

Talmud Brachot Top Ten Teachings, Daf 27:

- 1. Mussaf and mincha: which comes first?** A *beraita* says that if an individual needs to choose between mussaf and mincha, he should daven mincha first, and then mussaf. There is time for both, because both mussaf and mincha can be said until evening. Rabbi Yehuda disagrees, saying the individual should daven mussaf first. This is because according to Rabbi Yehuda, the time for mussaf ends earlier and we don't want to let that time expire. Commentators note that this discussion relates only to an individual, not a congregation. Why would the rabbis prioritize mincha over mussaf? Because of the principle *tadir v'shelo tadir, tadir kodem*: when you have something that is frequent and something that is less frequent, the frequent one comes first. We say mincha every day and mussaf only on certain occasions, so by this principle mincha must come first. However, we've just seen that the prayers were established based on the times of the offerings in the Temple. In the Temple, the mussaf offering was always brought before the afternoon tamid. In fact, the afternoon tamid was almost always the last offering of the day. Why would we apply the principle of *tadir v'shelo tadir* in a situation where the times and ordering of the prayers are already established based on other factors? One possible answer, though not a great one, is that the afternoon tamid was not always the last offering of the day. The korban pesach was brought after the afternoon tamid. Though it was only the korban pesach and never a mussaf that was brought after the tamid, in theory just having this one exception means that another offering *could* come after the tamid, and this gives us a basis for changing the order of the prayers. Another possible answer is that prayer has elements that offerings did not, just as offerings had elements that prayer does not. For example, the gemara says that prayer has an element of mercy. In addition, offerings brought collective atonement, but prayer is a personal communication with G-d. In other words, prayer in a way mimics the offerings but is not the same. Therefore, while prayer times are in general based on offering times, we don't need to stick to the same rigid time frame and we can take other principles into consideration.
- 2. Murderous chickens and the death penalty for animals.** In Tractate Idiyos there is an account of a rooster that killed a child, according to Rashi by pecking on the soft part of its head. The rooster was put on trial, with evidence and witnesses, and a beis din ruled that the chicken was a murderer and should be stoned to death. What an odd story. Animals don't have free will, so how can we call them murderers and sentence them to death? Rabbi Shechter cites a debate between Maimonides and Nachmanides. Maimonides says that killing the murderous animal is really meant to send a strong message and be a punishment for its owner, but Nachmanides says that can't be true because if a wild ox with no owner kills a person we would still put it to death. On some level, we do hold animals responsible for murder. If you tie someone up and put them in front of a lion, and the lion kills them, you are not technically considered a murderer. You are considered the cause of the death, but it is the lion who committed the actual murder. This is not true for bugs. If you tie someone up and they get eaten to death by bugs, you are considered a murderer and the bugs are not, because these creatures act on pure instinct with no will. In Genesis, G-d says that He will put the fear of humans into animals. They should fear us. Perhaps that is why they can be blamed when they kill people.
- 3. Starting Shabbos early.** Rabbi Yehuda says the time for mincha is until plag hamincha, which is about an hour and a quarter before nightfall. The sages say mincha can be said until evening. How do we rule? On Friday afternoons, Rav would daven maariv an hour and a quarter before evening, even though it was clearly not Shabbos yet. Rav must have been following Rabbi Yehuda, ruling that at that point the time for mincha had already finished and maariv could be

said right away. Some of the rishonim say that davening maariv and making kiddush early is a good thing, because bringing in Shabbos earlier adds holiness, though of course it cannot be done before plag hamincha. What exactly does it mean to bring in Shabbos early? Shabbos has both positive and negative elements; we have the mitzvah of oneg Shabbos, and we cannot do melacha. Taking on the restrictions early is one thing, but can we actually do the positive mitzvot, like kiddush and hamotzi, early? Kiddush is a verbal reminder of what Shabbos is and what it commemorates: Creation and the Exodus from Egypt. Shabbos is a gift from G-d, but without people to sanctify the Shabbos it's like a tree falling in a forest and nobody hearing it. So the goal of making kiddush is to recognize the inherent holiness of the Shabbos. Yom Tov has a different kind of holiness. G-d sanctifies us to give us the ability to sanctify time by establishing the new month, and the holiness of Yom Tov comes about through that process. On Shabbos we are simply recognizing the holiness of the day, but on Yom Tov we are the ones sanctifying the day. Some rishonim say that you can take on the restrictions of Shabbos early but not the positive aspects, and therefore you can make kiddush early, because it is more connected to the restrictions of the day, but you cannot have the seudah right away. Others do allow the meal to be eaten right away. Rabbi Soloveitchik suggests that the reason we have kiddush with our seudah is that we want to combine the sanctity of the proclamation of kiddush with the wine and the seudah. Generally we do want to connect the kiddush with the seudah, but if you make kiddush before you're actually allowed to start the seudah then you can just wait the half hour in between, and it's understood that the kiddush is connected to the seudah you're about to have.

