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The Prohibition on Counting Jews

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Under what circumstances may Jews be counted?

What methods may be used to count Jews?

Having just read *Parshas Shekalim*, the first of the *Dalet Parshios* (the four extra Torah readings added on Shabbos during this time of year), an oft-mentioned but oft-misunderstood mitzvah comes to the fore: The prohibition against counting the Jewish People. This article will explore the parameters of the prohibition and permissible methods of counting the Jewish People.

The background: In the beginning of *Parshas Ki Sisa* (Shemos 30:12), Hashem commands Moshe that when counting the Jewish People, every person must give a *kofer*, or atonement, for his soul, so as to avoid a plague striking them; this came in the form of a half-*shekel* coin. Rashi (ad loc. s.v. *velo*) explains that counting people causes *ayin hara*, an evil eye, to affect those counted, which can bring a plague. Rashi notes that this is what occurred during the reign of Dovid Hamelech (King David), when he counted the Jewish People, as recounted in the Book of Shmuel (Shmuel II 24).

The Gemara (Brachos 62b) speaks about this terrible plague, and states that as a consequence of Dovid saying that Hashem had incited Shaul Hamelech (King Saul) against him, Hashem allowed the Satan to incite Dovid Hamelech to count the Jewish People without taking any sort of *kofer* from them, leading to the aforementioned plague.

The Mishna (Yuma 22a) discusses the process of selecting the *kohanim* to perform the various parts of the daily *tamid* offering, and states that under certain circumstances, all the *kohanim* present would gather and would be instructed by the appointee in charge of the selection process to put out a finger. The appointee would then choose a number and go around counting the fingers until he reached the chosen number; the *kohein* upon whose finger he stopped won the right to perform the service.

The Gemara (ibid. 22b) wonders why the appointee could not simply count the *kohanim* themselves. The Gemara answers that the approach described supports a teaching of Rabi Yitzchak, who said that it is forbidden to count the Jewish People, even for the purpose of a mitzvah. The Gemara cites two instances when Shaul Hamelech indirectly counted the Jewish People, once using shards of pottery and once using sheep. The Gemara continues that Rabi Elazar said that one who does count the Jewish People directly transgresses the verse (Hoshea 2:1) that states, "And the number of the *Bnai Yisrael* shall be like the sand of the sea, which cannot be measured." Rabi Nachman bar Yitzchak says that there are two prohibitions in the verse, for it concludes "...which cannot be measured, nor counted."

Although the language used by the Gemara in Yuma indicates that counting Jews is a full-fledged negative commandment, the Chavos Ya'ir (8) says that it is Rabbinic. Nonetheless, the Shevet Halevi (1:34) states that the issue of counting directly and invoking *ayin hara* is a Torah-level injunction as expressed in the verse in Ki Sisa (albeit not an actual negative commandment).

The parameters of the prohibition: The Ramban (Ramban al Hatorah Bamidbar 1:3 s.v. *tifkidu*) wonders how Dovid Hamelech could err regarding such a basic halacha¹. Even if Dovid did make such a mistake, says the Ramban, it is clear from verses (Divrei Hayamim I 21:3) that his general Yoav, who was tasked with carrying out the census, expressed his concern regarding Dovid's plan; could Yoav

not have carried out his master's orders using *shekalim*?

The Ramban answers that using another item to count them would not have helped, since Dovid counted them unnecessarily, as there was no real need for them to be counted; Dovid wanted to rejoice at the large size of the nation. The Ramban cites a Medrash (Bamidbar Rabbah 2:17) to back up this explanation. Dovid erred in this distinction. The Radak (Shmuel II 24:1 s.v. *vayosef* [1]) also takes this approach.

The Shevet Halevi (1:34), commenting on the Radak, understands that "a need" means a Torah-related need. The Shevet Halevi further says that even when a mitzvah need is present, if there is another way to achieve the desired result without counting, albeit a more tedious one, one should not count².

The Ramban offers a second approach, explaining that while it is, indeed, permitted to count the Jewish People via another item, this is only for those age twenty and up; in this case, Dovid counted all adults from age thirteen, and erred in this matter.

The Ramban's first approach limits indirectly counting Jews to when there is a mitzvah need, while the second approach limits counting them indirectly to only those over the age of twenty. The Chasam Sofer (Shu"t Chasam Sofer 8:8), in a letter to Rabbi Yisrael of Shklov (author of the halachic work *Pe'as Hashulchan*) rules that even counting indirectly is only permitted for a mitzvah purpose³; he does not mention a distinction based on age.

However, the Ramban in *Parshas Ki Sisa* (Shemos 30:12 s.v. *ki sisa*) explains that Dovid did indeed err in not using something else to count the Jewish People, as he thought the need to use something else was not required for future generations. According to this approach, one may count indirectly under all circumstances.

