

Kedushat Eretz Yisrael - Where does it come from?

Zevachim 60b discusses whether the original sanctification of Jerusalem still obtains without a Mikdash (temple). This parallels another debate among the rabbis as to whether the entire land of Israel is still considered sanctified even after two exiles. These discussions reveal what the source of the kedusha (sanctity) of Jerusalem and the land of Israel are - an important theological question!

Questions? Comments? Email dinanddaf@gmail.com

1. זבחים ס:

רבי ישמעאל אומר, יכול יעלה אדם מעשר שני לירושלים ויאכלנו בזמן הזה? ודין הוא – בכור טעון הקבאת מקום, ומעשר טעון הקבאת מקום; מה בכור – אינו אלא בפני הבית, אף מעשר – אינו אלא בפני הבית.

three elders, and this is one of them: Rabbi Yishmael says: One might have thought that a person would bring second-tithe produce up to Jerusalem in the present, after the destruction of the Temple, and eat it. And ostensibly, it could be derived by means of a logical inference that one may not do so: A firstborn offering requires bringing it to the place, to Jerusalem, and eating it there, and second-tithe produce requires bringing it to the place (see Deuteronomy 12:17–18); just as the firstborn offering may be eaten there only in the presence of the Temple, so too, second-tithe produce may be eaten there only in the presence of the Temple.

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מאי קסבר? אי קסבר קדושה ראשונה קידשה לשעתה וקידשה לעתיד לבא – אפילו בכור נמי! ואי קסבר לא קידשה לעתיד לבא – אפילו בכור נמי תיבעי!

What does Rabbi Yishmael hold? If he holds that the initial consecration of the Temple sanctified it for its time and sanctified it forever, then it should be permitted to build an altar and sacrifice offerings even nowadays, and therefore even a firstborn animal may be eaten. And if he holds that the initial consecration of the Temple area did not sanctify it forever, let the dilemma be raised with regard to a firstborn as well.

אמר רבינא: לעולם קסבר לא קידשה; והכא במאי עסקינן – בבכור שנזרק דמו קודם חורבן הבית, וחרב הבית, ועדיין בשורו קיים.

Ravina said: Actually, Rabbi Yishmael holds that that the initial consecration of the Temple did not sanctify it forever. And although one cannot slaughter the firstborn to begin with, here we are dealing with a firstborn that was slaughtered and whose blood was sprinkled on the altar before the destruction of the Temple, and then the Temple was destroyed, and the meat of the firstborn still exists.

2. משנה עדויות ח:

אמר רבי אליעזר, שְׁמַעְתִּי, כְּשֶׁהָיוּ בּוֹנִים בְּהִיכָל, עוֹשִׂים קִלְעִים לְהִיכָל וְקִלְעִים לְעִזְרוֹת, אֲלֵא שֶׁבְּהִיכָל בּוֹנִים מִבְּחוּץ, וּבְעִזְרוֹת בּוֹנִים מִבְּפָנִים. אָמַר רַבִּי יְהוֹשֻעַ, שְׁמַעְתִּי, שְׁמַקְרִיבִין אֶף עַל פִּי שְׂאִין בֵּית, וְאוֹכְלִים קִדְשֵׁי קִדְשִׁים אֶף עַל פִּי שְׂאִין קִלְעִים, קִדְשִׁים קָלִים וּמַעֲשֵׂר שְׁנִי, אֶף עַל פִּי שְׂאִין חוּמָה, שֶׁקִּדְשָׁה רִאשׁוֹנָה קִדְשָׁה לְשַׁעֲתָה וְקִדְשָׁה לְעֵתִיד לְבָא:

Rabbi Eliezer said: I have heard that when they were building the Temple [complex] they made curtains for the Temple and curtains for the Temple-courts; but in the case of the Temple they built from the outside, and in the case of the Temple-court they built from the inside. Rabbi Joshua said: I have heard that sacrifices may be offered even though there is no Temple, and that the most holy sacrifices may be eaten even though there are no curtains, and the less holy sacrifices and second tithes even though there is no wall [around Jerusalem]; because the first sanctification sanctified both for its own time and for the time to come.

