

## A Missed Day in the Life of the Omer

O.H. 489:8.2009

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*The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of Halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.*

שאלה: What may a person who completely forgets a 24-hour cycle of counting the Omer do vis-a-vis counting on subsequent days? May one continue counting the Omer? May one continue to count with a blessing? May one count but *without* a blessing?<sup>1</sup>

תשובה:

טו וספרתם לכם ממחרת השבת מיום הביאכם את עמר התנופה שבע שבטות תמימת תהיינה: טז עד ממחרת השבת השביעת תספרו חמשים יום והקרבתם מנחה חדשה ליהוה:

From the day on which you bring the sheaf of elevation offering—the day after the Sabbath—you shall count off seven weeks. They must be complete (*temimot*): you must count until the day after the seventh week—fifty days; then you shall bring an offering of new grain to the Lord. (Lev. 23:15-16)

In the era of the בית המקדש, the Omer existed as an offering of the first of the new barley harvest, beginning on the sixteenth of Nissan, the second day of Pesah according to Talmudic hermeneutics.<sup>2</sup> Even after the destruction of the Temple, the obligation to 'count the days' re-

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1. This responsum will not deal with the question of what to do when one forgets to count at night but wants to count the next day (within 24 hours). It is a separate (and different) legal question and utilizes different primary sources.

2. That 'shabbat' in the verse refers to the second day of Pesah is derived in B. *Menachot* 65b-66b.

mained, although as a de-rabbanan obligation.<sup>3</sup> This latter position, following the position of Amemar recorded in B. *Menahot* 66a, is part of an ongoing discussion about whether the halakhic obligation is to count by weeks, by days, or by both criteria.<sup>4</sup>

The *שאלה* generating this responsum hinges, for the most part, on the interpretation of the word 'complete' or 'תמימות', found in Leviticus 23:15-16. Is 'complete' to be taken collectively? In other words, in order to fulfill the mitzvah of counting the Omer, does one need to count the entire 49 days in succession? Or, is each day, rather, a distinct mitzvah in-and-of itself? Since the time of the Ge'onim until essentially the *Shulhan Arukh* three approaches to this question have been discussed and argued within halakhic sources.

**Approach #1: If one misses an entire day, counting may continue but without a blessing. Thus, one must count all 49 days with a blessing to fulfill תמימות.**

This approach is ascribed to the 9th century Babylonian Ga'on, the *Ba'al Halakhot Gedolot* (Rav Shimon Kayyara) and is accepted as normative by Rav Joseph Karo (1488-1575, Spain and Israel) and finally the Aharonim.

The BeHaG writes:

ואי איניש חד יומא (אי נמי תרי יומי) ולא בריך לא מברך בשאר ויומי

And if one forgets an entire day (or two days) and doesn't bless, a blessing may not be recited subsequently. (*Sefer Halakhot Gedolot, Hilkhot Atzeret*).<sup>5</sup>

This approach assumes that a complete counting entails all 49 days as an indivisible unit. An implication of this approach is that by forgetting even a single day, *temimot* can no longer be fulfilled.<sup>6</sup>

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3. See, for example, Tosafot, *ibid*, s.v. זכר למקדש הוא. For an example of a *posek* who rules it is a Toraitic obligation, see Rambam M.T. *Hilkhot Temidim U'musafim* end of chapter 7.

4. See also Rashi, B. *Menachot* 66a, s.v. אמימר מני יומי ולא שבועי. See also *Sefer Kol Bo* end of *Siman* 55.

5. In his *Terumat Ha-Deshen*, *Siman* 37, R. Issrelein quotes the BeHaG differently, but comes to the same conclusion. "We act according to the BeHaG who wrote: 'if one forgets a day, counting may not continue further.' Explanation: With a blessing, for if it was not with a blessing, what could we take from it?" He derives this explanation from his ruling earlier concerning doubtful cases. This rendering of the BeHaG is also found in the *Tur*, O.H. 489:8.

