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PARSHAT SHEMINI

HILKHOT NASHIM: A CAUTIOUS REBELLION

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During my time teaching Talmud in all-girls high schools, I discovered that many of my students believed they were not obligated to fast on the 'minor' fast days. One *Asarah Be-Tevet,* I arrived to class to learn that not only were none of my students fasting, but they had even brought a cake to celebrate a fellow student's birthday. I was appalled that they had hardly registered the significance of the day and they were baffled that I had "chosen" to not eat breakfast.

Encounters such as these arise frequently. They are a symptom of a culture that has extended the concept of women being exempt from a few, mostly timebound obligations, far beyond its original mandate. *Hilkhot Nashim* combats these many misconceptions and has the ability to transform our current conversation about women and ritual practice.

At the outset, *Hilkhot Nashim* takes the stance that increased observance is an unequivocally positive step. Published by the Jewish Orthodox Feminist Alliance (JOFA) and Maggid books, this volume is an adaptation and expansion of JOFA's Ta Shma series, originally edited by R. Rahel Berkovits and Devorah Zlochower. The Ta Shma series was first released over a decade ago and included three halakhic source guides - women and kiddush, women's recitation of the mourner's *kaddish*, and the permissibility of women to touch a Torah scroll. Until now, these booklets have been available for free online and for purchase in print. *Hilkhot Nashim*, the first volume in a planned series, is a collection of some of the topics covered in the Ta Shma series as well some new material, compiled into a more easily accessible book.

Despite the book's origins, it would be unfair to say that it takes an overtly feminist stance. Instead, it is a work of classic Jewish legal analysis which applauds and encourages the efforts of women to find a cogent place in the vast world of Jewish ritual. Its sole agenda is to guide women and their communities in areas of ritual practice and to highlight where women may increase their halakhic observance.

A Book Made for Study

Similar to the Ta Shma series, the authors aim to empower women (and men) to make informed decisions about their own practice. The preface invites the reader to learn the book with a *havruta*, study partner. R. Rahel Berkovits, editor of this volume, writes, "In these essays, the rabbinic texts themselves are presented not as references but as the main focus of the discussion" (page xi). In other words, the goal is to present what is written in the texts and allow the reader to draw his/her own conclusions. The bulk of the volume is textual analysis while the authors' opinions are rendered to a few paragraphs in the conclusions.

To achieve this goal, *Hilkhot Nashim* offers a unique format. Each section opens with a brief introduction, no more than a page or two, detailing the main questions to be discussed. The ensuing discussion is organized chronologically, divided by era - rabbinic sources, *Rishonim*, modern codes, etc.

Most sources are brought in their entirety (or slightly abridged for longer responsa) in the original language. Hebrew and Aramaic texts are translated to English in a side-by-side layout allowing readers of all levels access to the original text. The authors skillfully guide the reader through the sources, providing the historical context and impact of each text as well as short summaries at the conclusion of each chapter.

Following this format, Berkovits writes about women reciting the mourner's *kaddish*. She explores the history of women's acceptance of this obligation in light of the development of mourner's *kaddish* in general. The author begins her discussion addressing whether a woman may recite the mourner's *kaddish*. Concluding that it is permissible, Berkovits continues to discuss the transformation of the recitation of the mourner's *kaddish* from a custom to an obligation, questions of modesty in the synagogue and whether *kaddish* may be recited from the women's section. She is particularly sensitive to the difficult and emotional experiences of the mourner who desires to say *kaddish* for her parent. In contrast to the other two chapters which leave the final halakhic decision to the reader, Berkovits pushes one step further with a recommendation to communal leaders to permit this practice for those who choose to honor their parents in this way.

R. Dr. Jennie Rosenfeld discusses a woman's obligation to recite *birkat ha-gomel,* the blessing said after surviving a life-threatening encounter. This chapter diverts from the others as the author emphasizes that women not only may recite *birkat ha-gomel* but in fact have an obligation to do so, equal to that of men. In contrast to the chapter on *kaddish*, the focus of this essay is to outline the options for women to fulfill this obligation aside from receiving an *aliyah*. Rosenfeld devotes special attention to whether this blessing should be recited after childbirth, adding an appendix for this situation unique to women.

Sara Tillinger Wolkenfeld examines women's reading of *Megillat Esther* in both an all-women setting and reading for men. This section stands out as it addresses the delicate question how to best fulfill one's own commandment as well as whether one may fulfill the obligation on behalf of another. May women read for men or only

women? Is it ideal for this public commandment to be performed communally? While Wolkenfeld does not direct the reader towards a certain practice, she does conclude her chapter with the sentiment of R. Benny Lau that "the desire of women to participate will lead to a spiritual awakening," a sentiment emblematic of the entire volume (page 390). She also addresses the questions of the proper blessings when women are reading as well as whether women are considered a minyan (and whether one is necessary) for *megillah* reading.

A Revolutionary Work?

