

# HALOCHOSCOPE

**This week's question:**

Someone forgot to start saying *tal umatar* at *maariv* on the first night that it is said. The next morning, he realized his omission. Must he compensate with *tefilas tashlumin*, saying a second *shemone esrai* at *shacharis*?

**The issues:**

- A) *Tal umatar* or *she'ayla*
- B) When does one begin saying *tal umatar*?
- C) *Tefilas tashlumin*

**A) *Tal umatar*** [partly excerpted from Halochoscope XIII:9.]

While we pray for all needs, the provision of the rains is singled out for *tefilah*. In *shema* (*vehaya im shamoa*) the two are juxtaposed – *ule'avdo bechal levavchem*, serve Hashem with your heart, or *tefilah ... venasati metar artzechem be'ito*, and I will provide rain in its season. Accordingly, there is special mention of rain in our daily service.

The *brochos* of *shemone esrai* categorize our needs. Rain corresponds to material sustenance, *parnasah*. Despite appearances of human control, this is totally in Hashem's hands. The only true effect we can have over *parnasah* is through our *tefilah*. The ninth *brocha* of *shemone esrai*, *Baraich alainu*, covers *parnasah* and includes the request for seasonal rains. Abundant material sustenance is provided, mainly, in the success of the crops, that depend on rain in its proper season. During winter the crops are growing and the ground absorbs and contains the rain. During summer the crops are grown and begin ripening. This is not the time for rain. Water reserves come to the surface as the ground warms. Therefore, we ask for rain in the winter, and not in the summer.

In the *shemone esrai* some insertions are integral to the *tefilah*. They appear like insertions because they are not part of the standard *tefilah* year-round. *Tal umatar* is integral in its season. Therefore, if one omitted it in winter or included it in summer, he must repeat *shemone esrai* the right way. If he realized before *Shema kolainu*, he may insert it there, according to the consensus of poskim. *Shema kolainu* is a general *brocha* that covers any need that was not yet included. [See Brochos 31a 33a Taanis 2a 3a-b 14b Avoda Zara 8a, Poskim. Tur Sh Ar OC 117:1-5, commentaries.]

**B) When does one begin inserting *Tal umatar*?**

The reason to ask for rain specifically in winter is two fold. It is needed more in the 'rainy' season, and the crops could be damaged in the summer. The 'rainy season' begins, theoretically, at the beginning of fall. However, there are still crops in the fields. Therefore, we should wait to begin requesting the rain until the harvest is totally over. An additional factor is the sowing of the new crop. If it is not watered immediately, it could be eaten by birds and animals. As soon as sowing is underway, we should be requesting

rain. Taking all this into account, the ideal time for *she'ayla*, asking for rain, is around *Sukos*, or more correctly, *Tekufas Tishrei*, the autumnal equinox, that must always fall right before *Sukos* [as the Torah instructs us to fix *Sukos* at the *Tekufas Hashanah*]. It would be very unpleasant to have a rainy *Sukos*, so *she'ayla* is postponed to after the holiday. In Temple times, the pilgrims returning after *Sukos* would encounter waterlogged roads if it rained then. Therefore, it was instituted to be inserted at the time that the last pilgrim reached home. This was estimated at two weeks later, on the Seventh of *Cheshvan*. This remains the practice in *Eretz Yisroel*, where there are few rivers and the primary source of water is the winter rainfall.

*Bavel*, where the bulk of the Diaspora communities was concentrated during the era of the Second Temple and beyond, is on a lower elevation and is sustained by rivers. Rain is not needed right away at the *Tekufah*. In addition, crops are left out for longer periods. They wait for *she'ayla* until the appropriate time locally. This was set at the sixtieth day following the *Tekufah*. The solar calendar is based on these *Tekufos*, and in the Gregorian calendar this date is December fifth or sixth. [It is affected by the adjustments made for leap years and centuries.]

