

The Halachic Controversy Concerning the Israeli Census

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The United States conducts a census each decade for the purpose of determining the population of the country and of its various geographic areas. Quite apart from the matter of reapportionment of congressional districts, the demographic information compiled in this manner is of highly significant value in economic planning. Other information elicited in the course of taking the national census provides valuable information regarding many facets of changing sociological conditions. Censuses are similarly undertaken by other countries for the selfsame reasons. There have been no indications that any sector of the Jewish community in the diaspora has demurred with regard to participation in a national census.

Not so in the State of Israel. Newspaper accounts describing the recently completed census undertaken by the government of Israel — the fourth since the establishment of the state of Israel — are replete with reports of refusal to participate on the part of certain groups within the Orthodox community and of rabbinic disagreement with regard to the permissibility of participation.

The census of 5743 was, however, by no means the first occasion on which this matter received the attention of rabbinic

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scholars. The earliest item dealing with the question of a modern-day census appears to be a responsum written by R. Ben-Zion Uziel, *Mishpetei Uzi'el, Choshen Mishpat, Inyanim Kellaliyim*, no. 2, reprinted in *Piskei Uzi'el* (Jerusalem, 5737), no. 40. That responsum, dated 4 Tammuz 5697, predates the establishment of the State of Israel and was written at a time when the census was apparently undertaken in a less formal manner by the national labor union and local authorities. Subsequent to the establishment of the State, on the occasion of the second census which was conducted in 5721, responsa dealing with the propriety of a census undertaken by a Jewish state were authored by a number of leading rabbinic scholars. Of these, the most significant are the responsa of R. Yechiel Ya'akov Weinberg, *Ha-Pardes*, Tammuz 5721, reprinted in *Seridei Esh*, II, no. 48, and of R. Eliezer Waldenberg, *Tzitz Eli'ezer*, VII no. 3.¹ Rabbi Weinberg found no objection to participation in the census, while Rabbi Waldenberg presented a lengthy discussion of the manifold aspects of the problem and expressed strong reservations with regard to its permissibility.

Public controversy concerning the halachic propriety of the Israeli census dates at least to the third census conducted in 5732. At that time, the then Chief Rabbi, Rabbi Iser Yehudah Unterman, issued a statement declaring the census to be permissible according to "the majority of the authorities." That statement has now been published in *Techumin*, IV (5743), 335. At the same time, however, formal prohibitions against participation in the census were issued by the *Bet Din* of the *Edah ha-Charedit*, headed by R. Yitzchak Ya'akov Weiss and by the Steipeler Rav, R. Ya'akov Kanievsky of Bnei Brak. The text of those pronouncements was published in

1. Other items which appeared at that time include: R. Joseph Kapah, *Ha-Tzofeh*, 2 Tammuz 5721; R. Mordecai Yehudah Leib Zaks, *Ha-Torah ve-ha-Medinah*, vol. XI-XIII (5720-5722); R. Saul Israeli, *Shanah ba-Shanah*, 5722, reprinted in *Amud ha-Yemini*, no. 13; and N.B. Lerner, *Machanayim*, Sivan 5722. R. Menachem Kasher's discussion, published in the addenda to *Torah Shleimah*, (Jerusalem, 5724) was also occasioned by the census of 5721. At a much earlier time, an article by R. Shemaryahu Weinson analyzing the nature of King David's transgression in counting the populace was published in *Knesset ha-Gedolah*, IV (Warsaw, 5651), 155-159.

No'am XVI (5733), 89. Rabbi Kanievsky's *issur* of 5732 has been reissued by his son in conjunction with the present census.² The *Edah Ha-Charedit* also reissued its original pronouncement in cautioning against participation in the present census.³ The same volume of *No'am* contains two articles expressing a permissive view authored by Rabbis Nathan Zevi Friedman and Menachem Kasher. Rabbi Kasher's contribution is a reprint of material included in the addenda to his *Torah Sheleimah*, XI (Jerusalem, 5724), and also appears in his responsa collection, *Divrei Menachem*, I, no. 36.

The halachic problems attendant upon participation in a census have received renewed attention in conjunction with the census of 5743. Of particular interest is a brief, annotated monograph bearing the title *Mispar Benei Yisra'el* devoted to the laws of "counting the children of Israel," authored by Rabbi Joel Schwartz, *mashgiach ruchani* of Yeshiva Dvar Yerushalayim, and published by that institution. A valuable discussion of the sources is presented by Rabbi Menachem Friedman, Rosh Yeshiva of Kolel Chasidei Belz of Jerusalem, in *Ha-Machaneh ha-Charedi*, 28 Sivan 5743. Rabbi Friedman's articles on halachic topics are regularly featured in *Ha-Machaneh ha-Charedi*, an excellent news and feature weekly published by the Belz chasidic community. The halachic problems attendant upon participation in a census are also discussed by Rabbi Shlomo Goren in a three-part article which appeared in the weekend edition of the Israeli newspaper *Ha-Tzofeh*, 29 Sivan, 6 Tammuz and 13 Tammuz 5743. Disclaiming responsibility for issuing a definitive ruling since he is no longer Chief Rabbi, Rabbi Goren fails to present an unequivocal conclusion, but formulates several arguments auguring against participation. A number of novel insights are advanced by Rabbi Chaim Kanievsky in a brief section devoted to a discussion of the census issue included in his recently published comprehensive work on the *mitzvah* of *eglah arufah*, *Nachal Eitan* (Bnei Brak, 5737) 6:10, sec. 7. Rabbi Chaim Kanievsky is the son of the Steipeler Rav and is a prolific author and recognized scholar in his own right. A valuable bibliography as

2. See *Ha-Tzofeh*, 15 Sivan 5743, p. 8, col. 1.

3. See *Ha-Edah*, Parshat Be-Ha'alotekha, 5733.

well as description of the manner in which the present census was conducted is presented by R. Yochai Baruch Rudick, *Techumin*, IV (5743). Appended to that article are facsimiles of the census forms employed, the statement of Rabbi Unterman issued in 5732, a statement issued by R. Chaim Kanievsky in 5743 as well as a statement by the present Chief Rabbis of Israel.

The Sources

A prohibition against counting Jews is recorded by Rambam, *Hilchot Temidim u-Musafim* 4:4; *Magen Avraham, Orach Chayyim* 156:2; *Pri Chadash, Orach Chayyim* 55:1; and *Kaf haChayyim* 13:10. Various scriptural verses are cited as the basis of the prohibition.

1. The source which suggests itself most readily is Exodus 30:12. Moses is commanded to count the children of Israel by collecting a half-shekel from each person in order "that there be no plague among them when you number them." Indeed, the Gemara, *Berachot* 62b, depicts God as telling David, "Behold I will make you stumble over a matter which even school children know, namely, that which is written, 'When you take the sum of the children of Israel according to their number, then shall they give every man a ransom for his soul unto the Lord ... [that there be no plague among them].'" Here the Gemara declares that even "school children" are aware of a prohibition expressed in Exodus 30:12.