6. A note about the curious and confusing text of the BeHaG. There seem to be three different possible readings of his text, all of which impact how we read the *Shulhan Arukh*, but none of which ultimately impact our practical conclusions. The text cited above is the from the Hildesheimer edition and clearly uses the language of blessing. Accordingly, the BeHaG is either advocating continuing to count but without a blessing **or** he uses *mevarekh* as a synonym for any counting at all. The second possible reading is that cited in footnote 4 above, by the

The *Shulhan Arukh*<sup>7</sup> thus rules:

אם שכח לברך באחד מהימים, בין יום ראשון בין משאר ימים, סופר בשאר ימים  
בלא ברכה.

If one forgets to bless an entire day, whether it is the first day or any other, he counts the rest of the days without a blessing... (O.H. 489:8)<sup>8</sup>

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*Terumat Ha-Deshen* and later quoted by the *Beit Yosef* (O.H. 489: 8 s.v. *katuv be-Trumat Ha-Deshen*). That is to say, when the BeHaG claims one may not continue counting (see above, note 4) this implies that he means with a blessing. This view is also straightforward in the *Arukh Ha-Shulhan* (O.H. 489:15). A third textual variant that is not in any extant manuscript of the Behag we have seen, but found in many of the commentaries, shows that the BeHaG rules that *no* counting may continue at all, with or without a blessing. This would be a simple reading of the text you see above in the *Terumat Ha-Deshen*, without R. Isserlein's *mai nafka mina* interpretation. Why is all of this important? It impacts how we understand R. Karo's position in the *Shulhan Arukh*. 1) If the Hildesheimer edition's manuscript (cited in the text proper of this *teshuvah*) is what R. Karo based his ruling on (the Tur also uses similar language, so he certainly was aware of this version), then R. Karo is merely taking that position, as is. The counting and the blessing are inextricably combined and even raising the question of not counting at all is neither here nor there, legally. R. Karo's commentary in the *Beit Yosef* (*ibid*) seems to suggest this is what is happening, as he quotes the *Terumat Ha-Deshen* directly and adds no comment of his own. 2) The other possibility is the one alluded to in footnote 8, below. R. Karo is actually taking a safe position between the two different understandings of *temimot*. Taking the BeHaG at face value, *temimot* being broken means--no counting can continue. R. Karo would have to respect this position. At the same time, as we will show later on, most other poskim believe each and every day of the Omer is a mitzvah in-and-of itself, and missing a full day has no implication on the subsequent days. According to this read, R. Karo is taking a position that caters to both views. Count, but without a blessing. Count, because many significant poskim think the obligation to count still exists... but without a blessing, in case the obligation doesn't remain, thus avoiding a 'blessing in vain'. For a description of this approach to R. Karo's *p'sak* see R. Eliezer Melamed, *Peninei Halakhah, Hilkhhot Sefirat Ha-Omer*. (<http://www.yeshiva.org.il/midrash/shiur.asp?cat=133&id=288&q=>) This view is also seen throughout the Mishnah B'rurah on O.H. 489:8.

7. And the *Terumat Ha-Deshen*, *ibid*.

8. Note that one remains obligated to count each day of the Omer. Many Jews today incorrectly assume that if they are no longer reciting the blessing then they need not continue to count the Omer. This is an unintended consequence, and stems from a misunderstanding of the rabbinic

Additionally, according to Rav Karo, in order to avoid a *ברכה לבטלה* that might ensue, Rav Karo allows the person to count the Omer, but without the blessing<sup>9</sup>. Here, the concern for the halakhic concept of *ספק ברכות להקל* plays an integral role in his legal thinking.<sup>10</sup>

**Argument against approach #1: The BeHaG misunderstands the Midrashic significance of תמימות.**

Many Rishonim disagree with the BeHaG's understanding of *תמימות* as a requirement for 49 full days of counting without missing a single day. The major dissent from that claim contends that the word *תמימות* teaches that the obligation to count begins at night (e.g. that each day itself must be complete), implying that each day constitutes a mitzvah in-and-of itself. Rabbi Isaiah ben Mali Di Trani (1180-1250, Italy) presents both arguments in his *Sefer ha-Makriah*:

אם שכח ולא מנה באחד מהם שוב לא ימנה שאינן תמימות. אלא ודאי לא אמר  
רחמנא תמימות אלא שיתחיל מניינה מבערב ולא שיעכבו זה את זה, שכל יום  
ויום מצוה בפני עצמו.