3. ר' עובדיה ברטנורא

שְׁמַעְתִּי שְׁמַקְרִיבִים אֶף עַל פִּי שְׂאִין בֵּית. לִפִּי שֶׁקִּדְשָׁה שֶׁקִּדַּשׁ שְׁלָמָה אֶת הַבַּיִת, קִדְשָׁה לְשַׁעֲתָה וְקִדְשָׁה לְעֵתִיד לְבָא. וְכֵן קִדְשַׁת יְרוּשָׁלַיִם קִדְשָׁה לְעוֹלָם. אֲכַל קִדְשַׁת שְׂאֵר אֶרֶץ יִשְׂרָאֵל לֹא קִדְשָׁה בְּכַבּוּשׁ רִאשׁוֹן אֲלֵא לְשַׁעֲתָה, עַד שֶׁחָזְרוּ עוֹלֵי כָּכָל וְקִדְשׁוּהָ קִדְשָׁה שְׁנִיָּה, וְאוֹתָהּ קִדְשָׁה לְעֵתִיד לְבָא:

[since] the holiness that Solomon sanctified the Temple, he sanctified for its time and he sanctified it for the future. And similarly, the holiness of Jerusalem was sanctified forever. But the sanctification of the rest of the Land of Israel, he did not sanctify during the first conquest other than for its time [alone] until those who came up from Babylonia returned and they sanctified it a second time, and that sanctification was sanctified for the future.

4. חגיגה ג:

דִּתְנִינָא: מַעֲשֵׂה בְּרַבִּי יוֹסִי בֶן דּוֹרְמָסְקִית שֶׁהֵלֵךְ לְהַקְבִּיל פְּנֵי רַבִּי (אֶלְעִזָּר) [אֶלְיָעִזָּר] בְּלוֹד, אָמַר לוֹ: מָה חִידוּשׁ הָיָה בְּבֵית הַמִּדְרָשׁ הַיּוֹם?

The Gemara asks: But Rabbi Yohanan ben Beroka and Rabbi Elazar ben Hisma should have told Rabbi Yehoshua these statements of Rabbi Elazar ben Azarya directly, without delay. Why did they hesitate at first? The Gemara answers: They were hesitant due to an incident that occurred. As it is taught in a *baraita*: There was an incident involving Rabbi Yosei ben Durmaskit, who went to greet Rabbi Eliezer in Lod. Rabbi Elazar said to him: What novel idea was taught today in the study hall?

אָמַר לֵיהּ, נִמְנָנוּ וְנִגְמְרוּ: עֲמוּן וּמוֹאָב מְעַשְׂרִין מַעֲשֵׂר עֲנִי בְּשַׁבְּעִית.

Rabbi Yosei ben Durmaskit said to him: The Sages assembled, counted the votes, and concluded that although the lands of Ammon and Moab on the eastern side of the Jordan River are not part of Eretz Yisrael, and therefore the *halakhot* of the Sabbatical Year and tithes should not apply to them, as these lands are adjacent to Eretz Yisrael, one separates the poor man's tithe there in the Sabbatical Year. Since the Sages debated

which tithes should be separated, they had to take a vote to determine the *halakha* in this regard.

אמר לו: יוסי, פשוט גדיד וקבל עיניך. פשט גדיד וקבל עיניו. בכה רבי אלעזר ואמר: "סוד ה' ליראיו ובקרתו להודיעם". Rabbi Elazar said to him in anger: Yosei, extend your hands and catch your eyes, which are about to come out of their sockets. He extended his hands and caught his eyes. Rabbi Elazar wept and said the verse: "The counsel of the Lord is with them who fear Him; and His covenant, to make them know it" (Psalms 25:14), i.e., the Sages arrived at the correct conclusion, although they were unaware of the proper rationale behind it.

