if they are performed before sundown.

However, there are positive mitzvot of Yom Tov, which also apply once *Tosefet Yom Tov* has begun, based on the model of the positive mitzvot of Shabbat being fulfilled during *Tosefet Shabbat*, The positive observance shared by all festive days is based on Deuteronomy 16:14 “*v’samahta b’hagekha*”- you shall rejoice on the festivals. The Talmud²³ explains that when the temple was standing, this mitzvah was fulfilled by eating of the meat of the sacrifices, and that other methods (including drinking wine or wearing festive clothing) apply in a post-temple world. Rambam²⁴ confirms this as a *mitzvah d’oraita*, even in the absence of sacrifices.

¹⁹ TB Rosh Hashanah 9a-b.

²⁰ Shulhan Arukh OH 261:2, and see the Beit Yosef, OH 261:2, for a list of others, including the Rif and the Rosh.

²¹ Tur, and Rambam, according to the Maggid Mishnah, regard it as at most a rabbinic obligation.

²² Arukh HaShulhan OH 267:5.

²³ TB Pesahim 109b.

²⁴ Hilkhot Yom Tov 6:17-18.

Indeed, most Rishonim seem to hold that the mitzvah of *simhah* may generally be observed before dark. Mishnah Pesahim 10:1 begins by stating that one may not eat until dark on Passover eve. The Tosafot there²⁵ cite the view of R. Ya'akov of Corbeil, (13th Century France) saying that since the Mishnah specified this restriction for Passover eve, then on all other festivals, that time restriction does not apply. Passover is “an exception that proves the rule.” One may begin the meal (and therefore not only the observance of celebrating, *simhah d'oraita*, but also recitation of Kiddush and lighting candles) while it is still daylight. The Rosh,²⁶ rules the same way. This position is extremely important, because clears the way for any Torah-mandated Yom Tov observance, except possibly for those related to Seder, to be fulfilled before sundown.

In summary: Even if one might argue that recitation of weekday Ma'ariv does not begin the next day, except to cause restrictions, the same is not true for *Tosefet Shabbat* and *Tosefet Yom Tov*. Furthermore, since *Tosefet Shabbat* and *Tosefet Yom Tov* have the same tannaitic source and force, anyone who fulfills the mitzvah of performing Kiddush and eating a Shabbat meal before sundown would logically do the same with regard to Yom Tov. The fact that a number of traditional sources go out of their way to exclude Seder from this rule makes it clear that it does apply to most other holidays.

II:E. Shemini Atzeret Demonstrates that Tosefet Yom Tov Truly Begins the Day and its Obligations.

We see the force of the power of Tosefet Yom Tov in looking at the case of Shemini Atzeret, which, though it follows immediately after the intermediate days of Sukkot, is a separate holiday with different liturgical phrasing and ritual obligations. Many of those who observe 2nd day Yom Tov have the practice of eating in the sukkah (without a blessing) on Shemini Atzeret.²⁷ Some²⁸ have suggested that one must wait until dark to begin the services and Kiddush of Shemini Atzeret, so as to ensure that it does not encroach on Sukkot. Rabbi David Halevi Segal (17th Century Poland) in his commentary on the Shulhan Arukh known as the Taz²⁹ rejects this view. If one is not allowed to eat from the afternoon of the last day of Sukkot until the night time, then one has effectively created a fast day on *hol hamoed!* He states

Certainly, one who adds from a weekday to a holy day does so at the command of our Torah, and the obligations of the [previous] day that had been upon him previously have already left him. It is truly like the night time and (therefore) the next day. While [Luria] offers to contradict this, based on the fact that Rav would pray the Shabbat

²⁵ Tosafot on Pesahim 99b s.v. *ad shetekhshakh*.

²⁶ Rosh on Pesahim, 10:2.

²⁷ Shulhan Arukh 668:1, following BT Sukkah 47a. See Arukh Hashulkhan 668:2-6 for a summary of a range of views on whether it is appropriate to eat or sleep in the sukkah on Shemini Atzeret. Arukh Hashulkhan rejects the idea that it is ever permitted to eat a Yom Tov meal before dark.

²⁸ See responsa of Rabbi Shlomo Luria 68. Also this was the practice at the Jewish Theological Seminary for many years. My teacher, Dr. Israel Francus, may he be blessed with long life, would occupy the time between sundown and dark on that evening with an erudite explication of some seeming contradiction among passages in the Mishneh Torah.

²⁹ TAZ on Shulhan Arukh OH 668.

service and then wait to offer the Shema and so too, count the Omer, I am astonished that such a great man... would have connected these unrelated matters. Shema and the Omer, their times are at night, and why should they be done while it is still daylight, not according to their proper practice, just because he accepted Shabbat upon himself? What does he lose if he waits for those things, rather than relying on his acceptance of Shabbat while it is still daylight?... It is not the same with the case of the sukkah, which is before us, from the aspect of entering the sukkah and eating there.... It is obvious that he enters the category of those who sit in the sukkah but do not say a blessing, and it is like the evening, for the mouth of the Holy Blessed One, who commanded the mitzvah of sukkah on that day, also permitted eating once he accepted Shemini Atzeret. We find that all that Luria and the Ran said is no proof, for there is no difference between the time after he has accepted Shemini Atzeret while it is still daylight and the next day... At that hour, we do eat in the sukkah, but we do not say the blessing "to sit in the sukkah."

The Taz is saying that the recitation of the Shema and the counting can wait until true nightfall without causing undue harm, so there is no reason to rush to their fulfillment earlier than the allotted time, but the same is not true of beginning Shemini Atzeret, because it creates a time frame during the holiday when eating is not permitted, which is against the spirit of Yom Tov and Hol Hamoed.

The Taz's logic implies that when there is no loss in doing so, one would wait until dark to fulfill the commandments of the next day, but that if waiting would create a different halachic issue, one should not delay until nightfall. If one begins Shemini Atzeret before dark, one should still recite Kiddush and eat in the sukkah, even if one does not normally have the practice of eating in the sukkah on Shemini Atzeret. And yet, one should no longer recite the blessing "*leshev b'sukkah*" since one has already made the decision to begin the new holiday (at a higher level of holiness than Hol Hamoed) and *safek berachot l'hakel*- (when in doubt, one should not recite a blessing).³⁰

This ruling of the Taz is significant because it serves as a precedent that *Tosefet Shabbat* or *Tosefet Yom Tov* do in fact serve to begin the next halachic day, even in advance of sundown. As such, they render that time an appropriate time to fulfill the even the mitzvot d'oraita of the coming evening, if there is a compelling reason to do so, though they do not remove any prohibitions associated with the day that is ending.

III. Bein Kodesh L'Kodesh- Between Holy Days

III:A. 2nd day Yom Tov

There are additional considerations that apply to 2nd day Yom Tov. According to Biblical law, each Yom Tov is only one day. The 2nd day was originally instituted in communities outside the Land of Israel due to uncertainty as when the new month began, resulting in uncertainty regarding the dates of the festivals. It is not observed in Israel, but is still

³⁰ In fact, this is already the practice followed by many diaspora communities that continue to eat in the sukkah, without a berachah, on Shemini Atzeret, though in that case it is due to concern about *s'feika d'yoma*- that it might still be Sukkot even the next day.

observed in the majority of observant Diaspora communities, even though the calendar is now fixed and that uncertainty eliminated.³¹ Rosh Hashanah, because it falls at the beginning of the month, is observed as two days by all observant communities, and its 2nd day has the same status as the first, even in Israel. While the practice of 2nd day Yom Tov (other than Rosh Hashanah) is only a rabbinic enactment, it was determined to be observed as restrictively as the d'oraita commandments on the first day.