[One might think that] If one forgets and doesn't count an entire day, subsequently, one may not count for there would not be *תמימות*. Rather, the Torah only said *תמימות* [to teach] that the counting begins at night and not that they [the days] should exclude one another; for every day is a mitzvah in and of itself. (Sof Halakha 29)

Thus, according to Di Trani, the proper legal understanding of *תמימות* is not that one needs to count every single day to fulfill the mitzvah of counting the Omer. Rather, the use of the term

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obligation to count the Omer.

9. There are differing opinions as to the force of the prohibition for a 'blessing in vain', in some cases known as an 'unnecessary blessing' (*ברכה שאינה צריכה*). See *Hiddushei Ritva* to Tractate Rosh Hashana, 29b, for an approach that categorizes the transgression as an *asmakhta*, and rabbinic. See Rambam, Mishneh Torah, *Hilkhhot Berakhot* 1:15, where he indicates the transgression is Toraitic. See also B. *Berakhot* 33a and *Shulhan Arukh* O.H. 215:4 with Mishnah B'rura 18-20.

10. There are many examples where Rav Karo takes a stringent view due to this principle, when many other Rishonim do not.

תמימות in ויקרא ספר requires that only beginning the count at night can adequately fulfill the Torah's requirement for 49 full days.<sup>11</sup> This opinion derives from the Talmud itself:

ת"ל: שבע שבתות תמימות תהיינה, אימתי אתה מוצא שבע שבתות תמימות?  
בזמן שאתה מתחיל לימנות מהערב.

"Talmud Lomar: 'Seven complete (תמימות) weeks shall be'. When does one find seven complete weeks? When the counting begins at night." (B. *Menahot* 66a)

This line of interpretation leads naturally to approach #2:

**Approach #2:** Since each day is a mitzvah in-and-of-itself, if one misses an entire 24-hour day of counting with a blessing, one may (and should) still continue to count with a blessing the next day.

The second claim Rabbi Di Trani makes is that each day is a distinct mitzvah in-and-of itself. He explains this by reading into the prevailing practice:

ומה שאנו מברכין בכל לילה ולילה שמע מינה שכל יום ויום מצוה בפני עצמו  
הוא ואין מעכבין זה את זה.

From the fact that we make a (separate) blessing every night, learn from this that each and every day is a mitzvah in and of itself and one does not prevent another. (Ibid.)

In light of this explanation, we can posit that one who misses a day of counting the Omer may subsequently pick up and continue counting with a blessing. In fact, many Rishonim agree with this view: the Meiri (Rabbi Menahem ben Solomon Meiri, 1249-1316, France),<sup>12</sup> the Ritva (Rab-

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11. For the day begins with the previous night. If one waited until the next day to count then, according to this theory, there would be roughly 12 hours wasted before the official count started and one would be unable to complete a full 49 days. Again, the midrashic understanding of תמימות does not mean that each and every day has to be counted to fulfill "complete" according to this reading.

12. *Hidushei Ha-Meiri* to B. *Pesachim* 121b. In this comment, the Meiri goes as far as to say that even if one forgets the first 48 days, one may count on the very last day!

bi Yom Tov Ibn Asevilli, 13th to 14th),<sup>13</sup> the Tosafot,<sup>14</sup> and the Rosh (Rabbi Asher ben Yehiel, 1250-1327, Germany and Spain).<sup>15</sup> The Tur (Rabbi Ya'acov ben Asher, 1269-1343) codifies this opinion while referring to two others before it:

כתב עוד בה"ג שעם שכח לברך באחד מן הימים שלא יברך עוד בימים שלאחריו. ורב סעדיה כתב שאם שכח באחד מן הימים יברך בימים שלאחריו חוץ מלילה הראשון, שאם שכח ולא בירך בו שלא יברך עוד. ורב האי כתב בין בלילה הראשון בין בשאר לילה אם שכח ולא בירך בו יברך בשאר לילות וכ"כ הר"י.