Few Jews still remain in *Bavel*. This raises the question, should we not adjust the dates according to new settlements of Jews? The Mishna only mentions the 7<sup>th</sup> of *Cheshvan*. The *Bavel* date is itself a variation. If our settlement is not like *Bavel*, should we not adhere to the Mishnaic date? [One prominent commentator raises the issue that outside *Eretz Yisroel*, they could begin right after *Sukos*!] This issue is raised, and some poskim maintain that indeed other countries should begin on the 7<sup>th</sup> of *Cheshvan*. However, the consensus is to consider the entire Diaspora an extension of the *Bavel* community. There are exceptions in special situations, combined with other *halachic* considerations.

The *halachic* day begins at night. If the date to begin inserting something begins at night, *maariv* would be the first tefilah in which it is inserted. Accordingly, beginning at *maariv* on the preceding evening [the 4<sup>th</sup> or 5<sup>th</sup>], *tal umatar* is inserted in *Bavel*. There is, however, room to debate this. The insertion of *mashiv haruach*, mentioning Hashem's power as The Rainmaker in the second *brocha* of *shemone esrai*, does not begin with *maariv*. It is inserted at *musaf* on *Shemini Atzeress*, and is omitted at *musaf* on the first day of *Pesach*. Moreover, according to many poskim and *minhagim*, the *chazan* is the first person to insert it during his repetition. The reason is to alert people, many of whom do not attend *maariv*. It is thus 'announced' in a public way. This also prevents a situation in which people are divided into groups, with some saying it while others do not.

By the same reasoning, one would expect *tal umatar* to follow the same pattern. A couple of answers are suggested. Since the begin date is not the same for all Jews anyhow, some will inevitably be saying it (in EY) while others are not (in *Bavel*). Furthermore, some have the *minhag* that an announcement of *mashiv haruach* is made, after which it is inserted in the silent *shemone esrai*. Before *musaf* this is possible. Before *shacharis*, this is forbidden, as it would interrupt the connection between *ga'al yisroel* and the beginning of *shemone esrai*. On the date that *tal umatar* begins, there is no *musaf*. There is also no problem with making an announcement before *shemone esrai* at *maariv*, provided it relates to the *tefilah*.

The poskim actually debate when to begin inserting *tal umatar*. The Yerushalmi says that the sixty days are counted by the hour. The equinox occurs at a certain time of day. Thus, it would be possible that the insertion could begin at any of the three *tefilos* of that day. Some poskim rule according to the Yerushalmi. Nonetheless, the prevailing *minhag* follows the other view, that we begin *tal umatar* at *maariv*. The debate does raise an issue that could apply to our question. If one forgot *tal umatar* at the first *maariv*, the presumption is that he should repeat *shemone esrai*. Some suggest that the way the *Tekufah* falls, the sixty days are never complete by *maariv* on the date we begin. Therefore, if one did forget it, he should not repeat *shemone esrai*.

Others disagree, maintaining that according to the prevailing *minhag* we do not calculate it by the hour. Therefore, there is a conclusive ruling to begin at *maariv*, and one who omitted it repeats *shemone esrai*. Some suggest that, to avoid the controversy, he should say a second *shemone esrai* with the provision that if he is not obliged, it is *nedava*. This means that regular *tefilah* corresponds to obligatory offerings. One may not offer his own such *korban*. However, it can also correspond to voluntary offerings, which may be brought where there is no obligation. There are situations where one is in doubt about a *korban* obligation. He may offer an animal and stipulate that if he is not obliged it will be considered a *nedava*. Nowadays, we are not confident about our concentration. Therefore, we do not generally say a *tefilas nedava*. However, in a situation where there is some doubt about having fulfilled one's obligation, he repeats with the aforementioned provision. If he is obliged, this shall count for the obligation. If he is exempt, this shall be a *nedava*. Some poskim maintain that one in doubt about a *maariv* obligation, should not make this stipulation. *Maariv* was initially instituted as a somewhat voluntary requirement. It was later adopted compulsorily, but not in cases of doubt. [Though no offerings can be made by night, the concept of *nedava* could originally apply by night.] However, in our case, there is no doubt. This questioner definitely omitted *tal umatar* at *maariv*. Accordingly, many poskim would require his repetition. Since the matter is debated, some consider this a case where the stipulation should work. If the *halacha* follows the stringent view, this shall count as the obligatory *maariv*. If *halacha* follows the lenient view, this shall be considered *nedava*. [See Taanis 4b 10a, Poskim. Leket Yosher p. 21. Tur BY Sh Ar OC 114:1 MA 1 117:1, Biur Halacha, Kaf Hachaim 6, Daas Torah, Birur Halacha, commentaries. Divrei Yisroel I:31.]

