

INSIGHTS INTO HALACHA

All About Tachanun

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Visitors to Yeshivas Ohr Somayach's famous 'Mechina' 3:45 P.M. daily Mincha (you are also welcome to join) are wont to comment on the fact that everyone recites Tachanun with Nefillas Apayim, the placing down of the head on an arm, even though the Beis Midrash where this Tefillah is held, the Lauffer Beis Midrash, does not have a Sefer Torah or even an Aron Kodesh.

The reason they find this behavior odd is because the Rema, the authoritative codifier of Ashkenazic practical halacha, rules that if there is no Sefer Torah in a shul, Tachanun should still be said, but without Nefillas Apayim.[1] This distinction is traced back to the Neviim that "falling down" in prayer is reserved for when an Aron is present.[2] Although several authorities did not concur with this distinction,[3] this nonetheless remains common practice. If so, the visitors ask, why would Ohr Somayach not follow such a widespread custom?

But before we answer our question, some background is in order.

What is Tachanun?

Although the importance of the power of the Tefillah of Tachanun is underappreciated by many, it should not be; it is actually based on Moshe Rabbeinu's successful entreating of Hashem on Har Sinai of granting mercy and sparing Klal Yisrael from punishment after their grievous sins: "Va'esnapel lifnai Hashem - And I threw myself down in prayer before G-d,"[4] and is a known catalyst for Hashem to speedily answer our prayers.[5]

However, it is quite interesting that if you would ask different people what the Tefillah of Tachanun actually is, you would be getting different responses. Aside for "Long Tachanun" on Mondays and Thursdays,[6] and those that recite Viduy and the Thirteen Middos daily as part of Tachanun,[7] there actually is a difference of opinion which pesukim of Tehillim constitute the mainstay of Tachanun.

Sefardim actually say a different Perek of Tehillim than Ashkenazim as the ikar of Tachanun. Ashkenazic Tachanun consists mainly of chapter 6 (verses 2-11), "Rachum V'chanun... Hashem al be'apcha tochicheini", while Sefardim recite chapter 25, "L'Dovid Eilecha Hashem". This fascinating dichotomy is due to the Zohar's exhortation of great tragedy that might befall one who performs Nefillas Apayim with improper kavannos.[8] However, this passage was referring to chapter 25, "L'Dovid Eilecha Hashem."

Hence, separate disparate minhagim formed - to either recite “L’Dovid Eilecha” without Nefillas Apayim - which is the general Sefardic minhag, or to recite a different Perek of Tehillim - “Rachum V’chanun” with Nefillas Apayim - which is the common Ashkenazic minhag.[9] Accordingly, the general Sefardic practice nowadays is to never actually perform Nefillas Apayim while reciting Tachanun.[10] On the other hand, and although not the common minhag, several Ashkenazic poskim maintain that it is worthwhile to recite both Tachanuns – “Rachum V’Chanun” while performing Nefillas Apayim followed by “L’Dovid Aleicha” without Nefillas Apayim.[11]

How to Tachanun

Another related interesting topic is how to properly perform Tachanun. As we no longer do the “full version” of Nefillas Apayim (on the ground) as performed by Moshe Rabbeinu, but rather a symbolic lowering of our heads onto our arm-sleeves while reciting the appropriate prayer,[12] there is some discussion as to which arm we should lower our heads onto.

Although this is debated among the Rishonim,[13] and the Shulchan Aruch concludes simply, “K’shenofel al Panav Nahagu L’Hatos al Tzad Smol,” that Nefillas Apayim is performed on the left arm, the Rema rules that during Shacharis, as we are wearing Tefillin, we should perform Nefillas Apayim on the other arm out of deference to the Tefillin. This would generally translate to performing Tachanun on the (“un-Tefillin-ed”) right arm. [Ergo, lefties would do the opposite, performing Nefillas Apayim on their left arm.] However, at Mincha, when we generally are not wearing Tefillin, Nefillas Apayim should be performed on the left arm.[14]

Although there is a notable minority opinion of the Arizal, Levush, and Vilna Gaon, that argues that Nefillas Apayim should always be performed on the left arm, even while wearing Tefillin,[15] nonetheless, the common minhag follows the Rema, and hence, the majority of Klal Yisrael become “switch-hitters” when it comes to Tachanun.[16]

For those who follow the minority minhag, both Rav Moshe Feinstein and Rav Moshe Sternbuch advise to perform Tachanun with both arms (meaning actually performing Nefillas Apayim on the left arm while covering with the right arm) in order not to stick-out and appear as performing Tachanun differently than the Tzibbur.[17]

Tachanun After Shkiya?

Another Tachanun question, and divergence of Minhag, is how late in the day Tachanun may be recited. Although there are shittos in the Gaonim and Rishonim that Tachanun may be recited even at Maariv,[18] nonetheless, the Beis Yosef, citing the Mahari Abuhav and Recanati, states that Tachanun

may not be recited 'at night', as Nefillas Apayim alludes to 'Middas Halayla,' and rules accordingly in the Shulchan Aruch. The Rema, Bach, Perisha, and Levush agree, citing precedent from the Sefer Ha'Agur, that the Minhag is not to recite Tachanun at night.[19]

The Taz understands this to mean that one may only no longer recite Tachanun when it is 'Vadai Layla,' certain night, but during 'Bein Hashmashos' the twilight period between Shkiya (sunset) and Tzeis Hakochavim (nightfall), there is no problem, as it is 'karov Yom,' almost assuredly still daytime.[20]

On the other hand, when citing this halacha, the Magen Avraham does so with a slight difference. He writes that if Mincha extends all the way until nightfall, then everyone holds Tachanun should not be recited, as the beginning of night is when the 'Middas Hadin' strengthens ("Techilas Halayla Tigbores Hadinin"). Several authorities, including the Elyah Rabba and Machatzis Hashekel, point out that the Magen Avraham's choice of words, 'the beginning of the night,' implies that he is of the opinion that once it hits shkiya, then Tachanun should no longer be recited.[21]

Additionally, several 'Chachamei Kabbalah,' including the Ben Ish Chai and Kaf Hachaim point out that as we are discussing an issue of possible danger (by reciting Tachanun at the wrong time), Tachanun should not be recited after Shkiya, as Bein Hashmashos is safek layla (possibly considered night). In fact, several contemporary Gedolim, including Rav Shlomo Zalman Auerbach and Rav Yosef Shalom Elyashiv, point out that this is the 'Minhag Yerushlayim' – not to recite Tachanun after Shkiya. This is why many shuls, especially in Yerushlayim, will skip Tachanun by Mincha, if it is running late, even right after Shkiya.[22]

On the other hand, most poskim, including the Shulchan Aruch Harav, Aruch Hashulchan, and Mishnah Berurah, all squarely pasken like the Taz, ruling that up until actual nightfall, Tachanun may still be recited. Rav Ovadia Yosef puts this time at thirteen and half minutes after Shkiya, as up until that time, it is still vadai Bein Hashmashos, and before the earliest time considered actual nightfall according to all opinions.[23] Everyone should ascertain their shul's minhag as it pertains to Tachanun after Shkiya.