The BeHaG also wrote that if one forgets to make a blessing one of the days, then a blessing should not be said subsequently. Rav Sa'adia wrote that if one forgets an entire day, a blessing may be recited subsequently, with the exception of the first night. If one forgets (the first night) and doesn't say a blessing, a blessing may not be said any longer. And Rav Hai wrote that whether it is the first night or any other, if one forgot to make a blessing on it, a blessing may (still) be made on the remaining nights. And Rabbeinu Yonah also wrote this. (O. H. 489:8)

Characteristically, it is not explicit where the Tur himself concurs concerning פסק הלכה. He has outlined all three positions, but concludes with the one stated above. This is very similar to what we find in his father's novella to B. *Pesahim*,<sup>16</sup> where he states the position of the BeHaG, then states the position of Rabbeinu Yonah but doesn't identify a position for himself. Perhaps this is why the Tur doesn't state explicitly what he thinks the final halakha is, since he almost always rules according to his father.<sup>17</sup>

It does, however, seem that Rav Karo thinks the Tur's last comment represents his פסק, as he exerts himself to disprove the Tur's reading of Rav Hai (d. 1038.) Rav Karo does, in fact, have a

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13. *Hiddushei Ha-Ritvah* to B. *Megillah* 21a. In this comment, the Ritva claims that according to everyone if an entire day is missed, even the first counting may here also be continued. Although neither the Ritva or the Meiri explicitly state 'blessing' in either comment referred to, we are certain the term is implicit in them.

14. B. *Menahot* 66a at the end of the comment quoted earlier in the s.v. *זכר למקדש הוא*.

15. Rabbeinu Asher to B. *Pesahim*, end of chapter *Arvei Pesahim*.

16. Rosh, *ibid*.

17. And in this instance his father also does not make his opinion clear, though most later poskim assume he does, in fact, choose the latter. See R. Ovadia Yosef, *Responsa Yabia Omer*, O.H. 43:7, for a thorough classifying of the different Rishonim on this question.

reasonable objection to the Tur's understanding of Rav Hai's position.<sup>18</sup> His objection derives from his reading of the Ran (Rabbi Nissim of Gerona, 1320-1380, Spain),<sup>19</sup> which may be the other reason he dissents with the Tur and integrates both positions<sup>20</sup> in his *Shulhan Arukh*.

והר"ן כתב בסוף פרק ערבי פסחים (כח. דבור ראשון) בשם מר יהודאי בה"ג שם  
דמאן דלא מני עומר בלילה קמא לא מני בשאר לילותא [פירוש משום דבעינן  
תמימות אבל בשאר לילותא] היכא דלא מני מאורתא מני מיממא ורב האי  
חולק ואומר דאי משום דבעינן תמימות שכח באחד מן הימים נמי חסר המנין  
ולפיכך הוא אומר שאם לא ספר בלילה סופר ביום עכ"ל ומשמע דרבינו האי נמי  
לא איירי אלא בשכח בלילה ונזכר אבל היכא דלא נזכר גם ביום אפשר דסבר  
שלא יברך עוד אלא שרהינו כתב שדעת רבינו האי כדעת ר"י ול"י כיון דתליא  
טעמא דבכל לילה ולילה מצוה בפני עצמה היא ודאי אפילו אם לא נזכר ביום  
נמי מברך בשאר לילות:

The Ran wrote at the end of Chapter *Arvei Pesahim* in the name of Mar Yehudai, that the one who doesn't count the Omer on the first night, counting may not be done subsequently. [Explanation: because תמימות is required, but the rest of the nights] if one doesn't count at night, counting may be done during the day. And Rav Hai disagrees and says, "That if it is because תמימות is needed, if one forgot one of the other nights [not the first] the requisite 49 would still not be fulfilled! Therefore, Rav Hai says that if one doesn't count at night, [one may] count during the day (even for the first night)." [End of Rav Hai.] And this teaches us that Rav Hai is also only dealing with the one who forgets at night and remembers the next day, but where one doesn't remember the next day, it is possible that he [Rav Hai] reasons that making a blessing may not continue at all. However, our Rabbi [the Tur] writes that the opinion of Rabbeinu Hai is like Rabbeinu Yonah, since he [Rabbeinu Yonah] reasons that each and every night is a mitzvah in-and-of itself, so surely if one doesn't remember the next day, making a blessing on subsequent nights may continue. (Beit Yosef, O.H. 489:8)

According to Rav Karo's reading of the Ran,<sup>21</sup> Rav Hai's opinion is clearly speaking of a

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18. i.e., that no matter what night is forgotten, counting with a blessing may be done on subsequent nights.

19. End of chapter, *Arvei Pesahim*.

20. i.e., that it doesn't matter if one misses the first night or any other, subsequently counting may not continue with a blessing.

21. Seemingly the only version of Rav Hai he is aware of besides that found in the Tur.

situation of forgetting at night and remembering the next day,<sup>22</sup> not a situation of missing a full 24-hour day. Therefore, it is plausible to Rav Karo that the Tur has categorized Rav Hai incorrectly in the camp of Rabbeinu Yonah. Thus according to Rav Karo the correct reading of Rav Hai in the *Tur* should read as follows:

And Rav Hai wrote that whether it is the first night or any other, if one forgot to make a blessing on it [but remembered the next day<sup>23</sup>], a blessing may [still] be made on the remaining nights. (Ibid.)

In other words, Rav Hai's position relates to a separate legal discussion. Namely, if *temimot* is to be adhered to, may one count during the day after a missed night? According to Rav Karo, the answer could be yes. However, Rav Karo also believes that Rav Hai thinks if a blessing wasn't made the subsequent morning or afternoon, after a missed night of counting, one may not continue with a blessing on succeeding days. This reading of Rav Karo's finds support among other Rishonim as well. The *Orhot Hayim*<sup>24</sup> also reflects this reading of Rav Hai, as does *Sefer Kol Bo*.<sup>25</sup> It is therefore difficult to discern where the Tur derives his placement and version of Rav Hai. This is particularly true because the Rosh makes no mention of Rav Hai when he cites Rabbeinu Yonah.<sup>26</sup> However, this does not negate the fact that many other Rishonim believe each day to be a separate mitzvah and all hold this to be Rabbeinu Yonah's opinion.<sup>27</sup>

It is plausible that the Tur's reading of Rav Hai comes from that of the Ritz Ghayit in the name of Rav Kohen Tzedek and Rav Hai:

ומי שאכל שום וריחו נודף יחזור ויאכל שום אחר ויהא ריחו נודף

If one has eaten garlic and has strong breath, should he eat garlic again so that he shall have even stronger breath?

In other words, just because one transgression has been made, should one continue to repeat that

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22. i.e., within the same 24-hour period.

23. Within the same 24 hour period.

24. Rabbi Aharon ben Yaakov Ha-Kohen of Lunel, 1280-1130. France and Spain. *Hilkhot Sefirat Ha-Omer*, page 186. He also brings the reason for this leniency, i.e., to allow one to still fulfill *temimot* by counting during the day. According to him the mitzvah in our time is a rabbinic commandment so we are not so concerned with *temimot*.

25. Same author as above. Siman 55, *Din Sefirat Ha-Omer*.

26. The Tur records both of them with the same position.

27. Even if the Tur was mistaken about Rav Hai, both he and the Rosh can rely on the position of Rabbeinu Yonah.

same transgression? If one misses the first, or second night of lighting candles for Hanukkah, should one not be allowed to light (with a blessing?) on subsequent nights? This challenge strongly argues for the position of each day constituting its own mitzvah.

Thus far we have covered the major two approaches to the question at hand. Within the halakhic discourse there are two viable approaches.

- One may not continue to count the Omer with a blessing if a day was missed,
- or,
- One may continue with a blessing if a day was missed.

