

# HALOCHOSCOPE

This week's question:

Someone missed *mincha* and will be repeating *shemone esrai* at *maariv* to make it up. After his first *shemone esrai*, the congregation is counting *sefiras ha'omer*. May he, or should he count with the *tzibbur* then? Or must he begin his second *shemone esrai* immediately?

The issues:

- A) *Tefilas tashlumin*, making up for a missed *tefilah*
- B) *Sefiras ha'omer*, especially, counting with the *tzibbur*
- C) Interruptions before *tefilas tashlumin*

## A) *Tefilas Tashlumin*

Some *mitzvos* are time-bound. If they are not performed during the applicable time, there is no second chance for their performance. One could not count *sefirah* for a missed day after it has passed. One could not fulfill *kiddush* after *Shabbos* or *Yomtov*, mentioning 'this day of ...'. Certain time bound *mitzvos* are given a second chance. The best known of these are the *korbanos* of *Pesach* and *chagigah*. *Pesach* was to be offered on the Fourteenth of *Nissan* in the afternoon. Those who could not offer it then petitioned Moshe for a second chance. In response, Hashem revealed the *mitzvah* of *Pesach Sheini*, a second chance for the *korban* on the Fourteenth of *Iyyar*. *Chagigah*, 'festivity', is a *korban* offered and eaten on the holidays. The ideal day for it is the first day of *Yomtov*. If it was not offered then, it may be offered on a subsequent day. On *Pesach*, it may be offered for the rest of the *chag*, on *Sukos*, through *Shemini Atzeress*, and on *Shavuot* for an additional six days after *Yomtov*. These are special cases, singled out by the Torah.

Normally, one would expect a time-bound *mitzvah* to be exactly that – not open to be made up for at a later time. The term '*avar yomo batel korbano*, once its day has passed, its offering is invalid', is applied to it. Even for the *mitzvos* that have *tashlumin*, after these times there is no third chance. The Talmud invokes the verse '*chesron lo yuchal lehimanos*, what is missing cannot be counted' (*Kohel* 1:15). *Tashlumin* is based on the word for payment. It does not have the full value of the *mitzvah* performed in its correct time. The *mitzvah* could have two components, one of which can only be counted in its correct time. The other component must be fulfilled, albeit at a later date. Thus, it is not to be viewed as strictly compensatory. This implies that the performer is being compensated for a loss, or that he is 'compensating Hashem', so to speak. Rather, it means that he is still obliged to perform the *mitzvah*, in order to fulfill the part that has not yet been lost.

In the Scriptural examples given, we see two types of *tashlumin*. *Chagigah* gets an extension of the original time, and *Pesach Sheini* is a second opportunity at a later date. Both of these approaches could be applied in our case, as we shall discuss. *Tefilos* are also time-bound. Each has its *zman*, the time when it must be recited. However, the actual *tefilah* is not usually representative of the time it is supposed to be recited. It is more

like a regular or constant *mitzvah*. [The exception is *musaf*. Its time is *Shabbos* morning, following *shacharis*. It can be said all day. If missed, one can not make it up after *Shabbos*.] In addition, *tefilos* have much in common with *korbanos*. Some *korbanos* have *tashlumin*. Therefore, the Rabbis decreed that if one missed a *tefilah* he must make it up.

The Talmud debates *tashlumin* after the day is over. This would apply to missing *mincha* and making it up at *maariv*. Making up a *tefilah* on the same *halachic* day could still be compared to bringing an offering on the 'right' day. However, here a *tefilah* will be recited for the preceding day. On the one hand, *tefilos* are like the daily *korban*. This could not be made up the next day. On the other hand, *tefilos* are supplication. One could pray any time. One should have to make up the supplication element if he missed the mandated time. The conclusion is that one must indeed make up for the missed *mincha*.

By this reasoning, one could make up for a lost *tefilah* at any time. It is merely a fulfillment of the supplication element. However, this is debated by the poskim. The consensus is that once the time for the *tefilah* immediately following the missed *tefilah* has passed, one may no longer do *tashlumin*. Nonetheless, the recommended solution is *tefilas nedava*, a voluntary *tefilah*. This is based on the concept of a voluntary offering. There are situations where one is in doubt about a *korban* obligation. He may offer an animal and stipulate that if he is not obliged it will be considered a *nedava*. The Talmud also invokes the saying: 'If only people would spend all day davening!' Nowadays, most people are no longer able to concentrate properly on their *tefilos*. Therefore, *tefilas nedava* is no longer recommended. However, one may interject a new request in a *tefila*. This demonstrates that he is not trying to fulfill an obligation, but is doing it of his own accord. One could also preface his *tefilas nedava* by announcing that if he is indeed obligated [in accordance with that view], this should count for his obligation.