Tachanun Traditions in a Shul Not Your Own

With all the differing Tachanun practices, what should one do when davening in a shul that performs Tachanun differently? Several contemporary Gedolim, including the Steipler Gaon, Rav Moshe Feinstein, Rav Shlomo Zalman Auerbach, and Rav Yosef Shalom Elyashiv exhort that whichever one's minhag actually is, if davening in a shul where they perform Tachanun differently than one is accustomed to (including in regard to Viduy and the Thirteen Middos), he should recite and perform Tachanun as per the current tzibbur.[24] This would mean if one happens to be catch Mincha in a Sefardi shul that recites "L'Dovid Eilecha" without Nefillas Apayim, then so should you, even though that is not your general minhag. The sin qua non in regards to Tachanun is to do and pray whichever version of this Tefillah that the Tzibbur is saying.

Kedushas Yerushalayim

Now that we have had some Tachanun training, let's segue back to our original question. If the halacha states that if there is no Sefer Torah in a shul, Tachanun should still be recited, albeit without Nefillas Apayim, why would Ohr Somayach's beginner minyan, held in a Beis Midrash without an Aron Kodesh still recite Tachanun with Nefillas Apayim?

The answer is: Yerushalayim. Yes, Yerushalayim Ir Hakodesh. Ohr Somayach is privileged and blessed to be located in the Holy City of Jerusalem. As such, it maintains special dispensation for certain tefillos; one of them is Tachanun. In the words of Rav Moshe Feinstein zt"l: "Yerushalayim contains intrinsic holiness and is designated for prayer, and therefore even without a Sefer Torah one should perform Nefillas Apayim, as it is comparable to a place that has a Sefer Torah." [25]

This minhag dates back to the 1700s to the famed Pri Ha'Adamah, [26] Rav Rafael Meyuchas, who writes that since there are opinions that in lieu of Sefer Torah one may still say Tachanun in a room that contains many sefarim, [27] then certainly in the Holy City of Yerushalayim whose intrinsic Kedushah is superior to a house filled with holy books, one would still recite Tachanun with Nefillas Apayim, even without a Sefer Torah.

This special deference for Yerushalayim is noted by many authorities, including those who specialize in the customs of Eretz Yisrael, such as Rav Yechiel Michel Tukachinsky zt"l, author of the world-renowned Luach Eretz Yisrael. [28]

Managing Magen Avos

Interestingly, Tachanun is not the only Tefillah that Yerushalayim affects. The Birkas Me'eyn Sheva, more commonly known as Magen Avos that is recited on Friday night, is another Tefillah that is performed fully in Yerushalayim in any location, for the same afore-mentioned reasons. Although Magen Avos technically needs to be recited in the presence of a Sefer Torah, or at least be recited in a set minyan, [29] nevertheless, the inherent holiness of Yerushalayim trumps these concerns and it is always recited every Leil Shabbos anywhere in Yerushalayim. [30] The Pri Ha'Adamah adds that this was indeed his personal minhag, even when davening at home (in Yerushalayim) on Friday night.

Where is Yerushalayim?

There is, however, a matter of dispute among contemporary authorities as to what is considered the Holy City of Yerushalayim for our intents and purpose; where one would still recite Tachanun with Nefillas Apayim and Magen Avos even without a set minyan.

It is well known that Rav Shlomo Zalman Auerbach zt"l was of the opinion that this special regard is only meant for the original Holy City, which is now known as (parts of) the Old City (Bein Hachomos or AltShtut), similar to the halachos of eating Maaser Sheini and Kodshim Kalim in the times of the Beis HaMikdash.[31] The rest of Yerushalayim, he maintains, does not share this unique intrinsic holiness. In fact, unless he was in the Old City or in a room filled with sefarim in the rest of Yerushalayim, Rav Shlomo Zalman would personally not perform Nefillas Apayim while reciting Tachanun.[32]

However, many other contemporary poskim, including Rav Yechezkel Michel Tukachinsky, Rav Moshe Feinstein, Rav Yosef Shalom Elyashiv, and the Debreciner Rav, zichronam l'vracha, do not make such a distinction, and consider all of Yerushalayim, old and new, to contain inherent kedusha. This is due to the dictum of "Takkanos Ha'Ir Noheges Af B'Chomasa," that regarding a city's Takkanos and Minhagim, its boundaries are determined by its Techum Shabbos.[33] Hence, any minhag that is germane to Yerushalayim, would be applicable to all that is considered Yerushalayim.[34]

These Poskim therefore maintain that when in any part of Yerushalayim one should always say Tachanun with Nefillas Apayim, regardless of whether a Sefer Torah is present, as well as Magen Avos on a Friday night. This is also how the basichalacha is cited in many sefarim devoted to Hilchos Tefillah.[35] In fact, it is reported that Rav Shlomo Zalman himself later acknowledged that the common custom is not to follow his opinion on this issue.

So the next time you are in Ohr Somayach, or essentially anywhere in Yerushalayim, it is worthwhile to take advantage of the extra dimension and intensity of Nefillas Apayim that is exclusive to our Holy City.

Postscript: Is Tachanun Obligatory?

Although this author has heard it opined that the common "custom" of skipping Tachanun for reasons not mentioned in the Shulchan Aruch nor Poskei HaDoros is due to the Tur's citing of Rav Nitoranei Gaon's dictum that 'Tachanun recited in the Beis Kenesses is a Reshus,' (non-obligatory)[36] nevertheless, both the Bach and the Prishah explain that that is far from his intent.[37] These authorities point out that the very next line in the Tur states that Tachanun is not recited when a Chosson is present.