This verse also serves to explain that counting the people of Israel is prohibited because of an inherent danger, viz., the danger of plague attendant upon direct counting of individuals. Rashi explains that the rationale underlying the prohibition against censusing is danger resulting from an "evil eye." This concept is explained by Rabbenu Bachya, Exodus 30:12, as predicated upon the manner in which divine providence is manifest. Providence may extend to an individual either *qua* individual or as a member of a larger group. When providence is directed toward a group even an undeserving individual may receive benefits since judgment is made with regard to the preservation and well-being of the group as a whole. However, when providence is directed toward an individual *qua* individual only his personal actions and merit are considered in

determining whether he is to be deemed worthy of divine guardianship. The counting of individuals, explains Rabbenu Bachya, has the effect of singling out the individual counted in this manner for particular scrutiny. If he is found lacking in merit he may receive punishment for misdeeds which otherwise might escape scrutiny. By way of analogy, Rabbenu Bachya draws attention to the words of the Shunammite woman. Elisha asked her, "what is to be done for thee? Wouldst thou be spoken for to the king or to the captain of the host?" And she answered, "I dwell among my own people" (II Kings 4:13). The Shunammite woman did not wish to be singled out for mention to the king or to the captain of the host. So long as she remained anonymous she had nothing to fear from them. She was fearful, however, that were Elisha to cause those individuals to focus their attention upon her, the result might be detrimental rather than beneficial.⁴

2. Yet, elsewhere, *Yoma* 22b, the Gemara adduces entirely different sources in establishing a prohibition against a numerical survey of the Jewish population. R. Yitzchak declares that it is forbidden to count Israel "even for purposes of a *mitzvah*" and derives the prohibition from I Samuel 11:8. Prior to engaging in battle to defend his nation against Nahash the Ammonite, an encounter which clearly constituted a *milchemet mitzvah*, Saul found it necessary to have an accurate reckoning of the populace. Accordingly, "He counted them *be-vazek*." R. Yitzchak interprets this phrase, not as identifying the town or village in which the census was taken, viz., Bazek, but as indicating the means by which the count was ascertained. The word "*bazek*" is interpreted as denoting shards of pottery. Thus Scripture reports that each person delivered a shard of pottery to be counted by the census-takers. The

4. See also Seforno, Exodus 30:12. Cf., however, Ralbag, Exodus 30:12, and *Akeidat Yitzchak*, *Parshat Tazri'a*, *sha'ar* 61, as well as *Kli Yakar*, Exodus 30:12. For amplification of Rambam's position regarding the evil eye see *Teshuvot ha-Rambam* (ed. Friemann), no. 260; *Migdal Oz*, *Hilchot Shechenim* 2:16; and *Bet Yosef*, *Choshen Mishpat* 158. See also Me'iri, *Pesachim* 109b. Cf., Abarbanel's commentary on Exodus 30:12 in which he offers a naturalistic explanation of the harm caused by the "evil eye."

inference drawn by R. Yitzchak is that this cumbersome method was necessary because direct counting is forbidden.

In response to the objection that "bazek" may be a place name, the Gemara cites I Samuel 15:4, "and Saul summoned the people and numbered them by means of lambs (*tela'im*)."⁵ Standard biblical translations similarly render "*tela'im*" as a place name. *Tosafot Yeshanim*, *Yoma* 22b, and Radak, I Samuel 15:4, likewise indicate that such is the "simple meaning" of the verse. However, according to talmudic exegesis, prior to engaging in war against Amalek, Saul did not count the populace at a place known as *Tela'im*; rather he counted *by means of lambs (tela'im)*. Rashi, I Samuel 15:4, following the interpretation of the Gemara, explains the verse as stating that Saul provided the populace with lambs which he then retrieved in taking the census.

Targum Yonatan indicates that the census was undertaken by Saul in conjunction with the offering of the paschal sacrifice. A rough estimate of the populace was achieved by counting the number of paschal lambs offered. Noteworthy is the statement of the Gemara, *Pesachim* 64b:

Our Rabbis taught: King Agrippa once wished to cast his eyes on the hosts of Israel [to ascertain their number.] Said he to the High Priest, "Cast your eyes upon the paschal sacrifices." [The High Priest] took a kidney from each [paschal sacrifice] and 600,000 pairs of kidneys were found there, twice as many as [the number of] those who departed from Egypt, excluding those who were unclean and those who were on a distant journey; and there was not a single paschal sacrifice for which more than ten people had not registered; and they called it "The Passover of the dense throngs."

A similar narrative is recorded by Josephus, *Wars of the Jews*, Book VI, chap. 9.⁵

5. Rabbi Goren points out that an imprecise census may be permissible under all circumstances. If so, derivation of a prohibition from this narrative according to the interpretation of *Targum Yonatan* is problematic. According to *Targum Yonatan*, Saul was able to achieve only a rough approximation of the populace counted. Following this line of interpretation, the Gemara must be understood as

3. In the same discussion, the Gemara, *Yoma* 22b, adduces yet another source for the prohibition against counting the populace. R. Eleazar derives a negative prohibition from Hosea 2:1 which he renders as "The number of the children of Israel shall be as the sand of the sea which *shall not* be measured nor numbered (*lo yimad ve-lo yisafer*)," rather than as "which *cannot* be measured nor numbered." R. Nachman bar Yitzchak finds that this verse establishes, not one, but two prohibitions, viz., "shall not be measured" and "shall not be numbered."⁶

Maharsha, in his commentary on *Yoma* 22b, questions why, in this discussion, the Gemara cites prophetic verses in establishing a prohibition and fails to rely upon Exodus 30:12 as does the Gemara in *Berachot* 62b. Maharsha explains that Exodus 30:12 might be understood as requiring the contribution of a half-shekel for each person as "a ransom for his soul unto the Lord" because of the prior transgression incurred in serving the golden calf. However, absent such transgression, it might be presumed that a census poses no danger and hence is not prohibited.

Addressing the same question, Rabbi Weinberg and Rabbi Waldenberg both suggest that citation of a verse from the prophetic writings is necessary in order to establish a prohibition against the taking of a census "even for purposes of a *mitzvah*" since the pentateuchal verse does not necessarily encompass such contingencies.⁷ A similar explanation is advanced by *Iyun Ya'akov*

deriving the prohibition against census-taking from the verse "And he counted them by means of lambs" on the basis of the assumption that Saul was constrained to satisfy himself with an imprecise counting because of a prohibition against an accurate census.