One is allowed to perform certain types of labor on Yom Tov that are not permitted on Shabbat: food preparation, kindling a fire from a pre-existing flame, and transporting objects.³² However, these labors may only be performed for the needs of that particular day, not the following day. One may not prepare on Yom Tov for a weekday that follows, or even on the first day of Yom Tov for the 2nd day, since the two days of the Yom Tov are regarded as having two independent types of holiness. This prohibition (called *hakhanah*) even applies to activities that are not technically considered forbidden labor (for example, setting a table). There is an occasionally used loophole that if one is already cooking on Yom Tov that one may prepare extra food or perform other preparations through a legal fiction (claiming that one may want to eat again before Yom Tov is over, or that additional guests may arrive) and then eat it as the 2nd night meal, but there are also limitations on this practice³³ that would require great care for a typical Shabbat or festival meal, let alone a Seder.

It is often presented as required practice³⁴ to wait until dark (40 minutes or longer after sundown), to light candles for 2nd day Yom Tov, or recite Kiddush for the 2nd night's meal. The claim that is made that doing so earlier is disrespectful of, or even a violation of, first day Yom Tov. However, there are strong voices in the tradition that allow for bringing in the 2nd night of a Yom tov early, and in fact there are reasons why it may even be preferable.

R. Ya'akov Yitzchak Weiss³⁵ (20th century Ukraine, UK, and Israel) permitted reciting Kiddush before dark on the second day of Yom Tov in order to meet the needs of those who were ill, though he was not willing to extend this permission for Seder. R. Yekutiel Halberstam (20th century Israel) adds that since today we know that the 2nd day is not the original day of Yom Tov, it is preferable to recite 2nd Yom Tov evening prayers while it is still the first day, since then we know that we are reciting them on a day to which they truly apply.³⁶

The most challenging issue regarding bringing in second day Yom Tov is that of candle lighting. Candles may be lit on Yom Tov (from a pre-existing flame) if they serve some

³¹ The CJLS offers opinions for and against on observing 2nd day Yom Tov in the diaspora today, see Rabbis Phillip Sigal and Abraham Ehrlich, Yom Tov Sheni, approved February 26, 1969; OH 496:1.1969a; Rabbi Aaron Blumenthal, Yom Tov Sheni, approved October 15, 1963; OH 496.1.1963) Rabbi Wilfred Shuchat, Yom Tov Shen; approved November 26, 1969; OH496:1.1969b).

³² Shulhan Arukh OH 495:1 and following.

³³ Shulhan Arukh OH 503.

³⁴ Taz on OH 489, SK 10.

³⁵ Minhag Yitzhak 10:41

³⁶ Divrei Yetziv 1:OH 219.

useful purpose. For example, the Shulhan Arukh³⁷ allows lighting candles on Yom Tov day in the synagogue if they will provide needed illumination. The Mishnah Berurah³⁸ extends that permission to the home, though it limits it to certain purposes and suggests that only times close to dark are appropriate. If Yom Tov candles serve only to sanctify the coming of the evening festival, then one would not be able to light them until the 2nd day actually begins. However, if they serve some purpose, then their lighting would be permitted.

There are some sources that argue even more forcefully in favor of beginning second day Yom Tov early, including candle lighting. For example, the Ben Ish Hai (Rabbi Yosef Hayyim, 19th century Baghdad) writes in his “Rav Poalim”³⁹:

“In our community, where the community prays Ma’ariv while it is still day light, according to the approach of Rabbi Yehudah, they come home while it is still daylight, and they wish to make Kiddush and eat while it is still day, before dark. It seems that according to all views, it should be permitted to them to light candles while it is still day, so that they can say Kiddush while the candles are lit, for there is a mitzvah in this.”

He notes a particular concern that Yom Tov candles already be lit before the meal, and in fact forbids reciting the blessing over the candles if there is no festive meal that will be consumed in their presence! He writes similarly in his “Ben Ish Hai” that it is preferable to bring in the 2nd day Yom Tov of Shavuot early:

“On the second night (as observed outside of Israel), one does not need true night-time, but rather one may make Kiddush while it is still daytime, and in fact it is preferred to say Kiddush during the day, in these places, because there are many mosquitos in the hot summer nights, and if he makes Kiddush while it is still day, then his wife may light candles while it is still day, and it is not considered preparing from the first day for the second, since she lights the candles for the purpose of Kiddush, for it is a mitzvah for the candles to be lit when Kiddush is said, according to the views of many commentators... therefore, since we say Kiddush while it is still day, we may also light candles while it is still day. This applies specifically to candles lit at the table where one says Kiddush. Candles lit in a place where one sleeps or elsewhere, one should not light during the day, because the first day of Yom Tov may not prepare for the Second...”

The reason for both Shabbat and Yom Tov candles is to ensure that the evening meal will be eaten with sufficient light. Some have therefore suggested that the approach of the Ben Ish Hai only applies after sundown, when it is already getting dark out, (otherwise, the candles are only needed as mosquito repellent). Furthermore, nowadays electrical lighting of various types is available, making candles less essential for that purpose. However, the Ben Ish Hai cites a number of sources that it is a specific mitzvah to have the Yom Tov candles lit before beginning one’s meal. He also argues quite forcefully that on the 2nd day, it might in fact be preferable to start Yom Tov early, for reasons going beyond convenience of timing. If one sits down to the evening meal before dark, that means that preparations for the evening meal

³⁷ Shulhan Arukh OH 514:5

³⁸ Mishnah Berurah, OH 514:29,33.

³⁹ Rav Poalim 4, OH 23.

(including the lighting of Yom Tov candles, provided they have an illuminative or decorative purpose) can take place without fear of violating the prohibition of *hakhanah* from one day to the next. Indeed, if food has been prepared during the afternoon of the first day of Yom Tov, it is preferable that it be consumed before sundown on that day.⁴⁰

Those who are concerned that Yom Tov candles, if lit before dark, will not be lit with the proper intent, may still choose to begin the 2nd day Yom Tov meal early, with Kiddush, but wait until after dark to light candles, though in doing so, they lose out on the opportunity to fulfill the preferred view that the Yom Tov candles be lit in the presence of the meal.

III:B. Yom Tov following Shabbat

The question of Yom Tov eve on Motzaei Shabbat is more complex. On Saturday night, the Kiddush for Yom Tov includes Havdallah to end Shabbat, and one would ideally have already recited Ma'ariv before the meal. Technically, on Saturday night one may recite weekday Ma'ariv, (and even recite havdalah over wine, without the candle) before the conclusion of the Shabbat while it is still daylight. Maimonides writes⁴¹:

“A person may recite Kiddush over a cup while it is still day, even though Shabbat has not entered. So too, one may recite havdalah over a cup while it is still day, even though it is still Shabbat, for the commandment of remembering implies speech, whether at the entry or the departure of Shabbat, and even earlier by a bit.”

The Shulhan Arukh⁴² confirms this view, particularly when there is a rush to perform another mitzvah. The Magen Avraham (Rabbi Abraham Gombiner, 17th century Poland)⁴³ objects that the practice may be confusing, but does not deny its legitimacy in time of need.