*Tashlumin* is only an obligation, and an option to make up for the loss, for one who missed the *tefilah* through *oness*, *toeh* or *shogaig*. *Oness* is one who was the victim of circumstances beyond his control. *Toeh* refers to one who thought he had davened but then realized he had not done so. *Shogaig* is an unintentional violator, such as one who did not realize that the *zman* was passing. A *poshata*, negligent, or *maizid*, intentional violator, may not resort to *tashlumin*. Thus, one can not delay or postpone his *tefilah* and rely on the opportunity for *tashlumin*. The poskim suggest that a *maizid* or *poshata* undertake a *tefilas nedava* with the above stipulations. [See Brochos 26a-b, Psachim 93a, Chagigah 9a, etc. Poskim. Tur Sh Ar OC 70-72(4) 106-108, YD 336:1 commentaries.]

#### **B) Sefiras Ha'Omer**

In the Torah, *sefiras ha'omer* is linked to the offering of the *korban ha'omer*. On the second day of *Pesach*, the first of the newly ripened barley crop was offered in the *Bais Hamikdash*. Until this offering, no new grain crops were to be harvested or eaten. The barley harvest would then be the beginning of the reaping season. *Shavuot* signals the beginning of the wheat harvest. On *Shavuot*, the *shteis halechem*, two loaves of wheat bread, were offered. After the omer, grain products from the new season were only permitted to ordinary people. In the *Bais Hamikdash* they waited until the *shteis halechem* was offered.

*Sefiras ha'omer* is the *mitzvah* to count seven weeks from the omer offering, until, at the completion of this period, the *shteis halechem* offering. With no *Bais Hamikdash* nowadays, there should be no *mitzvah* to count from one offering to the other. The Tal-

mun debates this issue. Most poskim follow the view that it is not Scripturally obligatory anymore. It was reinstituted Rabbinically, *zecher lemikdash*, to remind us of the temple service. It should also keep us in practice for when the *Bais Hamikdash* is rebuilt, speedily in our days! However, some still consider it a Scriptural *mitzvah*.

The Torah refers to counting seven weeks, fifty days. The Talmud interprets this as two separate requirements. Therefore, we count both; the days are counted in order, followed by the weeks and fractions thereof.

In the Torah, the *mitzvah* is linked to reaping barley for the omer offering. This was done by night, and the barley was offered the next day. The counting began at night. It had to be *temimos*, the weeks had to be counted whole. At the minimum, both night and day must be counted. Some poskim maintain that this provision is essential. If one missed counting by night, he can not make it up the next day. Others maintain that it may still be counted by day. Another Talmudic passage indicates that if the omer was not cut by night it could still be cut by day. Evidently, *temimos* does not prevent the fulfillment of the *mitzvah*. Yet this passage is not considered conclusive. A third passage lists omer-cutting as a night *mitzvah*, while listing other *mitzvos* as day *mitzvos*. Daytime *mitzvos* may not be done by night, and vice-versa. In practice, we follow the view that obligates one to count by day if he missed counting by night. Due to the *safek*, doubt, resulting from the debate, he should not recite a *brocha* then.

There are three opinions on one who missed an entire day. In one view, the entire counting is one protracted *mitzvah*. One missing a day disrupts the continuity. He is exempt from then on. Another view considers each night a separate *mitzvah*. One who missed a day may continue subsequent nights with a *brocha*. The third view considers the *mitzvah* to begin on the first night, with subsequent nights completing it. If the first night is omitted, all is lost. If a subsequent night is omitted, one continues with a *brocha*. In practice, due to the *safek*, one who forgot an entire day continues, but with no *brocha*.

The *mitzvah* applies to each individual, regardless of whether he is in *shul* with a *minyan*. However, as with all *mitzvos*, it is always better to perform it with a large group. This is learned from the procession bringing the *bikurim*, first fruits. Each person was performing his own *mitzvah*, but the correct procedure was to gather in large groups to do it together. [See Menachos 64b-66a 72a-b 83b, Megilah 20b, Poskim. Chinuch 202 208. Avudraham p. 17 241. Tur Sh Ar OC 67:1 489:1-3 7-8, commentaries.]