6. Cf., *Teshuvot Chavot Ya'ir*, no. 9.

7. R. Chaim Joseph David Azulai, *Petach Einayim*, *Yoma* 22b, R. Yehudah Aryeh Leib Alter of Ger, *Sefat Emet*, *Yoma* 22b, and R. Yisra'el Yehoshu'a of Kutna, *Yeshu'ot Malko. Likkutei Torah*, p. 74b, suggest that, in context, Exodus 30:12 refers only to a census of the entire populace. Accordingly, *Yoma* 22b adduces verses from prophetic sources in establishing a prohibition against counting even a portion of the populace. Cf., however, *Chiddushei Chatam Sofer*, *Yoma* 22b, cited below. See also *Tzitz Eli'ezer*, VII, no. 3, sec. 11, who suggests that other, more explicit verses are required because Exodus 30:12 might be interpreted as forbidding a census only when undertaken by a "king or leader of Israel." Indeed *Midrash Talpiyot*, no. 20, cites an opinion to the effect that "a ransom"

and *Etz Yosef* in their respective commentaries on *Ein Ya'akov*, *Yoma* 22b.⁸

4. Rashi, I Chronicles 27:24, seemingly ignoring the sources cited in both *Berachot* 62b and *Yoma* 22b, posits two entirely different verses as sources for this prohibition. The passages "If a man can number the dust of the earth, then shall your seed also be numbered" (Genesis 13:16) and "'Look now toward heaven and count the stars if you be able to count them'; and he said unto him, 'So shall your seed be'" (Genesis 15:5) are interpreted by Rashi, not simply as blessings, but as prohibitions against counting the progeny of Abraham. In his commentary on I Samuel 15:4, Rashi cites yet a third verse, "I will surely do you good and make your seed as the sand of the sea which cannot be numbered for multitude" (Genesis 32:13) which he renders as "which *shall not* be numbered for multitude."⁹

According to Rashi, who views the verses in Genesis as establishing a prohibition against counting the population of Israel, it may perhaps be presumed that the Gemara, *Yoma* 22b, adduces prophetic verses because the verses in Genesis refer only to the counting of *all members* of the community of Israel. The prohibition established on the basis of the prophetic verses cited in *Yoma* 22b, however, clearly applies to the counting of even a

is required only when the census is undertaken by a king.

It should however be noted that Rambam, *Hilchot Temidim u-Musafim* 4:4, cites only the reference to I Samuel 15:4 discussed in *Yoma* 22b and omits any reference to Exodus 30:12 as a source for such a prohibition. Unlike *Berachot* 62b, *Yoma* 22b may have regarded Exodus 30:12 as referring only to the census undertaken in the wilderness, but not as establishing a prohibition for posterity. If so, the prohibition against counting would be regarded by Rambam as binding solely by virtue of prophetic tradition (*mei-divrei kabbalah*) rather than as expressly biblical in nature. See *Mispar Bnei Yisra'el*, p. 19f; cf., however, *Seridei Esh*, II, no. 48, and *Tzitz Eliezer*, VII, no. 3, sec 1. It is, however difficult to sustain any explanation which posits a conflict between *Berachot* 62b and *Yoma* 22. In *Berachot* it is R. Eleazar who cites Exodus 30:12 as the source of the prohibition and it is also R. Eleazar who is quoted in *Yoma* as establishing the prohibition on the basis of Hosea 2:1.

8. See also *Tosafot Ri ha-Lavan*, *Yoma* 22b; cf., *Be'er Sheva*, *Tamid* 28a.

9. Cf., *Meshech Chochmah*, *Parshat Naso*, s.v. *be-haftorah*.

segment of the populace. Thus, Scripture records that when Saul took the census prior to his battle against Ammon "The children of Israel were 300,000, and the men of Judah 30,000" (I Samuel 11:8); later, prior to the war against Amalek, Saul counted "200,000 footmen and 10,000 men of Judah" (I Samuel 15:4). The small numbers recorded, as well as the discrepancy between the figures, clearly indicate that the potential warriors counted by Saul constituted only a portion of the populace. Moreover, the Gemara, *Yoma* 22b, declares that, in the Temple, each priest extended a finger to be counted because it is forbidden to count people.¹⁰ The counting of only the priests in the Temple certainly would not have constituted a census of the entire people. Nevertheless, it was permitted to count only outstretched fingers but not the priests themselves.¹¹ Thus, according to this analysis, the direct counting of even a portion of the populace is forbidden.¹²

Curiously, the sources which serve to prohibit even a partial census were apparently overlooked by one biblical commentator. R. Elijah Mizrahi, in his supercommentary on Rashi, Exodus 30:12, expresses the opinion that "perhaps" the prohibition against counting the populace is operative only if the entire people, or the major portion of the populace, is counted, as was the case with regard to the census undertaken by Moses in the wilderness. For

10. Cf. However, Ramban's novel interpretation recorded in *Hilchot Temedim u-Musafim* 4:3.

11. R. Meir Dan Plocki, *Klei Chemdah, Parshat Ki Tissa*, explains that although it is forbidden to count individuals directly, the counting of fingers is deemed a permissible form of indirect counting. Translated literally, Exodus 30:12 states "when you count the *head* of the children of Israel..." The prohibition, explains *Klei Chemdah*, is understood as applying only to the counting of "heads" or of "organs" upon which life is dependent. A similar explanation is advanced by the author of *Pe'at ha-Shulchan* and rebutted by *Chatam Sofer, Kovetz She'elot u-Teshuvot* (Jerusalem, 5733), no. 8. Cf., Abarbanel, Exodus 30:12.

12. As noted earlier, *Petach Einayim, Sefat Emet* and *Yeshu'ot Malko* independently explain that, in establishing a prohibition against the direct counting of the populace, the Gemara cites the verse describing the census taken by Saul rather than Exodus 30:12 because the latter passage serves to prohibit only the counting of the entire populace while the prophetic verses serve to prohibit the counting of even a portion of the populace.

this reason, opines Mizrachi, there were no untoward results when David took a census prior to engaging in battle against Absalom and his company (II Samuel 18:1-2). On that occasion David divided the people into three groups and assigned Joab, Abishai the son of Zeruiah and Ittai the Gittite to conduct the census, charging each with counting one-third of the populace. Thus, there was no single census of the entire people. Subsequent writers have pointed out that Mizrachi's position is contradicted by the Gemara's statement declaring that it was forbidden to count the priests in the Temple. Indeed, Mizrachi's view also seems to be contradicted by the Gemara's analysis of the census conducted by Saul. Even though only a segment of the nation was included in that census, Saul found it necessary to count the populace by means of shards and lambs in order to circumvent the prohibition.¹³

King David's Error

Particularly perplexing is the fact that King David apparently ignored the prohibition against counting the populace despite the protestations of Joab (II Samuel 24:1-4 and I Chronicles 21:1:3) who demanded, "Why does my lord require this thing? Why will he be a cause of trespass to Israel?" (I Chronicles 21:3). Joab was indeed correct in opposing the undertaking of a census as indicated by Scripture: "And God was displeased with this thing; therefore He smote Israel" (I Chronicles 21:7); "So the Lord sent a pestilence upon Israel from the morning even to the time appointed; and there died of the people from Dan to Beersheba 70,000 men" (II Samuel 24:15). David himself conceded his guilt saying, "I have sinned greatly in what I have done ... for I have done very foolishly" (II Samuel 24:10; and, with minor variation, I Chronicles 21:8).¹⁴

13. Cf., *Petach Einayim*, *Yoma* 22b. For a summary of various attempts to reconcile Mizrachi's comments with these sources see *Tzitz Eli'ezer*, VII, no. 3, secs. 35-37.

