

SHE'AILOS U'TESHUVOS: COUNTING SEFIRAS HA-OMER UNINTENTIONALLY

by Rabbi Doniel Neustadt

As Lag ba-Omer approaches, it is timely to call attention to a halachic problem which can easily arise. People frequently ask each other what day of the Omer it is. If one gives the correct answer - even though he does not intend to fulfill the mitzvah of counting the Omer by answering his friend - it is considered as if he fulfilled his obligation to count the Omer. This halachah, which is recorded in the Shulchan Aruch, (1) is based on an opinion in the Talmud that holds that mitzvos eimam tzrichos kavanah, mitzvos can be fulfilled even without specific intent to fulfill them. By uttering the correct day's count of the Omer, he has lost the opportunity to recite a blessing over the counting since he has, in the eyes of the halachah, already counted the Omer, albeit unintentionally. (2) One should, therefore, not give a direct answer when asked for the day of the Omer; rather one should say: Yesterday's count was such and such. Of course, this advisory applies only from sunset and onwards, since counting sefirah before sunset is invalid.(3)

The danger of inadvertently counting the Omer by a causal response or comment regarding what day of the Omer it is, is most prevalent on Lag ba-Omer. The very name "Lag ba-Omer" states that it is the 33rd day of the Omer count (as Lag is the letter equivalent for the number 33).(4) Thus on the evening of Lag ba-Omer after sunset, one should be careful not to express that "today is Lag ba-Omer" until after he counts the Omer with the blessing.

QUESTION: If, inadvertently, one forgot and responded with the correct sefirah count, is there any way that he can count again that night with the blessing?

DISCUSSION: B'diavad, one is permitted to recite sefirah that night with the blessing:

* If he responded by saying just the correct number of that day, but did not say "Today is number so and so," then he may repeat the sefirah with a blessing.(5) But if he omitted just the word "ba-Omer" (or "la-Omer"), then the count remains valid and it may not be repeated with the blessing. (6)

* If he responded by saying, "Today is so and so" but did not mention the "weeks" count, he may still repeat the sefirah with a blessing. For instance, on the seventeenth day he responded, "Today is day number seventeen," but he did not add, "which is two weeks and three days."(7) [Obviously, this applies only after the first week of sefirah has passed.]

* Even if he responded with the correct number and the right weekly count but had specific and

clear intention not to fulfill the mitzvah of Sefiras ha-Omer with his response, then he may repeat the sefirah with a blessing. (8)

* If the person who inadvertently forgot and responded, "Today is so and so" is one who is always particular to count the Omer after tzeis ha- kochavim only, and this exchange took place before tzeis ha-kochavim, he may repeat the count with the blessing.(9)

* If on the fifth day, for example, he responded, "Today is six minus one," or, "Today is three plus three," he may repeat the count with the blessing.(10)

* If in response to the question he wrote down the correct sefirah count (but did not say it), he may repeat the sefirah with the blessing.(11)

* If the questioner, for example, asked, "Is today day number five?" and the response was, "Yes, it is," then both the questioner and respondent can repeat the sefirah and recite the blessing.(12)

QUESTION: May one repeat the sefirah with a blessing if, in response to the question, "What was yesterday's Sefiras ha-Omer," one mistakenly answered today's count?

DISCUSSION: Yes, he may. Since his intention was to say yesterday's count, it is considered as if he had specific intent not to fulfill today's mitzvah. Although he mistakenly said the wrong (today's) count, it still does not change the fact that he specifically intended not to fulfill the mitzvah.(13)

QUESTION: Is nail cutting permitted during sefirah?

DISCUSSION: Yes, it is(14); only hair cutting and removal is forbidden during sefirah. It is also permitted to trim a mustache that interferes with eating,(15) to tweeze eyebrows or eyelashes,(16) and to comb one's hair even though some hair will get pulled out in the process.(17)

Married women may cut hair that is protruding from their head covering.(18)

QUESTION: If, mistakenly, one bought chametz after Pesach from a Jewish- owned store [whose chametz was not sold properly], must the chametz be disposed of?

DISCUSSION: L'chatchilah, it is forbidden to purchase chametz which was in a Jew's possession over Pesach. Therefore if such chametz was purchased, one should make every attempt to return it to the store.(19) But if returning the chametz is not an option, one should not rush to dispose of it before discussing the issue with a reliable halachic authority who is familiar with the stores in his area. This is because it is often impossible ascertain whether or not the chametz in question was in the Jewish-owned store during Pesach - in which case it would be forbidden to purchase, or if it was delivered to the store only after Pesach - in which case it may be permitted, since it may have been in the possession of a non-Jewish distributor over Pesach.(20) Since the prohibition against eating chametz that was in a Jew's possession over Pesach is Rabbinic in nature, we may follow the standard rule of safek derabanan l'kulah when in doubt.(21) A rav should be consulted.(22)

QUESTION: May one who does not use the city eiruv [for carrying on Shabbos] ask another person who does use the eiruv to carry on his behalf?