**Approach #3: If one misses the first day then a blessing may not be recited thereafter.**

There is another ruling regarding one who misses sefirat ha-omer that merits consideration. This opinion emphasizes whether or not missing the first day equals missing any other day. This opinion, already quoted above, is expressed most clearly by the Tur:

ורב סעדיה כתב שאם שכח באחד מן הימים יברך בימים שלאחריו חוץ מלילה הראשון שאם שכח ולא בירך בו שלא יברך עוד

Rav Saadia wrote that if one forgets an entire day, a blessing may be recited subsequently, with the exception of the first night. If one forgets (the first night) and doesn't say a blessing, a blessing may not be said any longer. (Ibid.)

The BaH (R. Joel Sirkes, 1561-1640, Poland) explains Rav Saadia's (Rav Saadia ben Joseph, 882-942, Egypt) position:

וטעמו של רב סעדיה גאון משום דסבירה ליה דכל ספירות הימים מצוה אחת היא התחלתה בששה עשר בניסן וגמרה בחמשה בניסן הלכך כשהתחיל לספור בלילה הראשון שהתחיל במצוה אף על פי ששכח באחד מן הימים לית לן בה ומברך בימים שלאחריו אינו רק שגומר המצוה שהתחיל בה אבל אם שכח בלילה הראשון שוב לא יתחיל לברך עוד כי אין זה מצות הספירה להתחיל בשבעה עשר בניסן או ביום אחר ומאחר שעבר זמן ההתחילה בטלה ממנו המצוה לגמרי

Rav Saadia Gaon reasons that the entire Sefirat ha-Omer is one mitzvah. It begins on the 16th of Nissan and concludes on the 5th of Sivan. Therefore, when one begins to count on the 1st night, the mitzvah has begun, and even though a subsequent night<sup>28</sup> is forgotten, there is nothing to that! [i.e. it has no halakhic significance] And one continues to make blessing on subsequent nights, for one is only continuing the mitzvah that has already been started. However, if one forgets the first night one may not begin to count anymore for the mitzvah of counting does not begin on the 17th of Nissan or any other day. Because the time to begin

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28. The debate over when the Mitzvah actually takes place, namely, the night or day is a separate discussion that deserves a paper in its own right.

the mitzvah has passed, it is nullified completely. (BaH, O.H. 489:8)

Rav Sirkes believes that according to Rav Saadia sefirat ha-omer indeed constitutes one mitzvah, with many parts. The essential element is beginning the mitzvah at its appropriate time, the 16th of Nissan. If this accomplished, then missed days subsequent to the first day are legally irrelevant.

This view is also dealt with and challenged in *Sefer Ha-Makriah*:

תדע שהרי בכל יום ויום אנו מברכין על ספירת העומר ואם איתא שאינן אלא מצוה אחת ומעכבין זה את זה כיון שבירך בלילא הראשון לא היה צריך לברך אלא היה מונה בלא ברכה.

Know, that behold, each and every day we make a [separate] blessing on the counting of the Omer, and if it is the case that it [the entire 49 days] is only one mitzvah and one [day] negates the other [in terms of being able to continue], since a blessing was said on the first night one would not need to make a blessing [subsequently], rather just count without a blessing. (Ibid.)

In other words, if sefirat ha-omer is one mitzvah, then it should require just one blessing! This seems to be a valid contradiction to Rav Saadia's position, and it is also important to note that Rav Saadia's practice did not receive support from the number of Rishonim who supported the idea of not distinguishing between the first day and subsequent days. Therefore, while Rav Saadia's position is halakhically valid in theory, for the sake of our הלכה פסק this distinction need not detain us.

### **An Old/New Approach**

Why consider offering an alternative to the prevalent tradition of discontinuing the recital of a berakhah while the counting of the omer after a day has been missed? After all, the practice is observed this way throughout most of the observant Jewish world. Can we really allow people to count the Omer with a blessing even if a previous day was missed? Why is it worthwhile to offer an alternative to this law that has been adhered to since the time of the *Shulhan Arukh*?

