

Listening to Music During *Sefira*
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- I. **Introduction.** The *Shulchan Aruch* (Orach Chaim 493:1) records the tradition (based on *gemara Yevamot* 62b) that the students of Rabi Akiva all died during the period between *Pesach* and *Lag Ba'omer*. Since these days are remembered as a tragic and dark time in our history, the *Shulchan Aruch* enumerates various forms of mourning that Jews should observe during this period. Clearly, engaging in activities that promote excessive happiness is completely inappropriate and *halachically* forbidden. Interestingly, however, the *Shulchan Aruch* makes no mention of a prohibition to listen to music, live or recorded, during *sefira*. In this essay we will analyze the basis for those who permit and those who forbid enjoying music during *sefira*. We will also clarify whether there is any room to distinguish between different types of music (i.e. dance music vs. classical music, live music vs. recorded music).
- II. **Listening to music during the year.** In order to gain a clear perspective on the issue of music during *sefira*, it is important to understand the role of music in *halacha* throughout the year.
 - A. The prohibition. The *mishnah* (*Sotah* 48a) points out (with support from a *passuk*) that when the Sanhedrin ceased to function, the songs of the banquet halls also stopped. The *gemara* (*Gittin* 7a) seeks and discovers an additional biblical source to prohibit music. The *gemara* (*ibid.*) explains that two separate *pesukim* are necessary to teach the prohibition of listening to music, to teach us that even singing without musical accompaniment may be prohibited (if done while drinking wine). Based on these passages in the Talmud, the codifiers of *halacha* have prohibited music in different degrees even during times of the year not directly associated with mourning.
 1. Opinion of the *Mechaber*. The *Shulchan Aruch* (560:3) records these Talmudic passages as normative *halacha* without any lenient considerations. Simply put, music is forbidden, as is singing over drinks of wine (unless the songs are praises to God, like Shabbat *zemirot* – see *Be'er Hetev* 560:7).
 2. Opinion of the *Rama*. In his glosses to the *Shulchan Aruch* (*ibid.*) *Rama* quotes those who say that music is only prohibited for those who are accustomed to hearing it, like royalty who go to sleep and wake up to the sounds of music. One who only occasionally listens to music may do so provided that it is not in the context of a feast (with the notable exception of *seudot mitzvah* such as weddings, bar mitzvahs etc.)
 - B. Why most people are lenient. Considering the firm talmudic basis for prohibition and the clarity of the strict ruling of the *Shulchan Aruch*, it is most surprising that an overwhelming majority of Orthodox Jews are either entirely unaware of this prohibition or pay it no heed. Many later halachic authorities suggested explanations and justifications for what

seems to be the current *minhag Yisrael*. We will list two of those explanations.

1. Rav Yakov Breisch (Responsa *Chelkat Ya'akov* 1:62), Rav Shmuel Wosner (Responsa *Shevet Halevi* 6:69; 8:127) and Rav Menashe Klein (Responsa *Mishnah Halachot* (6:106) all suggest that considering the fact that we live in difficult and sad times, and depression is fairly common in our community, one may listen to music to help raise his spirits and overcome feelings of depression.
2. Rav Wosner (*ibid.*) points out that songs that bring people closer to God are not included in the prohibition to listen to music. He therefore suggests that we may listen to songs that raise our spiritual sensitivities and connect us to God.

III. **The contrast between the sefirah period and the three weeks (nine days).**

Although there are many similarities between the period of *sefira* and the period preceding *Tisha B'av*, there seems to be a fundamental difference between the respective natures of these time periods. Rav Ovadia Yosef (Responsa *Yechaveh Da'at* 3:30) writes that whereas the time preceding *Tisha B'av* is essentially a time of tragedy and mourning, the time of *sefira* is fundamentally a holy time. After all, the *Ramban* in his commentary to *Parshat Emor* considers *sefira* to be a *chol hamoed* of sorts sandwiched between the holidays of *Pesach* and *Shavuot*. This distinction is reflected in the *halacha* that one may not recite the beracha of she'hechyanu during the three weeks, he may recite this *beracha* during *sefira*. Rabbi Shimon Eider points out a further proof to this distinction in the description of the *Tur* of these time periods. When describing the days of *sefira*, the *Tur* writes that one "should not increase his *simcha*", whereas in his description of the three weeks period he writes that one should "minimize his *simcha*". While during the three weeks one must actively refrain from all forms of *simcha*, during *sefira* one need only avoid excessive *simcha*.