What makes this work stand out is its all-female authorship. In a book overflowing with texts written by male authorities where women are the passive subjects, it is both jarring and empowering to read the remarkably adept analysis of the authors. The lack of sources composed by women in this volume is itself a testament to the great need for a book such as *Hilkhot Nashim.*

The women behind this book bring a vast wealth of knowledge. Rosenfeld received a *heter hora'ah* at Midreshet Lindenbaum and currently serves as the *Manhigah Ruhanit* and director of the Beit Din for financial matters in Efrat. Berkovits received ordination from R. Herzl Hefter and R. Daniel Sperber and is a long-time faculty member at the Pardes Institute of Jewish Studies. Wolkenfeld is the Director of Education at Sefaria and has studied for many years in several leading institutions including Drisha Institute, Pardes, and Nishmat.

Each of these essays were composed independently under the auspices of the Ta Shma series.[1] Yet, bringing all of these pieces together in a substantial book will serve to further publicize these important works. It is also the beginning of a larger project. The second volume is already forthcoming and is planned to cover topics related to Shabbat - *kiddush*, *ha-motzi*, *havdalah,* and *zimmun* for women.

Without diminishing from the quality of this work, I do wonder about its potential impact. There is fairly broad consensus among thinkers in the Modern Orthodox world that women may perform these rituals on a theoretical level. This holds true for women reciting *kiddush* and touching a Torah scroll, the other topics covered in the Ta Shma series not included *Hilkhot Nashim*. This volume, which purports to tackle the role of women in synagogue ritual, does not touch any of the more contentious conversations about women taking part in the prayer service. The elephant in the room is whether the editors will choose to tackle these particularly fraught topics.

Furthermore, the format greatly narrows the audience for this work. Aside from the lengthy sources in the body of the work, the footnotes are extensive and can feel overwhelming at times, especially as the additional sources there are not translated. This style will not energize those who are not already motivated to increase their observance within a halakhic framework. For those who are already of that mindset, this work is crucial, but I am skeptical of its widespread appeal and therefore ability to truly raise the level of communal dialogue. In addition, the format can be easily misunderstood. We are not accustomed to the author leaving the final halakhic decision in the hands of its readers. A casual perusal of this work could lead one to interpret the format as a reluctance to issue a decisive statement or a need for extensive justification, suggesting a lack of confidence in the authors' conclusions.

It seems that the shift from the Ta Shma series to *Hilkhot Nashim* would have afforded an opportunity to address these issues. The change in title connotes a potential shift in focus. The Aramaic phrase, Ta Shma, is used to open a discussion, inviting the reader to learn a source and analyze it. This is precisely the format presented in the Ta Shma series. The new title, *Hilkhot Nashim,* carries a much more decisive, authoritative tone, declaring the final *halakhah*. However, the format as well as the introduction are copied almost exactly from the Ta Shma series. One is left with the sense that this was a rebranding and repackaging of a former publication. There was room to take this much further, to create a more approachable work.

An Auspicious Beginning

Even with its drawbacks, this book is a wonderful addition to our Jewish library. It challenges the reader to take note of nuances in language and appreciate the minutiae of halakhic analysis. It highlights the population of women who desire a greater participation in ritual to enhance their *avodat Hashem*, finds a cogent place for them, and encourages their communities to create a space for such practice. It is a valuable tool for students and educators to further their knowledge and consequently their religious expression. I hope to see more volumes published in this series and for it to become an essential collection of halakhic literature in every beit midrash.

When Satmar Censored the Hatam Sofer

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Introduction:

In the period following World War II, Satmar *hasidim* published the *hiddushim* of the *Hatam Sofer* with a few critical lines, which address the period of *bein ha-shemashot*, obscured. Those lines are included among other *zemanim*-related material at the end of of the first volume of R. Moshe Sofer's three volumes of *hiddushim* on the Babylonian Talmud. In a lecture given some twenty years ago, Prof. S. Z. Leiman displayed the altered *sefer*.[2] The lines in question are not just regular lines, but ones that R. Moshe Sofer transcribed from his *rebbe*, R. Natan Adler.[3] Years later, Prof. Marc Shapiro found evidence implicating R. Yoel Teitelbaum in the event, something R. Teitelbaum had denied.[4] When the attempt to censor was originally discovered, R. Teitelbaum ordered all volumes returned and the original language restored.

[1] Berkovits published a work on a daughter's recitation of the mourner's *kaddish* in 2012 and Rosenfeld's section was published in 2015. Wolkenfeld's chapter began as part of the Ta Shma series several years ago but has only been first published in *Hilkhot Nashim.*

[2] In a taped lecture recorded on 05/12/99 by Prof. Leiman, entitled "Jewish Censorship in Literature in Modern Times."

[3] I refer to R. Natan Adler versus R. Nosson Adler since he was an early *Ashkenazi* adopter of *havarah sephardit.*

[4] Marc B. Shapiro, *Changing the Immutable: How Orthodox Judaism Rewrites History*.

This essay returns to this topic, which I have written about briefly in a different context.[5] In addition to correcting one minor error, I will compare current *zemanim* for the observance of Shabbat to what was prevalent in Europe during the 17th through 19th century; provide complete background for the *teshuvah*[6] from R. Sofer, which concerns a baby born late on Shabbat afternoon and which sheds significant light on the edited lines; and explain what the edited lines by R. Adler likely mean.

Background

To set the stage for our discussion, we begin by reviewing the key opinions regarding the onset of *shekiah* in *Halakhah*. While there are numerous references to *zemanim* in Talmudic literature, two *sugyot*, one in *Shabbat* and the other in *Pesahim*, are the most significant.