From the perspective of positive historical Judaism, Jewish practice is a developing organism, which moves organically rather than linearly. Jewish law rarely speaks only in one voice, and often evinces a range of responses that reflects the life of the Jewish people in different ages and locations. A healthy respect for halakhic pluralism encourages reclaiming a more flexible alternative to the stringency of prohibiting recital of a berakhah after a 24-hour lapse.

A second consideration emerges from the nature of how our people grow in observance. Judaism, while affirming the obligatory nature of halakhah as a whole, has encouraged a pedagogy of gradual growth and a resistance to the kind of all-or-nothing mentality that would preclude most of our people from exploring the possibility of a deeper engagement with halakhah and mitzvot. תפסת מרובה לא תספת, excessive stringency may discourage growth in mitzvah observance. We must help cultivate an atmosphere of increasing observance by celebrating each positive step forward, rather than necessarily imposing a stultifying all-or-nothing approach to observance. To encourage our people to grow gradually in mitzvot in a host

of areas is a prudent pedagogical response both to the living nature of Torah and to creating access for our people to meaningful growth in *shmirat mitzvot*.

In light of the encouragement Judaism offers to exploring greater observance and our recognition that many Jews can only reclaim their heritage if encouraged to move from where they are gradually, it is counter-intuitive and counter-productive to always assert a rigid line separating those who observe the mitzvah each and every day from those who might occasionally forget. As we seek to help Jews maximize their observance, maintaining a rule which discourages engagement in the mitzvah seems misguided and out of character.

At the same time, this return to permit an earlier position is rooted in education and a pedagogy of encouragement and gradualism, rather than in an ethical imperative. As such, there is no need to prohibit the form in which most Jews have observed sefirat ha-omer since the time of the Shulhan Arukh. Jews who observe this mitzvah ought to be able to rely on the historical consensus of generations of faithful Jews, and we are not interested in calling that commitment into question.<sup>29</sup>

Accordingly, we seek to reopen a premodern approach to Sefirat ha-Omer as more in keeping with a textured approach to observance and Torah in general, while still affirming the validity of the more recent position that prohibits reciting a blessing after a 24-hour omission.

A *Mara D'Atra* may certainly hold that it is unnecessary to modify the accepted law, after all: מנהג אבותינו בידינו! This is a legitimate halakhic position, where the burden of proof is properly placed on the one who seeks to change the accepted norm. It is hereby affirmed as valid for the *Mara D'Atra* to rule that one may not recite a blessing after missing a 24-hour cycle of Sefirat Ha-Omer. It bears restating that even under this approach one should still continue to count each day of the Omer, merely omitting the blessing that normally would precede the counting.<sup>30</sup>

However, we believe there is strong halakhic and social evidence to suggest that a second approach may be adhered to if the *Mara D'Atra* so chooses for his/her community. This theory relies on what could happen during the Omer in one's synagogue. It is surely plausible that a typical congregant might be moved after answering "amen" to the Shaliah's Omer blessing in synagogue and say something like this: Rabbi, I loved your drash on the Omer being connected to Shavuot and since I cannot be in synagogue tomorrow night, may I recite the blessing at

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29. There are those that would have us definitively choose one approach over another. We feel differently. The reason we take caution to explicate the old/new alternative stems from our desire to make a cogent and compelling extra-legal argument (to accompany the strict legal arguments above) for those who would like to deviate from the traditionally practiced custom. Or, *the burden of proof is on the one who wants to offer an alternative practice.*

30. We would, of course, caution all *poskim* from causing any public (or private) embarrassment to a person who forgot to count. This could, in some circumstances, demand a *posek* choose one position or another at a daily *ma'ariv minyan*.

home? This person has not yet started counting. Traditionally, the Rabbi would have to advise the congregant to count without a blessing. Practically though, we believe that this could deny the opportunity for a positive religious experience, growth in mitzvot, and when applicable, *teshuvah*.<sup>31</sup> Furthermore, it is entirely possible that many individuals exist within the congregation who are meticulous about counting every night. For this individual, who misses a day or two for whatever reason, it would be unfortunate to necessarily disallow the continuation with a blessing with so much halakhic support for allowing one to continue with a blessing.