There is also the question of the classic ordering of blessings when Shabbat runs into Yom Tov, characterized by the acronym “*YaKNeHaZ*”⁴⁴-, representing “Yayin (wine), Kiddush, ner (candle), Havdallah, and zman (the “Shehekheyanu” blessing). We begin with the prayer over the wine, then continue with the sanctification of the new day (*mekadesh yisrael v'hazamanim*), then *borei me'orei haesh* over a candle (typically those lit to celebrate the new holiday), then *hamavdil bein kodesh l'kodesh* ending the Yom Tov, and the *sheheheyanu*. If one recited the Yom Tov Kiddush before dark, following the logic of Rambam, one would have to omit the blessing over the candle during havdalah. One would light Yom Tov candles after dark, and recite the blessing *lehadlik ner shel Yom Tov*.

Based on this argument, one could therefore start Yom Tov early even before Shabbat has ended. However, if one were to begin the observance of Yom Tov while Shabbat was still

⁴⁰ Pri Megadim 503:1

⁴¹ Maimonides, Hilkhot Shabbat 29:11.

⁴² Shulhan Arukh OH 293:3

⁴³ Magen Avraham on Shulhan Arukh OH 29 Sv *Yachol Lehitpallel*

⁴⁴ BT Pesahim 102b-103a, Shulhan Arukh OH 473:1

underway, one would be taking away from the greater sanctity of Shabbat to the lesser sanctity of the festival. So therefore, when first day Yom Tov follows Shabbat (possible for Passover and Shavuot), one should not start Yom Tov early. One would need to be particularly mindful of issues relating to *hakhanah* (preparing on one holy day for a day of different or lesser sanctity), let alone actual cooking on Shabbat.

However, there are grounds to be more lenient with regard to a 2nd day Yom Tov following Shabbat, as opposed to a first:

1. Yom Tov is of lesser sanctity than Shabbat, so starting Yom Tov before Shabbat is over might be seen as a denigration of Shabbat, but in this case, one is already observing the sanctity of Yom Tov, so merely continuing that observance does not diminish the sanctity of Shabbat.
2. Beginning the Yom Tov meal before dark (provided it was not cooked on Shabbat) eliminates concerns of *hakhanah*, preparing for the weekday on Shabbat, though of course the meal would need to be one that could be prepared without any additional cooking on Shabbat.

Of course, in any case, one may not light Yom Tov candles until Shabbat has ended.

We have demonstrated that there are strong voices in the tradition which allow us to see *Tosefet Shabbat*, and *Tosefet Yom Tov*, as sufficient to allow the fulfillment of mitzvot of the upcoming evening, even during the final daylight hours. We have also seen that, for those who observe a second day of Yom Tov, it is permissible to start that second day before dark by reciting the evening service and Kiddush and beginning the festive meal, and one may even light candles so long as one does so in a way which does not violate the first day: by lighting from a pre-existing flame, and benefitting from the light in some way (using it to illuminate a meal).

IV. Passover, Special Considerations

We have established that it is permissible to begin Yom Tov, whether first or second day, certainly as early as “Plag Haminha” (about 75 minutes before sundown) with certain limitations related to Yom Tov which follows Shabbat. However, there are specific considerations that apply to the Passover Seder that will require special attention.

The Seder began as a sacrificial meal. Its specific rituals, as described by rabbinic literature, reflect a harmonization and synthesis of various passages from the Torah. According to the rabbinic account the “*qorban pesah*,” (the paschal sacrifice) was slaughtered during the day on the 14th, accompanied by the singing of Psalms by the levites. The paschal lamb was then cooked and consumed along with two other Biblically ordained foods, the matzah, and bitter herb, and telling the story of the Exodus, and this took place as the 15th of Nisan began, after dark. Hallel was sung on the 14th, long before the meal, as background music to the slaughter of the offering, which took place while it was still day. Following the destruction of the Temple in the year 70, this ritual was reconstituted as the “Seder” as it is known today. The Seder, whose name literally means “order,” encompasses a significant body of ritual and liturgy, highly structured in its presentation. Matzah and bitter herb are now the central dietary elements of the experience, and the paschal lamb is relegated to a

representative shank bone, not consumed by the participants. The telling of the story, enshrined in the Maggid section of the Seder, takes center stage. Hallel is incorporated into the service with a portion recited before the meal and the lion's share relegated to the time following the meal. Four cups of wine, other symbolic foods, and additional songs add to the richness of the ritual.

We see that other holidays mentioned in the Torah are associated with particular seasons or dates, but they rarely explicitly commemorate a specific hour of the day. Even if their biblical descriptions may describe sacrifices which occurred at specific times, their post-Temple observances are not connected to those sacrifices. In contrast, the Seder is associated with a particular moment in time, the evening of the Exodus, and its modern rituals were explicitly associated with a time-bound sacrificial order. The Mishnah seems to differentiate between Passover and other festivals, and as a result a number of poskim who explicitly permit beginning Shabbat and other festivals early exclude Passover from their lenient positions.⁴⁵

IV:A. Timing of the Passover Sacrifice (the Proto-Seder)

The Biblical accounts offer a number of different potential demarcation points for the Exodus and the time for its commemoration. Exodus chapter 12 begins by declaring that Nissan is to be considered the month of the Exodus, and further specifies that the Paschal offering is to be sacrificed on the 14th of Nissan (the day before Passover) “Bein Ha’arbaim.”⁴⁶ Bein Ha’arbaim, sometimes translated as “twilight,” is taken in rabbinic literature to apply to any time after midday.⁴⁷ According to tractate Pesahim, the Paschal lamb could be slaughtered as soon as early afternoon. Today even in the absence of a paschal lamb, the restriction on hametz begins before noon to ensure that all hametz is removed well before this time. Exodus 12:8 then indicates that the sacrifice is to be eaten “on this night.” Exodus 12:15 then turns to “Hag haMatzot”- the festival of unleavened bread, which is to be observed for seven days beginning on the 15th of Nissan. This and similar passages⁴⁸ would lead later Biblical scholars to parse these passages to imply that what we now observe as Passover was originally two distinct observances. The feast of Passover, with the Paschal sacrifice, took place on the fourteenth (with the slaughter of the lamb) and then the festival of unleavened bread began on the 15th.

Michael Satlow⁴⁹ points out that this distinction between the two festivals seems to have persisted among non-rabbinic Jewish sources well into the rabbinic period. For example, Philo of Alexandria (approximately 25 BCE to 50 CE):

⁴⁵ For another conceptual approach, and a more exhaustive review of sources, see also Rabbi Ethan Tucker's analysis at <http://www.halakhah.org/2009/03/starting-Seder-early.html> .

⁴⁶ Exodus 12:6

⁴⁷ Mishneh Torah, Hilkhot Korban Pesah, 1:4

⁴⁸ For example, Ezekiel 45:21 “On the fourteenth day of the first month you shall have the passover sacrifice; during a festival of seven days unleavened bread shall be eaten.”