The verse in Ki Sisa seems to say that merely counting them indirectly is insufficient; each person must also provide a *kofer*, an atonement, to avoid the *ayin hara*. The Gemara in Yuma, however, indicates that so long as the counting takes place indirectly, there is no issue, and makes no mention of the need for a *kofer*.

The Maharsha (Chiddushei Aggada Yuma ad loc. s.v. *assur*) explains that the *kofer* was unique to the counting of *Parshas Ki Sisa*, which occurred in the aftermath of the Sin of the Golden Calf. Due to their precarious state, an extra measure of protection, provided by the atonement of the half-*shekel*, was necessary to prevent harm from befalling the Jewish People as a result of the counting. The Maharsha says that this is why the Gemara does not invoke the counting of Ki Sisa as proof that an indirect method is required, since one could argue this was only true after the egregious Sin of the Golden Calf. *Sefer Pane'ach Raza* (authored by Rabbeinu Yitzchak ben Yehuda HaLevi, one of the *Ba'alei Tosafos*) offers the same approach.

According to the Maharsha and *Pane'ach Raza*, counting indirectly does not normally require an atonement.

² The Shevet Halevi is addressing a teacher who devised a method for counting his students which he thought might sidestep the problem of counting Jews. The Shevet Halevi says that taking attendance by calling each name is another, albeit lengthier, way of ascertaining how many students are present.

³ The Chasam Sofer does not explain his source in limiting counting to a mitzvah needs only; it is possible he based it on the Ramban's first approach (taken by the Radak, as well) and understood, as the Shevet Halevi cited above does, that "a need" means a Torah need.

¹ To be sure, the Gemara in Brachos cited above states that Hashem told Dovid that he would err in a simple halacha that even schoolchildren know. It appears the Ramban feels that missing a basic verse in the Torah warning of a plague is too extreme even for this.

The Chasam Sofer (ibid.), however, disagrees. He cites a ruling of the Magen Avraham (Orach Chaim 156:2) who says that it is forbidden to count Jews even if one does not intend to actually count them, but merely for the purpose of making a lottery. This ruling is apparently based upon the aforementioned Gemara in Yuma which links the problem of counting Jews to the need for fingers, rather than actual *kohanim*, to be counted. The Chasam Sofer proposes that such a count, which is not meant to provide the actual number of people, does not require an atonement; a census-type counting, meant to provide an actual number of people, does require a *kofer*. This, says the Chasam Sofer, explains why the Gemara does not cite the verses in Ki Sisa, but instead cites Shaul's counting of the people. Those countings, theorizes the Chasam Sofer, were also not meant to provide an actual final tally, but rather to administer various tasks to those in the military.

A number of halachic authorities address the question of counting limbs, such as hands or feet, instead of actual "people" to ascertain the number of people present. The Avnei Nezer (Yoreh De'ah 452) says that it is clear from the Gemara in Yuma that counting fingers is not the same as actually counting Jews. The Avnei Nezer elsewhere (ibid. 399) explains that only counting heads is forbidden, as the mind is the essence of a person. Shu"t Torah Lishma (386) (a collection of responsa signed by a man named Yechezkel Kachali but ascribed to the Ben Ish Chai) rules that it is permitted to count pairs of feet at a large feast to ascertain how many guests are present, and he also bases his ruling upon the use of fingers for counting *kohanim*.

Rabbi Yisrael of Shklov offered a similar proof to the Chasam Sofer. However, the Chasam Sofer in the aforementioned letter disagrees. He explains that the purpose of counting indirectly is because the count is not necessarily precise. Perhaps someone did not give his requisite half-*shekel*, or gave two half-*shekels*. In the case of counting fingers, it is possible that some *kohanim* extended more than one finger or that a *kohen* did not extend a finger at all. Thus, the count is imprecise and therefore permitted. However, if counting indirectly will still yield an exact count, it is forbidden. Rabbi Moshe Feinstein (Igros Moshe Yoreh De'ah 3:117:2) takes a similar approach.

The Chasam Sofer (ibid.) further forbids counting people even in writing. His son the Ksav Sofer (Shu"t Ksav Sofer Yoreh De'ah 106) also cites his father as forbidding this, proving it from the fact that neither Shaul nor Yo'av during their respective countings opted to count through writing to avoid the prohibition.

Based on the Chasam Sofer's letter and the other later halachic sources discussed, the following rules emerge⁴: 1) One may only count Jews indirectly for a mitzvah purpose. 2) If one is counting to obtain an actual number, such as a census, an atonement of some sort must be given. 3) Counting limbs such as hands, feet or fingers where an exact number will be obtained is no different than counting actual people according to the Chasam Sofer and Rabbi Moshe Feinstein; other authorities are lenient. 4) Counting via writing is included in the prohibition.

