

HALOCHOSCOPE TOI

Someone remembered that she had not counted *Sefirah* the previous night. It was already close to, or past sunset. She counted right then without a *Brocha*. may she continue counting from then on with a *Brocha*? If this was on *Erev Shabbos* and she had already kindled her *Shabbos* lights, though it was not past sunset, does the ruling remain the same?

The issues:

(A) *Sefiras Haomer*; its timing

(B) *Kabolas Shabbos*

(A) *The timing of Sefiras Haomer*

Sefiras Haomer is performed by night. One basis for this is that the Mitzvah is linked by the Torah to the Mitzvah of *Ketziras Haomer*, reaping the *Omer*. This is the first of the ripened barley crop, offered on the second day of *Pesach* in the *Bais Hamikdash*. Like all offerings, it was brought by day. The barley was cut by night, as soon as the first day of *Yomtov* was over. The Talmud learns from the juxtaposition of the two Mitzvos, that the time for *Sefiras Haomer* is also by night. The counting follows the same procedure on all forty-nine days.

Another source is *Temimos*, the Mitzvah is to count seven complete weeks. Since the Torah specifies this requirement, one should not let part of the day or week go by before counting. Jewish dating begins at night. Thus, the seven weeks of *Sefira* begin by night, and the Mitzvah to count each day begins at night of each day. It should not be delayed until the next day. Some point out that though the timing appears to be derived by comparing it to the *Ketzirah*, the opposite is really the case. *Temimos* implies that *Sefira* must be done by night, and since they seem to be interdependent, *Ketzira* must also be done by night.

There are two views in the Talmud on whether the *Omer* may be cut by day. According to the view that it may be done, *Sefiras Haomer* should also be possible by day. However, there is an opinion that though the *Omer* could be cut by day, this is not the ideal manner of performing this Mitzvah. In regard to the details of the laws of *Korbanos* and related issues, if the Torah repeats a rule it is essential, but if it is mentioned once it is only the ideal. By insisting on *Temimos*, the Torah stresses the requirement of nighttime counting for *Sefira*, while for *Ketzira* it is not repeated. Thus, though the *Ketzira* might be valid by day, according to one view, the *Sefira* should not be. Another objection to the comparison is lodged.

True, the Mitzvos are linked, and there is indeed an opinion that Omer cut by day is valid. However, this might refer to having cut it before the night of the sixteenth of Nissan, (but after daybreak on the sixteenth it is too late.) While the Ketziras Haomer itself was done, it is not possible to begin counting Sefira then. It is the wrong day. Accordingly, there is no source to permit counting Sefira by day.

Nowadays, though we do not perform the service in a Bais Hamikdash, the Mitzvah still exists. The Poskim debate whether the present day Mitzvah is Scriptural, despite the lack of the Korban to go with it, or Rabbinical, *Zecher Lemikdash*, instituted as a reminder of the services done in the Bais Hamikdash.

Assuming it is a Scriptural obligation, it would not be closely linked to the Korban Omer, and its time need not coincide with the cutting of the Omer itself. Assuming it is Rabbinical, the Mitzvah is indeed linked to the Omer cutting. Since today it is *Zecher Lemikdash*, its timing today must also correspond to its timing in the Temple times. Nonetheless, some maintain that the timing of the Rabbinical obligation may be treated more leniently than the original Scriptural obligation.

The difference between night and day is the presence or absence of light. There are times when this is not so clear. When the sun is showing, there is no question that it is day, and this is usually the way day is defined by the Torah. Just after sunset is considered *Bain Hashmoshos*, a twilight period, not conclusively day or night. There are different views on how to calculate this time period, based on debates in the Talmud and commentaries. Some Poskim maintain that since the Mitzvah is Rabbinical, one may count Sefira *Bain Hashmoshos* with the Brocha, because it is not conclusively day or night. In fact, there is a minority view that one should count on the first night during dusk, to capitalize on the Temimos issue. We do not follow this view, but a *Tzibur* convening for an early Maariv may count as early as *Plag Hamincha*. This is the last part of Halachic day of the preceding day. For certain Mitzvos it has the status of the next day, according to some. All should count again at night. An individual may stipulate that he does not wish this counting to be final if he remembers to count later. He will not recite the Brocha when counting in Shil. He may count later with a Brocha.

A Mitzvah is preceded by reciting a Brocha. Every Brocha includes utterance of Hashem's Name. Under normal circumstances, this is forbidden. However, Brochos are Rabbinical Mitzvos, ordained with Scriptural authority. Thus, the Rabbis had the authority to institute the Brocha, despite the use of Hashem's Name. When there is no obligation it is forbidden to recite the Brocha. Some consider it an outright violation of the Scriptural negative Mitzvah, *Lo Sisa*, forbidding taking the Name in vain. Others maintain that this does not apply to a Brocha, but it is a violation of the positive Mitzvah, *Es Hashem Elokecha Tira*, to

revere Hashem. Others maintain that a Brocha involves praising Hashem, albeit unwarranted. It is not forbidden Scripturally, but Rabbinically. Thus, according to many Poskim reciting a Brocha when in doubt raises the issue of a *Safeik Deoraisa*, questionable violation of a Scriptural prohibition. We rule stringently in such cases, to refrain from acting. Though a Brocha is also an obligation, it is a Rabbinical one. A doubt makes it a *Safeik Derabanan*, questionable Rabbinical obligation, where the rule is leniency. Particularly here, where stringency in the Rabbinical obligation leads to leniency in a Scriptural prohibition, one must refrain from reciting the Brocha. [See references, Halochoscope I:9 II:13 IV:14.]