⁴⁹ See Michael Satlow “Passover and the Festival of Matzot” for a helpful analysis of the textual concerns. <http://thetorah.com/passover-and-the-festival-of-matzot/>

Now there are ten festivals in number, as the law sets them down... The fourth is that of the passover which is called the Passover. The fifth is the first fruits of the corn—the sacred sheaf (Omer). The sixth is the feast of unleavened bread... XXVII. (145) And after the feast of the new moon comes the fourth festival, that of the Passover, which the Hebrews call pascha, on which the whole people offer sacrifice, beginning at noonday and continuing till evening.... (149) And this universal sacrifice of the whole people is celebrated on the fourteenth day of the month...⁵⁰

Philo's comment implies that Passover and the feast of unleavened bread are independent observances, with Passover taking place on the 14th of Nisan, and the feast of unleavened bread beginning with the 15th.

It is perhaps in light of these conflicting views, and an attempt to harmonize them, that the Tanaitic sources go out of their way to reinforce the idea that the Paschal lamb was to be consumed only at night. For example, Mishnah Zevachim 5:8 "The Paschal Lamb is only eaten at night." Tosefta Pesachim 2:22 adds "The bitter herbs, the matzah, and the Paschal Lamb when are they eaten? When it gets dark. If one did not eat it as soon as it gets dark, one may eat it all night." This view, that eating the three ritual foods must take place after dark, was the norm during the early rabbinic period.

Furthermore, the early rabbinic period saw the evolution of the Seder as a storytelling ritual, and connected that mitzvah with the gustatory aspects of the observance. One of the primary sources that does so is Mekhilta D'Rabbi Ishmael (in a passage paralleled in the traditional text of the Haggadah) commenting on the verse (Exodus 13:18) "You shall tell your child on that day 'On account of this that the Lord did for me when I came out of Egypt.'"

The Mekhilta reads:⁵¹ "You shall tell your son": you might understand this to mean from the first day of the month, so Scripture teaches, saying "on that day" I might understand this to mean on the preceding day, Scripture teaches saying for **this-** at the time that the unleavened bread and the bitter herbs are set before you on your table."

A close reading of the Mekhilta leads us to several important observations: The text declares that the telling of the story must be associated, not with the Paschal lamb which is killed on the 14th of Nisan, but with the matzah which is eaten on the 15th. This could be an attempt to quash the pre-rabbinic understanding of Passover as two distinct holidays, and to emphasize that the telling of the story is associated with the 15th, not the 14th. The fact that the lamb is omitted may also reflect the fact that this text speaks to a time after the destruction of the Temple, where the lamb was no longer part of the ritual.

It is particularly worth noting that the same literary structure which is found in the Haggadah "*yakhol merosh hodesh*" introducing a vacillation between dates, is exactly the phraseology used in the anonymous baraita in the Babylonian Talmud (Rosh Hashanah 9a) to establish the idea of *tosefet Yom Tov*, adding on to Yom Kippur, Shabbat and the other festivals. While the telling of the story must be associated with the set table and symbolic

⁵⁰ Philo, Special Laws (book 2) XI. (41),

⁵¹ *Mekhilta of Rabbi Ishmael, Pischa* 17

foods of the Seder meal, the timing of that meal itself may be flexible just as the beginning of the observance of Yom Kippur and other festivals might be.

The Seder timing of the Temple or the early rabbinic period did not present a chronological challenge, since most people structured their day around the rising and setting of the sun. In particular, the day would be structured so that the evening meal would be eaten at dark.⁵² What we now observe as the karpas was likely a salad course, so that the discussion of the Exodus, which need not have been lengthy, and continued through the meal, did not take place on a totally empty stomach. Even the main course was eaten not long after dark. However, the changes in sundown time relative to our typical rhythms of life, and the expansion of the Seder ritual, leave many Jews with a chronological challenge to overcome.

IV:B Applying the timing restrictions of the Paschal Sacrifice to Matzah, Maror and Maggid

The 10th chapter of the Mishnah of tractate Pesahim focuses on the Seder ritual as performed in a post-sacrificial world. It begins

“On Passover eves, as the afternoon approaches a person may not eat until it gets dark. And even the poorest in Israel may not eat until he reclines.”⁵³

The Talmudic discussion of the passage differentiates between Passover eve and other Shabbat and festival eves, and would seem to indicate that one may begin the Shabbat meal before dark, and continue it as Shabbat descends, while on Passover one must not eat anything in the late afternoon, so as to enter the Seder with a strong appetite. This view poses a challenge to those who might eat an early “dinner” before a late Seder meal, or do an “out of order” Seder, eating large quantities of karpas as a heavy hors d’oeuvre without starting the new Yom Tov.

The Tosafot⁵⁴ distinguish clearly between Passover and all other holy days.

We question: why we need to say "until dark?"- it's obvious. Furthermore in the Talmud regarding Shabbat and Yom Tov it doesn't say "until dark!" Rabbi Judah of Corbeil says regarding matzah specifically we have to wait until it gets dark, as it says in the Tosefta, that the paschal lamb, matzah and maror, their mitzvah is after it gets dark, and the reason is because it says (Exodus 12) "they shall eat the meat on this night." Matzah and maror were connected to the paschal lamb, but meals for other festivals one can eat during the day, as it says in Berakhot that a person may pray the Friday evening service on Sabbath eve, and say Kiddush while it is still daylight.

The Tosafot goes on to offer the possibility that even if one forbids eating on the eve of Shabbat and Yom Tov as well, Passover requires special mention because its offering is brought while it is still daylight.

⁵² See the discussion B.T. Berakhot 2a-b, which associates the earliest time for the recitation of the Shma, and nightfall, with the time when either the priests or the common folk would eat their evening meal.

⁵³ Mishnah Pesahim 10:1

⁵⁴ Tosafot Pesahim 99b. sv *ad shetehshakh*

This reading would seem to indicate that the Seder meal, as opposed to any other festive meal, may not be eaten until dark, and that furthermore, the matzah and maror, which happen to begin the “main course” of the meal, also must be eaten after dark. This view is found explicitly in the writings of Rabbi Yosef Molho (18th century Salonika). He writes⁵⁵ that the early recitation of Ma’ariv initiates the next day, meaning that even though it is still daylight, it is already the legitimate time for performance of all mitzvot associated with the next Hebrew date, except possibly for those that are specifically biblically required to be performed at night. He indicates that in the case of Passover, those are the Paschal lamb, matzah and maror. To the contrary, all of the other the rituals and liturgy of beginning of the Seder (including consumption of the first and second cups of wine, karpas, and the telling of the story) are under no such restriction. While they might be preferably done after dark, one’s obligation is fulfilled if one undertakes them at any time when one has accepted the onset of the festival.

Following this view, one could therefore begin the Seder itself at whatever time one might ordinarily begin a festive meal (but see below), taking care to extend Maggid so that one fulfills the biblical mitzvot of matzah and maror after nightfall. This view would also seem to be supported a number of other sages, including the Hatam Sofer (19th century Hungary).⁵⁶

The very structure of the traditional Seder seems to point in the direction of this approach as a common practice as well. Many have found it odd that the “four questions” which describe the unusual rituals of the Seder, are situated at the beginning of the Seder, but three out of the four acts that they describe (matzah, maror, and a second dipped food) are telegraphed at the start of the Seder, and then not actually performed until just before the meal. Matzah and maror are laid out at the table for a significant period of time before they are eaten. They are the paschal equivalent of Chekov’s Gun.⁵⁷ Would it not make more sense to interpolate their consumption into the telling of the story? I would suggest that the structure of the Seder as we know it may in fact be a nod to the concerns of the Tosafot. The Seder begins with several acts of performative ritual (karpas and yahatz), which can be done before the sun sets and “set the table” so to speak, but have no biblical force. The bulk of Maggid includes very few specific ritual acts, other than the periodic covering or uncovering of the matzah. Its performance can be extended or condensed, as needed. Those rituals which are of Torah origin and require nightfall according to Tosafot are clustered just before the meal.

