

The Mitzvah of Sefiras Ha'omer

There is an important dispute among the Rishonim as to whether counting sefiras ha'omer nowadays is a biblical mitzvah (*d'oraisa*) or a rabbinic mitzvah (*d'rabbanan*). Rambam writes explicitly that the mitzvah is *d'oraisa*:

מצות עשה לספור שבע שבתות תמימות מיום הבאת העומר ... מצוה זו על כל איש מישראל ובכל מקום ובכל זמן ונשים ועבדים פטורין ממנה.

There is a positive commandment to count seven full weeks from the day of bringing the omer offering ... This mitzvah applies to every Jewish male in all places and in all times and servants and women are exempt from it.

Rambam, Hilchos Temidin Umusafin 7:22,24

Tosafos, *Menachos* 66a, s.v. *Zecher*, disagree and are of the opinion that the mitzvah nowadays is only *d'rabbanan*. The point of contention is about how closely related the mitzvah of sefiras ha'omer is to the bringing of the korban ha'omer. Rambam is of the opinion that the two are not connected and therefore, nowadays, when we don't bring the korban ha'omer, the mitzvah is nevertheless *d'oraisa*. Tosafos are of the opinion that the mitzvah *d'oraisa* only applies in conjunction with the bringing of the korban ha'omer, and since we don't bring the korban ha'omer nowadays, the mitzvah to count is only *d'rabbanan*.

Rabbeinu Yerucham, *Nesiv Adam* 5:4, presents a third opinion. The mitzvah to count the weeks is only *d'rabbanan* but the mitzvah to count the days is *d'oraisa*. This is based on



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the presentation of the mitzvah in the Torah:

וּסְפַרְתֶּם לָכֶם מִמִּחֲרַת הַשַּׁבָּת מִיּוֹם הַבִּיאָכֶם אֶת עֹמֶר הַתְּנוּפָה שֶׁבַע שַׁבָּתוֹת תְּמִימוֹת תִּהְיֶינָה. עַד מִמִּחֲרַת הַשַּׁבָּת הַשְּׁבִיעִית תִּסְפְּרוּ חֲמִשִּׁים יוֹם וְהִקְרַבְתֶּם מִנְחָה חֻדְשָׁה לַה'.

You shall count for yourselves, on the day after your rest day, from the day you bring the omer offering, they shall be seven complete weeks. Until the day after the completion of the seventh week, you shall count fifty days and you shall offer a new meal offering to Hashem.

Vayikra 23: 15-16

Rabbeinu Yerucham notes that the Torah connects the counting of the weeks to the korban ha'omer but does not do so for the counting of the days. Therefore, counting the weeks nowadays is *d'rabbanan* but counting the days is *d'oraisa*. The *Sefer Hachinuch* no. 306, might also reflect this opinion (see the notes on the *Machon Yerushalayim* edition of the *Minchas Chinuch*).

This dispute among the Rishonim is rooted in a dispute found in the Gemara:

אמר אביי מצוה למימני יומי ומצוה למימני שבועי רבנן דבי רב אשי מנו יומי ומנו שבועי אמרימר מני יומי ולא מני שבועי אמר זכר למקדש הוא.

Abaye said: There is a mitzvah to count the days and a mitzvah to count the

weeks. The Rabbis of Rav Ashi's school counted the days and they counted the weeks. Ameimar counted the days but he did not count the weeks saying that the practice is a remembrance of the Temple.

Menachos 66a

Abaye and the Rabbis of the school of Rav Ashi are of the same opinion that one counts the weeks and the days. Ameimar only counted the days and not the weeks because he felt that the obligation is only *d'rabbanan* in order to commemorate the Beis Hamikdash and therefore, there is no need count the weeks. Counting the days is a sufficient remembrance of the Beis Hamikdash. Rambam will explain the dispute as follows: Abaye together with the the Rabbis of the school of Rav Ashi are of the opinion that counting nowadays is *d'oraisa*. Therefore, one must count the weeks and the days. Ameimar is of the opinion that the mitzvah nowadays is *d'rabbanan* in order to remember the Beis Hamikdash and therefore, it is sufficient to count days and not week. The Rambam is of the opinion that we follow Abaye together with the the Rabbis of the school of Rav Ashi. Tosafos, on the other hand will argue that all everyone — Abaye, the the Rabbis of the school of Rav Ashi and Ameimar are of the opinion that the mitzvah is *d'rabbanan*, and the

only dispute is whether the *d'rabbanan* mitzvah requires counting the weeks and the days or just the days. Rabbeinu Yerucham will argue that we follow Abaye and the Rabbis of Rav Ashi's opinion that one is required to count the weeks and the days, just that they are fulfilled on different levels. The obligation to counting the days is *d'oraisa* and the obligation to count the weeks is *d'rabbanan*.