The *sugyah* in *Shabbat* begins with the Mishnah on 34a referring to a period on Friday night described as *safek hasheikha, safek eino hasheikha* (an uncertainty about whether or not it is dark and already night), and then proceeds to outline an argument concerning the *bein ha-shemashot* period. That discussion includes an estimate of the length of the *bein ha-shemashot* period, which is given as the time to walk three-quarters of a *mil*. Though the *sugyah* is focused on Friday night, it is almost universally accepted that Shabbat begins Friday night at the beginning of the *bein ha-shemashot* period and ends Saturday night at end of the *bein ha-shemashot* period. The *sugyah* concludes with a statement of Shmuel that night begins with the appearance of three (medium-sized) stars, an oft-quoted rule for determining the end of Shabbat. Despite other important descriptions of various points in the *bein ha-shemashot* period, the time estimate for the *bein ha-shemashot* period and the appearance of three stars have come to dominate the halakhic discussion.

The *sugyah* in *Pesahim* 94a provides a time estimate for the period from *alot ha-shahar* to sunrise, and its matching period after sunset in the evening. The *sugyah* concludes that the duration of the period between *alot ha-shahar* and sunrise (and the parallel period from sunset to *tzeit ha-kokhavim*) is the time needed to walk four *milin.* If the time needed to walk each mil is the commonly assumed eighteen minutes, this translates into a period of (4*18=) 72 minutes. In contrast, the *sugyah* in *Shabbat,* when quantifying the period of *bein ha-shemashot,* sets its length at the time needed to walk three-quarters of a *mil,* which would be (¾*18=) 13.5 minutes. Given the significant discrepancy between four *milin* and .75 of a *mil*, all commentators attempt to resolve the inconsistency by postulating that the two *sugyot* are focused on different intervals.

The conceptual approach of Rabbeinu Tam[7] on how to resolve the inconsistency posits that the endpoints of the *sugyot* in *Shabbat* and *Pesahim* coincide, providing the point at which Shabbat or any day of the week concludes.[8] To illustrate, let's assume that we are dealing with a normalized day, around the spring and fall equinox, when sunrise and sunset are at 6:00 a.m. and 6:00 p.m., respectively. Then, according to Rabbeinu Tam, the end of Shabbat is at 7:12 p.m., seventy-two minutes after sunset at 6:00 p.m. However, Rabbeinu Tam continues, the beginnings of the periods differ significantly. While the seventy-two-minute interval specified by the *sugyah* in *Pesahim* begins at sunset as commonly defined, the *sugyah* in *Shabbat* refers not to sunset, the point at which the sun descends below the horizon, but to a significantly later point when any residual sunlight still visible on the western horizon is about to disappear. The beginning of that "second" sunset occurs at 6:58.5 p.m., which equals the time it takes to walk (4-0.75=) 3.25 *milin* after sunset proper, 13.5 minutes before 7:12 p.m. At that time, the period of *bein ha-shemashot* begins; until that time, the day continues, and on Friday night, work is permitted. As Rabbeinu Tam's opinion was recorded in the *Shulhan Arukh* O.H. 261 by both R. Yosef Caro and R. Moshe Isserles, it should not be surprising that it maintained widespread acceptance, with most European communities doing work well after sunset on Friday night until the Second World War.[9]

The Geonim, whose work was largely unknown until the modern era, took exactly the reverse position.[10] In their view, the beginning points of the two *sugyot* (as opposed to the endpoints) are (almost and according to many commentators exactly) identical. Thus, their period of *bein ha-shemashot* begins at sunset, 6:00 p.m. Shortly thereafter, at 6:13.5 p.m., Shabbat ends and work is permitted. At 7:12 p.m., after the entire time it takes to walk 4-*milin* period as referred to by the *sugyah* in *Pesahim*, all the stars appear,[11] not just the three medium stars mentioned in *Shabbat* that indicate that Shabbat has ended. That later point when all the stars appear was not ascribed any halakhic significance by the Geonim.

Practice has at various times and for a variety of reasons softened both positions. No one following the Geonim and the *Gaon* of Vilna (who argued forcefully for a similar position[12]) ends Shabbat 13.5

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[5] "*Zemannim*: On the Introduction of New Constructs in *Halakhah*," Torah U-Madda Journal 2013. pages 153-172.

[6] *Teshuvah* 80 in *Shu"t Hatam Sofer*.

[7] Rabbeinu Tam's position is contained in Tosafot in both *Shabbat* and *Pesahim* s.v. Rabbi Yehuda omer.

[8] Rabbeinu Tam is likely to have been influenced by his central European location, which he assumed the *sugyah* in *Shabbat* described as well. There is no evidence that he was aware of the impact of latitude on most *zemanim* that would lead him to recognize that what he was observing in central Europe differed from what one would observe in the Middle East.

He was also likely influenced by the *Yerushalmi* in the beginning of *Berakhot* and other *sugyot* that define *tzeit ha-kokhavim*, the term used in *Pesahim*, as the appearance of three (medium) stars. In the *sugyah* in *Shabbat,* the phrase *tzeit ha-kokhavim* does not occur. However, at the end of the *sugyah* in *Shabbat*, Shmuel asserts, without any recorded opposition, that the appearance of three medium stars indicates that night has begun, beginning the next day.