We will see below that there are those who argue that the force of the Mekhilta above is that the Maggid must also take place after dark, because it requires that the telling of the story take place “while matzah and maror are laid out before one” (and therefore after dark). However, I believe the fact that the Mekhilta uses the term “laid out” rather than “eaten” is significant. Even if they are still only on display at the earlier hour and not eaten until after dark, they are still suitable foils for storytelling. At worst, even a relatively short snippet of the Maggid (for example, “Rabban Gamliel Omer” or even the blessing over the 2nd cup of wine) would be enough to satisfy the minimal requirement of telling the story after dark.

⁵⁵ Shulhan Gavoah, OH 472:

⁵⁶ Hatam Sofer on Pesahim 99a s.v. *shetechshach*

⁵⁷ “One must never place a loaded rifle on the stage if it isn’t going to go off. It’s wrong to make promises you don’t mean to keep” Anton Chekov, letter to Aleksandr Semenovich Lazarev, 1 November 1889.

IV:C A More Restrictive View

Other medieval poskim offer a more restrictive view. For example, Rabbi Israel Isserlein (15th century Austria) in his *Trumat HaDeshen*⁵⁸ was asked about the very approach we suggested above, and rejects it:

On Passover eve when people leave the synagogue after Ma'ariv and it is still day time, is it permitted to say Kiddush over wine and to start the Seder?

Answer: We will see that is not permitted, for the Tosafot, Mordehai, and Ashiri at the beginning of the 10th chapter of *Pesachim* wrote in the name of Rabbi Isaac of Orleans "The mitzvah of matzah and maror is only at night." So even though by the time you finished the Haggadah and got to the matzah and maror it would already be night, in any case, the cup of Kiddush is one of the four cups, and the eating of other greens, and all of the other changes that we make in the evening so that the children will ask, and certainly the recitation of the Haggadah itself must be at a time that is suitable for eating matzah and maror. For these are all related to the mitzvah of matzah and maror. We learn [in the *Mekhilta*] "'and you shall tell your children, 'because of this' cannot be said until matzah and maror are before you. This means to say that it must be a time when it is appropriate to eat them. For while it is still day, you could place them before him, but that is not the case."

One may not say the hagaddah before dark, and the changes [in the meal] also would not be done in a way that would cause the child to ask and the father would respond. Even Kiddush, since its cup is one of the four cups hinted at in the language of redemption in matzah, which is a remembrance of freedom. Therefore each of them must be specifically at night.

This view of the *Trumat HaDeshen* is that all of the essential rituals of the Seder, starting with Kiddush and the remaining cups, and including the eating of karpas, and certainly the telling of the story, must be performed after dark. It is echoed by many later poskim including Yosef Karo in his *Beit Yosef*, OH 472, and *Shulhan Arukh* 472:1, and is commonly presented as the most traditional or appropriate practice today.

Several approaches have been suggested to make this approach more palatable. Having everyone take a nap to be able to stay up later is certainly an option. Others have suggested eating before Seder or having an extensive "pre-karpas" but this goes against the principle that one should enter Seder with a strong appetite.

However, requiring the Seder to start after dark is a stringency which impedes other important aspects of observance. In demanding that the mitzvah of "vehigadeta levincha" be performed long after dark, one increases the likelihood that it will not be performed at all. Children may indeed stay up to ask the four questions after dark, but they (and others) are less likely to be present and attentive when matzah and maror are actually eaten. Some have suggested having a "model Seder" for children early in the afternoon, so that they can drop

⁵⁸ *Terumat HaDeshen* 137

out of the real Seder as bedtimes require, but this flies in the face of the intent of the Seder meal.

Those who wish to follow this more restrictive view, limiting the start of the Seder to after dark, are certainly welcome to do so, provided that doing so does not prevent them from including all members of the household in the telling of the story. Nevertheless, the plain reading of the Tosafot, as explicated by Molho and the Hatam Sofer, allowing the Seder to start earlier so long as matzah and maror take place after dark, stands on its own.

IV:D The Seder Out of Order

To avoid the risk of having participants drop out of the Seder or miss the Seder altogether due to a late start time, some have suggested a “Seder out of order.”⁵⁹ The Terumat HaDeshen’s question explicitly assumes that it is permitted to complete Ma’ariv while it is still day.⁶⁰ The party is then seated, and songs and discussions which are entertaining or informative, but not mandatory, occupy the time until dark. These passages would include the four sons, the story of the sages at B’nai Brak, the detailed analysis of *Arami Oved Avi*, and *Dayenu*. After nightfall, the party would recite a “minimum required Seder” consisting of Kiddush, washing, karpas, and Maggid highlights including the four questions, *avadim hayinu*, some review of *arami oved avi*, the 2nd cup, and Rabban Gamliel’s presentation of the meaning of the ritual foods. Of course, the actual consumption of matzah and maror would take place after dark as well.

However it is worth noting that the sections of Hallel which precede dinner could be said before dark. The Talmud⁶¹ does not include Passover night as one of the required times for the recitation of Hallel: “For R. Yochanan said in the name of R. Shimon b. Yehotzadak: There are eighteen days on which an individual completes the *Hallel*: the eight days of the Feast [of Sukkot], the eight days of Chanuka, the first festival day of Pesach, and the festival day of Shavu'ot. In the exile, [an individual completes the *Hallel*] on twenty-one days...” The Hallel at the Seder, as recited today, is recited differently from any other Hallel: in a seated position, without a blessing, and divided into two segments. Furthermore, in the Temple ritual, its place was as an accompaniment to the slaughter of the sacrifice⁶², which actually had to happen during the day time.

One final restrictive view to consider in the “Seder out of order” category is first explicated by Maharil⁶³ who argues that in fact, the first cup of Kiddush may be recited before dark, but one should not do so because one might rush ahead and perform the dipping of the karpas etc before dark as well. Rabbi Ovadiah Yosef (20th Century Israel) presents a more

⁵⁹ My colleague Rabbi Miriam Berkowitz refers to this as the “*Seder lo b'Seder*.”

⁶⁰ Possibly even before *plag haminha*, more than 75 minutes before sundown, following Isserlein’s view in Terumat HaDeshen 248,. However, those who hold that festival service or meal may begin before *plag haminha* rely primarily on this lone view of Isserlein. In the interest of consistency, given that the Isserlein himself is so opposed to an early Seder start, it would require a much greater leap to extend his view to the Seder night and begin Seder itself before *plag*.

⁶¹ Arakhin 10a

⁶² Talmud Pesachim 64a.