Understanding the prohibition: Considering that the Torah seems concerned with an *ayin hara*, it is odd that there is a problem with counting people for lottery purposes, where no final number is obtained. The Sefer Chavatzes Hasharon (Ki Sisa 30:12), based on various proofs, proposes that there are two distinct prohibitions: It is forbidden to make the number of Jews known, and it is also forbidden to engage in an act of counting Jews. The verse in Ki Sisa which discusses a plague is focused on making the number of Jews known, which causes *ayin hara*, and this was the matter in which Dovid erred and failed to understand the verse in Ki Sisa properly. The Gemara in Yuma is discussing a second prohibition against counting Jews even when no final number is obtained; the Gemara there cites the verse in Hoshea which forbids counting the Jewish

⁴ See, however, Shu"t Shevet Halevi 1:34 who mentions the Ramban's approach in Parshas Ki Sisa that one may always count indirectly alongside the Radak's approach that distinguishes between a Torah need and a non-Torah need; the Shevet Halevi does not issue a definitive ruling between the two, and makes no mention of the Chasam Sofer's stringencies.

Points to Ponder

May one put names on a spreadsheet with numbered rows?

Must one stop a child from counting people?

People.

Permissible ways to count: Considering that counting Jews is quite restricted, how may one count Jews when the need arises? For example, if one wishes to know if there are ten men present to form a *minyan*, what may be done?

The Kaf Hachayim (55:11) cites a number of halachic sources that permit mentally counting people.

There is a widespread custom to count a *minyan* by using a verse that contains ten words, using one word per person. The most common verse used is the ten-word verse of Tehillim 28:9 starting with "*Hoshia es amecha...*" Possibly, the source for this custom is the Sefer Ha'ittim (174) (authored during the 12th century by Rabbi Yehuda ben Barzilai of Barcelona), who cites a responsum from Rav Hai Gaon that one may ascertain the number of people present for a *minyan* by starting from one person and having each person say one word of a ten-word verse⁵.

It should be noted that the Sefer Ha'ittim is permitting each person to utter one word of the verse and thus calculating how many people are present based on how far the assembled get through the verse. There is no counting of any sort taking place. The custom today is that one person goes through the verse using one word per person, which is closer to counting, albeit without using numbers. The Kaf Hachaim (ibid.) notes that some people use *alef, bais...* to count people for a *minyan*, thinking that this is better than saying *one, two...*, but he says that there is no difference. It is unclear whether the Kaf Hachaim means that *alef, bais...* is equivalent to using actual numbers since they have numerical value, or if he means to forbid any "alternative" form of counting without the use of actual numbers. This author is inclined toward the latter, more stringent view, since the Kaf Hachaim permits counting people for a *minyan* only mentally, but does not mention using ten-word verses⁶.

Finally, the Shevet Halevi (9:35) rules that there is no prohibition on counting a group that includes both Jews and non-Jews, explaining that the prohibition is limited to counting Jews only. However, Rabbi Moshe Shternbuch (Teshuvos Vehanhagos 3:387) disagrees, saying that counting Jews with non-Jews is worse than counting Jews alone, as it relegates Jews to being counted like anyone else, when the verse states that the Jewish People cannot be counted. The overarching question both authorities are grappling with concerns whether taking a census is permitted in *Eretz Yisrael*; the Shevet Halevi permits it due to a variety of considerations including the fact that non-Jews are part of the count, while Rabbi Shternbuch disagrees and forbids it. Outside of *Eretz Yisrael*, it would seem there is no issue in participating, even according to Rabbi Shternbuch, since the issue is counting, not being counted, and it is the non-Jewish government that is conducting the census. In *Eretz Yisrael*, however, merely participating would pose a problem according to Rabbi Shternbuch, since one is enabling a sin to be committed by the Jews conducting the count, which violates the prohibition of *lifnei iver*, not to place a stumbling block before the blind. Other halachic authorities have weighed in on the question of census-taking, as well.

In conclusion, counting Jews is not a simple matter. Indeed, the Tzitz Eliezer (7:3), following a lengthy discussion on the subject, gives a list of 33 halachic conclusions on the matter! Because many situations arise where it is necessary to ascertain the number of people present, it is a good idea to consult a halachic authority as to the best method to do so.

⁵ The verse mentioned by the Sefer Ha'ittim is from Tehillim 5:8 and begins "*Va'ani birov chasdecha avo vaisecha...*" in which Dovid Hamelech recognizes Hashem's kindness for allowing him to come to Hashem's house. This verse is recited at the start of *shacharis* as part of the *Ma Tovu* section and is supposed to be recited upon entering the synagogue.

⁶ Based on the approach of the Chavatzes Hasharon mentioned earlier, it can be said that counting without using numbers does not violate the problem of creating an *ayin hara*, since an actual number is not used, but it is nonetheless an act of counting, whereas having each person say a number may not be counting but still creates an *ayin hara* issue since an actual number is made known. See Shu"t Shevet Halevi 1:34 regarding the latter question.

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