14. Cf., however, Abarbanel, Exodus 30:12, who maintains that the misfortune which was visited upon the populace following David's census was a punishment for their treasonous conduct in supporting Sheba ben Bichri. Abarbanel's interpretation appears to be at variance with both *Berachot* 62b and *Yoma* 22b as well as contrary to the plain meaning of these scriptural verses. See R. Ben-Zion Uziel, *Mishpetei Uzi'el, Inyanim Kellaliyim*, no. 2.

Biblical commentators have advanced a variety of theses explaining the nature of David's error. A number of halachic ramifications flow from those diverse explanations.

1. Ramban, in his commentary on Exodus 30:12, explains that David did not properly understand the nature of the prohibition and endeavors to elucidate the nature of David's error. Ramban notes that Exodus 30:12 fails to specify whether the prohibition against counting the people is binding in all generations or whether it was intended to apply only during the period of wandering in the wilderness. According to Ramban, David erred in assuming that the prohibition lapsed upon entry into the promised land.¹⁵ Ramban thus clearly understands David's census as having been undertaken in a direct manner and not by means of counting half-shekels or the like. This is certainly the interpretation placed upon the incident by the Gemara, *Berachot* 62b. According to Ramban, only a direct census is forbidden; indirect counting by means of half-shekels or a similar expedient is permitted.¹⁶ This is also the position of

15. Maharal of Prague, *Gur Aryeh*, Exodus 30:12, explains that David erred in assuming that danger of an "evil eye" existed only in the wilderness where all of Israel was assembled in one location. *Ben Yehoyada*, *Berachot* 62b asserts that David erred in assuming that the prohibition pertained only to a census conducted in the wilderness which was a place of danger but not in the Land of Israel where the merit of residence in the land protects against danger. *Kli Yakar*, Exodus 30:12, opines that David's error lay in assuming that only the first census, which was undertaken when population figures were entirely unknown, required collection of half-shekels; however, subsequent counting, when the numbers were known at least in an approximate manner, in David's opinion, did not require collection of half-shekels. Cf., however, *Tzitz Eli'ezer*, VII, no. 3, sec. 53. and *Mispar Bnei Yisrael*, p. 31, note 11, and p. 36, note 1.

16. As will be noted below, R. Chaim ibn Attar, *Or ha-Chayyim*, Exodus 30:12, permits indirect census-taking in the absence of a legitimate "purpose" only by means of collecting half-shekels. Cf., *Kovez She'elot u-Teshuvot Chatam Sofer*, no. 8. *Tzitz Eli'ezer* VII, no. 3, sec. 22, suggests that according to *Or ha-Chayyim* who permits census-taking only by means of collecting half-shekels, such a procedure may be permissible only when the half-shekels are delivered to the Temple treasury.

R. Jacob Zevi Mecklenburg, *Ha-Ketav ve-ha-Kabbalah*, Exodus 30:12, advances a novel view in stating that a portion of the populace may be counted indirectly by means of pieces of shard, or lambs, or the like. However, in his opinion, the entire populace may never be counted even indirectly other than by means of half-shekels which serve as a "ransom."

Rambam, *Hilkhot Temidim u-Musafim* 4:4.¹⁷

2. However, in a subsequent comment Ramban contradicts his own earlier interpretation. In his commentary on Numbers 1:3 Ramban remarks, "To me it [appears] unlikely that David should not be careful with regard to that which Scripture states, 'that there be no plague among them when you number them.' If perhaps David did err why did Joab not do [the census by means of] shekels ... so that he should not sin?" Ramban proceeds to explain that a census such as was undertaken by David is forbidden even when conducted by means of counting half-shekels since it was unnecessary and not designed to serve a valid need or "purpose" (*tzorech*). David's census, asserts Ramban, was not designed to serve a military purpose or any other national need. That census, he declares, was undertaken by David simply in order to "gladden his heart" by demonstrating that he reigned over a large populace. In support of this thesis Ramban cites *Bamidbar Rabbah* 2:17:

Whenever Israel was counted for a purpose, their number did not diminish; but when they were counted for no purpose, they became diminished. When were they counted for a purpose? In the days of Moses and for the [setting up of the] standards and at the division of the land. [When were they counted] for no purpose? In the days of David.

Similar statements appears in *Pesikta Rabbati* 11:3, *Pesikta de Rav Kahana* 2:17 and *Midrash Tanchuma, Parshat Ki Tissa*, sec. 9.

It is clear that even a census undertaken for a "purpose" is permitted only if taken indirectly by means of half-shekels or the like. The counting of the priests in the Temple was clearly necessary in order to determine which priests were to perform the sacrificial ritual. A number was arbitrarily selected and the priests were counted seriatim until the previously announced number was reached. The priest with whom the enumeration culminated was assigned a role in the sacrificial service. This procedure was designed to assign priests to their tasks in an orderly manner and to

17. This interpretation is also reflected in the comments of the *Zohar, Parshat Pekudei*, p. 225b. Cf., *Tzeidah la-Derech*, Exodus 30:12.

prevent jeopardy to life and limb such as had existed at an earlier time when the priests were themselves permitted to seize the initiative for participation. Although the numbering of the priests was conducted for a "purpose," the counting was of outstretched forefingers rather than of people.¹⁸

This is also the position of *Tosafot Rid*, *Yoma* 22b; Radak, I Samuel 15:4 and II Samuel 24:1; and *Tosafot Ri ha-Lavan*, *Yoma* 2b. It should however be noted that *Tosafot Rid* and *Tosafot Ri ha-Lavan* speak of indirect counting being permitted for the "purpose of a *mitzvah*" rather than simply for any "purpose." Similarly, R. Naphtali Zevi Yehudah Berlin, *Meromei Sadeh*, *Berachot* 62a, stipulates that the counting must be for the purpose of a *mitzvah*.¹⁹ A similar position is advanced by *Petach Einayim*, *Yoma* 22b, in the name of R. Menachem Azariah of Panu. On the other hand, R. Chaim ibn Attar, *Or ha-Chayyim*, Exodus 30:2, permits the indirect counting of even the entire populace by means of half-shekels despite the absence of a legitimate "purpose."