⁶³ Rabbi Yaakov Moelin, 14-15th century Germany, in Seder Haggadah, s.v. *darah*, 7.

fully explicated view of this approach⁶⁴. While expressing a preference for the view of Isserlein, and starting even Kiddush after dark, he concedes that *bediavad*, it is acceptable to do so earlier, and argues that even the Terumat HaDeshen and other more restrictive writers would allow this after the fact. However, his approach does not buy a significant amount of time. Though he does mention the permissive view of Molho allowing the dipping of karpas and the recitation of Maggid before dark as well, he ultimately rejects this view. He therefore would require their re-performance after dark if they are done earlier. This allows for a slightly less convoluted version of the “Seder out of order”- Kiddush would still be at the beginning, but the karpas vegetable would need to be repeated after dark. This view should be of particular interest to those who do a “Seder out of order” by doing everything in order **except** for Kiddush which is held to after dark. Based on his analysis, I would argue that once one is doing karpas or any of the more substantial parts of Maggid before dark, there is no compelling reason to delay the Kiddush that naturally precedes them

These “out of order” approaches do manage to thread the needle of several competing stringencies, but suffer from several flaws. One is that the most critical components of the Seder are crammed together, out of context, in a mad dash to dinner. The very meaning of the word “Seder” is order, and this approach upends that order, and indeed the likelihood that a key component of the Seder will be skipped altogether, or doubled resulting in an unnecessary blessing, a *bracha l’vatalah*, increases dramatically.

IV:E More Lenient views

While I would prefer to encourage adherence to the plain sense of the Tosafot and other poskim that the seder may start before sundown, but that matzah, maror and meal should be after dark, there are some contexts (extremes of latitude, or accommodating younger children or those who are infirm due to illness or age) where this approach may still be too limiting.

Tosefet Yom Tov is a concept which, according to many, has d’oraita force to begin a festival while it is still daylight. Why should it not apply even to those rituals of Seder which are arguably d’oraita? Rabbi Yehudah Sirleon (12-13 century France) argues exactly this:⁶⁵

“Perhaps the term “after dark” comes to teach that even though the slaughter of the Paschal lamb must be during the day, it is not eaten during the day, as is the case for all other offerings, and there is no difference with regard to *Tosefet Yom Tov* as I have explained.”

If one accepts the view that *Tosefet Yom Tov* allows one to perform any observance early, then one may begin the Seder as early as any other Shabbat/Yom Tov meal, and fulfill any mitzvah, including the d’oraita commandment of eating matzah and maror and telling the story, as early as one reaches them in the Seder, even if it is not yet dark, (indeed, over an hour before sunset).

⁶⁴ Hazon Ovadiah I:1

⁶⁵ Tosafot of R. Yehudah Sirleon on Berakhot 27a, s.v. *derav tzalei*, with emendations of critical edition.

There is further ground for leniency on the second day since it is only a rabbinic decree, though the sages ordained that it be observed as if it were d'oraita, so that people would not take it lightly.⁶⁶ This is especially true today, when the calendar is fixed and there is no doubt as to which day is the biblical ordained observance. That being said, there is no issue of biblical force to the mitzvot of matzah and maror on the second night. Therefore there is no reason to treat the second night of Passover differently from any other second day Yom Tov, if one eats any other Yom Tov meal before dark. Indeed, following the view of Rabbi Halberstam above, there is actually a benefit, since it means that these mitzvot are being fulfilled on a day when they at least theoretically apply.

IV:F. Passover and Shabbat.

The first or second night of Passover could fall on Saturday night, Motzaei Shabbat. One who follows the “strict” approach does not have any issues of violation of Shabbat, since candles would be lit, and all other rituals would take place, after dark, and therefore after Shabbat has ended. Following any other approach, one must proceed, to some extent, out of order. One should certainly not light candles until after Shabbat ends. One would therefore have to omit the candle from *yaknehaz* in Kiddush over the first cup. It is most technically correct to recite the basic Kiddush at the start of the seder, and then recite *ner* and *havdalah* over the second (or third) cup if they were consumed at the appropriate time. However this raises some of the challenges of “Seder out of order” and potential confusion in liturgy, so in practice many people would hold Kiddush and the first cup until later in the Seder, probably reciting it at the first reasonable time after nightfall

V. Specific Practices Related to Other Holidays:

V:A Sukkot

Unlike Passover, which is linked to the Exodus taking place on the night of the 15th of Nissan, Sukkot, observed on the 15th of Tishrei, does not have an explicit link to a specific historical date- it commemorates the Israelites dwelling in Sukkot over a 40 year period.⁶⁷ There is a requirement that one must eat at least an olive's worth of bread in the sukkah on the first night of Sukkot.⁶⁸ May one fulfill this mitzvah before dark? May one recite the blessing “Leshev B'sukkah” before nightfall?

As we saw above, many poskim read Mishnah Pesachim 10:1, which restricts the consumption of the Passover meal to after dark, to indicate that there is no similar restriction for any other festival. Rabbi Yosef Karo is not specific in the Shulhan Arukh⁶⁹, and we can assume that he follows this view.

⁶⁶ Maimonides Mishnah Torah, *Hilkhot Megillah V'Hanukkah*, 3:5

⁶⁷ I Kings 8:2 marks Sukkot as the beginning of Solomon's dedication of the Temple, but this could well be a case of connecting the dedication to the existing celebration, rather than the reverse.

⁶⁸ Shulhan Arukh OH 639:3.

⁶⁹ *Ibid.*

However, there are those, including Isserles⁷⁰ who require that the observance of the mitzvah of eating in the sukkah on the first evening should follow all of the patterns of the limitations on eating of matzah, including the restriction that it be done after dark.

The Mishnah Berurah⁷¹ walks a middle line, and seems to accept the possibility that one could say Kiddush even before nightfall, and, since Kiddush must take place in the place where the meal will take place,⁷² some amount of food would be eaten with Kiddush. The Mishnah Berurah would prefer that the blessing over the sukkah be said after dark, but, since *safek berachot l'hakel*- we do not repeat a blessing unless we are certain it is necessary, he does not require repeating it after dark. He would require the consumption of a minimal volume of bread in the sukkah after dark.

One may recite Ma'ariv, recite Kiddush in the Sukkah, and begin one's meal early on the first night of Sukkot, but it would be a measure of piety to follow the Mishnah Berurah's view and extend the meal so that it concludes after dark. At most latitudes, this is not a particularly late hour- even though Sukkot falls during daylight savings time in the US, darkness usually falls more than an hour earlier than it would at Passover, and the liturgy before the meal only takes a few moments. Finishing a meal at 8 PM far less of a challenge than first starting a liturgy at 9 PM and reaching a meal after 10 PM. Nevertheless, there are families for whom starting a meal after 7:30 could be a challenge. Furthermore, there are circumstances where it may be useful to take advantage of the additional natural daylight rather than having to eat by artificial light.

Above, we suggest that candles be lit in the place where Kiddush is to be said, in particular if one is lighting Yom Tov candles for the second night. Extra care should be taken lighting candles in a sukkah given the potential risk of fire.

V:B Shemini Atzeret

We already noted (section II:E) that some have the practice of waiting until after dark to begin Shemini Atzeret, but that poskim including the Taz have rejected this stringency.

V:C. Simhat Torah

Simhat Torah is technically simply the second day of Shemini Atzeret. While it has developed an independent identity, the rules are no different from those of any other second day Yom Tov. Given what we have already established about second day Yom Tov, it is appropriate (and indeed, preferable for the inclusion of children) to begin Simhat Torah Ma'ariv as early as *plag haminhah*, with Hakafot immediately following. This would also be the case if Simhat Torah fell on Saturday night. One could daven Ma'ariv and conduct Hakafot any time after *plag Hamihah*, and then conclude hakafot with Kiddush and Havdalah for the second night of the festival, after nightfall. Indeed, in congregations where Jewish volunteers or staff undertake significant preparations for *Simhat Torah* (setting up

⁷⁰ Rema on Shulhan Arukh OH639:3, Beit Yosef OH 639.