[9] See R. Hayyim Benish, *Ha-Zemanim ba-Halakhah*, volume 2, chapter 44, which covers European practice extensively.

[10] In both Hebrew and English, the words *yom* and day can apply to either the day of the week or the daytime period. Following the insight of the *Vilna Gaon* in O.H. 461, the *sugyah* in *Pesahim* is discussing the daytime period, while the *sugyah* in *Shabbat* is discussing the point of transition between days of the week.

[11] The *Gaon* of Vilna in O.Ḥ. 459 clarifies this by adding the word "*kol*" to *tzeit ha-kokhavim. Tzeit (kol) ha-kokhavim* in *Pesahim* is not the appearance of just three stars, but the much-later appearance of all stars that are potentially visible.

[12] The position of the Geonim and the position of the *Gaon* of Vilna in this area are often viewed as the same. While the *Gaon*

minutes after sunset on Saturday night, and I do not know of any community that permitted work during the entire 58.5-minute period that the conceptual view of Rabbeinu Tam considers as Friday. Nevertheless, the disagreement is significant. In many European communities, Jews who followed Rabbeinu Tam worked well after what we refer to as sunset on Friday evening; many Jews living in Israel and the Middle East followed the Geonim and ended Shabbat less than thirty minutes after sunset. At least in terms of halakhic theory, a period of approximately forty-five to fifty-five minutes at both the beginning and end of Shabbat is in dispute.

The approach of the Vilna *Gaon* differentiates the *sugyah* in *Shabbat*, which equates the end of Shabbat to the time when three stars appear, from the *sugyah* in *Pesahim*, which defines *tzeit ha-kokhavim* as the time when all the stars appear. On the basis of this, the Vilna *Gaon* forcefully negates the position of Rabbeinu Tam, who equated the endpoints of the two *sugyot*. He argues that the *sugyah* in *Pesahim* clearly indicates that the period from *alot ha-shahar* to sunrise is identical in length to the period from sunset and the appearance of all the stars. All the stars appear when no remaining light from the sun impairs their visibility; *alot ha-shahar* is coincident with the first rays of light in the morning, when (almost) all stars in position to be seen are still visible**.** In the morning, as more illumination from the sun is discernible, the number of stars that remain visible decreases; in the evening, the reverse process occurs, and as illumination from the sun disappears completely, all the stars that can possibly be seen are visible. A logical consequence of this clear case of symmetry is that the period between sunset and when light disappears, and the period between when light reappears and sunrise, are equal. However, the approach of Rabbeinu Tam, which equates the *tzeit ha-kokhavim* of *Shabbat* and the *tzeit ha-kokhavim* of *Pesahim*, faces an "unresolvable" issue of asymmetry. Unlike the *sugyah* in *Pesahim*, which is silent on the number of stars visible, the *sugyah* in *Shabbat* explicitly maintains that the appearance of three medium stars indicate the end of Shabbat. How can the interval when all stars are visible until sunrise equal the interval between sunset and three stars?[13] This challenge to Rabbeinu Tam has never been fully addressed. However, as we will see, this issue led to various positions that deviated from what Rabbeinu Tam's position would conceptually require.[14]

Now and Then

Currently, the *zemanim* delineating Shabbat have become largely standardized. Under normal circumstances, with only rare exceptions:

1. Shabbat begins Friday night at sunset.
2. The end of Shabbat for those following the Vilna *Gaon* is normally either latitude- and season- dependent or some fixed number of minutes after sunset. In the first view, Shabbat in Jerusalem ends 36-42 minutes after sunset and Shabbat in New York ends 39-51 minutes after sunset; the fixed number of minutes for the second view typically falls within that range.

There are still communities whose practice is an outlier, but they are disappearing. Almost universally, the darkness associated with a depression angle[15] of 8.5 degrees, adjusted based on latitude and season, has been used to determine the number of minutes after sunset that *bein ha-shemashot* (and therefore Shabbat) ends. That determination was made by R. Yehiel Mikhel Tukatchinsky, when he established the Jerusalem calendar, still in use today over a century later.

3. However, those following Rabbeinu Tam almost always wait an unadjusted 72 minutes regardless of where they might be.

It is important to recognize the extent to which current practice differs from that of previous generations. Going back to the 17th century, while professing adherence to Rabbeinu Tam, Shabbat was often observed for (much) fewer than 72 minutes after sunset on Saturday night. For example, R. Avraham Pimential, an acknowledged expert in *zemanim* who lived in the 17th century, was the first to explicitly mention the impact of both latitude and season on *zemanim.*[16] Despite his knowledge that being north of Jerusalem and

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clearly identified sunset as the beginning of the period of *bein ha-shemashot*, the opinion of the Geonim is less clear; some assume that their start of the *bein ha-shemashot* is potentially as many as fifteen minutes after sunset. For purposes of this paper, we can accept the broadly maintained assumption that their positions are the same . However, in principle, we strongly question the correctness of that widely assumed viewpoint.