Parenthetically, it is significant that in these comments Ramban speaks of a prohibition devolving upon the census-taker. Joab is described as being troubled because he would incur transgression by virtue of taking a census. Although Ramban is silent with regard to a transgression on the part of those who are counted, it is clear that the danger of epidemic (or, according to *Chizkuni*, Numbers 31:49, the danger of being killed in battle) clearly devolves upon those who are counted. However, *Sefer Chasidim* (Frankfurt am Main, 1924), no. 1411, adopts a contrary position. According to *Sefer Chasidim*, the prohibition devolves only upon those who are counted, but not upon the census-taker. It may also be noted that *Yalkut Shim'oni*, II Samuel 24, records that God's anger was aroused against Israel at the time of Joab's census

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18. Rabbi Friedman *No'am* XVI, 87, errs in stating that, according to Ramban, a direct counting of the populace is permitted when undertaken for a "purpose."
 19. Cf., however, R. Chaim Kanievsky, *Nachal Eitan* 6:10, sec. 7, who understands the concept of counting for the purpose of a *mitzvah* as formulated by *Tosafot Ri ha-Lavan* as permitting even indirect counting only upon specific divine command, rather than for the purpose of enabling the fulfillment of some other commandment.

because the populace did not resist Joab in his endeavor.

3. Advancing an alternative explanation in his comments on Numbers 1:3, Ramban declares that the entire populace may not be counted even by indirect means. Therefore, even when undertaken by means of counting half-shekels, a census may include only those twenty years of age and older.²⁰ David, however, commanded that all above the age of thirteen be counted. Such a census yields a population count of the entire people which is forbidden under all circumstances.²¹ According to this explanation, David erred in assuming that a census of the entire populace including even those under twenty years of age is permitted when undertaken in an indirect manner.

Ramban further cites a "midrash aggadah" — presumably a reference to the earlier cited aggadic statement recorded in *Berachot* 62b — which explains that David sinned in taking the census directly rather than by means of half-shekels. Thus the diverse explanations advanced by Ramban in his commentaries on Exodus 31:1 reflect different strands of midrashic interpretation.²²

4. R. Mordecai Jaffe, *Levush ha-Orah*, and Mizrachi, in their respective commentaries on Exodus 30:12, explain that King David erred in assuming that this verse does not establish a prohibition against census-taking. According to this interpretation, David understood Exodus 30:12 as requiring a half-shekel simply as a

20. See also Maharit, *Tzofnat Pa'aneach*, *Parshat Ki Tissa*, *derush* 1, and *Nachal Eitan* 6:10, sec. 7.

21. Surprisingly, Rabbi Goren fails to cite Ramban's comments in this regard but does indicate that Rashi, in citing the various verses in Genesis rather than those adduced by *Berachot* 62b and *Yoma* 22b, intended to establish the basis for a prohibition against counting the entire populace.

22. See, however, *Meromei Sadeh*, *Berachot* 62b, and *Tzitz Eli'ezer*, VII, no. 3, sec. 15, who resolve the apparent contradiction between the two talmudic discussions by suggesting that *Berachot* 62b ascribes a two-fold error to David: census-taking in the absence of a legitimate purpose which was compounded by failure to collect half-shekels because the census was not undertaken for legitimate purpose which was compounded by failure to collect half-shekels. Cf., however, *Tosafot Rid*, *Yoma* 22b, who remarks that Joab did not require the collection of half-shekels because the census was not undertaken for a legitimate purpose and, accordingly, collection of half-shekels would not have mitigated the transgression.

"ransom" to avert a calamity and, assuming that the "ransom" need not necessarily be delivered prior to the census but could be paid after the counting as well, intended to collect such an offering subsequent to completing the census.²³ Maharal of Prague, *Gur Aryeh*, Exodus 30:12, advances a similar explanation but comments that David believed that the half-shekel donated annually by each person for the purpose of purchasing communal offerings was sufficient to serve as "ransom." *Levush* further comments that the true import of the commandment was not known until after the misfortune which occurred following David's census.

The basic notion advanced by *Levush* and Mizrachi, viz., that the giving of a "ransom" need not be simultaneous with the taking of the census, is found in the comments of an early authority. Rashbam, Numbers 31:49, speaks of an offering subsequent to the taking of the census as serving as a form of "ransom."

Parenthetically, it should be noted that *Levush*, Mizrachi, Maharal and Rashbam apparently maintain that the collection of half-shekels serves to permit a direct head count of the populace. Such a position is entirely compatible with a literal reading of Exodus 30:12 and Numbers 1:2. Similarly, *Yalkut Shim'oni, Parshat Ki Tissa*, speaks of individuals passing beyond a wooden platform, presumably for purposes of being counted directly. However, Rashi, Exodus 30:12, carefully explains that the collection of half-shekels was designed to enable the census to be taken indirectly by means of counting the half-shekel coins rather than by a direct count of individuals. According to Rashi, direct counting of people is never permissible.

23. R. Yerucham Fischel Perla (Mahari Perla), in his commentary on Sa'adya Ga'on's *Sefer ha-Mitzvot, lo-ta'aseh*, nos. 264-265, p.322b, opines that, in the event that a person has been counted, he must contribute a half-shekel to charity as "ransom." *Tzitz Eli'ezer*, VII, no. 3. sec. 16, suggests that, according to Mahari Perla, any coin minted as a half of the monetary unit which constitutes the coin of the realm may be sufficient for this purpose even if its value is less than that of half a shekel. However, *Tzitz Eli'ezer* fails to offer compelling evidence in support of this contention.

Chatam Sofer's Position

R. Moshe Sofer, in a responsum published only in recent years, *Kovetz She'elot u-Teshuvot Chatam Sofer* (Jerusalem 5733), no. 8,²⁴ a significant portion of which is also included in his talmudic novellae, *Chiddushei Chatam Sofer, Yoma 22b*, adopts a position which, while incorporating elements found in Ramban's exposition, is at variance with that of other authorities. As noted earlier, Ramban, in one explanation, asserts that a direct census which is accurate and precise in nature is forbidden even if limited to a portion of the populace. The expedient of indirect counting is employed, according to *Chatam Sofer*, not because indirect counting is intrinsically permissible, but simply because indirect counting admits of error and is, by its very nature, not precise. Although each person, rich or poor, is commanded to contribute a half-shekel, no more and no less, there is no guarantee that the directive will be adhered to scrupulously. Imprecision is also likely to result when the census is taken by counting lambs or bits of pottery. Similarly, in counting the forefingers extended by the priests, it is possible that error will occur because some may not extend a forefinger and some may extend a multiple number of fingers. According to *Chatam Sofer*, it is precisely because the true number will not be known with certainty that the taking of a census by indirect means is permitted.

The counting of people, even of a portion of populace, in a manner that is not designed to yield an accurate reckoning, asserts *Chatam Sofer*, may be undertaken only by means of half-shekels which serve as "ransom."²⁵ The extension of fingers by the priests, even though it was not accompanied by collection of half-shekels, asserts *Chatam Sofer*, was permitted because it was not done as a

24. This responsum, together with the query and subsequent response of his interlocutor, R. Yisra'el of Shklov, the author of *Pe'at ha-Shulchan*, was first published in *Sefer ha-Yovel le-Doktor B.M. Levin* (Jerusalem, 5700), ed. R. Yehudah Leib Fishman.

