

מנחות סו א:

אמר אביי מצוה למימני יומי ומצוה לממני שבועי רבנן דבי רב אשי מנו יומא ומנו שבועי אמימר מני יומא ולא מני שבועי אמר זכר למקדש הוא

ואמימר מני יומי ולא שבועי - אמר האי מניינא דהשתא לאו חובה הוא דהא ליכא עומר אלא זכר למקדש בעלמא הוא הלכך ביומי סגי (רש"י)

What is the point of contention between רבנן דבי רב אשי and אמימר regarding the format for ספירת העומר? Does אמימר agree with רבנן דבי רב אשי, that at the basic level, we include weeks and days but at the minimal level one of the two is sufficient? Or does he disagree, that fundamentally neither is required nowadays? According to this point of view, we only count today because of זכר למקדש. Do the רבנן דבי רב אשי say that the full Mitzvah is in force, just as it was during the period the Temple stood?

We have other cases where זכר למקדש provides the rationale for performing a Mitzvah in a specific way. For example, after the destruction of the Temple, Rabban Yohanan Ben Zakai established that we take the Lulav everywhere for 7 days, as they did in the Temple, instead of the one day required by the Torah (סוכה 48a). The reason for this was we pray for and hope for the speedy rebuilding of the Temple and want to ensure that we do not forget how we practiced the Mitzvah in the Temple.

The Torah prohibited the consumption of new wheat annually until the קרבן עומר was brought on the 16th of Nissan, as it says: וספרתם לכם ממחרת השבת מיום הביאכם. את עומר התנופה. In the time of the Temple, the bringing of the קרבן עומר was a pre-requisite for consuming the new wheat crop throughout Israel. The people began to consume the new wheat crop early in the morning. Since consuming the crop was only permitted after the sacrifice was offered, how did the people know that the Kohanim fulfilled their duty, and brought the sacrifice? We have an established principle that the Kohanim do not tarry and they surely brought the sacrifice at the earliest opportunity. The new wheat was prohibited for use in the Temple itself until the שתי הלחם were brought on Shavuot. After the destruction of the Temple,

Rabban Yohanan Ben Zakai also established the rule that consumption of the new wheat should now be prohibited all of the 16th of Nissan.

It is interesting to note that the *רבן יוחנן בן זכאי* regarding consuming the new wheat and the counting of the days of the *עומר*, revolve around the same Mitzvah, yet Rabban Yohanan Ben Zakai's edict was universally accepted while in the case of counting the *עומר* there was a dispute. What is the difference between these situations?

The *תקנות* formulated by Rabban Yohanan Ben Zakai were intended to keep alive the special feeling of joy felt by Jews while the Temple stood. On Sukkot, there was a special feeling of *שמחה* associated with taking the four Species for seven days in the Temple that transcended the feeling of joy felt by a Jew who was outside its confines. The people were depressed after the loss of the Temple and Rabban Yohanan Ben Zakai was afraid that they would lose hope of seeing the Temple rebuilt. In order to keep that hope alive and remind the Jew of the special joy felt in the Temple during Sukkot, Rabban Yohanan Ben Zakai extended that joy to everyone, no matter where they were. No one argued with him or tried to dissuade him from this *תקנה*. It was universally accepted by all Jews with the only limitation that we do not take the 4 Species on Shabbat. The reason we do not take the Lulav on Shabbat is similar to the reason we do not blow Shofar on Rosh Hashanah that coincides with Shabbat: we want to ensure one does not desecrate the Sabbath by carrying the Shofar or Lulav four cubits in the public domain.

Rabban Yohanan Ben Zakai's *תקנה* regarding the *עומר* was that the new wheat was forbidden for the entire day of the 16th where previously it was permitted earlier in the day after the *קרבן עומר* was brought in the Temple. He wanted to maintain the feeling of anticipation the Jew felt and his appreciation of the new crop. Their hope was the Temple would soon be rebuilt and the Jews would again look forward to the *עומר* and the *שתי הלחם*. Allowing a permissive attitude regarding the *עומר* in the absence of the Temple would create a potential problem once the Temple was rebuilt. If the Temple were to be rebuilt on the 16th of Nissan, the *קרבן עומר* would now be obligatory and the new wheat crop would again be forbidden until the sacrifice was brought. If the priests did not have the opportunity to offer the

sacrifice early on the day the Temple was restored, the people could transgress the prohibition of חדש. They might forget that the reason they were permitted in past years to eat the new wheat earlier in the day, before the Temple was rebuilt, was because of the haste in which the priests worked in the Temple. They may assume erroneously that the normative practice regarding חדש was to consume the new wheat immediately on the 16th even after the Temple was restored. They would forget to make sure that the sacrifice was indeed brought prior to consuming the new crop. Rabban Yohanan Ben Zakai's תקנה preserved the importance of the עומר among the people by reminding them that the Torah required the קרבן עומר, and the joy associated with it. He required them to wait the entire day before consuming the new crop.

In both the above cases, the impetus for the תקנה was the desire to preserve the memory of the joy associated with these activities. Rabban Yohanan Ben Zakai employed the idea of זכר למקדש as the basis for his תקנה. There was a desire, indeed need, to inspire hope and anticipation among the people.