They explain the juxtaposition of these two statements is meant to clarify the Halacha. If the reciting of Tachanun is an actual din, then we would be obligated to recite it even with a Chosson present (akin to Shemoneh Esrei etc.). That is why the Tur prefaced it with Rav Nitoranei Gaon's statement that Tachanun is a Reshus: to allow us leniency in certain specific halachically mandated cases. In other words, the recital of Tachanun is similar to Tefillas Maariv: although officially titled a Reshus according

to some opinions (see Gemara Brachos 27b), it is nonetheless still required; it just has certain nuances that are relaxed in specific situations.[38]

The reader is referred to Rav Yisroel Reisman's excellent forward to the English sefer titled "Tachanun," where he decries, in his inimitable manner, the common lackadaisicalness and underappreciation many have for this important Tefillah.[39]

Postscript # 2- Women and Tachanun

Over the years, this author has heard numerous times that "Women don't say Tachanun," and in fact, in most from school systems they are not even taught to do so. The question is if Tachanun is such an important Tefillah, then why should they not recite it?

Renowned English Posek and venerated Halacha teacher in the famed Gateshead seminary for many decades, Rav Pesach Eliyahu Falk, in his Shu"t Machazeh Eliyahu, gives several reasons for this:[40]

The Tur (O.C. end 131) writes that parts of Tachanun are meant to be recited in three different positions – Nefillas Apayim, sitting, and standing. If women are technically not obligated in Kriyas Shema or its brachos (see Orach Chaim 70) or Pesukei D'Zimra – Tefillos recited while sitting, then they certainly cannot be considered obligated in a Tefillah recited in three different positions.

As discussed previously, the Tur cites Rav Nitoranei Gaon's dictum that 'Tachanun is a Reshus'(non-obligatory), putting it in a similar category as Maariv. Hence without a clear indication that women accepted this Reshus upon themselves as a Chova (obligation), they would be exempt from this Tefillah. And since this does not seem to be the common minhag, we see that Tachanun was "Lo Niskabel Eitzel HaNashim," never accepted by womankind. Hence, practically speaking, women are not required to daven this Tefillah. Both Rav Shlomo Zalman Auerbach and Rav Yosef Shalom Elyashiv are quoted as maintaining this position as well.[41]

The Halichos Beisah agrees, adding that Tachanun in its essence is meant to be recited as a Tzibbur (as part of a congregation), and aside from women not generally davening with a Tzibbur, their personal prayers are also not included in the obligations of a Tzibbur.[42]

Come what may, we see that the general Minhag in Klal Yisrael is that women are not accustomed to recite Tachanun.

On the other hand, several contemporary Poskim, including Rav Chaim Kanievsky, Rav Chaim Pinchas Scheinberg, Rav Ephraim Greenblatt, and Rav Yitzchak Yosef, are quoted as maintaining that it is nonetheless commendable for women to recite Tachanun.[43]

This idea may perhaps be based on the Kaf Hachaim, who maintains that although women are exempt from many parts of Tefillah, nevertheless, if they do daven these Tefillos, they fulfill a Mitzva and will be rewarded for it. He concludes that therefore it is appropriate for women who know how to learn and daven properly to recite the entire 'Seder HaTefillah,' just as men do – “from the Parashah of the Akeidah until the conclusion of Aleinu Leshabe'ach.”[44]

So although the common Minhag may be that women need not daven Tachanun, nonetheless, it seems it may be considered as a sort of 'Hiddur Mitzvah' for them to do so as well.

Postscript # 3 – Tachanun or Aleinu?

A related not-uncommon scenario that arises, especially if davening a 'Mincha Ketzara' ("Heichi Kedusha"), is as one finishes his silent Shemoneh Esrei, the Tzibbur is about to start Aleinu. The question is – which should he daven now – Tachanun (by himself) or Aleinu (with the Tzibbur)?

The reason why this is considered a dilemma is that both choices have halachic principles backing them up. The halacha is that Tachanun must be recited immediately after Shemoneh Esrei – and there may not be a hefsek (break) between them.[45] Yet, regarding Aleinu, there is a halacha that when a Tzibbur is reciting Aleinu, then one must join in and recite it along with them.[46] So, practically speaking, which principle trumps which? What should one do in this case?

The fascinating answer is that there is no one clear answer. There are Poskim on both sides of this debate. Many Poskim, including Rav Chaim Kanievsky, Rav Yosef Lieberman, and Rav Meir Brandsdorfer contend that the obligation of reciting Tachanun directly after Shemoneh Esrei is the stronger of the two, and hence, in this instance, one should first recite Tachanun, even while the Tzibbur is davening Aleinu.[47]

Yet, Rav Shlomo Zalman Auerbach and others argue, maintaining that the forbidden hefsek between Shemoneh Esrei and Tachanun is referring to a conversation or performing non-related actual actions,[48] not davening a Tefillah with the Tzibbur. They therefore assert that it is preferable to daven Aleinu with the Tzibbur first and then recite Tachanun afterwards.[49]

As with all inyanim in halacha, one should ascertain from his own competent halachic authority what to personally do in case of an actual sheilah. Whichever order one actually does in this instance, I hope that this exposition serves to raise awareness and appreciation for the chashivus of Tachanun.

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Rabbi Spitz's recent English halacha sefer, "Insights Into Halacha - Food: A Halachic Analysis," (Mosaica/Feldheim) has more than 500 pages and features over 30 comprehensive chapters, discussing a myriad of halachic issues relating to food. It is now available online and in bookstores everywhere.

'Insights Into Halacha' wishes a special, hearty Mazel Tov to Shira Yaffa bas Rochel Miriam for finally receiving her GET after 13 long years. Baruch Mattir Assurim!! May your family know only Simchos!!

[1]Rema (Orach Chaim 131: 2; quoting the Rokeach, 324).

[2]Yehoshua (Ch. 7: verse 6).

[3]The Chida (Birkei Yosef, Orach Chaim 131: 1 and Shiyurei Bracha ad loc. 1) argues that one should always perform Tachanun with Nefillas Apayim, due to the fact that the Shulchan Aruch does not bring this distinction as psak l'maaseh, even though he mentions it in his Beis Yosef commentary (ibid s.v. kasav haRivash); also, this was the Maharimat's minhag. The Olas Tamid (ad loc. 6) cites the Shiyarei Knesses Hagedolah (ad loc. Hagahos on Beis Yosef 10) that 'she'ar sefarim' have the same status as a Sefer Torah in this regard, implying that even without a Sefer Torah, Nefillas Apayim should still be performed. See also Ben Ish Chai (Year 1, Parashas Ki Sisa 14) who writes that Nefillas Apayim applies everywhere and all the time, and Kaf Hachaim (Orach Chaim 131: 40). The Taz (Orach Chaim 131: 5) also questions this practice, but concludes that nevertheless the halacha pesuka still follows the Rema and Rokeach. The Elyah Rabba (131: 5), Derech Hachaim (87: 5), Chayei Adam (vol. 1, 32: 33), Shulchan Aruch Harav (Orach Chaim 131: 3), Kitzur Shulchan Aruch (22: 4), Aruch Hashulchan (Orach Chaim 131: 10), and Mishnah Berurah (131: 11) all rule this way as well, that without a Sefer Torah, Nefillas Apayim is not performed, but Tachanun is nonetheless still recited. Rav Moshe Feinstein (Shu"t Igros Moshe O.C. vol. 5: 20, 5) writes that the exception to this rule is children davening in school – that even without a Sefer Torah, they should still perform Tachanun with Nefillas Apayim, due to Chinuch – so they will know how to properly recite Tachanun when attending shul.