[13] Restating the argument differently, the *sugyah* in *Pesahim* equates both the morning and evening periods to the time it takes to walk 4 *milin*. Rabbeinu Tam equates the endpoints in the two *sugyot*, assuming that both endpoints occur when only 3 stars become visible, the usual meaning of *tzeit ha-kokhavim*. Given that the *sugyah in Pesahim* asserts the morning and evening intervals are of identical length, the *Gaon* proves that the only meaning possible for the endpoint in *Pesahim* is not just 3 stars, but all potentially visible stars, *tzeit kol ha-kokhavim*. a phrase the *Gaon* introduced to the halakhic lexicon.

[14] This question is fundamental to the *Gaon'*s attack on the position of Rabbeinu Tam. Interestingly, this challenge, along with the others that the *Gaon* raises, are based on logic, observation, and science, as opposed to *halakhic* principles. His insights, particularly the full extent of what they would imply considering current scientific knowledge, have not been studied.

[15] A thorough description of depression angles is provided in my paper "A Categorization of Errors Encountered in the Study of *Zemanim*" to appear in *Hakirah*, Spring 2019 and deals extensively with the impact of variations in latitude and season on various *zemanim*. Briefly, a depression angle is a measure of how far below the horizon the sun is either before sunrise or after sunset; a larger depression angle means the sun is further below the horizon with less residual light still coming from the sun. For example, a depression angle of 8.5 degrees is widely assumed today to equate to the level of darkness that indicates the end of Shabbat according to the Geonim. *Poskim* must decide a depression angle equivalent for *alot ha-shahar, mi-sheyakir*, etc. Given a location's latitude and a specified date of the year, one can calculate precisely the number of minutes before sunrise or after sunset at which (the level of darkness associated with) a given depression angle is achieved.

[16] R. Pimential's expertise in *zemanim* was recognized by R. Avraham Gombiner. His *sefer*, *Minhat Kohen,* was carefully organized and argued. Unfortunately, it included two significant errors, one discussed below and the other on the length of the twilight period in the winter. Both errors haunt us to this very day. In an odd but regrettable way, the persistence of his errors is testament to his monumental impact.

further from the equator implies a later end to Shabbat, he decided that in Amsterdam, Shabbat ends 48 minutes after sunset according to Rabbeinu Tam.[17] R. Pimential was bothered by how Amsterdam, at a latitude almost 20 degrees further north of Jerusalem, could be ending Shabbat (72-48=) 24 minutes earlier**.** He attributed the difference to the impact of the altitude of Jerusalem as compared to the Dutch lowlands, vastly overestimating the impact of altitude. Around the fall and spring equinox, Amsterdam, being 20 degrees further from the equator than Jerusalem, should end Shabbat not at 72 but 102 minutes after sunset; the difference in altitude results in at most a five-minute difference in Shabbat's end.

In Europe, where Rabbeinu Tam's opinion held sway, practices similar to that of R. Pimential were maintained by both R. Yaakov Lorberbaum and R. Moshe Sofer, among others, resulting in Shabbat ending about 52 minutes after sunset for cities slightly north of Amsterdam.[18] [19] Despite an earlier point at which Shabbat ends, neither R. Lorberbaum or R. Sofer required that Shabbat begin on Friday night more than 20 minutes prior to the time that it ends. It is undeniable that Shabbat's beginning was well after sunset, and a much shorter period of *bein ha-shemashot* was the norm, in contrast to what we observe today.[20]

Given limited acceptance of the Geonim's position in Europe prior to the 19th century, we have little evidence as to how their views were actually practiced. However, in Baghdad, the Ben Ish Hai reports that Shabbat ended *twenty to thirty* minutes after sunset, which I assume was consistent with the practice in the Middle East.[21]

Relative to historical practice, current observance of the positions of both Rabbeinu Tam and the Geonim is decidedly stricter. We rarely allow Shabbat violations after sunset on Friday night; even those who still follow Rabbeinu Tam also observe the position of the Vilna *Gaon* regarding Shabbat's beginning. Additionally, those following the Vilna *Gaon* delay the end of Shabbat on Saturday night until a depression angle of 8.5 degrees is achieved. If recorded practice in Europe were to be expressed in terms of depression angles, seven to eight degrees (implying a greater degree of illumination) would be more prevalent. Similarly, those following Rabbeinu Tam normally wait a full seventy-two minutes, with a small number even waiting ninety minutes or using latitude and/or season-based adjustments that would further extend Shabbat.

Hatam Sofer' s Responsum

With this background, we may approach the responsum of R. Moshe Sofer. *Teshuvah* 80 in *Shu"t Hatam Sofer* concerns a baby born on Saturday at a time between sunset and the practiced end of Shabbat; its details shed considerable light on the censored lines. The question sent to R. Sofer, requiring an immediate response, was whether the *brit* should occur on the following Shabbat or Sunday. Today, with almost universal acceptance of the *Gaon*'s defined start to Shabbat at sunset, such a question would never be asked, and the circumcision would be scheduled for the following Sunday.[22]

Unlike current practice, R. Sofer's community of Mattesdorf and the nearby community where the baby was born practiced a version of Rabbeinu Tam's position not uncommon at that time. On Friday night, Shabbat began well past sunset. On Saturday night around the time of the summer solstice, Shabbat ended with the appearance of a requisite number of stars, 52 minutes after sunset, well before the 72 minutes that currently characterizes the practice of Rabbeinu Tam's position.[23]

We know from sources external to the *teshuvah* the times of both sunset (8:03 p.m.) and the end of Shabbat (8:55 p.m.) on the day in question, but we do not know precisely when Mattesdorf[24] or the nearby community began Shabbat. By the nature of the *she'eilah,* however, it is likely that the community started Shabbat on Friday night prior to 8:30 p.m., the time that the baby was born the next day. If the community started Shabbat after 8:30 p.m., there would be no reason to ask a *she'eilah*; a *brit* would occur on the following Shabbat.