#### **C) Interruptions before tefilas tashlumin**

The procedure for *tefilas tashlumin* is to recite *shemone esrai* for the *tefilah* in its correct time, and then to repeat it as *tashlumin* for the missed *tefilah*. This applies even if one missed *mincha* on *Erev Shabbos*. He recites the *maariv* of *Shabbos* twice. To distinguish between the two *tefilos*, he should step back after the first, wait the time it takes to walk four cubits, then proceed with the second *tefilah*. The poskim debate whether one may make *tashlumin* at a later time. For example, if one had already davened *mincha* and left, when he remembered that he hadn't davened *shacharis*, may he make *tashlumin* now? We follow the view that one may only fulfill *tashlumin* at the same time that he is reciting the main *tefilah* applicable to that time. Once he has finished with the *tefilah* and moved on to something else, he may not go back purely for the *tashlumin*. The reasoning is that the institution was to expand the existing *tefilah* to include the *tashlumin*.

Based on this, the poskim discuss various examples of interruptions. There is some discussion about reciting *ashrei*, usually preceding *mincha*. If one is doing a *tashlumin* for *shacharis* at *mincha*, and according to some, for *mincha* at *maariv*, should he recite *ashrei* between the two *shemone esrai*s? *Ashrei* is recited to warm up for *shemone esrai* with *divrei* Torah. Here the consensus is that it is generally permitted. *Tachanun* is another matter. Some maintain that it must be recited immediately after the primary *tefilah* to have the proper effect. Others maintain that it is considered an undue interruption. In both examples, the issue is whether another part of the regular order of service may be inserted, attached to either the first or the second *shemone esrai*. What about a part of the service that will not be attached to either *shemone esrai*? Could one interrupt for *sefiras ha'omer*? The reasons to interrupt at this point are because one might be afraid that he will forget later, and so that he can fulfill the *mitzvah* with a group. It would appear that neither reason justifies interrupting between the primary *tefila* and the *tashlumin*. However, if one did interrupt for this *mitzvah*, it would appear that he may still go back and repeat his *tashlumin shemone esrai*. Since he did not intend to break for a totally unrelated activity, and he is still in the place where he *davened* the first *tefilah*, he may consider it as though he is still occupied in the general *davening*. [See Brochos 26a-b, Rashba. Tur Sh Ar OC 105 108:2 (Ar Hash 12), commentaries.]

**On the Parsha ...** *If you will walk with My statutes and you will guard my laws ... Then I will give your rains in their times ... [26:3-4]* What is the significance of the reward, the rains, given 'in their times'? [See Rashi etc.] Perhaps the term 'to walk in My statutes' refers to keeping the *mitzvos* exactly as they should be kept – staying on the straight path. This includes doing them in their correct times. If one does so, the reward also comes in its appropriate time. If one misses his chance to do a *mitzvah* in its correct time, through no real fault of his own, he might still be able to make it up later. However, then, the reward might also not come in the ideal way, but *bideavad*. Perhaps this is the difference between *davening a tefilah* at the right time, and being rewarded with *sechar tefilah bizemanah*, and *davening tashlumin*, that is rewarded with *sechar tefilah* alone, but not with *sechar tefilah bizemanah*.

🕯 Sponsored in memory of: Rachel bas Hagaon Rav Moshe Chaim Glicksman a'h, whose *yahrzeit* was on the 13<sup>th</sup> of Iyyar; R. Chaim Yoel ben Yosef Goldman z'l, whose *yahrzeit* was on the 14<sup>th</sup> of Iyyar; Hagaon Harav Moshe Chaim ben Harav Avraham Yisachar Ratzker zt'l, whose *yahrzeit* was on the 16<sup>th</sup> of Iyyar; Dr. Yehudis (Judith) bas Harav Shmayahu, Grunfeld a'h, whose *yahrzeit* is on Lag Ba'omer (18<sup>th</sup> Iyyar); R. Chaim Moshe ben Avraham Glicksman z'l, whose *yahrzeit* is on the 24<sup>th</sup> of Iyyar; R. Shimon ben R. Eliezer Blumenthal zt'l, whose *yahrzeit* is on the 25<sup>th</sup> of Iyyar. 💧

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