[4]Devarim (Parashas Eikev Ch. 9: verse 18 and 25). See Tur (Orach Chaim 131). See also Midrash Tanchuma (Va'eschanan 3) explaining the importance of this Tefillah of Moshe's that it was specifically that of "Tachanunim."

[5]Aruch Hashulchan (Orach Chaim 131: 2), based on Gemara Bava Metzia (59b).

[6]See Tur, Shulchan Aruch, and main commentaries to Orach Chaim 134: 1 and Kitzur Shulchan Aruch (22: 9). This Tefillah is recited specifically on Mondays and Thursdays because they are Yemei Ratzon, as Moshe Rabbeinu went up to receive the Luchos Shniyos on Thursday and brought them down on Monday[see Midrash Tanchuma (Parashas Vayera 16), Tosafos (Bava Kamma 82b s.v. kday shelo), and Mishnah Berurah (134: 6).] A mnemonic to showcase this is the first pasuk read on a public fast day Haftara (Yeshaya Ch. 55: verse 6) "Dirshu Hashem B'H imatzo" - "Seek out Hashem when He is to be found." The letters Beis and Hei show that an auspicious time when Hashem may be found is on Monday and Thursday; therefore Mondays and Thursdays are preferable for fasting and prayer.[SeeMatteh Moshe(748) and Shulchan Aruch (O.C. 580: 3, based on Tosefta (Taanis Ch. 2: 5).] Interestingly, "Long Tachanun" as we know it, actually consists of three separate tefillos that were composed by three separate early Gedolim. There are several different, and equally fascinating, versions as to the background of establishing these tefillos, which include pirates, pyres, and prison. See Kol Bo (18), Abudraham (vol. 1, pg. 140-141 s.v. b'sheini; citing the Sefer HaManhig), Siddur HaRash M'Germeiza, Rokeach (Peirush HaTefillah), and on a more recent note, He'aras HaTefillah (pg. 263-264) andMekorei HaTefillah (pg. 238-241).

[7]See Beis Yosef (Orach Chaim 134 s.v. b'sheini), Mishnah Berurah (ad loc. 1), and Kaf Hachaim (ad loc. 1 and 131:5), citing this as the minhag of the Arizal as detailed in Shaar Hakavannos (end Drush 5). The Siddur HaShlah traces this minhag (of Viduy immediately prior to Tachanun daily) to the Zohar (Parashas Bo). This practice is performed mainly by Sefardim and those davening Nusach Sefard. But as with many inyanim in Klal Yisrael minhagim vary. There are Chassiduses (e.g. Sanz, Dushinsky) that recite Viduy and the Yud-Gimmel Middos as part of Tachanun of Shacharis but not Mincha. Others (e.g. Gur, Alexander) don't recite Tachanun at all at Mincha.

[8]Zohar (vol. 3, end Parashas Bamidbar pg. 121a; cited by the Beis Yosef in Orach Chaim end 131).

[9]See Abudraham (vol. 1, pg. 132-133 s.v. v'noflin), Seder Hayom (Seder Viduy), Levush (Orach Chaim 131:1), Magen Avraham (ad loc.5 s.v. b'medinos eilu), Shulchan Aruch Harav (ad loc. end 1), Ba'er Heitiv (ad loc. 2), Aruch Hashulchan (ad loc. 8), and Mishnah Berurah (ad loc. 8).

[10]See Ben Ish Chai (Year 1, Parashas Ki Sisa 13 s.v. v'hinei), Yalkut Yosef (Kitzur Shulchan Aruch, Orach Chaim 131: 16), and Rav Mordechai Eliyahu's Darchei Halacha glosses to the Kitzur Shulchan Aruch (22:

1). However, it must be noted that other Sefardic authorities, including the Rambam (Hilchos Tefillah Ch. 5: 14 and 15), Abudraham (vol. 1, pg. 132 s.v. v'noflin), Shulchan Aruch (Orach Chaim 131; although interestingly mentioned in his Beis Yosef commentary ad loc.), Chida (Birkei Yosef ad loc.), and Kaf Hachaim (ad loc. 30 and 31), all discuss reciting Tachanun with Nefillas Apayim, with no mention of reciting the Tefillah without it. There are still several Kehillos, most notably some of Moroccan origin, as well as Spanish-Portuguese, Italian, and Shama Teimanim, who do, or at least did, perform Tachanun with Nefillas Apayim. Similarly with several Chasidusses, including much of Minhag Chabad (as per the Alter Rebbi's Nusach Ha'Ari Siddur) and Breslov-Boston who recite 'L'Dovid Eilecha' with Nefillas Apayim. Thanks are due to R' Dovid Roth for pointing out many of the above differing minhagim.

[11]The Elyah Rabba (Orach Chaim 131: end 1), and Machatzis Hashekel (ad loc. 5s.v. b'medinos) maintain that it is preferable to recite both chapters of Tehillim as part of Tachanun, one with Nefillas Apayim ("Rachum V'chanun") and one without ("L'Dovid Eilecha"), as it is brought down by the Ayalah Shelucha (on Na"ch, Tehillim 25; cited by the Elyah Rabba ad loc.; see also Hagahos Mahar"a Azulai on the Levush ad loc. 2, who explains how this is alluded to in the Tefillah) that one who recites "L'Dovid Eilecha" daily, "aino ro'eh pnei Gehinnom." On the other hand, the Shulchan HaTahor (ad loc. end 1 and Zer Zahav ad loc. 2) argues, and cautions to always have the proper kavanna when reciting Tachanun (to be ready to be "mekabel al atzmo b'lev emes la'mus u'lechaper al kodesh elyon"), and opines that the actual Tefillah one recites as Tachanun, even without Nefillas Apayim, should be irrelevant in this respect, as the ikar is that whichever Tefillah of Tachanun is recited "b'lev rachok, hu sakana." This also seems to bear out from the Yesod V'Shoresh Ha'Avodah (Shaar Chamishi, Ch. 7), who explains that the exact Tefillah one recites is not the core point, but rather 'ikar Nefillas Apayim hi hamesirus nefesh sheba'.