The fundamental basis of R. Sofer's reasoning resulted from subtracting the average time to walk ¾ of a *mil* from 8:55 p.m. to determine the beginning of *bein ha-shemashot*, as per the opinion of Rabbeinu Tam.[25] R. Sofer, like many other prominent *aharonim*,

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[17] R. Feinstein in *Igrot Moshe* O.H. (4:62) ruled that ending Shabbat fifty minutes after sunset in New York satisfies the position of Rabbeinu Tam; like R. Pimential, R. Feinstein referenced the appearance of a requisite number of stars. Both R. Lorberbaum and R. Sofer, who *paskened* similarly, provided no justification for their *psakim*.

[18] It is not clear if either was aware of the effect of latitude. See the section of *Derekh ha-Hayyim* about *hadlakat neirot* and *bein ha-shemashot* by R. Lorberbaum and *Shu"t Hatam Sofer*, *Teshuvah* 80 and the commentary on *Shabbat* 34a by R. Sofer.

[19] The correct wording of various texts in the writings on *zemanim* of both R. Lorberbaum and R. Sofer have been subject to debate, a topic that will be sidestepped. *Derekh ha-Hayyim* was published for more than a century as part of a *siddur,* rather than as a standalone *sefer,* and was an authoritative source of practical guidance. When that guidance differed from local practice, emendations were often seen as required. In Vilna, for example, an entire chapter was deleted. Similarly, it is reported that R. Sofer wrote his *teshuvot* quickly and from memory, and as a result, on occasion, he made a few errors that need to be addressed in order that the *teshuvah* be understood properly. For example, in *Teshuvah* 80, R. Sofer writes an hour when he likely meant a *mil.*

[20] Despite living years after the Vilna *Gaon's* death, it is doubtful that either was aware of his extensive views critical of Rabbeinu Tam's position on both the start and end of *Shabbat*.

[21] See R. Hayyim Benish, *Ha-Zemanim ba-Halakhah*, volume 2, chapter 45, which covers practice in the Middle East in detail.

[22] In the modern day, only a very few minutes after sunset would generate a *she'eilah* about the day for a *brit*.

[23] The position of R. Feinstein is an exception; see footnote 14.

[24] R. Sofer was the Rabbi of Mattesdorf before assuming that position in Pressburg.

[25] R. Sofer clearly believed that *bein ha-shemashot* was invariant across both season and latitude, a more than reasonable alternative even according to those who apply variation based on latitude and season to determine most *zemanim*. The arguments for and against variability of the *bein ha-shemashot* period by season and/or latitude are beyond the scope of this paper.

disagreed with the *Shulhan Arukh* that the normally assumed time to walk a *mil is* 18 minutes. In this ruling, he used his normally assumed position that the time to walk a *mil* is 22.5 minutes. Therefore, he subtracted the time it takes to walk ¾ of a *mil*, seventeen (precisely, ¾*22.5 = 16.85) minutes, from the conclusion of Shabbat at 8:55 p.m., and concluded that *bein ha-shemashot* began no earlier than 8:37 p.m., seven minutes after the baby was born. As a result, R. Sofer proceeds to *pasken* that the *brit* should be performed on the next Shabbat.

The style of argument used by R. Sofer has been used by subsequent *poskim* and raises significant logical issues.[26] In this case, however, given that the date was close to the summer solstice, one can defend the *psak* (albeit requiring creativity and with difficulty) even for those following the Geonim with respect to the conclusion of Shabbat. Note that using a currently accepted depression angle of 8.5 degrees for the Geonim's end of Shabbat, we would end Shabbat at 9:08 p.m., thirteen minutes later than 8:55 p.m., which was observed in Mattesdorf. One can only wonder if R. Sofer would have outlawed our present-day stringency for ending Shabbat with his favorite *bon mot*, *hadash assur min ha-Torah*.[27]

The Banned Words of R. Adler

Having outlined R. Sofer's ruling, we now turn to the quote from R. Adler that was later obscured. The *Hiddushei Hatam Sofer* at the end of *Seder Moed* contains some halakhic calendrical information. Included in that information was R. Adler's *psak* delineating the period of *bein ha-shemashot*, without providing context, explanation, or justification. Prior attempts[28] to explain R. Adler's conceptual basis are entirely unsatisfactory; some appear completely unsustainable. R. Adler is quoted as ruling that the *bein ha-shemashot* period is either twenty-four or thirty-five minutes, choosing whichever is the greater stringency in the case of a biblical violation, and the greater leniency in the case of only a rabbinic violation. How those precise numbers were conceptually derived has never been addressed satisfactorily. Perhaps they were meant to correspond to practice that may not have had a well-defined conceptual basis.[29]

Those who censored the passage likely assumed a rather unlikely interpretation – Rabbi Adler was ending Shabbat 24 - 35 minutes after sunset. There is a story, perhaps apocryphal, of a post WWII agreement between R. Moshe Feinstein and R. Yoel Teitelbaum that in return for Satmar starting Shabbat at sundown, something they certainly did not abide by in Europe, it was agreed that the end of Shabbat would be minimally 42 minutes after sunset. The Satmar, a Hungarian community like R. Sofer's, likely felt that the *rebbe* of R. Sofer could not have *paskened* so differently. Perhaps they thought the lines were inaccurate; in any case, they were not appropriate for publication.