אמר לו, לך אמור להם: אל תחושו למנינכם, כך מקובלני מרבן יוחנן בן זכאי, ששמע מרבו ורבו מרבו: הלכתא למשה מסיני, עמון ומואב מעשרין מעשר עני בשביעית. מה טעם — הרבה פרקים כבשו עולי מצרים ולא כבשו עולי בבל, Rabbi Elazar said to Rabbi Yosei to go and say to the Sages in the study hall: Do not be concerned with regard to your counting, that you might not have ruled properly, as you have not in fact instituted a new ordinance at all. This is the tradition that I received from Rabban Yohanan ben Zakkai, who heard from his teacher, and his teacher from his teacher: It is a *halakha* transmitted to Moses from Sinai that in Ammon and Moab one separates the poor man's tithe in the Sabbatical Year. What is the reason? Those who ascended from Egypt conquered many cities, and those who ascended from Babylonia did not conquer them after the destruction of the First Temple.

מפני שקדושה ראשונה קדשה לשעתה ולא קדשה לעתיד לבא, והניחום כדי שיסמכו עליהן עניים בשביעית. This difference is important, because the first consecration of Eretz Yisrael, by those who ascended from Egypt, caused it to be sanctified only for its time and it was not sanctified forever, as that depended on the renewed conquest of the land by the Jewish people. And those who ascended from Babylonia left those cities aside and did not consider them part of Eretz Yisrael even after Jewish settlement was renewed there. They would plow and harvest in these places in the Sabbatical Year and tithe the poor man's tithe, so that the poor of Eretz Yisrael, who did not have sufficient income from the previous years, could rely upon that produce in the Sabbatical Year, receiving help from this tithe.

5. יבמות פב:

דמנא בסדר עולם: "אשר ירשו אבותיה וירשתה", ירושה ראשונה ושניה — יש להן, ושלישית — אין להן. As it is taught in a *baraita* in the anthology called *Seder Olam*, with regard to a verse that speaks of the Jewish people's return to Eretz Yisrael following their exile: "And the Lord your God will bring you into the land that your fathers inherited, and you shall inherit it" (Deuteronomy 30:5). These two expressions of inheritance teach that they had a first inheritance of Eretz Yisrael in the days of Joshua and a second inheritance at the time of the return from the Babylonian exile. That is to say, since the sanctity of the

land had lapsed when the First Temple was destroyed and the Jewish people exiled to Babylonia, a second sanctification was necessary when they returned to their land. But they will not have a third inheritance. In other words, it will never be necessary to sanctify the land for a third time, as the second sanctification was permanent.

6. רש"י שם

ירושלם ראשונה - בימי יהושע הוּיָא ירושלה וכן שניה דבימי עזרא דכשגלו גלות ראשונה בטלה קדושת הארץ: שלישית אין להם - כלומר לא בעי למהדר ומירתא דירושלה עומדת היא ואשמעינן האי קרא דלא בטלה קדושת הארץ בגלות טיטוס:

First inheritance: the inheritance was in the time of Joshua and likewise in the sanctity in the time of Ezra - when they were exiled the first time, the sanctity of the land was nullified.

They do not have a third: i.e., they do not have to go and inherit again, for the inheritance stands (from earlier). And this verse is teaching us that the sanctity of the land was not nullified in the exile by Titus.

7. רמב"ם משנה תורה הלכות בית הבחירה ו:יד-טז

כָּל מְקוֹם שֶׁלֹא נַעֲשֶׂה בְּכָל אֵלּוּ וּכְסֻדֵּר הִנֵּה אֵין קָדוֹשׁ גָּמוּר. וְזֶה שֶׁעָשָׂה עֲזָרָא שְׁתֵּי תוֹדוֹת זָכְרוֹן הוּא שֶׁעָשָׂה לֹא בְּמַעֲשָׂיו נִתְקַדֵּשׁ הַמְּקוֹם שֶׁלֹא הָיָה שָׁם לֹא מֶלֶךְ וְלֹא אוֹרִים וְתַמִּים. וּבִמָּה נִתְקַדֵּשׁהּ בְּקִדְשָׁהּ רִאשׁוֹנָה שֶׁקִּדְשָׁהּ שְׁלֵמָה שֶׁהוּא קִדְשׁ הָעֶזְרָה וִירוּשָׁלַיִם לְשַׁעֲתָהּ וְקִדְשָׁן לְעֵתִיד לָבוֹא:

Any place which was not [consecrated] with all the above [elements] and according to the above procedure is not thoroughly consecrated. Though Ezra offered two thanksgiving offerings [to dedicate the city,] he merely carried out a testimonial act. The Sanctuary was not consecrated through his deeds, for neither a King nor the *Urim V'Tumim* were present there.