[12]The Gemara (Megillah 22b; and cited lemaaseh by the Shulchan Aruch, Orach Chaim 131: 8) cautions an "adam chashuv" not to perform a full proper Nefillas Apayim (on the ground) unless he is certain that his prayer will be answered, "k'Yehoshua bin Nun." Indeed, we find (Brachos 34b) that Abaya and Rava would perform this Tefillah leaning over on their sides (d'matzlu atzluyei) and not with a true Nefillas Apayim. For our current Tachanun minhag, see Magen Avraham (Orach Chaim 131: 2), Elyah Rabba (ad loc. 2), Aruch Hashulchan (ad loc. 4 and 5), Mishnah Berurah (ad loc. 3), and Biur Halacha ad loc. s.v. l'hatos). See also Rabbeinu Bachaya (Parashas Korach Ch. 16: 22), who explains the three distinct kavannos that were in Moshe Rabbeinu's original Nefillas Apayim and are inherently present in Tefillas Tachanun.

[13]See Tur and Beis Yosef (Orach Chaim 131: 1), citing and explaining the varying shittos of the Rishonim.

[14]Shulchan Aruch and Rema (Orach Chaim 131: 1). Although on Tisha B'Av we all daven Mincha wearing Tefillin, Tachanun is nonetheless not recited, due to its being called a "Moed" (Eicha Ch. 1: 15). See Shulchan Aruch (Orach Chaim 559: 4).

[15]The Levush (Orach Chaim 131: 1 s.v. yeish) advises to perform Nefillas Apayim on the left arm even with Tefillin on, and simply tilt one's head more to the right during Shacharis Tachanun and more to the left at Mincha. The Bach (ad loc. 2), and Elyah Rabba (ad loc. 2 s.v. v'ha) agree with his assessment. The Vilna Gaon (Biur HaGr" a ad loc. s.v. Tefillin; Maaseh Rav 50; Tosefes Maaseh Rav 16; Chayei Adam vol. 1, 32: 33) ruled to always perform Nefillas Apayim on the left arm, even while wearing Tefillin. [The Gr" a writes that the halacha here follows the Shulchan Aruch. Practically, and quite interestingly, this means that the Ashkenazim who are performing Tachanun on their left arms are not following the Rema, but rather the Shulchan Aruch, while Sefardim who do not actually perform Nefillas Apayim, are not following the Shulchan Aruch's ruling.] The Arizal is quoted as holding this way as well (Shalmei Tzibbur pg. 149b; Shulchan HaTahor 131: 3; and Kaf Hachaim ad loc. 30; citing a diyuk from Shaar Hakavannos, Drush 3). The Shulchan HaTahor (ibid.) asserts very strongly that always performing Nefillas Apayim on the left arm is the proper minhag, "V'hameshaneh m'daas Maran Ha'Ari aino ela lev to'eh ki Maran b'kedushaso uv'ruach kodsho v'gadol chochmaso machria kol haminhagim, v'Rabbeinu HaTaz lo ra'ah divrei Maran Ha'Ari b'zeh." Interestingly, it turns out that lefties would end up following this shittah – always performing Nefillas Apayim on their left arms.

[16]Magen Avraham (Orach Chaim 131: 3), Taz (ad loc. 3), Derech Hachaim (87: 2), Shulchan Aruch Harav (ad loc. end 1), Pri Megadim (Eishel Avraham ad loc. 3 and Mishbetzos Zahav ad loc. 3; "ain leshanos mimah shenahagu olam"), Chayei Adam (ibid.; although he adds that even if one is wearing Tefillin by Mincha he can still perform Nefillas Apayim on the left arm), Kitzur Shulchan Aruch (22: 2), Aruch Hashulchan (ad loc. 7), Mishnah Berurah (ad loc. 6; "v'chein nahagu olam"; adding that if one is in a shul where they perform Nefillas Apayim on the right arm due to Tefillin on the left and one does it on the left he would transgress "Lo Sisgodedu"), and Rav Yosef Eliyahu Henkin's Shu"t Gevuros Eliyahu (vol. 1 – Orach Chaim 13: 12; based on his Eidus L'Yisrael; citing the common minhag).

[17]Shu"t Igros Moshe (Orach Chaim vol. 5: 20, 19) and Shu"t Teshuvos V'Hanhagos (vol. 1: 133). Elsewhere [see for example, Hilchos HaGr" a U'Minhagav (106) and Shu"t Teshuvos V'Hanhagos (vol. 2: 80)], Rav Moshe Sternbuch questions the Mishnah Berurah's assessment as to why specifically regarding how one performs Nefillas Apayim should it be classified as potentially transgressing "Lo Sisgodedu."

[18]See Tur (Orach Chaim, 237, end 1), citing Rav Sar Shalom Gaon, that it is permitted to perform Nefillas Apayim after Maariv, "afilu B'Tzibbur", with the Tur adding "v'chein Haminhag B'Bavel." This teshuva of Rav Sar Shalom Gaon is cited in Shu"t Maharam M'Rothenburg (Prague, 603), as well as Seder Rav Amram Gaon (vol. 1, pg. 193b), Sefer Hamanhig (84), and Sefer Ha'Eshkol (Hilchos Tefillas Mincha V'Arvis, end 26). See also Shu"t Yechaveh Daas (vol. 6: 7).

[19]Beis Yosef (Orach Chaim 131: 3) citing the Mahari Abuhav (citing Sefer Tzroros – Tzror Hachaim pg. 18, Derech Harishon 13) and Recanati (Parashas Korach). He rules this way in the Shulchan Aruch (ad loc.

3) as well. Interestingly, he does not comment at all on the Tur's citing of Rav Sar Shalom Gaon's teshuva allowing Tachanun at night, yet, the Rema (Darchei Moshe, O.C. 232: 2), Bach (ad loc. s.v. v'chein), Perisha (ad loc. 8), do, all citing precedent from the Agur (332) that our minhag is not to recite Tachanun at night, adding "yeish bo taam al yedei Kabbalah," that there is a Kabbalistic reason for this. The Levush (O.C. 131: 3) also paskens this way, citing Kabbalistic reasoning. Interestingly, the Rambam (Hilchos Tefillah Ch. 5: 15) writes that the Minhag is not to recite Tachanun at night B'Tzibbur; yet notes that there are individuals who do so.