But what had R. Adler in fact ruled? Avoiding for the moment any attempt at a rationale, there are four options that further delimit what R. Adler was suggesting:

- Options 1 and 2: R. Adler is counting forward from the beginning of the period of *bein ha-shemashot*, either
    - option 1) from sunset, or
    - option 2) from some other start to the *bein ha-shemashot* period either
        - 2a) less than approximately 27 minutes after sunset, or
        - 2b) greater than approximately 27 minutes after sunset.

- Options 3 and 4: R. Adler is counting back from the end of the *bein ha-shemashot* period, either
    - option 3) from the appearance of three small stars, 50 to 55 minutes after sunset, as practiced in Frankfurt and other cities, or
    - option 4) from an invariant 72 minutes after sunset.

Fortunately, all but options 2b) and 4) can be easily excluded.

First, let's examine the possibility that R. Adler was counting forward from sunset, as those who censored this passage probably thought. If this were the case, he would be ending Shabbat exceedingly early; even 35 minutes is more than 15 minutes earlier than other contemporary *poskim.* Furthermore, were this even a remote possibility, his student, R. Sofer, would never have allowed a brit for a baby who was born 27 minutes after sunset on Shabbat afternoon to occur on the following Shabbat. This is because a brit wrongfully done on Shabbat would certainly be a biblical violation, and since having a *bein ha-shemashot* of only 24 minutes would be the greater stringency in this case, the baby would have been born after *bein ha-shemashot* was over. Option 1) is eliminated.

If R. Adler intended to count forward from some unspecified but known time for the start to *bein ha-shemashot*, that point would have to be more than 27 minutes after sunset (probably at least 30-32 minutes to account for uncertainty about the precise time of the baby's birth and clocks in general), eliminating option 2a). Otherwise, the baby would have been born during *bein ha-shemashot*, thus posing a similar challenge to R. Sofer's *psak*.

Option 2b), if considered, would certainly not need to be censored. For example, if the start of *bein ha-shemashot* was 8:37, then R. Adler's times, 24 or 35 minutes later, would approximate the standard practice of Rabbeinu Tam, hardly deserving censorship. The times for the beginning and end of *bein ha-shemashot* would mirror those in option 4) discussed below and remains a very plausible alternative.

Now let's examine the possibility that R. Adler was counting times backward, not forward. If this were so, undoubtedly R. Adler was counting from one well-known *zman* to establish another; in this case from the end of the *bein ha-shemashot* period in order to establish its beginning. If that point were the practiced time for the end of

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[26] See my paper in the Spring 2019 issue of *Hakirah*, which questions the logic (however not the *psak*) in the *teshuvah*. Prominent *poskim* of the last 50 years have used the same style of argument as R. Sofer, producing more questionable *pesakim*.

[27] He did use the phrase at least once to my knowledge, when opposing a *humrah* requiring a larger minimum size for an *etrog*. Although he practiced that h*umrah* personally, he opposed its extension to the entire community.

[28] *Ha-Zemanim ba-Halakhah*, vol. 2, chapter 46, footnote 77.

[29] Several options are mentioned in *Ha-Zemanim ba-Halakhah*. Some try to equate 24 to 35 minutes in Frankfurt with various intervals for the period of *bein ha-shemashot* in the Middle East. As noted and explained below, the numbers appear to align with practice.

Shabbat, approximately 50 to 55 minutes after sunset, or at most 25 minutes after the baby in *teshuvah* 80 was born, again one must assume that R. Sofer would at least raise the opinion of R. Adler, who specified that the time producing the greater *humrah* must be used; in this case that would be 35 (and not 24) minutes, which would prohibit biblical violations after 8:20 p.m.. Option 3) is eliminated.

This leaves only one alternative to consider: R. Adler was counting back from the conventional time to walk 4 *milin*, 72 minutes after sunset. The stricter point is 35 minutes earlier, such that bein ha-shemashot begins 37 minutes after sunset, and the other is 24 minutes earlier, such that bein ha-shemashot begins 48 minutes after sunset. 37 minutes after sunset coincides with R. Lorberbaum's position for the beginning of the period of *bein ha-shemashot*, 37.5 minutes after sunset. The other point, 48 minutes after sunset, is a few minutes earlier than the practiced end of Shabbat in Frankfurt and other communities. Thus, R. Adler's position aligns rulings that during the *bein ha-shemashot* period rabbinic violations are allowed, with the few added minutes providing a margin of safety or perhaps accounting for *tosefet Shabbat*. Even though this suggestion can be challenged, it corresponds with the 18th-19th century practice of many cities in that region and the *psak* of R. Sofer.

Both 4) and 2b) generate similar time intervals for the *bein ha-shemashot* period. Given the mode of expression then prevalent, especially regarding the position of Rabbeinu Tam, that the beginning of *bein ha-shemashot* is classically derived by subtracting from its end, option 4) is slightly more likely than option 2b).