Some Poskim rule that Sefira is permitted by day with a Brocha. Others, that it is not. A third view says that Temimos only requires counting by night on the first night, but not on subsequent days. In practice, if one did not count by night he may count by day but should not recite a Brocha. The following nights he may resume reciting the Brocha.

Based on the requirement of Temimos, the Poskim debate the nature of this Mitzvah. Is it one long Mitzvah to count every day, in forty-nine parts, or are they forty-nine individual Mitzvos each day? Temimos implies that it is imperative to count every single day to fulfil the Mitzvah. This means that all the days are connected as one long Mitzvah. One difference between the opinions is seen when a day was missed. As one long Mitzvah, the continuity was interrupted. It can not be fulfilled any longer. As individual Mitzvos, one day was lost. However, subsequent days may be counted, just as missing Shema on one day does not mean that one does not recite it the next day. Due to the debate, the Poskim conclude that one is obliged to continue counting, to satisfy the stringent opinion. However, in terms of the Brocha, this would be a leniency, due to the *Safeik Brocha*. Therefore, one may not recite it with a Brocha on subsequent days. [See Menachos 67a 72a-b Megila 20b Poskim. Shiblei Leket 234. Tur Shulchan Aruch Orach Chaim 489:7 commentaries. Halochoscope III:19 IV:14.]

(B) Kabolos Shabbos

Sefiras Ha'omer is a Mitzvah associated with time. Generally, only males are obliged to observe such Mitzvos. However, women may undertake them, and, according to Ashkenazim, may recite the Brocha. Due to the questionable timing of nightfall, Shabbos begins at *Bain Hashmoshos* for all intents and purposes. One is also obliged to add to Shabbos, based on a Scriptural (according to most opinions) obligation to add to Yom Kippur at its onset. This is known as *Tosfos Shabbos*. One can not make it the next day by wishing or saying so. However, due to the Mitzvah, one can accept Shabbos, known as *Kabolos Shabbos*. It is then considered Shabbos for this person. This is done verbally, by reciting something

like *Kiddush*. It is included in *Shemone Esrei*. Since davening Maariv implies that one considers it nightfall, men who recite it accept Shabbos by davening Maariv. This includes not only *Shemone Esrei*, but *Shema* and its *Brochos* as well. Some attribute this to the burning of the fats of the afternoon *Tamid* early on Erev Shabbos. Normally they were burned by night. Maariv was based on this timing. On Erev Shabbos, they were burned before dark, so Maariv should be early. However, if by reciting Maariv one has rendered it night, one could not burn the fats. However, if so it is thus too late to daven Maariv. One answer is that one can not add Scripturally to Shabbos until the last moment. During a Rabbinically ordained part of Shabbos, the fats could be burned. Maariv could then be recited as well. In later periods, an entire service of *Kabolas Shabbos* was added. Since those reciting it have in mind to welcome Shabbos with it, it is considered the beginning of Shabbos. Women accept Shabbos by kindling their Shabbos lights.

Assuming that *Tosfos Shabbos* is a positive Mitzvah, it does not carry the penalty of violating negative Mitzvos of Shabbos. Yet, the prohibitions are all in effect. Thus, the time of *Tosfos Shabbos* is quasi-Shabbos.

Thus, after a woman has kindled Shabbos lights, or a man has said *Kabolas Shabbos*, or even after the community has davened with or without this individual, it is Shabbos. In our case, should it be considered the next day and too late to count *Sefirah* for the preceding day? The *Poskim* propose three reasons why this should not be the case. First, as we have stated, it is not truly Shabbos astronomically. The sanctity of Shabbos has been accepted by the individual or community. This might not affect the day of *Sefiras Ha'omer*. Second, even if it is Shabbos for all laws, it might not be considered such for the laws of other Mitzvos that depend on night and day. For example, those who daven early on Erev Shabbos must still repeat *Shema* and should not count *Sefirah* early. Third, though normally one may count *Sefirah* early as well, linking it to Maariv, many *Poskim* say that one does not fulfill his obligation then. Accordingly, most *Poskim* would say that it is still the preceding day for *Sefirah* purposes. [See *Rosh Hashana* 9a, *Beraishis Raba* 9:13 10:9, *Mechilta Yisro* 7, *Poskim. Tur Sh. Ar. O.C. 261*, commentaries. *Igros Moshe O.C.IV:99:3. Torah Lada'as I:p.8.*]

In conclusion, after lighting her candles, but before sunset, a woman may count the preceding day's *Sefirah*. However, once *Bain Hashmoshos*, when it is already *Safeik Shabbos* for real, and the other reasons also lose some of their applicability, she cannot rely on her counting to consider herself not missing a day.

© 2002 Rabbi Shimon Silver
1516 KANSAS AVE.
WHITE OAK, PA 15131 (412) 673-6274

Please note, New e-mail: halochoscope@hotmail.com