

HALOCHOSCOPE

This week's question:

A *baal tekia*, who already fulfilled his own *mitzvah*, is asked to blow *shofar* for someone or people who did not hear it yet, right at the end of the day. This means that he will probably not be able to *daven mincha* in time. Should he miss *mincha* on time, or let the other person miss hearing *shofar*? [At this point, there is no-one else available to blow.]

The issues:

A) The timing of *mincha* and of *shofar*

B) One person's giving up a small *mitzvah* to help another fulfill a bigger *mitzvah*

A) *Timing of mincha and of shofar*

Mincha is an afternoon service. Accordingly, it may not be said before noon. It may not be said after nightfall either. Theoretically, it should be acceptable to say it at any time between these hours. However, it is more complicated. The Talmud debates who instituted *mincha*. One view maintains that it was instituted by Yitzchak avinu. [The Patriarchs instituted the *tefilos*; Avraham instituted *shacharis*, Yitzchak instituted *mincha* and Yaakov instituted *maariv*.] The other view maintains that it was instituted to correspond to the *tamid* offerings, the daily burned offerings in the *Bais Hamikdash*. *Shacharis* corresponds to the morning *tamid*, and *mincha* corresponds to the afternoon *tamid*. [*Maariv* corresponds to the fats of the afternoon *tamid*, that could be burned all night.] One conclusion of the Talmud is that they were instituted by the Avos, and were then linked to the *temidin*. Accordingly, the timing of the *tefilos* follows the timing of the *temidin*.

The afternoon *tamid* could not be offered until they were absolutely certain that the sun had passed the midway point. The walls of the *Bais Hamikdash* were constructed such that they would cast a shadow a half-hour after astronomical noon. This was called *mincha gedolah*, the earliest time for *mincha* and for the *tamid*. The Torah forbids offering any other offerings after the afternoon *tamid*. Therefore, enough time must be left to offer any other *korbanos* before it. Therefore, the optimum time for the *tamid* is to slaughter it at the eight-and-a-half hour point in the twelve seasonal hour day. Its blood is thrown on the *mizbaiach* at the nine-and-a-half hour point. This later time, 9½ hours, is called *mincha ketana*, the optimum time for *mincha*.

The latest time for *mincha* is debated by the Talmud. This is also modeled on the *tamid* offering. According to the majority view, it could be offered until evening. In one view, R. Yehuda, it may be offered no later than *plag hamincha*. R. Yehuda gives the time for *plag hamincha* as 'eleven hours minus a quarter'. The day is divided into twelve equal parts, based on the hours of light. Some poskim say this is the hours of sunlight, and others use the hours of daylight. *Plag hamincha* occurs ten and three quarter hours into the day. This is the half-way point between *mincha ketana* and evening.

Based on this, many maintain that there is a concept of part of the late afternoon belonging to the evening. The Talmud allows one to follow R Yehuda for *mincha*. Thus, we have a time by day, attributed to the following evening. The problem is that this time seems arbitrary. It has no astronomical significance, and does not seem to be mandated as a waiting period either. If so, how could it be used to invalidate a Scriptural offering?

R Yehuda does not consider *plag hamincha* nightfall. He himself has an opinion on *bain hashmoshsos*, twilight, [which is actually the accepted view]. It is clear that the timing of *plag hamincha* is meant as a break-off time during the day. If so, it is not really an early time for nightfall. In order to attribute *plag hamincha* to the evening, there must be some outside source. The commentaries and poskim struggle with this. Some suggestions are made, but none of them claim to be conclusive. The afternoon service included many parts. The actual offering was slaughtered, had its blood thrown, and had its parts burned, as well as other parts of it burned later. All of these could have taken place at staged intervals. Apart from these were the meal offering and libations that were also part of the process, but delayed after the main offering. Then came the *ketoress*, incense, and the kindling of the *menorah*. Some say that the *mincha*, meal offering, and the *nesachim*, libations, were offered right before *plag hamincha*. In the Navi reference is made to *alos hamincha*, time of this offering, as a two stage event. It is possible that the first was at *mincha ketana* and the second at *plag hamincha*, as the time period was split in two.