4. **Pesach is a different story.** The Rosh and Tosfot in Pesachim say that while it is permissible to bring in Shabbos and make kiddush early, the same is not true for Pesach. That is because the Pesach offering had to be brought during the day on the 14th of Nissan and specifically had to be eaten the night of the 15th. The matzah and maror also need to be eaten at night. Though the four cups are rabbinic rather than Biblical, they also need to wait until nighttime. The Shulchan Aruch and other major poskim rule like the Rosh, that the kiddush of the Seder cannot begin before nightfall. This can be hard for children, but in a way it makes the Seder night more memorable from them, because they get to stay up later than usual.
5. **Mixing opinions when the halacha is inconclusive.** We know that Rav would daven early on Friday afternoons, following the opinion of Rabbi Yehuda, but we also have stories about rabbis who specifically waited until nightfall on Friday to daven. Different rabbis had different practices, and so there is no established halacha. Therefore we can follow either Rabbi Yehuda or the sages. But do we have to pick a side and stick to it? Mahari Tatz says yes, you must pick one. Either you follow Rabbi Yehuda and make sure to daven mincha early, after which you can daven maariv right away, or you follow the sages, which gives you more time for mincha but means you can't daven maariv until dark. But another opinion says it's permissible to switch around - one day daven maariv early like Rabbi Yehuda, the next day follow the sages and daven mincha late - but not within the same day. Yet another opinion permits switching between Rabbi Yehuda and the sages even within the same day. Technically this doesn't make sense, because following Rabbi Yehuda suggests that the opinion of the sages is incorrect, and vice versa, but nonetheless sometimes the rabbis allow things like this. This principle is called *safek derabanan lekulah* - when there is a doubt regarding a rabbinic opinion, we can be lenient. In addition, some acharonim come up with creative ways to make the timing of maariv more flexible without violating the opinions of those who disagree with Rabbi Yehuda.
6. **Distancing in tefillah.** There is a law that you are not supposed to walk within four amos in front of somebody who is saying Shemonah Esrei. However, we have a concept that you can't forbid something that isn't yours. Sometimes people daven in places they shouldn't be, like between

the rows in shul where people need to walk. That space isn't "yours," and so you cannot forbid somebody else from walking in it. So we are not stringent about letting people walk in front of others while they're davening.

7. **A reform practice that might not have been so ridiculous.** Years ago, I heard about a reform synagogue that was having a havdalah service an hour and a half before Shabbos ended. It sounded crazy to me. After all, havdalah is what ends Shabbos. You can't end Shabbos early. But it turns out that at least in theory, this could be permitted according to the gemara, with certain conditions attached. The gemara says that you can daven the Saturday night maariv while it's still Shabbos, and you can even make havdalah on a cup of wine while it's still Shabbos. Doing this does not end Shabbos early – you would still need to observe the laws of Shabbos until its conclusion – but rather counts as the fulfillment of the mitzvot of maariv and havdalah. These are individual mitzvot that don't need to be tied to the end of Shabbos. We already know that Rabbi Yehuda allows maariv to be said before nightfall. Havdalah, too, can be done before nightfall. If you do these mitzvot early, you will not need to do them again at nightfall. Although we associate Havdalah with the end of Shabbos, it can be seen as simply a recognition that Shabbos is nearing its conclusion.

There's an old joke that Jews say goodbye but never leave. Making havdalah early is like that. We say goodbye to Shabbos and prepare to separate ourselves from it, but we don't actually leave it until nightfall. However, many authorities warn that care should be taken with this practice and it should not be done unless necessary, because it can be easy to misunderstand and think that once you've made havdalah Shabbos is over.

8. **Disagreements between Rabbi Yehoshua and Rabban Gamliel.** A student asked Rabbi Yehoshua if maariv is optional or obligatory. Rabbi Yehoshua said it is optional. The student then went to Rabban Gamliel, who was the head of the Sanhedrin, and asked the same question. Rabban Gamliel answered that maariv is obligatory. The student told Rabban Gamliel that Rabbi Yehoshua had told him the opposite. When the other sages entered the study hall, Rabban Gamliel had the student ask his question again and then answered, in front of everyone, that maariv is obligatory. He then asked the gathered sages if anyone disagreed. Rabbi Yehoshua did not come forward. So Rabban Gamliel said to him, "They're saying in your name that it is optional." And he told Rabbi Yehoshua to stand up, because someone was going to testify about what he'd said. Rabbi Yehoshua then confessed that he had given that answer. As punishment, Rabban Gamliel made Rabbi Yehoshua stand the whole time while he continued teaching. This was not the first time the two rabbis clashed. They once disagreed about the calendar and had different opinions about when Yom Kippur would be. When Rabban Gamliel heard that Rabbi Yehoshua was planning to hold Yom Kippur when he personally thought it fell, he ordered Rabbi Yehoshua to appear before him on that day, making it impossible for him to keep Yom Kippur then. As head of the Sanhedrin, Rabban Gamliel felt that he should have the final say in halachic questions, because they couldn't just have every rabbi doing whatever he wanted.
9. **The breaking point for the other rabbis.** This argument in the study hall was the third time Rabban Gamliel had fought with Rabbi Yehoshua, and the other rabbis had had enough. How many times, they said, can we allow Rabban Gamliel to torture Rabbi Yehoshua? So they decided to remove Rabban Gamliel from his position. Why was Rabban Gamliel so harsh with Rabbi Yehoshua? A generation earlier, a debate between Beit Hillel and Beit Shammai had led to a bloodbath. Rabban Gamliel thought that by consolidating power and enforcing centralized decisions on everyone, he could avoid another such tragedy. But in order for that to work, he sometimes needed to use heavy-handed methods, such as humiliating Rabbi Yehoshua.
10. **Replacing Rabban Gamliel.** The rabbis wanted to depose Rabban Gamliel and needed to put someone else in his place. But who? Not Rabbi Yehoshua, because he was also partly to blame

for the conflict and the rabbis didn't want to reward him for challenging the head of the Sanhedrin. They considered Rabbi Akiva, but as a descendent of converts he didn't have a wealthy family to back him up, and the rabbis felt he'd be too vulnerable in the position. In the end they selected Rabbi Elazar ben Azariah, who came from a wealthy and powerful family and would therefore be able to withstand challenges. He was also very young, as we know from the Pesach Haggadah. It is possible that one of the reasons the rabbis picked him was that he'd be easy to depose if Rabban Gamliel changed his ways and earned the position back, which was what some of the rabbis really wanted.