Let us now look at ספירת העומר. The Mitzvah to count 49 days began with bringing the קרבן עומר in the Temple as the Torah required us to count in anticipation of the bringing of the sacrifices associated with שתי הלחם on Shavuot. Unfortunately, we no longer have the שתי הלחם nor the associated sacrifices. The counting itself would be inconclusive because there was no longer an event to mark the culmination of the count. At best, it would depress the people who used to count the 49 days in anticipation of something and now had nothing to look forward to at the conclusion of the count. It is similar to our eating כורך at the Seder, where we recite זכר למקדש without any blessing, ברכה, before consuming it. The missing component, the Pascal Lamb, reminds us that we cannot fulfill the Mitzvah the way Hillel did. כורך reminds us that we are missing something, the sadness associated with being unable to fulfill the Mitzvah. The best we can do is proclaim what we are doing is זכר למקדש, and look forward to fulfilling the Mitzvah completely when the Temple will be rebuilt.

The same rationale applies to ספירת העומר. Both רבנן דבי רב אשי and אממר agree that we are missing the critical bookends that surround the counting of the seven weeks

and 49 days (see Rashi quoted above.) According to the רבנן דבי רב אשי we persist in the count, just as we did before the destruction of the Temple and count both days and weeks. We do this because we want to preserve the character and format as much as possible based on the idea of זכר למקדש, where the counting the עומר is associated with sadness over the lost Temple. זכר אממר said that if the purpose is זכר למקדש, and we no longer connect to the עומר or the הלחם, we can accomplish זכר למקדש with just one of the two counts.

[See זצ"ל from Rabbi Hershel Reichman, that the Gemara derives acts done זכר למקדש from 2 sources. One source is:

כִּי אֵעֻלָּה אֲרוּכָה לָךְ וּמִמְכוּתֶיךָ אֶרְפָּאךְ נָאֵם ה' כִּי נִדְחָה קְרָאוּ לָךְ צִיּוֹן הִיא דּוֹרֵשׁ אֵין לָהּ. "דּוֹרֵשׁ אֵין לָהּ", מְכַלֵּל דְּבַעֲיָא דְּרִישָׁה

Which relates to acts of joy associated with the Temple we want to ensure Jews continue to hold on to. Another source is:

אם אשכחך ירושלים תשכח ימיני

Which relates to the association of mourning with various activities to emphasize the gaping hole in our lives due to the destruction of and absence of the Temple.]

If the reason we count today is זכר למקדש, why do we make a ברכה before counting each night? To understand this, we must look at the implementation of זכר למקדש. We already explained the rationale for זכר למקדש above. Let us compare זכר למקדש as it applies to עומר and ארבע מינים. Rabban Yohanan Ben Zakai instituted the תקנה to take the Lulav seven days everywhere, similar to the way it was taken in the Temple itself. No one disagreed as to how the Mitzvah of Lulav was fulfilled while the Temple stood. Rabban Yohanan Ben Zakai simply extended that practice that took place in the Temple, which was a Mitzvah, everywhere else. His תקנה was to

do exactly as they did in the Temple, with the exception of taking the Lulav on Shabbat. Since the custom was to make a ברכה on the Lulav each day in the Temple, the ברכה was included in the תקנה. No one disagreed with any part of the תקנה and it was accepted without question by all Israel.

Both אמימר and the רב אשי agree that ספירת העומר today cannot be fulfilled completely as we no longer can offer the עומר and שתי הלחם, and it is based on זכר למקדש, like taking Lulav seven days outside the Temple. However, counting the עומר is different than Hillel's כורך and Rabban Yohanan Ben Zakai's Lulav. There was no fully accepted תקנה how to observe the זכר למקדש associated with the Mitzvah of עומר after the destruction of the Temple. אמימר said that it would be inappropriate to skip the Mitzvah completely. Therefore, counting one of the two, weeks or days, was required to remind us of what we had in the Temple. However, both agreed that in the case of ספירת העומר, as opposed to כורך, a blessing was to be recited because it was included in the formulation of זכר למקדש regarding ספירת העומר. Rambam rules that while the Temple stood, there was no כורך as the law did not follow Hillel's opinion. The Rabbis included it in the Seder after the Temple was destroyed, precisely because of זכר למקדש, to remind us of the loss. There was no associated blessing because, with the likely exception of Hillel, there was none when the Temple stood.

With this approach, we can answer another question. We begin ספירת העומר on the second night of Passover, which outside of ארץ ישראל, is the night of the second Seder and second day of Yom Tov. Many have raised the question why don't we count 2 days each night to account for ספיקא דיומא? If we consider the 16th of Nissan is really the 15th, we should start to count on the following night, which is 17/16. The solution should have been to count both possibilities each night.

The observance of ספירת העומר, like לולב, is based on זכר למקדש. The לולב of תקנה was not subject to the question of ספיקא דיומא, because the תקנה based on זכר למקדש was specific in excluding ספיקא דיומא on the eighth day. It was to take the לולב everywhere 7 days, regardless of ספיקא דיומא. The same logic applies to עומר as well. A Mitzvah whose performance is derived from זכר למקדש is not subject to ספיקא דיומא. The תקנה for ספירת העומר was to count 49 days, with a

specific starting point, what we consider the 15th of Nissan, that was not subject to ספיקא דיומא. Indeed, during the second Temple, when the moon was sanctified by בית דין and doubts as to when the new moon was sanctified were introduced in areas outside of the bounds of Israel, those outside of Israel did indeed count 2 days מספק. רבנן דבי רב אשי and אממר lived after the period of פיראיה, when they started to rely on the established pre-calculation of the new moon. There was no need to consider the issue of ספיקא דיומא.

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