[20]Taz (Orach Chaim 131: 8).

[21]Magen Avraham (Orach Chaim 131: 9). See Machatzis Hashekel (ad loc. 9) understands him to be referring to after Shkiya and coming to argue on the Taz's understanding. The Elyah Rabba (ad loc. 8) and Pri Megadim (ad loc. M.Z. beg. 8) seem to imply this way as well. On the other hand, the Derech Hachaim (87: 4) and Shulchan Aruch Harav (ad loc. 4) do not make this diyuk in the Magen Avraham's words and seems to understand the Magen Avraham and Taz as agreeing, that only when it is vadai laylah should Tachanun not be recited.

[22]Ben Ish Chai (Year 1, Parashas Ki Sisa 14) and Kaf Hachaim (Orach Chaim 131: 51), also citing those who understood the Magen Avraham to be machmir from shkiya. Rav Shlomo Zaman Auerbach (Michtavim in Sefer V'aleihu Lo Yibol, pg. 298; Ishei Yisrael Ch. 25, footnote 50; Halichos Shlomo, Tefillah, Ch. 13: 4), and Rav Yosef Shalom Elyashiv (cited in Tefillah Kehilchasa, Ch. 18, footnote 64) maintain that Minhag Yerushalayim is not to recite Tachanun after Shkiya. Interestingly, and although this author has heard this minhag numerous times in his name, nonetheless, in the Tukachinsky Luach Eretz Yisrael it does not state this; rather (Tzom Gedalya) simply 'Ain Nefillas Apayim b'LAYLA'. Either way, this is indeed considered 'Minhag Yerushalayim', and even Yerushalmi Chassiduses (e.g. Dushinsky) are makpid on this and won't recite Tachanun after Shkiya.

[23]Shulchan Aruch Harav (Orach Chaim 131: 4), Derech Hachaim (ibid.), Ba'er Heitiv (ad loc. 9), Aruch Hashulchan (ad loc. 11), and Mishnah Berurah (ad loc. 17). See Shu"t Yechaveh Daas (vol. 6: 7) at length. The Mishnah Berurah (ad loc. 16), citing the Elyah Rabba (ad loc. 8), points out that even if one wishes to be makpid from Shkiya, that should only be regarding actual Nefillas Apayim, ergo, the actual Tefillah can and should still be recited, just without Nefillas Apayim.

[24]See Shu"t Avnei Nezer (vol. 1: 29), Orchos Rabbeinu (new edition, vol. 1, pg. 132-133: 29), Shu"t Igros Moshe (Orach Chaim vol. 3: 89 s.v. v'im), Ashrei Ha'Ish (Orach Chaim vol. 1, Ch. 24: 6), and Halichos Shlomo (Tefilla, Ch. 5: 23 and footnote 38 s.v. amnam), who exhort that whichever one's minhag actually is, if davening in a shul where they perform Tachanun differently than one is accustomed to (in regard to Viduy and the Thirteen Middos), he should recite and perform Tachanun as per the current tzibbur.[Rav Elyashiv (Ashrei Ha'Ish ibid.) qualifies that a Sefardi does not need to perform Nefillas

Apayim while reciting Tachanun when davening in an Ashkenazic shul, as since the tzibbur is busy performing Nefillas Apayim, they will not notice that he did not actually place his head down. Rav Shlomo Zalman Auerbach (Halichos Shlomo ibid.) holds that an Ashkenazi davening in a Sefardi shul need not actually recite “L’Dovid Eilecha” with the Tzibbur, as since it is recited quietly, he can still recite “Rachum V’chanun” quietly instead. Yet, under no circumstances should he do so with Nefillas Apayim, as that would certainly constitute a noticeable break with the Tzibbur’s tradition.] As discussed previously, the Mishnah Berurah (131: 6) writes that performing Tachanun noticeably differently than the tzibbur (albeit in regard to laying one’s head down one’s arm) may be a transgression of “Lo Sisgodedu” (Parashas Re’eh; Devarim Ch. 14:1), as per the Gemara’s (Yevamos 13b-14a) explanation of not becoming “Agudos Agudos” – disparate groups of Yidden performing different minhagim in the same place. Rav Shlomo Zalman Auerbach (Halichos Shlomo, Tefilla, Ch. 13: 5 and footnote 7) holds that the same does not apply if davening in a shul that skips Tachanun due to a halachically-questionable reason. In such an instance, he maintains that one should step outside and recite Tachanun by himself. He further qualifies this qualification, that one need not do this if davening in a shul that has a set Minhag specifically not to recite Tachanun (e.g. certain Chassidus’ regarding Mincha; and since it would not be directly following Shemoneh Esrei, and especially if they are davening after Shkiya) – as then one may rely upon their Minhag too. See also the end of footnote 38.

[25]Shu”t Igros Moshe (Yoreh Deah vol. 3, 129: 2).

[26]Mizbach Adamah (pg. 2, s.v. siman 268). The Ben Ish Chai (Year 2, Parashas Vayera 10) dates this minhag back to the times of the Rashash, Master Kabbalist and Rosh Yeshivas Beit-El in the Old City of Yerushalayim, Rav Shalom Sharabi (1720-1777).

[27]See Shiyarei Knesses Hagedolah (Orach Chaim 131, Haghos al Beis Yosef 6), Olas Tamid (ad loc. 10), Magen Giborim (Elef Hamagen ibid, 7), and Orchos Rabbeinu (vol. 1, pg. 67). However, many authorities, including the Elyah Rabba (ad loc. 5), Derech Hachaim (87: 5), and Kitzur Shulchan Aruch (22: 4), do not agree with this assessment and maintain that even with sefarim in the room, one would not perform Nefillas Apayim. The Mishnah Berurah (ad loc. 11) does not rule conclusively on this. However, see Shu”t Divrei Yatziv (Orach Chaim vol. 1, 75: 1), who maintains that the minhag is not to rely on this dispensation, as we follow the Rema’s ruling and he only referenced that this din applies exclusively if a Sefer Torah was present, and with nary a mention of sefarim present as a consideration.

[28]Sefer Eretz Yisrael and Luach Eretz Yisrael (Dinei Tzom Gedalya, in the brackets).