⁷¹ MB on Shulhan Arukh OH639:23,26

⁷² Shulhan Arukh OH 273:1

furniture or food), on the afternoon of *Shemini Atzeret*, it is preferable that some use is made of these preparations before dark!

V:D. Shavuot

It has become a common practice to wait until after dark on the first evening of Shavuot to recite Ma'ariv and Kiddush and hold the first meal of the festival.⁷³ The reason frequently expressed is that Shavuot marks the end of the 49-day omer period, which must be 7 “complete” weeks.⁷⁴ In order for the weeks to be complete, we wait until it is truly dark. This view is not found in the Shulhan Arukh. It was first expressed by Rabbi Ya'akov Falk, and explicated about 100 years later by Rabbi Isaiah Horowitz (Poland 1558-1630) in his *Shnei Luhot haBrit*.⁷⁵ However, Horowitz argues that this only applies to the meal at home; one may still recite Ma'ariv and Kiddush at the synagogue while it is still daytime. The Taz⁷⁶ goes a step further and argues that one must wait until after dark even to recite Ma'ariv, since that, too would also impinge on the wholeness of the Omer. Some (for example, Eliyah Rabbah⁷⁷ and Magen Avraham⁷⁸) accepted Horowitz's initial stricture of Kiddush, but not the Taz's expansion. In any case, Horowitz's concern about the completeness of the Omer, and the practice of waiting to recite Kiddush, and even Ma'ariv, of Shavuot, penetrated much of the Jewish world.

Many scholars who accepted this view wrestled with the question of how one could make the 7 weeks “complete” when there is a mitzvah of *tosefet Yom Tov*, so that no matter what, Shavuot had to start earlier than sundown, and the Omer would not have been counted until sundown or later. Minhat Shlomo⁷⁹ summarizes the view of many earlier scholars who argue that Shavuot is different from the other holidays, and does not have the mitzvah of “Tosefet Yom Tov.” He asserts that the phrase “*be'etzem hayom*”- is used to refer to Yom Kippur (Leviticus 23:28-29), and Shavuot (Leviticus 23:21),⁸⁰ thus linking the two observances. However, the common practice is in fact to apply *tosefet Yom Tov* to Shavuot, and begin the festival at least 18 minutes before sundown.

In analyzing the practices of Shavuot eve, one must take into account the practice of *Tikkun Layl Shavuot*, studying through the night of Shavuot, into the next morning. This practice developed among the mystics of 16th century S'fat and has become common throughout the Jewish world over the last few centuries.

Rabbi Shimon Sofer (20th Century Hungary)⁸¹ relates the Tikkun Layl Shavuot to the timing of the evening service on Shavuot. Normally, when Ma'ariv is recited before dark, there is a concern that one might not fulfill one's obligation to say the evening Shema by doing so,

⁷³ TAZ on Mishnah Berurah 494:1.

⁷⁴ Leviticus 23:16.

⁷⁵ *Shnei Luhot Habrit*, Masekhet Shavuot, Ner Mitzvah.

⁷⁶ Taz on OH 504.

⁷⁷ Eliyah Rabba 494:3.

⁷⁸ Magen Avraham OH494.

⁷⁹ Minhat Shlomo 1:3.

⁸⁰ It is also used to describe the actual Exodus (Exodus 12:17) but not the later observance of Passover.

⁸¹ Hitorrerut Teshuvah 2:56.

but it is assumed that one will fulfill the obligation by saying the Shema at bedtime. Sofer notes that if one stays up all night, one might miss saying the bedtime Shema.

However, there were always objectors to the stricture of waiting until dark before reciting the Ma'ariv of Shavuot. One of Horowitz's contemporaries, Rabbi Pinhas Selgmann⁸² said that the practice was unknown to him, and he disliked it because it means that one's Tikkun Leyl Shavuot will be shortened by the amount of time that it takes to recite Ma'ariv and have dinner.

It may be noted that many Rishonim had already proposed alternate ways to avoid the concern about the "wholeness" of the Omer. The Tosafot⁸³ and Meiri (13th century Catalonia)⁸⁴ argue that since Shavuot starts at sundown no matter what one does, one must therefore start counting the Omer before dark on the 2nd night of Passover, so that the weeks will be complete.

Rabbi David Tzvi Hoffman (19th-20th Century, Germany) writing at a time that the custom was widespread,⁸⁵ felt that there is no concern about taking away from the "wholeness" of Omer- by starting Shavuot early, for one is in fact adding to the holiness of the 49th day. He adds that one should wait as long as possible, but may certainly start Kiddush by dusk (*bein hashemashot*), since that is the beginning of the night.

My father of blessed memory, Rabbi Zachary Heller, noted that in the parts of the Northern Hemisphere where many Jews reside, sundown grows later and later between Passover and Shavuot, so that, on the clock, the time of sundown at Shavuot is often even later than the time of dark at Passover, so that on the clock, the total number of equal hours in the Omer is more than 49 days x 24 hours, even though the number of solar hours may vary.

Where circumstances warrant, a congregation may certainly follow the letter of the law, which is to start services as early as one would start on any other Yom Tov, before sundown. Those who wish to be strict may still be in full compliance with the ruling of the *Shlah* by praying with the community, then returning home and waiting until dark to recite Kiddush and eat the meal.

In our day, where *Tikkun Layl Shavuot* has become an important distinctive aspect of Shavuot observance in many communities, its scheduling may drive the timing of Ma'ariv and the meal following it. Ironically, the concerns today are the opposite of those raised by R. Selgmann, It may easier to have everyone already gathered at synagogue at a late hour for Ma'ariv and have a light Yom Tov meal before beginning study, than it is to pray earlier and then have the participants go home for dinner and return long after dark. One may also follow Rabbi Aaron Alexander's suggested approach for when Shabbat begins late⁸⁶ and encourage people to have Kiddush and a festive meal at home at an earlier hour, then join for Ma'ariv and Tikkun afterwards.

⁸² Yosef Ometz 850.

⁸³ Tosafot Mehanot 66a s.v. *zekher l'mikdash*.

⁸⁴ Beit Habehirah 121b din sefirat haomer.

⁸⁵ Melamed L'Hoil OH 108.

⁸⁶ Aaron Alexander, "[The Reverse Kiddush and A Palace in A Set Time](#)" OH 267:2.2012a

V:E. Purim

Purim is not among the festivals mentioned by the Torah, but the concerns above can be considered to apply to it. In some communities, reading Megillah after dark would make it difficult for families with children to attend. There is a commonly accepted practice⁸⁷ that the Megillah is to be read after dark. However, the same sources⁸⁸ permit the reading of the Megillah as soon as *plag hamincha* for one who is “*anus ketzat*”- one who is “slightly pressed,” with the caveat that they should observe the fast until the megillah is read.