25. Cf., *Or ha-Chayim*, and *Ha-Ketav ve-ha-Kabbalah*, cited above, note 16.

It should be noted that in his concluding remarks *Chatam Sofer* states that counting by means of half-shekels or by way of *goral* is permitted only for the purpose of a *mitzvah*.

means of counting the priests but by way of *goral*, or lot, in order to assign roles in the performance of the sacrificial ritual. The procedure began with the announcement of an arbitrarily selected number. Thereupon, the outstretched fingers were counted seriatim until the previously announced number was reached. The number announced prior to counting the fingers extended by the priests might indeed be greater than the total number of individuals present. This would require that at least some priests be counted more than once. Thus the intention was clearly not to obtain a census in any sense of the term. In a highly novel explanation, *Chatam Sofer* asserts that the shards and lambs collected by Saul were similarly designed, not to establish a census, but as a device by which to assign various roles in combat. Since the procedure was in the nature of a *goral*, rather than of a census, half-shekels were not required. It would appear that, according to the opinion of *Chatam Sofer* as expressed in this responsum, a contemporary census, even if undertaken in an indirect manner (and even if it be imprecise in nature) is not permissible since it is not accompanied by the contribution of a half-shekel. On the other hand, the author of *Pe'at ha-Shulchan*, as quoted in *Kovetz Teshuvot Chatam Sofer*, as well as *Klei Chemdah* and *Pardes Yosef* in their respective commentaries on Exodus 30:12, permit the counting of nonvital organs or of items of clothing as constituting indirect forms of census-taking.

Contemporary Factors and Rulings

Rabbi Weinberg, *Seridei Esh*, II, no. 48, finds that a census undertaken in Israel under contemporary conditions is permitted because such a census is conducted by means of questionnaires which are filled out by individual householders. The names inserted in the blank spaces provided on the forms are then tabulated in order to reach a final count. The tallying of names, rules Rabbi Weinberg, is an indirect means of counting. He further contends that the considerations of economic planning and national security which require an accurate census suffice to constitute a "purpose." Accordingly, Rabbi Weinberg concludes that the taking of a census is permitted even according to the first analysis presented by

Ramban in his commentary on Numbers 1:3. Rabbi Uziel, *Mishpetei Uzi'el, Choshen Mishpat, kellalim*, no. 2, also permits the taking of a census on the grounds that it is conducted indirectly by means of written documents and is undertaken for a legitimate purpose. This is also the opinion of both Rabbi Friedman and Rabbi Kasher.²⁶ Rabbi Kasher adds further support to this conclusion by citing the comments of Ralbag, Numbers 1:2 and Numbers 26:53, who declares categorically that the counting of written names is not encompassed within the prohibition. Contradicting the view of other biblical commentators, Ralbag states that the later censuses undertaken by Moses were not conducted by means of collection of half-shekels but "according to the number of names" as indicated in Numbers 1:2 and Numbers 26:53.²⁷ It should be noted that R. Naphtali Zevi Yehudah Berlin, in his biblical commentary *Ha'amek Davar*, also interprets both verses in an identical manner.²⁸

26. See also *Einayim la-Mishpat, millu'im, Berachot* 62b.

27. Rabbi Kasher, *Torah Shleimah*, XXI, 168, further contends that tabulation by mechanical means is not prohibited since the actual counting is not accomplished by a human act. This view is disputed by Rabbi Schwartz, *Mispar Bnei Yisra'el*, p. 29.

28. In his commentary on Numbers 1:42, *Ha'amek Davar* cites an intriguing oral tradition attributed to the Ari ha-Kadosh. Ari advances a resolution to a textual difficulty in which he clearly assumes that those censuses were undertaken by counting slips of paper or the like upon which the names and tribal identification were recorded. Ari ha-Kadosh explains that these slips were collected from the entire community of Israel and deposited in a single place. Thereupon the *nasi* of each tribe came and selected those bearing the names of the members of his tribe and placed them in a separate receptacle. The slips in each of those receptacles were then counted in order to arrive at a census for each tribe. With the removal of the slips bearing the names of the members of the first eleven tribes, all remaining names were perforce known to be names of persons belonging to the twelfth tribe without need for any further selection. Accordingly, explains Ari ha-Kadosh, with regard to each of the first eleven tribes, Scripture states "Of the sons of ... according to the number of names;" whereas with regard to Naphtali, the last tribe to be counted, Scripture states simply, "The sons of Naphtali...". With regard to each of the first eleven tribes, explains Ari, the names counted were of the sons of that tribe only, to the exclusion of slips bearing names of members of other tribes. Hence the phrase "of the sons..." which excludes all others. However, when it came time to count the tribe of Naphtali, all names remaining in the hands of Moses were counted since no other names remained.

Participation in censuses conducted in the Diaspora does not ordinarily present a problem because the prohibition against counting is limited to the counting of the Jewish populace.²⁹ Counting Jews as part of a census of the general population with no effort to ascertain the precise size of the Jewish community entails no violation of Jewish law. However, participation in a census which is designed to determine the specific number of members of each religious group, including the Jewish community, would be problematic. Such a census would presumably be sanctioned by the authorities who permit the Israeli census, but only when conducted by means of a written questionnaire and undertaken for a legitimate purpose.

Rabbi Kasher, however, sanctions a census of both Jews and non-Jews even when the census is designed to yield population figures for the Jewish community. Rabbi Kasher's permissive view with regard to the the Israeli census is based in part upon the consideration that the Israeli census is not limited to the Jewish populace but includes non-Jews residing in Israel as well. Rabbi Kasher, without citing sources or developing a compelling argument, views this procedure as permissible despite the fact that the census is also designed to determine the specific number of Jews residing in Israel. Rabbi Kasher's conclusion in this regard is sharply contested by *Tzitz Eli'ezer*, VII, no. 3, sec. 2.