[29]Elyah Rabba (Orach Chaim 268: 19), Pri Megadim (ad loc. Mishbetzos Zahav 8), Mishnah Berurah (ad loc. 24), Shu”t Igros Moshe (Orach Chaim vol. 4, 69: 3), based on the words of the Shulchan Aruch (Orach Chaim 268: 10). See also Ishei Yisrael (Ch. 36: 35, footnote 93) for more on this topic. The Butchatcher Rav (Eishel Avraham 268: 8) maintains that regarding Yeridos (fairs), if there is an open area

that is used for Tefillos for three days in row, this is now considered a Makom Kavua for Tefillah and Magen Avos may be recited there on Friday nights. See also Shu"t Igros Moshe (O.C. vol. 4: 69, 3) and Shu"t Minchas Yitzchak (vol. 10: 21; also citing Shu"t Dvar Moshe 32) that a set Minyan for Leil Shabbos, even in a house without a Sefer Torah, is also sufficient for the Tzibbur to recite Magen Avos. This author has heard similar regarding the annual Agudath Israel Convention, held over Thanksgiving each year, that the fact that it is held annually is considered a keviyus, even though it takes place in different hotels over the years – and hence Magen Avos is indeed recited – wherever it is held.

[30]See Pri Ha'Adamah (ibid.), Ben Ish Chai (Year 2, Parashas Vayera 10; and in Shu"t Rav Pe'alim vol. 3 Orach Chaim 23), Shalmei Chagiga (2: 27), Luach Eretz Yisrael (Dinei Shabbos Shuva), Kaf HaChaim (Orach Chaim 268: 50), Shu"t Har Tzvi (Orach Chaim 152), Shu"t Minchas Yitzchak (vol. 10: 21), Shu"t Tzitz Eliezer (vol. 7: 23 s.v. zohee), Ishei Yisrael (Ch. 36: 35).

[31]For example, see Shemiras Shabbos Kehilchasah (vol. 2, 65: 58), V'aleihu Lo Yibol (vol. 1, pg. 95: 105; pg. 298: 15; pg. 348: 2), Ishei Yisrael (Ch. 25, footnote 39), and Halichos Shlomo (Tefillah Ch. 11: 11 and footnote 36).

[32]Halichos Shlomo (Tefillah Ch. 11, footnote 37).

[33]See Mordechai (Chullin 110a: 711), Shiltei Hagiborim (Bava Basra 10a in the Rif's pagination), Yam Shel Shlomo (Chullin Ch. 8: 53), and Rema (Yoreh Deah 228: 33; regarding a Cheirem).

[34]See Shvus Yitzchak on Purim (pg. 101), citing Rav Elyashiv. Minhagim included in this list are Yom Tov Sheini, which day to observe Purim (as long as it is samuch or nireh), the Ashkenazic Yerushalmi ban on Kli Zemer at weddings, Magen Avos, and Tachanun.

[35]Including the Luach Eretz Yisrael (ibid.), Shu"t Igros Moshe (ibid.), Leket Kemach Hachadash (vol. 4, 131: 23), Beis Baruch on the Chayei Adam (vol. 1, 32: 170), Shu"t Ba'er Moshe (vol. 7, Dinei Bnei Eretz Yisrael pg. 208 s.v. yeish omrim), Shu"t Rivevos Efraim (vol. 4, 43: 9), sefer Olas Reiyah (cited in Halichos Shlomo ibid.), Ishei Yisrael (Ch. 25: 10), and Tefillah Kehilchasah (Ch. 15: 2, quoting sefer Dinei Eretz Yisrael U'Minhageha). Rav Yosef Shalom Elyashiv explicitly ruled that this includes all of Yerushalayim (see Shvus Yitzchak on Purim pg. 101 and Ashrei Halsh, Orach Chaim vol. 1, Ch. 24: 3). Although he implies that the minhag follows Rav Shlomo Zalman in an earlier responsum (Shu"t Teshuvos V'Hanhagos vol. 2: 79), Rav Moshe Sternbuch, in a later responsum (Shu"t Teshuvos V'Hanhagos vol. 4: 41) gives an explanation why the prevalent minhag is to consider all of Yerushalayim equal for this aspect. In fact, Rav Shlomo Zalman himself acknowledged that the common custom is not to follow his opinion on this (see V'Aleihu Lo Yibol ibid.).

[36]This teaching that Tachanun is essentially a Reshus is cited l'maaseh by many authorities, including the Rivash (Shu"t 412), Rema (Darchei Moshe, Orach Chaim 131: 5; who adds 'u'lachein kol dinav b'minhaga talya milsa'), Pri Chodosh (ad loc. 2), Ma'amar Mordechai (ad loc. 13), Shulchan Aruch Harav (ad loc. 1), and Aruch Hashulchan (ad loc. 2). However, it is important to note that the Shulchan Aruch Harav stresses that Tachanun is a 'minhag shenahagu kol Yisrael mimos olam', and the Aruch Hashulchan adds that 'v'achshav shekol Yisraelnahagu bazeh shavinhu k'chova...v'gam matzinu b'Gemara d'im ki huReshus,inyana gadol me'ode, v'chein haShamayim mimaharim l'anos al Nefillas Apayim.' Additionally, the Kaf Hachaim (ad loc. 53) maintains that according to the Arizal (Shaar HaKavannos, Drushei Nefillas Apayim) Tachanun is essentially an actual Chovah, and concludes that one should make sure to recite it barring legitimate reason.

[37]Tur (Orach Chaim 131), Bach (ad loc. end), and Prishah (ad loc. 8). See also Tosafos (Brachos 26a s.v. ta'ah).

