Counting the Omer Today

The Gemara (Menachot 66a) teaches that Ameimar would count only the days of the Omer, but not the weeks. Ameimar’s rationale was that after the destruction of the Beit HaMikdash, we observe Sefirat HaOmer only as a zecher leMikdash, and the counting of days is therefore sufficient. The simple explanation of Ameimar’s opinion is that we wish to demonstrate that the mitzvah is incomplete, as the pasuk links the counting of sefira to the Korban Omer. Chazal wanted people to realize that we are missing the full mitzvah because we lack this korban.

Tosafot (s.v. zecher) maintains that all of the opinions in the Gemara agree with Ameimar in that sefira is deRabanan in our day; the machloket relates only to whether one must count the weeks in addition to the days.

The Rambam (Hilchot Temidin UMussafin 7:24) disagrees. He rules like the Geonim, that the psak is in accordance with the opinion of Abaye and Rav Ashi, to count both days and weeks, and that according to them, Sefirat HaOmer is deOraita even today.

One way to explain the machloket between the Rambam and Tosafot relates to whether women are obligated in Sefirat HaOmer. Despite the fact that sefira would seem to be an obvious example of a mitzvat asei shehazman grama (timebound positive mitzvah), being that it begins on a particular calendar date and involves the counting of days, the Ramban (Kiddushin 34a, s.v. vehevei) includes this mitzvah in a list of mitzvot that women are obligated in. Although some assumed this to be a misprint (see Nefesh HaRav, 1994 ed., p. 191; Divrei Malkiel 3:5), the son of the Maharam Chalavah cites this opinion in the name of the Ramban.

The son of the Maharam Chalavah proceeds to offer an explanation in the name of his father (Imrei Shefer, Vayechei 49:28; Shitot HaKadmonim, Bava Kamma, pp. 334-335). According to the Ramban, the phrase מוס נ uyפסנמִי נא זומר תرصد הת IEnumerable is not merely an identification of the calendar day on which Sefirat HaOmer begins.

Rather, the pasuk establishes that it is the hakravat haOmer which causes the obligation of Sefirat HaOmer and not the day of the 16th of Nissan. Therefore, Sefirat HaOmer is, in fact, not a mitzvat asei shehazman grama. Although the day obligates the Korban Omer, it is the korban that, in turn, is the direct cause of Sefirat HaOmer.

According to the Ramban’s understanding, that the mechayev (the obligating factor) of Sefirat HaOmer is the Korban Omer, nowadays, in its absence, the mitzvah of sefira cannot be mideOraita. This is Tosafot’s position. The Rambam, however, disagrees, and maintains that the day of the 16th of Nissan is the mechayev of Sefirat HaOmer. According to this approach, sefira remains a mitzvah deOraita even today, while women are exempt from sefira because it is a mitzvat asei shehazman grama (Hilchot Temidin UMussafin 7:24).

Thus, these two issues – whether sefira is deOraita nowadays and whether women are obligated in sefira – are interrelated, and they depend on the identification of the mechayev of Sefirat HaOmer.

Rav Chaim Brisker did not favor the above explanation of Tosafot, and offered a different explanation of the machloket between Tosafot and the Rambam (see Chiddushei HaGrach al HaShas, Menachot 66a, pp. 252-253).

According to the Rambam, sefira basman hahaz is deOraita based on the halacha that “the original sanctification of Yerushalayim and the Beit HaMikdash sanctified these areas for that time and sanctified them for all future time.”

The Mishnah in Eduyot (8:6) teaches that for this reason, “we may offer korbanot [at the Beit HaMikdash site] even though there is no [Sanctuary] building” This is, in fact, how the Rambam rules with regard to the current state of kedushat haMikdash; the makom haMikdash retains its kedusha even after the churban haBayit (Hilchot Beit HaBechira 6:14-16).

Thus, even though we are not able to actually offer the Korban Omer nowadays, since there is still a kedushat makom in the makom haMikdash, there exists a theoretical obligation to do so. The chiyuv hakrava is in place today, just as it was when the Beit HaMikdash stood, and Sefirat HaOmer therefore remains a mitzvah deOraita. Tosafot, in contrast, maintains that the Beit HaMikdash site did not retain its kedusha. As such, there is not even a chiyuv hakrava nowadays, and Sefirat HaOmer is therefore only mideRabanan.

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