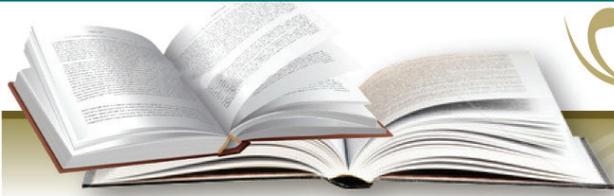


TORAH & HORAAH



Emor 5777

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Dear Reader,

We are due next week to celebrate the day of Lag Ba'Omer, a day whose hidden elements by far exceed its revealed ones.

On a revealed level, the joy of the day draws from the disciples of Rabbi Akiva, who ceased to die on Lag Ba'Omer. This, however, raises an obvious difficulty: The reason they ceased to die was because there was nobody left! How can this be a cause for celebration?

We have addressed this question in this week's article. However, here we will present the approach given by the Maharal (Nesivos Olam, Torah 12):

“On Lag Ba'Omer, which is the eighteenth of Iyar, they stopped dying – for the name Iyar has the same numerical value as *orech*, and the eighteenth

This week's article discusses the issue of listening to music during the Omer period. Is there a prohibition against listening to music in the Omer period? What is the source for the prohibition? Is there a distinction between different types of music? What is the halacha concerning singing only? These questions, among others, are discussed in this week's article.

This week's Q & A addresses the question of inviting somebody to a Bris.

Music During Sefiras Ha'Omer

The period of the *sefirah* is not inherently a time of mourning. As the build-up to Shavuot, it is considered by the Ramban as an extended *Chol Hamo'ed* (joining Pesach and Shavuot)—a time of joy rather than of sadness.

Yet, due to the death of Rabbi Akiva's disciples which Chazal note occurred between Pesach and Atzeret, the joy of the time is marred, and the *Shulchan Aruch* (*Orach Chaim* 493) rules that several activities are customarily prohibited during this period.

Specifically, two prohibitions are mentioned: one must not hold weddings during the time of the *sefirah*, and one must refrain from taking a haircut.

Beyond weddings and haircuts, whose absence certainly serves to dampen our joy in the Omer period, another prominent element of the *sefirah* is the issue of listening to music. In the modern age we are surrounded by music. We hear it in cars and in buses, on earphones and on stereos, at events, at home and in the workplace. The absence of music from our lives makes a big difference.



of the month is *chai*, forming *orech chai* (a long life). Therefore, they stopped dying, for the torah is “long life upon its right.” After they received their punishment in thirty-two days, corresponding to *kavod*, long life returned to them on the eighteenth of Iyar, which is *orach chai*.”

Based on the interpretation of the Maharal, we understand that the day of Lag Ba’Omer is not celebrated because the disciples of Rabbi Akiva ceased to die; on the contrary, the disciples of Rabbi Akiva ceased to die because of the special nature of Lag Ba’Omer!

During the count of the Omer, the disciples of Rabbi Akiva were punished for not showing appropriate respect to one another; they were found undeserving of receiving the Torah on Shavuos.

However, their deaths stopped on Lag Ba’Omer, following the completion of thirty-two days, as the numerical value of *kavod*, honor. On the thirty-third day, a new concept of life descended to the world: the elevated life of Torah,

Is there a prohibition against listening to music in the Omer period? What is the source for the prohibition? Is there a distinction between different types of music? What is the halacha concerning singing only (*a capella*)? These questions, and others, are discussed below.

Dancing and Music

As noted, the extent of our mourning in the Omer period is limited in Chazal to weddings and haircuts. This is all we find in early authorities. The Rambam does not mention mourning practices of the *sefirah* at all, but the Shulchan Aruch (Orach Chaim 493:1-2) notes the custom to refrain from weddings and from haircuts.

However, the *Magen Avraham* (551:10) mentions that in the Three Weeks between the 17th of Tamuz and the 9th of Av, it is forbidden to engage in dancing. Although he does not write this for the *sefirah* period, later authorities assume that there is a correspondence: if the customary mourning of the Three Weeks includes refraining from dancing, it follows that the same is true of the *sefirah* period.

Furthermore, many authorities extend the prohibition to listening to music. The *Aruch Hashulchan* (Orach Chaim 493:2) writes that if dancing is prohibited, music is certainly forbidden—implying that music is a greater joy than dancing. This position is upheld by Rav Yitzchak Yaakov Weiss (*Shut Minchas Yitzchak* 1:111), who mentions several proofs that music is a more intense means of celebration than dancing, and should therefore be included in the customary prohibition.

Silence of Early Authorities

If listening to music is included in the customary mourning of the *sefirah*, how is it that early authorities make no mention of this practice?

In addressing this question, *Kapei Aharon* (no. 52) argues that while listening to music is forbidden during the *sefirah*, during the Three Weeks and also during the twelve months of mourning

over a parent, it was not mentioned by early authorities because anyway it is forbidden to listen to music all year round.

While the question of listening to music the year round involves a number of disputes among authorities, it is certainly true that many early Poskim adopted a severe stance toward music, following the Rambam (*Laws of Fasts* 5:14) who records a blanket prohibition on music and singing.