IV. **The status of recorded music and radio.** Before proceeding to discuss the permissibility of listening to music during *sefira*, we must first ascertain the exact status of recorded music. Do we assume that because it is not live, it would not have the status of real music, or do we assume that any enjoyable music, even if recorded would be considered as real music? The *poskim* split into three camps on this issue:

- A. The simple approach. Rav Moshe Feinstein (1:166) and Rav Eliezer Waldenberg (15:33) rule that recordings always reflect the category of the original music. Recordings of voices would have a *halachic* status of a voice, while recordings of instruments would be treated as instruments.
- B. The strict approach. Rav Binyamin Silber (Responsa *Az Nidberu* 8:58), after some initial hesitation, suggests that even a recorded voice would be considered music from an instrument. After all, what is the difference whether the instrument that produces pleasant sounds is a guitar or a tape recorder. (This approach may lead to a lenient ruling regarding the

prohibition of *kol isha* when the woman's voice was recorded. It is unlikely that Rav Silber would suggest to be lenient in this case.)

- C. The lenient approach. Rav Yakov Breisch (Responsa *Chelkat Ya'akov* 1:62) suggests an interesting distinction between recorded music and music on the radio. He suggests that while recorded music may be prohibited on the grounds that the music player is considered an instrument, a radio cannot be called an instrument. The idea of something that can transmit music over long distances electronically obviously did not exist at the time of the ban on music, and is thus not included in any such ban. It is important to point out that this distinction would not carry over to the custom not to listen to music during *sefira*, as there was never a formal ban placed on music during *sefira* (see below).

V. **May one listen to music during sefirah?** When we consider that the *Shulchan Aruch* forbids listening to music throughout the year, it is no wonder that he makes no special mention of such a prohibition during the *sefira* period. However, due to the absence of a definitive ruling in this area, there has been considerable debate amongst recent authorities as to the parameters of any such prohibition. We will outline some of the major opinions of the leading authorities on this matter:

- A. Opinion of the majority of leading contemporary *poskim*. The *Magen Avraham* rules that one may not engage in dancing during *sefira*. Many *poskim* (*Aruch Hashulchan* 493:2, Responsa *Iggerot Moshe* 1:166, Responsa *Yechave Da'at* 3:30, amongst many others) claim that if one is not allowed to dance during *sefira* he is certainly not allowed to listen to music during *sefira*. Rav Feinstein points out that there is little basis to allow listening to music year round, but minimally we should observe the *halacha* properly during the period of *sefira*. It would therefore seem, that in Rav Feinstein's view, the parameters of the prohibition to listen to music during *sefira* are identical with the parameters of the general prohibition to listen to music, and vocals (even when recorded) would be permissible, provided that there is no musical accompaniment.
- B. Opinion of Rav Binyamin Silber. Based on Rav Silber's approach to recorded voices, it would seem that in addition to the prohibition to listen to recorded music, it would also be prohibited to listen to recorded voices without musical accompaniment. This approach would prohibit the use of "sefira tapes" as a viable outlet for enjoying music during *sefira*.
- C. Opinion of Rav Chaim Pinchas Scheinberg and Rav Eliyahu Schlesinger. *Sefer Eleh Heim Moadai* records the view of various *poskim* who develop a lenient approach to certain types of music during *sefira*. Since there is no explicit prohibition to listen to music during *sefira* (any more than the rest of the year), and it is only prohibited on account of the prohibition to dance, it would follow that any music that does not lead one to dance would be permissible. For this reason slower songs that have a more calming influence (classical music) may be permissible during *sefira*. It would also follow that fast paced vocals would be prohibited, as they may lead to dancing.

- D. Opinion of Rav Mordechai Willig. Considering that we are generally lenient with the prohibition to listen to music all year, and there is no early source to indicate a specific prohibition on music during the *sefira* period, there would seem to be nothing particularly wrong with enjoying music during *sefira*. While one may not engage in excessively joyous activities (such as dancing) during this period, music does not necessarily fill us with the same sense of excitement and joy that dancing does, especially considering the proliferation of music playing devices, and its constant accessibility.
- VI. **Conclusion.** A true understanding of the issue of listening to music during *sefira* is contingent on a thorough knowledge of the prohibition to listen to music year round, and the specific nature of the period of *sefira*. Regardless of which approach one chooses to follow, it is crucial that he be consistent in that approach, and act in a way that fits this tragic, yet uplifting, time of year.