There are a number of practical differences between these opinions. First, Tosafos write that it is permissible to count during the time between sunset and *tzeis hakochavim* (nightfall). This period of time, known as *bein hashmashos* or *safek chasheicha*, is considered *safek yom v'safek layla*—there is a doubt as to whether it is night or day. Why does Tosafos permit counting during this time? Because Tosafos are of the opinion that the mitzvah is *d'rabbanan* and one may count even if it is doubtful if the next day started. The Rambam would say that since the mitzvah is *d'oraisa*, one may not count during this period of doubt and must wait until after *tzeis hakochavim*.

Second, are women obligated to perform sefiras ha'omer? The aforementioned Rambam states explicitly that women are exempt from the mitzvah. This is because sefiras ha'omer is a *mitzvas aseh shehazman gerama*—a time-bound positive mitzvah, which women are exempt from performing. The Rambam, *Kiddushin* 34a, gives a list of mitzvos that are not *zman gerama* and included in that list are the initials *ע"ה*. Some Acharonim interpret that as *sefer ha'avodah*, the requirement of saying daily korbanos. However, most assume that he is referring to sefiras ha'omer. Sefiras ha'omer seems to be

a classical *mitzvas aseh shehazman gerama*. We recite it from the second day of Pesach until Shavuot and only during that time. Why isn't this a *mitzvas aseh shehazman gerama*? R. Yechezkel Borenstein, in *Divrei Yechezkel* no. 45, answers that in order for something to be considered a *mitzvas aseh shehazman gerama*, it has to be directly linked with time. Sefiras ha'omer is not directly linked with time, but rather, its obligation is generated by the bringing of the korban ha'omer and therefore, it is considered *mitzvas aseh shelo hazman gerama* and women are obligated to perform the mitzvah.

We find a similar idea regarding *kiddush levanah*. The *Magen Avraham*, *siman* 426, writes that women are exempt from reciting *kiddush levanah* because it is a *mitzvas aseh shehazman gerama*. Rav Shlomo Kluger in *Chochmas Shlomo* disagrees. He says that *mitzvas aseh shehazman gerama* only applies in a situation where the mitzvah can potentially be fulfilled at any time and the Torah imposes on us a certain time to fulfill the mitzvah. Time is an external factor in the fulfillment of the mitzvah. *Kiddush levanah* also has a time element. It is only recited in the first half of the month. However, the time factor is not external. It is an intrinsic part of the mitzvah because the mitzvah could only be fulfilled when the new moon is still waxing. While this might seem counterintuitive, when the time factor is intrinsic to the mitzvah, it is not considered a *mitzvas aseh shehazman gerama*.

As such, in order for something to be considered a *mitzvas aseh shehazman gerama*, the mitzvah must be directly linked to time and time must be an external factor in the performance of

Zecher L'Mikdash or Zecher L'Churban?

Rabbi Yosef Dov Soloveitchik (cited in *MiPinei HaRav* pp. 287-289) noted that there are certain rabbinic mitzvot that were enacted to memorialize a particular mitzvah that was performed when the Beit HaMikdash was standing (*zecher l'mikdash*). There are other rabbinic mitzvot that were enacted to commemorate the destruction of the Beit HaMikdash (*zecher l'churban*). The former are performed with great joy and the latter are performed with an element of sadness. R. Zerachiah HaLevi, *Ba'al HaMaor* (end of Pesachim) notes that we do not recite Shehechianu on the first night of sefirat ha'omer because it is not a mitzvah that brings us joy, but rather a mitzvah that brings agony that we don't have a Beit HaMikdash. Rabbi Soloveitchik noted that *Ba'al HaMaor* is clearly of the opinion that sefirat ha'omer nowadays is a *zecher l'churban* and not a *zecher l'mikdash*. *Ba'al HaMaor* proves his position from Ameimar's practice to count the days and not the weeks. Rabbi Soloveitchik explained further that when a mitzvah is performed as a *zecher l'mikdash*, the mitzvah is performed in the same manner that it was performed when the Beit HaMikdash was standing. A *zecher l'churban* is specifically not performed in the same manner in which it was performed when the Beit HaMikdash was standing because its goal is to show that we are incomplete without the Beit HaMikdash. Therefore, Ameimar felt that we should specifically not count the weeks.