Rabbi Kasher finds additional grounds to permit the Israeli census despite the fact that it is ostensibly designed to yield the number of Jewish nationals within the State of Israel. He maintains, as does *Chatam Sofer*, that an inaccurate reckoning is merely an approximation. Moreover, unlike *Chatam Sofer*, Rabbi Kasher is prepared to permit an inaccurate reckoning even without accompanying half-shekels as "ransom." Accordingly, he argues that since many individuals who have not undergone valid conversion procedures are counted as Jews by the census-takers, the

29. R. Rachamin Yitzchak Pelaggi, *Yafeh la-Lev*, I, *hashmatot*, no. 55, sec. 2, cites R. Berachyah Berach, *Zera Berach*, *Parshat Bamidbar*, who permits all forms of counting in the Diaspora on the basis of kabbalistic considerations. *Tzitz Eli'ezer*, VII, no. 3, sec. 30, dismisses those comments as a homiletic excursus rather than as a halachic ruling

results are inaccurate and hence constitute a mere approximation of the Jewish populace.³⁰

It should be noted, however, that in addition to *Chatam Sofer*, another authority, *Ramat Shmu'el*, cited by *Etz Yosef* in his commentary on *Ein Ya'akov*, *Yoma* 22b, forbids even an approximate tabulation. In the view of *Ramat Shmu'el*, the prohibition against counting the populace applies even when the method employed is inaccurate and hence yields only an approximation. In support of this position *Ramat Shmu'el* cites Genesis 32:13 which he renders literally as "which shall not be estimated (*lo yimad*) and shall not be counted."³¹

Other authorities question the undertaking of a census by the government of the State of Israel on the basis of a variety of considerations:

1. Rabbi Goren concedes that, were each individual to fill out a separate form, the subsequent counting of the forms themselves, i.e., the counting of individual pieces of paper, would present no problem. However, he views the counting of individual names recorded on such forms as being significantly different in nature. That distinction, as earlier noted, is contradicted by *Ralbag* and *Ha'amek Davar*.

2. Rabbi Goren further contends that the concept of "purpose" or "necessity" (*tzorech*), as formulated by *Ramban*, is limited to a need involving elimination of danger to life. Accordingly, he expresses reservation with regard to the legitimacy of a census undertaken for purposes of economic planning. Rabbi Goren concedes that the censuses undertaken by Moses were not predicated upon a "purpose" involving a threat to life. He maintains, however, that Moses' censuses were permitted only because the half-shekel collected in conjunction with the census served as a "ransom." However, it should be noted that in the words of *Ramban*, who formulated the concept of "purpose" there

30. Rabbi Rudick, *Techumin*, IV, 332 observes that the fact that there are, unfortunately, some Jews who seek to conceal their Jewish identity further contributes to the inaccuracy of the tabulation of the size of the Jewish populace.

31. Cf., *Mispar Bnei Yisra'el*, p. 29. note 10b.

is no suggestion that the concept is limited to a life-threatening consideration.

It is noteworthy that a thesis similar to that advanced by Rabbi Goren is propounded by one biblical commentator in order to resolve the contradictory midrashic explanations of the nature of King David's transgression. *Or ha-Chayyim*, Exodus 31:12, explains that David erred in conducting a census which was not undertaken for a valid purpose. In advancing this explanation *Or ha-Chayyim* follows Ramban, Numbers 1:3, and the midrashic sources cited by the latter. As noted earlier, the Gemara, *Berachot* 62b, indicates that had David followed the procedure stipulated in Exodus 30:2 and taken the census by means of a collection of half-shekels he would have incurred no transgression even though the census was undertaken in the absence of a legitimate purpose. Ramban regards this contradiction as reflecting diverse midrashic traditions. *Or ha-Chayyim*, however, resolves the contradiction by postulating that, when undertaken by means of half-shekels which are contributed to the sanctuary as a "ransom," a census may be undertaken even absent a valid "purpose."³² *Or ha-Chayyim*, however, does not restrictively define the concept of "purpose" as limited to a matter involving danger to life.

3. Other authorities also argue that the present census serves no legitimate function, but do so on entirely different grounds. Rabbi Schwartz, *Mispar Bnei Yisra'el* p. 31, note 11, and p. 36, note 1, cites an assertion to the effect that, when the approximate size of the population is already known, a census designed to yield more precise figures does not serve a legitimate "purpose". This appears to have been Rabbi Waldenberg's major reservation with regard to the 5721 censuses as recorded in *Tzitz Eli'ezer*, VII, no. 3, sec. 53.

4. Rabbi Goren further contends that a census of the population of the State of Israel may constitute a counting of "all of Israel" which he argues (without citing the second analysis presented by Ramban, Numbers 1:3) is forbidden under all circumstances. With regard to an entirely different matter, Rambam, *Hilchot Shegagot* 13:2, basing himself upon *Horiyot* 3a,

32. See *Tzitz Eli'ezer*, VII, no. 3, sec. 22, cited above, note 16.

declares that the halachic concept of a "community" is limited to Jews who reside in Israel. This point is made by Rabbi A.I. Kook, *Mishpat Kohen*, no. 143, p. 308, and by other authorities with regard to other facets of halacha, but is the subject of considerable dispute.³³

5. In prohibiting participation in the Israeli census despite the fact that it is conducted by means of a written questionnaire, Rabbi Chaim Kanievsky, in his statement issued in 5732, relies in part upon an opinion of *Chatam Sofer* which is reported in *Teshuvot Ketav Sofer, Yoreh De'ah*, no. 106. Rabbi Kanievsky quotes *Chatam Sofer* as prohibiting counting "even by means of writing."³⁴

However, *Chatam Sofer* as cited by *Ketav Sofer* (as distinct from the position taken by *Chatam Sofer* both in his *Kovetz Teshuvot* and in his novellae) states only that no distinction is to be made between "speaking" and "writing" with regard to census-

33. See R. Ovadiah Yosef, *Yabi'a Omer*, VI, *Orach Chayyim*, no. 41, and *Contemporary Halakhic Problems*, II, 180. Parenthetically, it should be noted that counting the majority of the Jewish people is tantamount to a census of the entire community of Israel. See *Tzitz Eli'ezer*, VII, no. 3, sec. 24. This is evident from the categorization of the census conducted by Joab as a violation of the prohibition despite the fact that Joab excluded the tribes of Levi and Benjamin and hence his census involved only ten tribes. See Rashi and Radak, II Samuel 24:9 and Maharit, *Tzofnat Pa'aneach, Ki Tissa, derush 1. Tzitz Eli'ezer*, VII, no. 3, secs. 20 and 37, maintains that, for purposes of this prohibition, the counting of inhabitants of an entire city and, *a fortiori*, of an entire country constitutes the counting of an entire "community." *Nachal Eitan* 6:10, sec. 7, opines that the counting of any specific class of individuals, e.g., potential conscripts for military service, is similarly encompassed within the ambit of this prohibition.

The counting of the population of local areas and subsequent tabulation of the population of the entire community on the basis of those figures is forbidden according to all authorities. Indeed, as recorded by *Yalkut Shim'oni*, II Samuel 24, Joab conducted his census by means of compiling the aggregate tabulation of family groups.

Tzitz Eli'ezer, VII, no. 3, sec. 2, declares that, even in the event that figures for specific groups or areas have already been obtained, it is forbidden to tabulate the total population by combining the previously ascertained figures.

