

## **Why does *Beis Tefilla Yonah Avraham* (BTYA) wait 40 minutes after *shkiya* before dovening *maariv* on *motzei shabbos*?**

Last week we began our description of the well-known *shitos* of R"t and the GR"A regarding when *shkiya*, *bein hashmashos*, and *tzeis hakochavim* are. We explained that their *machlokes* is based on their interpretation of a discrepancy in sources as to how long *bein hashmashos* is. Our *chabura* is currently in the midst of analyzing the underlying *lomdus* that governs the aforementioned *z'manim*. This week we will complete our overview of the sources in our *sugya*, enabling us to appreciate the *lomdus* of our *sugya* in future editions of *Bracha Rishoina*.

The gm in *pesachim* 94a, based on the distance it takes to walk between *shkiya* and *tzeis*, states (according to R' Yehudah) that the distance is *4mil*. In contrast, the gm in *shabbos* 33b claims that the distance, as determined by looking at changes in the sky throughout *shkiya* and *tzeis*, is only  $\frac{3}{4}$  of a *mil*.

R"t resolves the issue by distinguishing between "*techilas shkiya*" and "*sof shkiya*". He maintains that the halachikally significant *shkiya* that marks the beginning of the  $\frac{3}{4}$  *mil* *bein hashmashos* is *sof shkiya* (the end of *shkiya*). *Sof shkiya* takes place  $3\frac{1}{4}$  *mil* (close to an hour) after astronomical, visible sunset. Astronomical sunset is what he calls *techilas shkiya* (the beginning of *shkiya*). *Tzeis hakochavim* according to R"t is thus 4 *mil* (72 min.) after calls *techilas shkiya* (*astronomical sunset*).

The GR"A, on the other hand espouses the position of the *Gaonim*, who maintain that all the *bein hashmashos* action occurs much earlier, in the  $\frac{3}{4}$  *mil* that **immediately follows astronomical, visible sunset**. *Tzeis hakochavim* coincides with the end of *bein hashmashos*  $\frac{3}{4}$  of a *mil* after sunset, and the later *tzeis* (4 *mil* later), is deep into the night when all the stars are out, way after halachik *tzeis*.

The huge disparity between R"t and the GR"A creates quite a conundrum for *poskim*. First of all, there is a period of time of about an hour which the GR"A views as *vaday layla*, and R"t views as *vaday* or *safeik yom*. This difference obviously effects the times we begin and end *shabbos*, among other *halachos*. Furthermore, even if we held like R"t, it is hard to know precisely how to apply his position to different places in the world and at different times of the year. We pointed out last week that some *poskim* (PMG) hold that R"t applies a constant 18 (22.5, 24) minutes sunset regardless of place and time, in determining the *mil*. *Tzeis hakochavim* is thus a fixed 72

(90,96) minutes and *bein hashmashos* a fixed 13.5 (17,18) min. at any given time at any given place. Many *poskim*, however, disagree and attempt more empirical interpretations of R"t, similar to the approach that the GR"A takes in applying the *mil* to his position. They try to determine his *bein hashmashos* as a ratio of his *shita* that changes with the season, or even getting scientific and calculating the daily angle of solar depression in determining sunset. **To the surprise of R' Isaacson** and all present, R' Saffer uncharacteristically spent an entire *shiur* describing how the *mil* can vary depending on either the "ratio" or "angle of solar depression" approach. This was a painfully enlightening experience for all present. May we merit *schar limud* and *kapara* for that night as we approach *Yom Hadin*.

Contemporary *poskim* have dealt with the difficult issue of implementing the GR"A and R"t into practical halachik application. Here in *Eretz Yisroel*, non-*Chasidim*, are *noheig* predominantly like the GR"A (this is probably based on the fact that even the *Chazon Ish* was not *choshesh* for *shitas* R"t). Among those who follow the GR"A, most are *machmir* in *Eretz Yisroel* to wait well beyond the 13.5 seemingly required during an equinox day. Having studied the sky extensively they determined that one should wait 24, 30, and 36 minutes at a minimum, in order to be sure that *shabbos* is over.

In America, many "litvishe" follow the *Beur Halacha* (BH) *siman* 161, who, while paskening like the GR"A, says that one should be *machmir* for the *shitas* R"t on *motzei shabbos*. A meeting of the minds amongst many *gedolim* in America established a uniform *zman* of 45 minutes for all to follow anywhere in America at any given time. This 45 minutes would enable one to always at least be satisfying the *shitas hagra*. Rav Henkin was known to not accept this 45 minute adaptation of *shitas hagra* at all times. Rav Henkin while demanding only 45 minutes during certain months of the year, maintained that one should wait a full 60 minutes in the summer. It is interesting to note that the 60 minute rule of Rav Henkin (during the summer months) was based on his understanding of *shitas* haGR"A. Ironically, Rav Moshe ZT"L (as we will soon see) had a novel interpretation of R"t which came out to being even less than Rav Henkin's calculation of the GR"A! If nothing else, this anomaly speaks to the lack of clarity on this issue.

### ***Igros Moshe-***

**Rav Moshe** z"tl wrote a famous *teshuvah* (to his son-in-law Rav Moshe Tendler) on this topic.

By way of introduction, Rav Moshe notes three fundamental points:

1. The matter of when *bein hashmashos* falls out is a serious matter with many critical halachik implications.

2. We, as a generation, seem to be lacking the requisite erudition to fully crunch this topic down to a bottom-line universal halachik approach.
3. There is no definitive consensus *minhag yisroel* on this matter.