The Shulchan Aruch (*Orach Chaim* 560:3), the Bach (560), the Magen Avraham (560:9) and the Yam Shel Shlomo (*Gittin* 1:17) are thus all stringent on this matter, the latter writing that “even singing outside of a banquet is prohibited, and it is only permitted on an occasional basis.” *Shut Iggros Moshe* (*Orach Chaim* 1:166) likewise writes that one should be stringent to follow the opinion of the Shulchan Aruch.

Today, we are generally lenient in listening to music most of the year. Poskim give several reasons for this: the fact that we are used to music, and therefore do not rejoice at every sound of music; the difficulties of life and the prevalence of depression, which justifies listening to music; the fact that music can bring us closer to Hashem (see *Chelkas Yaakov* 1:62; *Shut Shevet Halevi* 6:69; 8:127; *Shut Mishnah Halachos* 6:106). However this is a new trend, and for this reason we cannot expect early authorities to relate to music in the *sefirah*.

In fact, *Shut Iggros Moshe* writes that during these several weeks a year, we simply live by the original prohibition against listening to music. There is no need for a prohibition. In the *sefirah* period we simply discard the customary leniency.

The Force of the Custom

One way or another, the it is clear that virtually all Poskim, spanning the spectrum of halachic Judaism, concur that one may not listen to music during the Omer period (see *Shut Yecheveh Daas* Vol. 3, no. 30, Vol. 6, no. 34; *Mishnah Halachos* Vol. 8, no. 188; *Hilchos Chagim* of Rav Mordechai Eliyahu, Chap. 20, no. 47; and many others).

which promises life to its adherents in this world and in the next (*Avos* Chap. 6).

The two halves of the Omer are represented by the words *lev tov*, “a good heart,” which Rabbi Yochanan b. Zakai saw as the choice disposition (*Avos* Chap. 2). The first half is a matter of *lev*, a word whose numerical value is 32 – a matter of refining the dispositions required to receive the Torah. The second half is *tov* (17), the goodness of Torah itself, which begins to appear from the day of Lag Ba’Omer.

It is perhaps for this reason that the great light of Rabbi Shimon b. Yochai’s Torah shone upon the world specifically on this day: The day of Lag Ba’Omer is the day of *tov*, a day that follows the refinement achieved in the first half of the count, and which leads directly to Shavuos.

May we make the most of the days that remain before the advent of Shavuos, and come to the great day with the perfection of a “*lev tov*.”

Rav Yitzchak Yaakov Weiss suggests that on account of the customary prohibition, it is possible that listening to music might even become a Torah prohibition. This is because the force of custom might form a *neder*, a binding vow. He proves further that this type of prohibition can even be passed on from one generation to the next, deriving his contention by citing a responsum of the *Chasam Sofer (Yoreh De'ah 107)* concerning *chalav akum*.

Furthermore, although following *Lag Ba'Omer* (based on the common custom) it is permitted to take haircuts, the *Eliyahu Rabba (493:1)* expresses a *safek* over whether dancing—and by the same token, music—is permitted during this time. This is noted by the Shaar HaZion (4).

Indeed, Rav Shlomo Zalman Auerbach stated that the custom is to be stringent on this matter (quoted in *Bein Pesach Le-Shavuot*, Chap. 15), and it is therefore forbidden to listen to music throughout the Omer period (with the exception of *Lag Ba'Omer*), even on days when haircuts may be taken. This indicates the gravity with which the matter is treated.

Having said this, there are several leniencies that may be taken into account.

Possible Leniencies: Vocals and Classical Music

The approach taken by Rav Moshe Feinstein (Vol. 1, no. 166) is particularly interesting. After discussing the general prohibition on music, he writes that there are little grounds for permitting purely instrumental music throughout the year. He continues by stating that even if

one is lenient during the year, he should at least observe the *halachah* properly during the *sefirah* period.

Based on this approach, there is room to suggest leniency concerning listening to vocal singing, without musical accompaniment, during the Omer period. This is because even the stringent opinions concerning listening to music concede that during the year one may listen to vocal singing when unaccompanied by instrumental music (minority opinions are stringent even for this). It therefore stands to reason that one may hear and sing this type of music during the *sefirah* period.

Indeed, this argument is reflected in the words of Rav Feinstein, who concludes: “In days of the *sefirah* it is prohibited, even according to lenient opinions, to listen to instrumental music.” The implication is that instrumental music is forbidden, while vocal music—singing alone—is permitted.

Along similar lines, Rav Eliyahu Schlesinger (*Shoalin Vedorshin* Vol. 4, Chapter 37) explains that there is room for leniency concerning soothing or emotional music.

As mentioned, authorities derive the prohibition on music from the *Magen Avraham's* ruling concerning dancing. One can suggest that this derivation applies specifically to joyful and dance-inducing music, and not to classical or slow music. Furthermore, the *Maharam Schick (Yoreh De'ah 368)* ruled that in principle it is even permitted to listen to sad music during personal *aveilus*. It is reasonable to apply this distinction to the Omer period, and thereby permit sad or slow music.