### **C) *Tefilas tashlumin***

In our case, the person only realized his omission the next morning. It is now too late to repeat *shemone esrai*. However, one who did not properly fulfill his obligation is considered not having said the *tefilah* at all. In most instances, an omission has this effect on the *tefilah*. Thus, it is as though he missed *maariv*. In such situations, one must make up for the missed *tefilah* at the next opportunity for a *tefilah*, in this case, *shacharis*. He would say *shemone esrai* for *shacharis*, and then add a second *tefilah* for the missed *maariv*. This is known as *tashlumin*.

For the most part, a time-bound *mitzvah* has a time limit. The *tefilos* are connected to their particular time of day, and to their own day. However, the concept of *tashlumin* exists for certain Scriptural *mitzvos*, in particular, for some *korbanos*. Therefore, since

*tefilah* corresponds to *korbanos*, the concept is also applied to it. In addition, *tefilah* is not merely a fixed offering, but also a form of supplication. This can really be done anytime. Since it is a blend, it has fixed times, but one may make it up at the next *tefilah*.

Our case might be different. While one who made a clear omission should make *tashlumin*, the poskim ponder the case of one in doubt. We have mentioned that one in doubt repeats, but with a provision. Thus, his repetition might really be considered a separate *nedava*. If one is in doubt about a *tefilah* after its time has passed, he would be required to make a *tashlumin* with the provision that it could be considered *nedava*. Some poskim maintain that the provision that is usually made is itself tenuous. In the days when people were confident that they could have *kavanah*, intense concentration, such a provision would work. Nowadays, relying on *nedava* without due *kavanah* is problematic. Though the provision is invoked to repeat *shemone esrai* immediately, we may not extend it to *tashlumin*. In one view, this is conclusive. The other view wavers on it.

As mentioned, our case is one of doubt of a different kind. The person has no doubt that he omitted it. The doubt is whether we should have begun *tal umatar* at *maariv* in the first place. Thus, he is in doubt about whether he fulfilled his obligation. Assuming that if he remembered at night we follow the view that he repeats, should he also repeat a *tashlumin*, or not? The poskim equate doubt based on a debated issue with regular doubt, in this regard. The view that one should count the days from the *Tekufah* by the hour is not discounted entirely. Significant poskim take this view into account. Therefore, it would figure as a debated issue, at least after the fact (of omission). Therefore, it seems that many poskim would not recommend saying a *tashlumin* the next morning, in our case. While some might recommend it, it is safer to passively refrain rather than to actively recite a *tefilas tashlumin*. [See Brochos 26a-b, Psachim 93a, Chagigah 9a, etc. Poskim. Tur Sh Ar OC 70-72(:4) 106-108 esp. 107:1 [Kaf Hachaim 2] 108:1 11, commentaries. References to last section.]

In conclusion, in this case, the person should not say *tefilas tashlumin*.

**On the Parsha ...** .. [The angel] said, “Let me go, for dawn has broken!” [Yaakov] said, “I will not let you go, unless you bless me!” [32:27] Dawn has broken, and it is the time for me [an angel] to say *shira* by day [Rashi] From the day I was created I have not been destined to say *shira* until today [Chulin 91a, Targum Yonasan & Yerushalmi]. Why would this argument convince Yaakov to release the angel? Furthermore, eventually, Yaakov would release him? Why could the *malach* not wait a while? It seems that he was in a hurry. Perhaps the time for *shira* was imminent. Though the *malach* could theoretically say *shira* all day, the dawn was really the ideal time for his *shira*. At that moment, the other *malachim* would all be saying the *shira* [see Targumim]. Furthermore, it is possible that the *malach* would have one day only to say *shira*. Indeed, each *shira* is different and applicable to that time and date only. If this *malach* would not participate in the *shira*, it would be deficient. Also, this *malach's* potential will have been wasted. This could never be made up with *tashlumin*. Yaakov would never want to be responsible for this loss. The same may be said of our timely *tefilos*!

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