

HALOCHOSCOPE



This week's and next week's questions:

Are there *halachic* issues with completing a census? Specifically, may one count the number of children or of family members?

How should a Jewish organization conduct a vote, and how should it be counted?

The issues:

A) Counting Jews

B) *Ayin hara*, the 'evil eye'

C) *Toeless*, do benefits play a role

D) *Dina demalchusa*, following regulations and laws of the government

A) Counting Jews

It is generally accepted that counting Jews in the normal way is forbidden. However, explicit statements of the law are hard to find. Thus, on the one hand, those who list the *mitzvos* omit any mention of a specific *mitzvah* regarding this. This is one of the points discussed extensively by later commentaries. Furthermore, the poskim do not devote any specific section or statement to the details of this prohibition. It is cited by Rambam in passing, when discussing how the daily duties of the *kohanim* were allotted. Shulchan Aruch does not mention it at all, but it is cited in passing by commentaries discussing counting ten men for a quorum. One would expect to find these laws included where the prohibitions connected to danger are listed. Counting is forbidden, in part, due to danger. It is possible that this is the very reason that it is not expressed anywhere. Though it is a prohibition of sorts, its origin might be more connected to danger. In fact, this is the way some explain the Torah reference, at least in the mind of King David. It was not seen as an independent prohibition, but as a stated risky activity. There are other times when a number of Jews is essential. Sometimes different numbers make a difference. For example, there is a special *brocha* to be recited when a specific large number of Jews is present. Yet, the poskim neglect to mention the prohibition of counting them. There is a *halachic* issue with regard to counting guests or menu items on *Shabbos*. However, the issue raised is that one might need to read off a list. He might erase from his list, a *melacha*. The issue of actual counting is not even discussed.

On the other hand, this matter is considered so elementary that the Talmud says that Hashem caused King David to err in something that schoolchildren know! It seems to be too well known to be mentioned anywhere, but how it becomes known is not mentioned either! Due to this, the conventional explanation is that the basic idea is obvious. The details are vague. The vagueness is discussed and debated by the poskim.

First, is counting *per se* forbidden, or only when it is done for no purpose?

Secondly, does it apply to counting all of Israel, or even to small parts of them?

Third, the question is whether there is a permissible way to count, and if so, how?

Fourth, whether there is a difference between methods when the counting is done on a part, on all, for no purpose, or even for a *mitzvah*.

The reason for the prohibition is also questioned, and whether preexisting dangers due to sinning make any difference.

Are oral and written counting the same?

What about approximate counting?

Are the counters and the counted both included in the prohibition?

What if the counted mention a list of names and the counter adds them up?

Does it apply at all times, including in all generations, and whether the Jewish people are considered worthy of being 'uncountable' or not?

Does it apply in *Eretz Yisroel*, in *Chutz La'aretz*, or both?

Is the prohibition Scriptural, Prophetic, Rabbinical, or somewhere in-between?

Is it a negative *mitzvah* or a positive *mitzvah*? If positive, is it the *mitzvah* to prevent harm, or that when counting is done it should be performed in a specific manner? Or is it possible that the implication is that until instructed to count, one may not do so? Counting when not instructed to violates this implied *mitzvah*. [The positive *mitzvah* would then cause one to violate an implied negative *mitzvah* when the counting is done wrong.]

One reference comes from the blessing that Hashem gave Yaakov Avinu that his descendants 'would not be counted due to their multitude'. This is cited by later commentaries, rather than by the Talmud. In a later reference, the sons of Yaakov avoid being counted as they crossed into Egypt. Later, number of the family of Yaakov is mentioned, both on their arrival in *Mitzrayim* and at the beginning of the book of Shemos.

The main reference to a *mitzvah* comes from *Parshas Ki Sisa*. Moshe is told, 'when' he counts Israel, each must give a *kofer nefesh*, redemption for his soul, to prevent a plague. The commentaries discuss whether this refers to the *mitzvah* to count them so that they could donate equally to the *Mishkan* construction, or a general instruction, first applied to the *Mishkan*. Furthermore, it might refer specifically to the Jewish people at a vulnerable time, when they had just been implicated in the sin of the golden calf. It would seem that this was not a head count, but each person donated a half-*shekel*. These were then counted up. However, the passage can be understood to mean that they were first counted and then they had to give the half-*shekel*. In addition, the passage makes clear reference to the danger involved – the plague. This could be a reason to forbid counting, or a reason to count in a specific way, or a danger based on specific circumstances. The counting referred to could be for a specific need or plain counting.

The Torah does refer to two times that Moshe is commanded to count the Jews, at the beginning and towards the end of the book of 'Numbers', or *Chumash Hapekudim*. There are varying versions of this count. Some say that Moshe did not actually count them, but waited for the families to present their own numbers, tent by tent. Only males between twenty and sixty were counted. The Levites were counted separately, and some say differently. They were also counted more than once, and again not all souls were included. In one count only males between thirty and fifty were counted. The firstborn of the rest of Israel were also all counted.

Other Scriptural references include the wishes of Bilam to cont Israel, that were thwarted. Later in *Sefer Yehoshua* some tribes mention their multitudes, though it is un-

clear whether they were counted exactly. The main Scriptural sources for the prohibition are from the stories of King Shaul, King David and a later reference of the prophets [Hoshaia, which is the *Haftarah* of *Bemidbar*, for obvious reasons!]. King Shaul counted his soldiers, at first using pieces of pottery, but then using sheep. The reason for his change is also discussed. He gave each man a sheep, then he counted the sheep. This was not a count of the entire nation, but of a portion, and was needed for a specific purpose.