For these reasons, and also based on a verbal ruling of Rav Moshe Feinstein, Rav Schlesinger ruled that a religious radio station may play such music during the Omer period.

However, it is important to note that this ruling was given in the context of extenuating circumstances (such as a radio station, where the concern is that people will listen to alternative stations which pay no attention to the *sefirah*), and not as a blanket leniency. Excepting these circumstances, the general custom is to refrain even from quiet and classical music during the *sefirah* period.

Additional Leniencies for Music

Poskim mention a number of additional leniencies with regard to playing and listening to music:

It is permitted for somebody whose livelihood depends on playing musical instruments to play music (to practice or for goyim) during the Omer period. As Rav Moshe Feinstein writes (*Iggros Moshe, Orach Chaim* Vol. 3, no. 87), it is permitted to study music, or to teach music, when one does so for reasons related to one's livelihood rather than for pleasure (see also *Seder Pesach Kehilchaso*, Chap. 12, no. 16; *Tzitz Eliezer* Vol. 16, no. 19).

Some authorities write that it is permitted to play music at a celebratory mitzvah feast (*se'udas mitzvah*), such as the occasion of a *bris*, the inauguration of a *Sefer Torah*, a *pidyon ha-ben*, a *siyum maseches*, and so on (*Sheyarei Kenesses Hagedolah, Orach Chaim* 551, Glosses to *Beis Yosef* no. 33; *Shut Chaim Shaal* Vol. 1, no. 21; *Yecheveh Daas* Vol. 6, no. 34; see also

Iggros Moshe, Orach Chaim vol. 2, no. 95 and *Even Ha-Ezer* 1:97).

See also *Teshuvos Vehanhagos* (Vol. 5, no. 338), who makes a distinction (concerning music at a *sheva berachos*) between the Omer period and the mourning period of the Three Weeks.

Note that the leniency only applies to a true *seudas mitzvah*, and music may not be played at an engagement party or a *bar mitzvah*, even though there is something of a mitzvah involved (based on *Magen Avraham* 493:2 and *Mishnah Berurah* 493:3 concerning dancing). Indeed, it is clearly the custom to refrain from music at bar mitzvah celebrations in the *sefirah*.

Moreover, some Poskim are stringent concerning this matter, and forbid music even at a *se'udas mitzvah* (see *Minchas Yitzchak* Vol. 1, no. 111, quoting *Daas Kedoshim*).

It is likewise permitted to play music to calm a young child (who has not reached the age of *chinuch*), or to calm and sooth the sick (*Shut Devar Shalom*, Vol. 4, no. 80; *Nitei Gavriel, Pesach* Vol. 3, Chap. 53, no. 5, 7). It is likewise permitted to listen to music while driving, if the purpose of the music is to keep the driver alert. One should preferably play slow (classical or other) music, and not dance music.

Listening to Recorded Music

According to many authorities, there is no distinction between recorded and live music. Rav Moshe Feinstein (*Iggros Moshe, ibid*) thus writes (concerning the issue of music for the

year round) that a recording has the same status as the original: Recorded voice has the status of vocals, whereas recorded music has the status of music. This is also the ruling of Rav Shmuel Wozner (*Shevet Halevi* 2:57; 6:69).

Some, however, treat recordings with greater stringency than live singing, and write that an electronic device is also considered an instrument. Based on this assumption, even recorded vocals are considered ‘listening to music,’ and would be prohibited (see *Tzitz Eliezer* 15:33; *Shevet*

Halevi 8:127).

A more lenient possibility is suggested by Rav Yaakov Breisch (*Chelkas Yaakov* 1:62), who makes an interesting distinction between recorded music and music on the radio. He suggests that while recorded music may be prohibited on the grounds that the music player is considered an instrument, a radio cannot be called an instrument, and is therefore not included in the general (year round) prohibition on music. The general custom does not follow this leniency.

Halachic Responsa

to Questions that have been asked on our website dinonline.org



The Question:

Is there a halacha that says that if one is invited to a Bris he must attend?



Answer:

The Rema (Yoreh De'ah 265) writes that somebody who refrains from attending the se'udah (festive meal) of a bris is considered “excommunicated from Heaven.”

This comment is based on the Gemara (Pesachim 113b) and Tosafos (Pesachim 114a) – Tosafos cites from the Midrash that one who eats at a Seudas Bris Milah is spared from the tribulations of Gihennom.

For this reason, the Pischei Teshuvah (265:18; see also Aruch Ha-Shulchan 265:37) cites that one should not invite others explicitly to the se'udah.

Indeed, we find that the meal of a Bris is compared to a Korban (see Biur Ha-Gra Yoreh De'ah 265:40), which is why some are particular to have a meaty meal.

However, somebody who can't attend for reasons of being occupied, whether at work or for another pressing cause, does not have to be concerned for this. Because his failure to attend the Bris is not due to his disregard for the mitzvah, but rather due to circumstances, he does not fall under the ruling of the Rema.

See also Otzar Ha-Bris no. 163.

Best wishes.