34. For a similar view with regard to written oaths and vows see *Teshuvot Chatam Sofer, Yoreh De'ah*, nos. 220 and 227 and *Choshen Mishpat*, no. 79. Cf., however, sources cited by *Tzitz Eli'ezer*, VII, no. 50.

taking. Thus, according to *Chatam Sofer*, it would be prohibited to count people by means of recording numbers just as it is forbidden to count them orally. Certainly, if no distinction is made between speaking and writing, it would be forbidden to record names and numbers in serial order in order to yield a total count. However, the counting of slips of paper bearing names,³⁵ or the counting of the names recorded on slips of paper, is not necessarily banned by *Chatam Sofer* (as reported by *Ketav Sofer*).³⁶

Nevertheless, it need not be assumed that this distinction was overlooked by Rabbi Kanievsky in his brief comments. It should be noted that the census form contains a box in which the total number of family members is to be entered by the census-taker.³⁷ Thus there is a direct written declaration of the total number of members in the family unit.

In light of the foregoing, even assuming that, contrary to the positions of *Chatam Sofer*, there is no prohibition against a written tabulation, the census-taker would be required to exercise care in determining the number of members within the family unit solely by counting the names recorded on the form rather than by eliciting the information orally from the householder.³⁸ It is noteworthy that

35. *Tzitz Eli'ezer*, VII, no. 3, sec. 41, suggests that recording names on a list which has been prenumbered in the margin may also be permissible.

36. See *Nachal Eitan* 6:10, sec. 7.

37. *Mispar Bnei Yisra'el*, p. 38, states that on the census forms employed in 5743 people were asked to record names of all family members on unnumbered lines and the box in which the total number of all family members was to be entered was "abrogated." Such a box does, however, appear on the form reproduced by Rabbi Rudick, *Techumin*, IV, 333. Presumably, this box although present, was not used pursuant to the agreement reached with the Chief Rabbinate. See below, note 41 and accompanying text.

38. It should, however, be noted that *Pe'at ha-Shulchan* permits the counting of people when such counting is carried out other than in their presence. As evidence he cites the Mishnah, *Shabbat* 148b, which provides that a person may count his guests orally on the Sabbath. *Pe'at ha-Shulchan* explains that the prohibition against counting does not apply under such conditions because the counting is done in preparation for the meal prior to the arrival of the guests. *Chatam Sofer*, however, understands the Mishnah as permitting the counting of guests only in the sense of permitting the counting of portions prepared for each of the guests.

the present Chief Rabbis, in a letter addressed to the appropriate government official, confirm an agreement to the effect that the census-takers would not record these numbers.³⁹

6. Rabbi Kanievsky also follows Ramban and *Tosafot Rid* in forbidding even indirect counting unless undertaken for a "purpose." From the context of his remarks it is evident that Rabbi Kanievsky does not view contemporary censuses as being undertaken for a valid purpose. Indeed, it may be that consideration which he regards as determinate. Whether or not a census serves a valid purpose is an issue which is essentially factual in nature and is contingent upon the exigencies of the situation.

In conjunction with the 5732 census, Rabbi Unterman ruled that the recording of names in answer to the questions posed on the census questionnaire is to be deemed "an indirect" form of counting. He further advised that persons who are not prepared to rely upon this permissive view should merely inform the census-taker of any change in the number of members of the household which may have occurred since the prior census without disclosing the total number of family members.⁴⁰

Various modifications were introduced in conjunction with the 5743 census as a result of an agreement between the government and the Chief Rabbinate. The agreement provided that only names of family members would be recorded, that the accompanying numbers on the blank lines provided for this purpose would be eliminated and, as noted earlier, that the number of persons in the household would not be totaled by the census-takers. The agreement further provided that the tabulation of all demographic information be performed entirely by means of electronic devices and that the process in no way involve calculations performed by human beings.⁴¹

Danger as Distinct from Transgression

At least two authorities, *Klei Chemdah*, *Parshat Ki Tissa*, and *Nachal Eitan* 6:10, sec. 7, assert that the danger inherent in the

39. *Techumin*, IV, 336. It may be assumed that this tabulation was omitted because of the likelihood that the information would be elicited orally and in order to conform with the opinion of *Chatam Sofer* as recorded by *Ketav Sofer* and that it was further stipulated that all calculations be made electronically in order to conform with the opinion of *Chatam Sofer* as expressed in his *Kovetz Teshuvot*.

40. See *Techumin*, IV, 335. 41. See *Techumin*, IV, 336, and *Mispar Bnei Yisra'el*, p.38.

taking of a census is entirely independent of any prohibition concerning counting the populace.⁴² Therefore, according to these authorities, even in situations in which (according to some opinions) no prohibition pertains, e.g. only a portion of the populace is counted or the census is taken by indirect means, the procedure nevertheless involves an inherent danger and should be eschewed for that reason. Other authorities maintain that, although it may be forbidden to count even a portion of the populace, danger is present only when a census of the entire people is taken.⁴³

Of interest with regard to the question of danger is the opinion of an anonymous authority cited by *Midrash Talpiyot*, no. 20.⁴⁴ According to this view the danger of a plague is present only when the census is taken by a "king" for vainglorious motives. Some evidence for this view may be found in *Yalkut Shim'oni*, II Samuel 24. *Yalkut Shim'oni* records that Joab attempted to suppress accurate results of his census and did not wish to apprise King David of the total number counted.⁴⁵ Ostensibly, once the counting was completed, the harm had already been done and the delivery of an accurate report to the king would have involved no further transgression.⁴⁶ However, if it is the king's hubris which engenders danger, Joab's desire to prevent David from receiving this information is readily understandable since in suppressing the results he would succeed in averting danger to the populace.⁴⁷

Mispar Bnei Yisra'el, p. 31, note 12, declares that any form of publicization or dissemination of the results of a census is forbidden since it is to be assumed that the "evil eye" is enhanced thereby. That consideration may well have been the reason that Joab sought to withhold accurate results of his census from David.

42. See also *Mispar Bnei Yisra'el*, p.20.

43. See *Mispar Bnei Yisra'el*, p.21.

44. See *Tzitz Eli'ezer*, VII, no. 3, sec. 11, and *Mispar Bnei Yisra'el*, p.21, note 4.

45. See also *Bamidbar Rabbah*, 2:10.

46. In complying with the directive of King David even though he recognized it to be at variance with Halacha, Joab was faithful to his own non-normative view, recorded in *Sanhedrin* 49a, to the effect that the prohibition against *lese majeste* applies even under such circumstances. Alternatively, he may also have felt that disobedience to the command of the king would imperil his own life.

47. Cf., however, *Tzitz Eli'ezer*, VII, no. 3, sec. 2, who states that, as reported by *Yalkut Shim'oni*, Joab transmitted the "smaller" number but not the "larger" because tabulation of a census of the larger populace by means of adding the sum of smaller groups is also forbidden. According to *Tzitz Eli'ezer*, Joab transmitted the figures for various groups counted, i.e., the "smaller" tabulations, but declined to combine the numbers in order to determine the aggregate or "larger" number. See above, note 33.