Some say that the *mincha* service corresponds to the *ketoress*, based on a verse. This was offered at a late point in the afternoon, which is called *bain ha'arbayim*. Thus the latest time that may be called *bain ha'arbayim* is *plag hamincha*. The menorah was kindled after the *ketoress*. It is kindled by day, according to the Talmud and most commentaries. However, it is kindled at *erev*, late afternoon, and is not kindled *bain ha'arbayim*, 'between' afternoon. Thus, it is reasonable to say that it was kindled at *plag hamincha*, and that this was always the optimum time for it. If this was included in the oral instructions at Sinai, it would be a Scriptural basis for *plag hamincha*.

The poskim debate the majority view, which is usually followed when one does not need to *daven* an early *maariv*. Evening could be viewed as nightfall, or sunset. The main reason that one may not say *mincha* past evening is that it is no longer considered that same day. The next day has begun, *halachically*. The twilight period, known as *bain hashmoshsos*, is a *safek*, period of doubt. We do not know when to consider the day having ended. Since *mincha* is modeled on the throwing the blood of the *tamid*, we should also be following the guidelines for that. The Talmud seems to give *shkia*, sunset, as the last moment for throwing that blood. This time is itself a matter of debate. Some say it is the moment that the sun disappears from view, while others maintain that it is a later time, when the sun's hidden rays also disappear. Thus, some poskim maintain that *mincha* may never be said past *shkia*. Others maintain that it may be said until it is definitely night, that is, throughout *bain hashmoshos*.

In practice, most *Ashkenazic* communities follow the first view. However, in emergencies, leeway is allowed. Some permit saying it through the shortest *bain hashmoshos*, while others allow following the latest view of *bain hashmoshos*. Many permit beginning it right before *shkia*, though most of the *amidah* will be said *bain hashmoshos*. One ex-

planation is that if one threw some blood at *shkia*, he could continue to throw the rest later. Alternatively, the first drop would actually satisfy the minimal *halachic* requirement.

The optimal time seems to be *mincha ketanah*. Some maintain that it is really right before sunset, based on a *passuk*. Furthermore, this way, one brackets the daylight between two *tefilos*, services of Hashem.

Tekias shofar must be done by day. The earliest ideal time is sunrise. However, it may be done after dawn in emergency. The optimal time is after *shacharis*. The *mitzvos* of *shacharis*, primarily *shema*, are daily. In accordance with the principle of *tadir kodem*, the regular *mitzvah* comes first, they take precedence. It may be done all day. Since *bain hashmoshos* is a time of doubt, one should not wait past *shkia*. In the event that one missed this time, he should perform it *bain hashmoshos* anyhow, without a *brocha*.

Evidently, the last moments for both *mitzvos* coincide. Thus, if the person in our question were blowing for himself, his issue would be which *mitzvah* to perform at this last moment. On the one hand, *mincha* is *tadir*. On the other hand, *shofar* is Scriptural, while *mincha* is Rabbinical. [Even the second day of *Rosh Hashanah* has a higher level of *kedusha* than does any other *Yom Tov Shaini*.] In addition, the time for *shofar* began in the morning, before the time for *mincha*. Furthermore, there is no way to make up for missing *shofar*. As we shall see, it might be possible to make up for *mincha*. If there is no *mitzvah* to make it up, it is because he was indeed exempt, due to the conflicting *mitzvos*. Finally, *shofar* may only be done *bain hashmoshos* as a last resort and without a *brocha*. Evidently, there is a true *safek* whether one fulfilled his obligation. One may *daven mincha* after *shkia* in emergency, despite repeated uses of Hashem's Name. Personal stringency would be set aside in this case, in order to fulfill the *mitzvah* of *shofar*.

If one missed the time for *mincha* by mistake, or due to *oness*, circumstances beyond his control, he *davens* two *amidos* at *maariv*, known as *tashlumin*, make-up. However, if he missed it intentionally, or if he was really exempt from *mincha*, he does not do *tashlumin*. If, the reason he missed *mincha* was due to his preoccupation in another *mitzvah*, he was exempt at that time. The principle of *osaik bemitzvah patur min hamitzvah* applied. However, the poskim debate whether this is a true exemption or *oness*.