King David instructed Yoav to count the people. This was not needed at all at the time. The commentaries maintain that David did it to boost his morale, to see how many people he ruled over. Yoav protested against it, maintaining that it was not permitted. In the end Yoav did not count two tribes. The verse states specifically that David was tempted to sin by Hashem. As a result, there was indeed a plague. The commentaries discuss why the people were victimized if it was David who failed. Various explanations are given, based, in part on the prevailing conditions of their spirituality. There is much discussion on how the count was conducted. Some say that *shekalim* were also taken, but that there were other mistakes made. Much discussion is devoted to how David was enticed to make such a basic mistake. Further discussion is devoted to how Yoav carried out the instructions, and why he did it. There are two accounts of the incident, in *Nevi'im* and in *Kesuvim*. Small variations in the accounts also lead to debates.

The reference in *Hoshaia* is read by some as a blessing, rather than a *mitzvah*. However, the Talmud cites it as a *mitzvah*. Some say that this view is not necessarily the consensus. Nonetheless, it is cited as *halacha*. The Talmud discusses how a *kohain* was chosen to serve the daily chores. The *kohanim* present would stand in a circle around the person delegating the jobs. In his mind, the person chose a number. Each *kohain* put forward a finger or two. The one delegating counted the fingers until he reached the number. Thus we learn that even when not actually counting them to know their number, and even when the counting is to determine who should perform a *mitzvah*, one may not count the heads. Fingers are acceptable. In the same passage, the Talmud suggests that the worthiness of the Jewish people might relate to this. In a time that the Jews do Hashem's will, they will be uncountable. When they are unworthy, they will be countable. Some suggest that this indicates that there is no issue with counting Jews at a time that they are not fulfilling Hashem's will. However, the majority of the poskim do not accept this suggestion. The Talmud is merely differentiating between different times and types of blessing.

Some indeed consider it a Scriptural prohibition. Some consider it Rabbinical, or prevention of harm. The poskim debate whether written lists may be counted, or whether a list copied over may be counted. They also debate whether one may allow himself or his family or community to be counted. In practice, counting arises as an issue when making a *minyan*. The poskim maintain that one should use a *passuk* that has ten words, rather than count the heads by number. In the mind, one still thinks of the number, and might even mention it. However, the individual Jew is not given a number, nor does one count towards the number. When counting the majority in a *Bais Din* or in a vote, there is no indication on how it should be done. In practice, it can be done by a show of hands. If it looks close, there might be a need for more exact balloting. It can be done through *goral*, similar to lots. Pieces of paper are placed in receptacles and later compared to each other. Choosing a number of people can also be done this way. This is how the elders

were chosen [in this week's *parsha*]. In many countries, the Jewish community had to submit names, lists, and numbers to the local authorities. Apart from the often negative reasons for these lists, the actual submission raised our issues. Care was taken to avoid as much as possible violating the *mitzvos*. These *halachic* issues also arise when lists of needy candidates for *tzedaka* funds are sent to donors or collectors. The issue arises when catering a *simcha*. Some caterers ask for an exact number attending, so that they can prepare or charge exactly. Many government forms require a list of names in a family or organization. Sometimes a number of family members is required, with or without names. Finally, the issue of participating or administering a census is raised, specifically when the State of Israel first began taking a census.

Some poskim maintain that this is considered a need, since the numbers are used to determine many administrative issues. They maintain that the need may be for a non-*mitzvah* reason as well. Some add, the numbers include gentiles. There is no verbal counting, and it is only written. Some distinguish between whether the person writing it is the one counting or the counted, which can vary in a census. The counting is also not done by heads or by any part of the body. The names are listed, and these are then counted up. Some add that the families are all counted separately, then added up later. Some suggest that a number should not be used in the individual counting. The names may be written out, and then the names may be counted altogether. This is easier when a list is made up with a number on each page, then adding the pages. Some suggest that this is not considered the same as counting, since the numbers are readily available elsewhere. The census is done with other purposes in mind, such as sub-dividing groups.

Others maintain that it is decidedly forbidden, at least in the State of Israel. Many of the objections are based on the very distinctions mentioned. For example, some maintain that the main prohibition applies to counting individual families, then adding the totals. It might be possible to avoid this, by not actually counting. A list can be submitted, and the numbers can be transferred and totaled indirectly. In summary, there are ways to satisfy the stringent views. [See Vayishlach 32:12 Mikaitz 42:1-5 Vayigash 46:8 etc. Shemos 1:1 etc. Ki Sisa 30:11 etc. Bemidbar-Naso Behaalosecha 11:21 24-26 Balak 23:10, Yehoshua 17:14 etc Shmuel I 15:4 Shmuel II 24:1-17, commentaries. Brochos 62b Shabbos 148b-149a Yuma 22b, commentaries, Poskim. Rambam Temidin 4:4. Pri Chadash OC 55:1. Magen Avraham 156. Sefer Haitim 174. Alfei Menashe, Shelach. Shemesh Marpeh p. 199. Tzitz Eliezer VII:3. Hapardes Year 35 Vol X. No. 85. Shaar Yosef, end.]

to be continued

On the Parsha ... Moshe said “six hundred thousand feet, the people among whom I dwell [how will I feed them?]... [11:21] How could Moshe count them with no reason? Why count only the males between twenty and sixty? Why use the term feet? Perhaps Moshe meant to avoid counting properly. He mentioned the approximate six hundred thousand foot soldiers, that had previously been counted, rather than mention heads. Rather than include the entire people, he mentioned the number of such males. “Add to that the rest of their families!”

Sponsored by John and Lisa Earnest.

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