In addition to applying the reasoning above, we also note that the sages ordained that in villages where it was hard to gather on days other than the market days, Purim would be observed on days prior to the 14th of Adar. The concern of having Megillah read at a time when it would reach the maximum audience would seem to override the concern over reading it on the “correct” day. There would seem to be a strong additional precedent to reading Megillah as early as *plag* in order to guarantee the largest possible attendance. Two additional considerations would be:

1. The Fast of Esther does not have the same status as the four biblical fasts, but remains a significant practice, and there is often tension between the desire to respect this fast and to hold communal Purim celebrations which include food. For some communities, this may mean ending Megillah reading at dark or later so that those who are fasting will not be left out of festivities that follow. In other communities, one might need to determine whether it is more appropriate to conduct Megillah reading “at the right time” if that means that food will be served before the reading, or to read Megillah earlier and break the fast as soon as the reading is concluded, even if dark has not fallen.
2. If Purim is observed on Saturday night, the Megillah should not be read before Shabbat is over. Leaving aside the debate as to whether the Megillah is *muktzeh*,⁸⁹ and even assuming that the reading itself would not violate Shabbat, many aspects of Purim, including *matanot l’evyonim*, graggers, and preparing costumes, would lead to violations of Shabbat. It is an obligation to hear the Megillah both Purim eve and the next morning⁹⁰, and congregations should offer a reading in both timeframes. Some might be concerned that a late Saturday night reading might make some less likely to attend. This is mitigated to some extent by the fact that in Western societies, there is no school or work the next day. In addition, those who might not be willing to attend a post-dark Megillah reading on Saturday night will be more likely to be able to attend and hear the Megillah read on Sunday morning than they would have on a different weekday, so there is no net loss in participation.

VI: Conclusions

⁸⁷ Shulhan Arukh OH 687:1, Mishnah Berurah 687:1

⁸⁸ Shulhan Arukh OH 692:4, Mishnah Berurah 692:13

⁸⁹ Shulhan Arukh OH 688 and Mishnah Berurah 688:18, permit carrying the Megillah on Shabbat, when an Eruv is present. Arukh Ha-Shulhan, OH 693:3 forbids such carrying because of *muktzeh*.

⁹⁰ BT Megillah 4a, Shulhan Arukh OH 687:1

A. Festivals in General

One may begin the observance of any festival eve (whether first or second day), as early as one would start Shabbat. In doing so, one may recite Ma'ariv, light candles, recite Kiddush, and begin the festive meal, even if the sun has not yet set by that time. This is true for both the first and second days of Yom Tov, with the following conditions:

1. This ruling does not apply when the first night of a festival begins on Saturday night, because it reduces the sanctity of Shabbat.
2. It always applies to the second day of Yom Tov, even when it begins on a Saturday night, with the limitation that candles may not be lit until Shabbat has ended.
3. If the 2nd day of Yom Tov is begun early, and it is not Shabbat, candles may be lit before dark, but care should be taken to ensure that light actually serves some useful purpose, the classic one being that they be lit in the place where Kiddush is said. (As on any second day Yom Tov, candles must be lit from a pre-existing flame.)
3. The earliest universally accepted start time is *plag haminhah*, (about 75 minutes before sundown), and this would suffice for many communities. If one follows Rabbi Barry Leff's reading of the Terumat HaDeshen, one might start even earlier, but this leniency would not apply to Seder.

B. For Seder, the following approaches could be considered depending on circumstances, and are listed in order of preference:

1. The stringent approach: If it is within the capacity of all attending to participate fully in a Seder beginning after dark, then this would be the preferred option. Even in such a case, Ma'ariv could be recited earlier so that those attending may be home and ready to start/prepare for the Seder at the appropriate time. However, in such a situation, one should not eat a significant meal in the hours leading up to Seder, so that one is able to have an appetite for matzah. One may run a "model Seder" for very small children who will not be able to stay up for the Seder, though this goes against the spirit of the Seder.
2. The "classic" approach: begin Seder at any time after *plag haminha*, timing its performance so that some portion of the telling, and the consumption of matzah and maror, fall after dark.
3. Seder out of order: discussion and favorite songs, including Hallel, could be done before nightfall, skipping the most essential elements.. After nightfall, the party would recite a "minimum required Seder" consisting of Kiddush, washing, karpas, and Maggid highlights including the four questions, *avadim hayinu*, the analysis of *arami oved avi*, the 2nd cup, and Rabban Gamliel's presentation of the meaning of the ritual foods. Of course, the actual consumption of matzah and maror would take place after dark as well.
4. The most lenient approach: begin Seder at any time after *plag haminha*, working under the assumption that *tosefet Yom Tov* means that acceptance of the Yom Tov means that it is now the appropriate time for performance of all night-time rituals, including matzah and maror.

C. Applications to other festivals:

1. One may begin a Sukkot meal in the sukkah before the first sundown of Sukkot, but it is preferable to eat some portion of the meal there after sundown.
2. One need not wait until after dark to begin Shemini Atzeret, though if one eats the festive meal before dark, one should perform Kiddush and Hamotzi in a sukkah (without the blessing over sitting in a sukkah), even if it is not normally one's practice to eat in the sukkah on Shemini Atzeret
3. Services for the first night of Shavuot need not be postponed until after nightfall (though communities may still choose to do so in the interests of the logistics of *Tikkun Layl Shavuot*).
4. Except on Saturday night, evening Megillah reading may be begun before dark, after *plag*.

Appendix:

Halakhic Times

The transition from one Jewish day to the next occurs in the evening, but there are several different points of demarcation in this process. The time from sunup to sundown is divided into 12 “halakhic hours,” which vary in length with the length of the daylight period.

Hatzot is halakhic noon, or midnight, that is, both times that are mid-way between sun-up and sundown. It may fall earlier or later than noon or midnight depending on latitude and time zone.

“*Bein Ha-arbaim*” - literally, between the evenings, is understood by the sages to mean the portion of the day from about 30 minutes after “mid-day” until dark.

Plag Haminhah is “the dividing time of the afternoon”, and is understood to be about 1 ¼ of these “halachic hours” (75 minutes at the equinox, longer during the summer) before sundown. Under some circumstances, it may be considered the beginning of the next day.

Sheki'ah is sundown (typically the listed candle-lighting time for shabbat and the first day of a festival is 18 minutes before this time)

Tzeit Hakokhavim (abbreviated to *tzeit*) is the beginning of true night, that is, the time at which it is dark enough that three medium-sized stars are visible. Today this time is rarely determined by astronomical observation. Rather, one of several mathematical methods is used. One of the most common is to assume it to be 42 minutes after sunset.

There are two additional time periods that are worth noting:

“*Bein Hashemashot*” (“between the suns”) is the time between *Sheki'ah* and *Tzeit Hakokhavim*. It is usually considered as having the restrictions of both the day before and the day following

“*Tosefet Shabbat/Yom Tov*” - the addition to Sabbath or Festival. Sabbath and Festivals technically would begin at *shek'iah* (sundown), and end at *tzeit* (dark), the following evening. However there is a custom (held by some poskim to be of Biblical origin) of “*Tosefet Shabbat*” and “*Tosefet Yom Tov*”⁹¹ adding on a few minutes to the holy day, both to enhance the honor of the day and to prevent possible error in beginning too late. Typically, this tosefet is observed as 18 minutes before sundown at the beginning of the holy day, though it may also be applied to add a short time to the end of the holy day.

⁹¹ B.T. Yoma 81b and Shulhan Arukh OH 261:2. Magen Avraham on SA there notes that there are those who say that it is D'oraita.