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the mitzvah.

This issue is directly connected to the dispute as to whether sefiras ha'omer is *d'oraisa* or *d'rabbanan* nowadays. Ramban follows the majority of Rishonim that sefiras ha'omer nowadays is *d'rabbanan*. This is because the mitzvah is directly connected to the bringing of the korban ha'omer. Since it is directly connected to the korban ha'omer, there is room to say that the mitzvah is not a time-bound mitzvah. Its performance is not contingent on time, but rather the event of bringing the korban. However, according to the Rambam, the mitzvah of sefiras ha'omer is independent of the korban ha'omer. Therefore, sefiras ha'omer nowadays is *d'oraisa* and for that very reason, it makes sense that sefiras ha'omer would be a *mitzvas aseh shehazman gerama*.¹

A third application may relate to the text we use when performing the mitzvah. Some siddurim use the text *hayom (yom echad) la'omer* and some use the text *ba'omer*. Rabbi Soloveitchik (cited in *The Yeshiva University Haggadah*) had the practice of reciting both versions. What is the difference between these two versions? *La'omer* means "to the omer." It refers to the fact that the korban ha'omer generates the mitzvah to count. This many days have passed since the offering of the korban ha'omer. *Ba'omer* means "in the omer,"

and implies that the counting of the omer and the offering of the korban ha'omer are done at the same time but are not conceptually linked. They are coincidental.²

Fourth, Tosafos, *Megillah* 20b, s.v. *Kol*, write that after counting the omer, one should recite a prayer asking for Hashem to rebuild the Beis Hamikdash. This is why recite the *Harachaman* prayer after counting the omer. The Rambam does not mention reciting such a prayer. Both Tosafos and the Rambam are consistent within their own opinions. Tosafos are of the opinion that without the korban ha'omer, there is no mitzvah *d'oraisa*. We perform sefiras ha'omer on a *d'rabbanan* level as a remembrance of the Beis Hamikdash. When we perform a mitzvah as a remembrance of the Beis Hamikdash, it is appropriate to recite a prayer asking for the rebuilding of the Beis Hamikdash so that we could fulfill the mitzvah in its ideal form. The Rambam holds that the mitzvah of sefiras ha'omer is independent of the korban ha'omer and there is nothing lacking in our counting. As such, there is no specific need at the time of the performance of the mitzvah to recite a prayer about rebuilding the Beis Hamikdash.

To summarize, we saw a machlokes between the Rambam and other Rishonim as to whether sefiras ha'omer is directly connected to the bringing of the korban ha'omer. If

the two are directly connected, the mitzvah nowadays is *d'rabbanan*. If the mitzvah of counting is independent, the mitzvah nowadays is *d'oraisa*. The four practical differences relate to counting during *bein hashmashos*, whether counting is a *mitzvas aseh shehazman gerama*, whether one should say *la'omer* or *ba'omer* and whether one should recite the *Harachaman* prayer.

Endnotes

1 There is a dispute between Rashi and Tosafos in *Berachos* 20b, as to whether the exemption of *mitzvas aseh shehazman gerama* applies to *mitzvos d'rabbanan*. If one assumes that they don't, then that explains why women are obligated nowadays because the whole obligation is *d'rabbanan* and women don't get the exemption of *mitzvas aseh shehazman gerama*.

2 My talmid, Rabbi Elon Soniker pointed out that the *Shulchan Aruch's* position on the matter requires clarification. On the one hand, the *Shulchan Aruch* OC 489:2, writes, regarding the proper time to count, that scrupulous people (*medakdekin*) wait until *tzeis hakoachavim* to count. This implies that *me'ikar hadin*, according to the letter of the law, one may count before *tzeis hakoachavim*. This is the opinion of Tosafos that one can count during *bein hashmashos* because the mitzvah of sefiras ha'omer nowadays is only *d'rabbanan*. According to the analysis, we would expect the *Shulchan Aruch* to write that the proper text is *la'omer* to connote that on a Torah level, the counting is directly linked to the korban. However, *Shulchan Aruch* OC 489:1, writes that the proper text is *ba'omer*.



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