DISCUSSION: The answer will depend upon the reason why the first person does not make use of the eiruv. If, in his opinion or in the opinion of his halachic authority, the eiruv is not valid and may not be used at all, then he may not ask another person to carry for him either. This is because he is asking the other person to do something which is not halachically permitted. But if, in his opinion or in the opinion of his halachic authority, the eiruv is valid, yet he chooses to be stringent and not use the eiruv, it is permitted to ask another person to carry on his behalf. In this case, the other person is not performing an halachically forbidden action.

The same principle applies in other areas of halachah. For example: Contemporary poskim disagree whether or not it is permitted to lift off the tab of a soda or a beer can on Shabbos.(23) One who does not remove tabs because he adheres to the halachic opinion that forbids it, may not ask another person to open a can on his behalf. If, however, it is only a personal stringency but in theory he agrees that it is permissible, he is allowed to ask another person who opens soda cans to open one for him as well.

May a person who keeps Shabbos until 72 minutes past sunset ask another person who waits less than 72 minutes to perform a forbidden Shabbos "Labor" for him before 72 minutes are up? Again, it will depend on the previously mentioned principle. If waiting 72 minutes is based on a strict halachic interpretation, then asking someone else to do a forbidden Labor is like asking him to be mechalel Shabbos. If, however, keeping 72 minutes is a personal stringency or a family custom, it is permitted to ask another person who does not have this stringency or custom to "transgress" Shabbos on your behalf.(24)

FOOTNOTES:

1 O.C. 489:4.

2 Although basic halachah follows the opposing view - that one must have specific intent when fulfilling mitzvos - still, in deference to the view according to which one would have fulfilled the mitzvah, we do not recite the blessing on the (second) sefirah; Mishnah Berurah 489:22 and Beur Halachah (s.v. sh'eim and eino).

3 Beur Halachah 489:4 s.v. eino. A minority view recommends that one should avoid a direct response as early as plag ha-minchah; see Shulchan Aruch ha-Rav

489:15 and Machatzis ha-Shekel 489:10.

4 See Sha'arei Teshuvah 489:1 and Beur Halachah s.v. moneh, who quote various views as to whether or not one fulfills the mitzvah of sefirah by counting with roshei teivos.

5 Mishnah Berurah 489:20 and Sha'ar ha-Tziyun 25. L'chatchilah, however, one should not rely on this

leniency and should avoid stating the correct number even without saying "today," Kaf ha-Chayim 489:53.

6 Mishnah Berurah 489:8;489:21.

7 Mishnah Berurah 489:22. Since other poskim disagree and maintain that one has fulfilled his obligation even without mentioning the "weeks" count [except at the end of each week - day 7, 14, 21, etc.], one should l'chatchilah not rely on this leniency; see Da'as Torah 489:4 Sha'ar ha-Tziyun 489:28 and Kaf ha-Chayim 489:55.

8 Mishnah Berurah 489:22.

9 Be'ur Halachah 489:4 s.v. sheim.

10 Be'er Moshe 3:82.

11 Chasam Sofer 6:19; Aruch ha-Shulchan 489:9.

12 Da'as Torah 489:4, quoting Zachor L'Avraham.

13 Be'er Moshe 3:80.

14 Kaf ha-Chayim 493:16.

15 O.C. 551:13.

16 Bein Pesach l'Shavuos, pg. 241, quoting an oral ruling from Harav S.Z. Auerbach and Harav S. Wosner.

17 Mishnah Berurah 551:20.

18 Mishnah Berurah 551:79. When necessary, women may shave their legs; Harav M. Feinstein (Oholei Yeshurun, pg. 9). See also Igros Moshe Y.D. 2:137 where he allows women to take haircuts when necessary during the Three Weeks. When necessary, a girl of marriageable age may have her hair cut; Harav S.Z. Auerbach (Halichos Beisah, pg. 371).

19 O.C. 448:3.

20 This is especially true of large supermarkets and superstores where there are daily deliveries of new merchandise.

21 See Mishnah Berurah 449:3 and 5.

22 There are also other factors that a rav should consider: 1) Some poskim consider a mumar as a non-Jew concerning this halachah; see Magen ha-Elef 448:7. 2) Certain chametz mixtures which may not be eaten on Pesach are not necessarily prohibited after Pesach even if they were owned by a Jew on Pesach; see O.C. 447:11 and Be'ur Halachah s.v. bein.

23 See The Weekly Halachah Discussion, vol. 1, pg. 137.

24 Entire discussion based on the following sources: Darkei Teshuvah Y.D. 119:58 quoting Ksav Sofer; Igros Moshe O.C. 1:186; Harav S.Z. Auerbach (Peninei ha-Maor, letter 3-8 and letter 22-1; Shulchan Shelomo 318:57 and footnote); Shevet ha-Levi 1:53.

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