The power of making a blessing is significant. In Jewish tradition, it is hard to separate an act from its accompanying blessing, even in light of the halakhic dictum, *כי הברכות אינן מעכבות*. In the words of Rabbi Jeffrey Cohen, "Through the medium of its brief *berakhot* formulae, Judaism enables us to express a momentary flush of spiritual wonderment as a response to all the varied experiences of life. If our people have been hailed, justifiably, for their literary capability and intellectual creativity, the ritual of *berakhot* must be given its share of credit for having made us reflective, contemplative, and keenly sensitive to all the stimuli and phenomena of life and nature."<sup>32</sup> We would not want to deny any of our congregants, to whom we are trying to bring a love and sense of awe for the Holy One through the *Masorah*, the ability to experience this possibly transforming moment.<sup>33</sup> This is especially true where the force of a significant amount

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31. A similar argument is made by R. Shlomo Zalman Braun in his commentary to the *Kitzur Shulhan Arukh*, *Shearim Metzuyanim Be-Halakhah* (120:4). We'll quote it in full:

***One counts without a blessing*** (D"H from the Kitzur S"A): This is the opinion of the *Shulhan Arukh* and the *Ahronim*. [But] see in *Sefer Otzar Ha-Hayyim* (R. Yitzhak Safran from Karmona, 1806 - 1874) who brings [the opinion] that if one forgets to count [a 24-hour period] counting may continue with a blessing since the majority of Rishonim interpreted each and every day to be a mitzvah in-and-of itself. And he [Otzar Ha-Hayyim] also brought that all the rebbes that were students of the Besht followed this practice [end quote Otzar Ha-Hayyim]. And I [Rabbi Braun] heard that the reason they followed this custom [of continuing with a blessing] against the *Shulhan Arukh* is because earlier times are not like later ones (i.e., the time of R. Karo is different from our time). Earlier, people were meticulous about counting the Omer and if they forgot to count once, they still counted but without a blessing, since blessings don't prevent one from fulfilling the obligation. But in our time [strict] religious Judaism is declining rapidly and if we tell someone to keep counting without a blessing, [this person] will think that they aren't actually fulfilling any obligation and won't be scrupulous to continue counting [at all]! Therefore, instruct those who come and ask [what to do if they miss a day] that they should count with a blessing, since in any event this was the opinion of the Rishonim.

32. Cohen, Rabbi Jeffrey. *Blessed Are You* (NJ: Jason Aronson Inc, p. 133)

33. We could assert that in this case, since the Omer is tied to Shavuot and *matan* Torah, this is a strong possibility.

of literature from the era of the Rishonim stand behind the halakhic permissibility of reciting this blessing.

**P'sak Halakhah:**

We therefore assert that the *Mara D'Atra* of each Jewish community is empowered to choose either of the following two permissible halakhic approaches:

1. As Rav Karo indicates in the *Shulhan Arukh*, if one misses a day of the Omer, one should continue to count, but without a blessing. Only one who has counted continuously is eligible to be the שליח ציבור (*shaliach tzibbur, prayer leader*) to lead the congregation in sefirat ha-omer.

2. If one misses a day of the Omer, whether the first or any other, one should continue to count with a blessing.

A. Such a Jew may serve as שליח ציבור for ספירת העומר and fully discharge the חיוב of any individual in the community.

B. Even with this approach a *Mara D'Atra* might seek to accommodate those following both approaches by deciding to permit a lenient approach regarding the individual while still affirming the more stringent approach for the community as a whole. That is to say, the *Mara D'Atra* might permit an individual to continue to count with a blessing while the communal practice would remain that the שליח ציבור would be an individual who has not missed a single 24-hour period of counting.<sup>34</sup>

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34. That might be to ensure that all are yotzei according to all opinions. For that reason a Rabbi might decide to only choose a ש"ץ (prayer leader) who has counted everyday with a blessing.