In deference to both the traditions of the R"Y and the GR"A, Rav Moshe was *m'chadesh* that one should **adhere to both *shitos* out of a *safeik in din* (not as a mere *chumra* as the BH suggested)**. With this cautionary proviso as a background, Rav Moshe then offered a second *chiddush*; a novel approach to the calculation of the 4 *mil* between sunset and *tzeis*. His essential thesis is based on personal empirical observation. Rav Moshe recalled that when he was in Europe, they waited 72 minutes in following the *shita* of the R"Y. Rav Moshe then claims that when he observed the sky in New York, New Jersey, and pashtus the Catskills (editor's note: along with the Atlantic Ocean, these landmarks are significant because they encompass the biblical borders of the United States of America) the night sky resembled the 72 minute European night sky after only 50 minutes. Rav Moshe then deduced that the 4 *mil* of the *gm* in *pesachim* are actually 50 minutes in duration. This calculation of the 4 *mil* is then applied both to the GR"Y and the R"Y. That means that according to R"Y, *bein hashmashos* begins about 41.7 minutes after sunset, and according to the GR"Y, *bein hashmashos* begins at sunset and night begins about 9.3 minutes thereafter. In his teshuvah, Rav Moshe applies these two *chiddushim* to various halachik scenarios.

#### Motzai Shabbos-

Based on the principle of *safeik d'oraisa l'chumra* one **would have to wait until the *tzeis* of R"Y** on *motzai shabbos*. M'ikar *hadin* one need only follow his 50 minute *tzeis*. Rav Moshe suggests however, that *yirai shamayim* should follow the approach of the PMG and always wait 72 minutes after *shabbos*.

#### Yitzchak Bornstein-

Suppose YB had been born in NYC (or Chicago) 6 minutes after *shkiya* on *Erev Shabbos*. Most "Litvishe" poskim that follow the GR"Y would say (as we did last week) that the *bris* is on Sunday because it is already *bein hashmashos* according to the GR"Y. According to Rav Moshe, this *bein hashmashos* period is treated as a *SFEIK SEFEIKA*. There is a double *safeik* here. First of all, *bein hashmashos* itself is an ambiguous time where there is a *safeik* whether it is day or night. Furthermore, as we discussed, the *machlokes* R"Y/GR"Y is treated as a *safeik in din*. In the situation of a *safeik s'feika*, we *posken* leniently, which means that we can assume that the baby is considered to have been born on Friday. We would then perform the *bris mila* the following Friday. Rav Moshe is much less comfortable *poskening* the same way for a baby born on *Shabbos* afternoon 6 minutes after *shkiyah*. He claims that were it not for the extreme sanctity of *Shabbos*, he would normally say that the baby should have a *bris* on *shabbos*, but the primacy of *shabbos* observance leads him to make an exception and

suggest that the baby have a *bris* on Sunday anyway.

#### Hefseik Taharah-

In the event that a woman makes a *hefseik tahara* within the GR"Y's *bein hashmashos* (which Rav Moshe calculates as nine minutes after *shkiyah*), a significant number of American *poskim* rely on Rav Moshe *lekulah*. They suggest that the principle of *s'feik s'feikah* can be applied to render the *hefseik tahara* valid. In other words, we don't know if we *posken* like R"Y, according to whom it would still be day, and even if we hold like the GR"Y for whom it is already *bein hashmashos*, the period of *bein hashmashos* is ambiguous and might still be day. This *heter* is not generally accepted in *Eretz Yisroel*.

The precise logic of Rav Moshe is difficult to understand. After all, if we are supposed to adjust the *zman* of R"Y to reflect the specific astronomical conditions of a given location, it would stand to reason that New York's *bein hashmashos* would be longer than in *Eretz Yisroel* and *Bavel* (as we mentioned, astronomically *Eretz Yisroel* has a shorter transition from sunset to *tzeis*). How, then, does Rav Moshe explain the *gm* that suggests a 72 minute *bein hashmashos* for *Eretz Yisroel* / *Bavel* in light of the *psak* that America's *bein hashmashos* is 50 minutes? (For a partial *teirutz* to this question, one can listen to the *shiur* on the *beistefillashiurim* website. R' Saffer applies to Rav Moshe the famous approach of the *Minchas Cohein* brought down in BH to SA 193)

#### **BTYA's minhag**

Once again, we must concede that the issue of *shkiya*, *bein hashmashos*, and *tzeis*, is one where finding a universal halachik position is very difficult. At *Beis Tefilla Yonah Avraham* (BTYA), we doven *maariv* on *motsei shabbos* 40 minutes after *shkiya*, which means that we technically follow the GR"Y, but add about 5 minutes to the latest possible GR"Y time just to be safe. When interviewed on the matter, prominent BTYA executives commented that they based the time more on "communal considerations" than halachik ones. Our *Morah Deasra*, Rav Malinowitz *shlit"y*, who became our Rav after the 40 minute *zman* was already in place, praised the *zman* as being "a safe, reasonable *zman*", but agreed that it was not inspired by halachik necessity. He also speculated that it might have found roots in some American *minhag* to wait 40 minutes. The actual *Totiy* of the 40 minute *zman*, according to a reliable BTYA source, is Rav Joey Azar *shlita*. At the time the decision was made, all the *minyanim* in the community dovened at GR"Y *tzeis*. Rav Azar and company felt it was a nice service to the community to have a *minyan* people could go to if they missed the *tzeis minyan*. It was also a convenient *minyan* for those who keep R"Y and wanted to wait less after *shul*. And now you know....the rest of the story.

***R' Saffer and the rest of the chabura would like to dedicate this newsletter to Tzippy Lavi in honor of her Kiddush . They also wish a Mazal Tov once again to her proud parents, our editor in chief, Dr. Edo Lavi and his Rebbetzin.***