In our case, the issue is, did he have an exemption that permitted him to miss *mincha* totally? Should he have *davened bain hashmoshos* anyhow? He did not miss *mincha* by mistake, but knowingly chose to do the other *mitzvah*. However, he could rely on views that permit a late *mincha*. Ignoring those views could be seen as intentionally missing *mincha*. On the other hand, since the earlier hours of *mincha* time were available to him without the conflicting *mitzvah*, he might not be considered exempt. He is not negligent, because he thought that he had time. Moreover, the ideal time had not yet arrived, according to some poskim. [See Melachim I:18:29 36, commentaries. Brochos 2a 26a-27a (Yerushalmi) Psachim 58a-59a Megilah 20a-b, Poskim. Tur Sh Ar OC 93:4 106:3 108:1 188:10 233:1 261:1-3 263:4-5 286:4 431:2 588:1, commentaries. Minchas Kohen Mevo Hashemesh II:7. Shaagas Arye 17. Yisroel Vehazemanim 24:1 34:2.]

B) Chatei kedai sheyizkeh chavairecha

The Talmud debates whether one person is expected to violate a *mitzvah* to save another person from his own violation. Obviously, this is forbidden under normal circum-

stances. However, in some cases, the smaller violation will save a much greater violation. An example is the aforementioned provision that no *korban* be offered after the afternoon *tamid*. To fulfill the *mitzvah* of *korban Pesach*, one may not be *tamei*, ritually unclean. Certain *temeim* need to bring an offering before they are eligible to partake of the *korban*. What if one person did not get to bring this *korban* before the *tamid*? The *Kohain* offering it later would be in violation of this provision, known as *hashlamah*. The other person will be in violation of *Pesach*, that carries a more serious penalty, if he does not bring his other *korban*. Similarly, a *kohain* may not serve with a wart on his hand. Warts may not be removed on *Shabbos*. However, when done in certain ways, this is a Rabbinical violation. Another *kohain* may remove the wart, allowing this one to serve.

In general, there are certain guidelines for the permissibility of sinning to save a fellow from a greater sin. The other person must not be sinning brazenly, or even carelessly. There are also guidelines on the seriousness of the greater sin or *mitzvah*.

Some poskim maintain that the basis for allowing one person to violate to save another is *araivus*, the responsibility that each Jew has to make sure that every other Jew keeps the Torah. Thus, if another Jew is deficient in his observance, it detracts from the observance of each other Jew. Therefore, each other Jew can view the deficiency as his own. The discharger will then judge the two conflicting *mitzvos* as his own conflict, and act accordingly. He will inevitably be in violation of something. Rather violate the smaller thing. One who already fulfilled *shofar* may still blow for another who did not hear it yet. He may also recite the *brocha*, though he is not doing for his personal *mitzvah*. It is not considered a *brocha* in vain. This is also based on *araivus*. By applying *araivus* to the concept of sinning to save a fellow, the poskim render the violation a permissible act, since it was done to enable the greater *mitzvah*.

In our case, we may add another detail. The poskim discuss using this principle when the violation will not involve an active act, but a passive 'act'. In our case, missing the correct time for *mincha* is a passive act. Therefore, the person who can blow should indeed give up on *mincha* at the right time. He may still *daven mincha bain hashmoshos*. [See Shabbos 4a Eruvin 103b Psachim 59a Rosh Hashanah 29a-b 32b Gitin 41a, Poskim. Tur Sh Ar OC 254:6 586:21-22, commentaries. Sdei Chemed Alef 187. Peas Hasadeh Alef 52. S'T Ksav Sofer OC 52. Bais Yitzchok OC 18.]

In conclusion, the person should blow before *shkia*, then *daven mincha* right away. **On the parsha and the revealed [mitzvos] are for us and our descendants forever, to do all the matters of this Torah .. [29:28]** This is a reference to *araivus*. The word *la'asos*, to do, is used to denote an active deed. Perhaps this is an allusion to the aforementioned idea that one must sacrifice his own *mitzvah* passively, to actively help another fulfill his obligation.

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