R. Adler was saying something that conformed with general practice of that era and provided a *humrah* – twenty-four to thirty-five minutes - versus the conceptual start of *bein ha-shemashot* only 13.5 minutes before Rabbeinu Tam's end of Shabbat. Worthy of being censored? I think not.

Bein Ha-shemashot

Certainly, since the end of the Second World War, the most common mode of expression for times related to the beginning and end of Shabbat uses minutes after sunset almost exclusively; minutes before Shabbat's end, which was used frequently in the past, is rarely heard.[30] The current mode of expression and a resulting mode of thinking may have, at least in part, inspired the censorship. Additionally, and relatedly, the impact of the *Vilna Gaon's* insistence that Shabbat start at sunset and the acceptance of this ruling in many pre-WWII communities may be another factor for the change in the text of R. Sofer's hiddushim. In any case, the desire to eradicate mention that the Sabbath ends 24 - 35 minutes after sunset was the likely grounds for its deletion, regardless of why it was assumed.

Perhaps, further contributing to the confusion was a change in the significance of sunset proper. While currently sunset has unmistakeable halakhic prominence, it was not nearly as significant in central Europe where the prior discussion was centered, particularly given adherence to the position of Rabbeinu Tam. Furthermore, despite the Vilna Gaon's convincing attack on Rabbeinu Tam's position, sunset as the precise beginning of Shabbat is neither a logical consequence nor necessarily even a precise one.[31] In fact, R. Hayyim Volozhin[32] explicitly rejected sunset as the start of Shabbat, lending credence to the possibility (in my mind a strong probability) that the Vilna Gaon expressed his view *le'migdar milta*,[33] as an attempt to over-correct for what was a (often very) late beginning to Shabbat practiced by followers of Rabbeinu Tam.[34]

In the Middle East and other western Mediterranean communities, which always followed the position of the Geonim versus Rabbeinu Tam, Shabbat began a small number of minutes after sunset.[35] I will cite just two of numerous sources. First, R. Yosef Kapah,[36] probably based on historical Yemenite custom, claims that Rambam supported a beginning to *bein ha-shemashot* 15 minutes after sunset. Second, R. Shmuel Salant[37] would rule that a baby born after sunset but before the call of the *mugrab* (the Arab *gabbai* who alerts worshippers for the fourth prayer service seven to ten minutes after sunset) has his *brit* on the same day the following week.

Despite the almost simultaneous attack on Rabbeinu Tam by both the first Lubavitcher Rebbe and the Vilna *Gaon* in the late 18th century, their impact beyond Lithuania and adjacent areas in Russia was limited. It appears unlikely that both their views were known by either R. Adler or R. Sofer.

Nonetheless, in the modern era, sunset has assumed remarkable *halakhic* prominence that it did not have throughout the 19th century and certainly not to R. Sofer or his *Rebbe*.

Conclusion:

Editing out what is objectionable has a long history;[38] I am led to wonder how often what was deleted was also misunderstood.

We will probably never know with certainty why Satmar seemed to misunderstand the position of R. Adler and did not think of either subtracting from Shabbat's end or or adding not to sunset but to a point much later. Perhaps an interval of 24 to 35 minutes seemed atypical given a more accepted interval of the time to walk ¾ of a *mil* (13.5, 16.85, or 18 minutes) with a short period of *tosefet Shabbat* of 2-3 minutes added.

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[30] Of course, both were in use previously.

[31] This point will be addressed in a future paper on the *Gaon's* impact on the study of two *sugyot* in *zemanim*.

[32] See the addition to *Ma'aseh Rav*, section 19.

[33] Translated literally as "to guard the thing," the Gaon likely abandoned halakhic precision in order to ensure a clear change in behavior.

[34] R. Shneur Zalman of Liadi's attack on Rabbeinu Tam's position, included in any standard siddur published by the Lubavitch movement, discusses people who did not start Shabbat until more than 30 minutes after sunset.

[35] See the various *pesakim* quoted in R. Benish, *Ha-Zemanim ba-Halakhah*, volume 2, chapter 45.

[36] See his commentary in his edition and commentary of *Mishneh Torah: Hilkhot Shabbat* 5:4.

[37] *Zemanim ke-Hilkhatam* by R. Boorstyn, chapter 2, section 1, footnote 7.

[38] Marc B. Shapiro, *Changing the Immutable: How Orthodox Judaism Rewrites History*.

Given what was presented, the advice of Rambam, whose views on the importance of sunset are disputed, must be mentioned. Rambam in *Hilkhot Shabbat* (5:4) refers to the period between sunset and the appearance of three stars as "*bein ha-shemashot*." His language, "*hu ha-nikrah bein ha-shemashot*," "that is called *bein ha-shemashot*," might imply that Rambam is providing practical guidance instead of a precise definition.[39] Despite what was discussed, Rambam's guidance ought not be ignored.

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[39] Whether "*hu ha-nikrah*" is an approximation referring only to the beginning of the *bein ha-shemashot* period at sunset, only to its end at the appearance of three stars, or to both its beginning and its end is debatable. In my view, it is likely that both are intended as suggested practice, as opposed to either one being a precise halakhic delimiter.