[38]However, in his weekly Ateres Shalom publication (Parashas Acharei Mos / Kedoshim 5775, pg. 1 s.v. Misa) the Kamarna Rebbe of Yerushalayim gave a possible explanation as to why many Chassidim do not say Tachanun on a Tzaddik's Yahrzeit. The Yerushalmi (Yoma Ch. 1, Halacha 1; also cited in the Zohar vol. 3, pg. 56b) teaches that the reason the deaths of Nadav and Avihu (the beginning of Parashas Acharei Mos) are read on Yom Kippur is to teach us that just as Yom Kippur effects forgiveness for Klal Yisrael, so does the deaths of Tzaddikim. The Arizal (Shaar HaKavannos, Inyan Nefillas Apayim Drush 2) adds that the deaths of Tzaddikim have the same effect as reciting Tachanun. The Kamarna Rebbe posits that this is the source of why many Chasidim do not recite Tachanun on a Tzaddik's Yahrzeit: If the deaths of Tzaddikim can bring about Kaparah and works akin to the recital of Tachanun, they must hold that since the Yahrzeit itself has the same effect, there is no need to additionally recite Tachanun. On the other hand, the Minchas Elazar (Nimukei Orach Chaim 131) writes that this "Tachanun Exemption" on a Tzaddik's Yahrzeit is only applicable if said Tzaddik is buried in that city and his Talmidim and Chassidim gather there to daven near his kever. Otherwise, he asserts, Tachanun should indeed be recited [citing proof from Rashi (Yevamos 122a s.v. tlasa rigli) and Tosafos (Brachos 26a s.v. ta'ah; regarding Maariv, which is also technically a "Reshus")]. See also Rav Moshe Sternbuch's Shu"t Teshuvos V'Hanhagos (vol. 1: 134) who cites a limud zechus as to why many Chassidim do not recite Tachanun by Mincha even though this seems counter-indicative of the general halacha. Interestingly, there is a contemporary debate regarding davening in a shul that is skipping Tachanun due to a Yahrzeit. Although both Rav Shlomo Zalman Auerbach and Rav Yosef Shalom Elyashiv refer to this as a "Minhag Ta'us," a mistaken minhag, they nonetheless disagree what one should practically do. Rav Shlomo Zalman (Maadanei Shlomo on Dalet Chelkei Shulchan Aruch, pg. 37-38:2) is of the opinion that this has become a "minhag" of sorts and therefore one should not recite Tachanun in shul, and also does not need to recite it later, as the ikar time for its recital is immediately after Shmoneh Esrei. Conversely, Rav Elyashiv (Ashrei Ha'Ish ibid. 10 and Tefillah Kehilchasa Ch. 15 footnote 37*) holds that as skipping Tachanun due to a Yahrzeit is an erroneous practice, one should still recite it then in shul, and this is not considered a potential violation of "Lo Sisgodedu." The Steipler Gaon (Orchos Rabbeinu, new edition, vol. 1, pg. 132-133: 29) adds that if one is davening for the amud in a shul that's minhag is not to recite

Tachanun at the Tefillah, correctly or not, then in no uncertain terms should the Chazzan insist on doing so and making the Tzibbur wait for him; rather “Sheyisnaheig K’Tzibbur V’lo Yomar Tachanun.”

[39]More recently, Rav Shmuel Brazil, Rosh Yeshivas Zeev HaTorah, addressed this issue in his weekly Parasha sheet (Parashas Vayakhel 5779; “Who is the Holder of the Keys?”), elucidating why not to underestimate the significance of this incredible Tefillah, when Hashem comes closer to us and allows us to beseech Him for mercy, forgive us for our transgressions, and save us from our ills and maladies.

[40]Shu”t Machazeh Eliyahu (vol. 1: 20 s.v. Tachanun).

[41]Halichos Beisah (Ch. 7: footnote 1), Halichos Bas Yisrael (Ch. 2: 12, footnote 32; although writing it is a ‘safek’ if women should recite Tachanun), and the ArtScroll Ohel Sarah Women’s Siddur (pg. 96, endnote 85), also citing Rav Yosef Shalom Elyashiv, make this same argument. V’Aleihu Lo Yibol (pg. 95) writes similarly in the name of Rav Shlomo Zalman Auerbach.

[42]Halichos Beisah (Ch. 7: 1 and footnote 1; based on Mishnah Berurah 131: 16).

[43]See Rigshei Lev (pg. 140), citing Rav Chaim Kanievsky, Rav Chaim Pinchas Scheinberg, and Rav Ephraim Greenblatt. Rav Chaim is quoted as adding that it seems that the Minhag is that women do not do the actual Nefillas Apayim. The other two Poskim maintain that they may certainly do so in shul (as mentioned previously, unless in Yerushalayim, when at home, Nefillas Apayim would not be performed either way). See also Yalkut Yosef (Kitzur Shulchan Aruch, O.C. 131: 1) who writes that although women are not required to recite Tachanun, nonetheless, “im hanashim rotzos lehachmir al atzman... resha’os lomar.” See also R’ Zvi Ryzman’s Ratz KaTzvi (on Inyanei Nashim B’Halacha, vol. 1: 5, pg. 62), who argues that according to Rav Yosef Dov Soloveitchik’s (Nefesh HaRav pg. 199) citing of his grandfather, Rav Chaim Soloveitchik of Brisk’s understanding of the Rambam (Hilchos Tefillah Ch. 1: 2), that women would be obligated in Shemoneh Esrei, it stands to reason that they should likewise be obligated in Tachanun according to the opinions that it is considered a part of ‘Tefillah.’

[44]Kaf Hachaim (Orach Chaim 70: 1).

[45]See Orach Chaim (131: 1) and main commentaries. See also Shittah Mikubetzes (Bava Metzia 59b s.v. lo).

[46]See Mishnah Berurah (65: 9) and Aruch Hashulchan (ad loc. 6).

[47]Shu"t Mishnas Yosef (vol. 7: 27) and Shu"t Knei Bosem (vol. 2: 68). Rav Chaim Kanievsky's opinion is cited in Ishei Yisrael (Ch. 25: 13), who concludes this way as well.

[48]See Magen Avraham (131: 1), Elyah Rabba (ad loc. 1), Derech Hachaim (87: 1), Aruch Hashulchan (ad loc. 3), and Mishnah Berurah (ad loc. 9). The Shulchan Aruch Harav (ad loc. 1) adds "aino tzarich lizaher ela milehafsik v'laasok b'dvarim acheirim legamri," which seemingly would not include reciting Aleinu with the Tzibbur.

[49]Halichos Shlomo (Tefillah, Ch. 11, footnote 3). This issue is also brought up in many volumes of Shu"t Rivevos Efraim – where over the years Rav Efraim Greenblatt cites many Rabbanim on both sides of this debate (including himself – as he concludes differently in different teshuvos). See Shu"t Rivevos Efraim (vol. 4: 56; vol. 5: 101; vol. 6: 116, 2; and vol. 7, end 265). See also Yalkut Yosef (Kitzur Shulchan Aruch O.C. 131: 2-3) where he explains that one may not be mafsik between Shemoneh Esrei and Tachanun, yet states that one should answer Amein to any bracha – as this is not considered a hefsek. See also R' Zvi Ryzman's Ratz KaTzvi (on Inyanei Nashim B'Halacha, vol. 1: 5, 11 s.v amnam) who asserts that according to the opinions that Tachanun is considered its own Tefillah, then one should certainly recite Aleinu with the Tzibbur first.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

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