[If so,] how was [the Second Temple] consecrated? With the first consecration performed by Solomon, for he consecrated the Temple Courtyard and Jerusalem, for that time and for eternity.

לְפִיכָה מְקַרְבִּינוּ הַקֶּרְבָּנוֹת בָּלֵן אֵף עַל פִּי שְׁאִין שָׁם בֵּית בְּנוֹי. וְאוֹכְלִין קִדְשֵׁי קִדְשִׁים בְּכָל הָעֶזְרָה אֵף עַל פִּי שֶׁהִיא חֲרֻבָּה וְאֵינָה מְקַפֶּת בְּמַחֲצָה וְאוֹכְלִין קִדְשִׁים קְלִים וּמַעֲשֵׂר שְׁנִי בְּכָל יְרוּשָׁלַיִם אֵף עַל פִּי שְׁאִין שָׁם חוֹמוֹת שֶׁהִקְדִּישָׁה רִאשׁוֹנָה קִדְשָׁה לְשַׁעֲתָהּ וְקִדְשָׁה לְעֵתִיד לָבוֹא:

Therefore, we may offer all the sacrifices [on the Temple site], even though the Temple itself is not built. Similarly, sacrifices of the most holy order can be eaten in the entire [area of the] Courtyard, even though it is in ruin and not surrounded by a divider. We may also eat sacrifices of lesser sanctity and *Ma'aser Sheni* throughout Jerusalem, even though [it is not surrounded by] a wall, for through its original consecration, it was consecrated for that time and for eternity.

וְלָמָּה אֵנִי אוֹמֵר בְּמִקְדָּשׁ וִירוּשָׁלַיִם קִדְשָׁה רִאשׁוֹנָה קִדְשָׁה לְעֵתִיד לָבוֹא. וּבְקִדְשֵׁי שְׁאָר אֶרֶץ יִשְׂרָאֵל לְעֵנֶן שְׂבִיעִית וּמַעֲשְׂרוֹת וְכִיּוֹצֵא בָהֶן לֹא קִדְשָׁה לְעֵתִיד לָבוֹא. לְפִי שֶׁקִּדְשֵׁי הַמִּקְדָּשׁ וִירוּשָׁלַיִם מִפְּנֵי הַשְׂכִּינָה וְשְׂכִינָה אֵינָה בְּטֻלָּה. וְהָרִי

הוא אומר (ויקרא כו לא) "והשמותי את מקדשיכם" ואמרו חכמים אף על פי ששוממין בקדשתו הן עומדים אבל חייב הארץ בשביעית ובמעשרות אינו אלא מפני שהוא פבוש רבים וכיון שגלקתה הארץ מידיהם בטל הכבוש ונפטר מן התורה ממעשרות ומשביעית שהרי אינה מן ארץ ישראל. וכיון שעלה עזרא וקדשה לא קדשה בכבוש אלא בהזקה שהחזיקו בה ולפיכך כל מקום שהחזיקו בה עולי בבל ונתקדש בקדשת עזרא השניה הוא מקדש היום ואף על פי שגלקת הארץ ממנו וחייב בשביעית ובמעשרות על הדרך שבארנו בהלכות תרומה:

Why do I say that the original consecration sanctified the Temple and Jerusalem for eternity, while in regard to the consecration of the remainder of *Eretz Yisrael*, in the context of the Sabbatical year, tithes, and other similar [agricultural] laws, [the original consecration] did not sanctify it for eternity?

Because the sanctity of the Temple and Jerusalem stems from the *Shechinah*, and the *Shechinah* can never be nullified. Therefore, [Leviticus 26:31] states: "I will lay waste to your Sanctuaries." The Sages declared: "Even though they have been devastated, their sanctity remains."

In contrast, the [original] obligation to keep the laws of the Sabbatical year and tithes on the Land stemmed from the fact that it was conquered by the [Jewish people, as a] community. Therefore, when the land was taken from their hands [by the Babylonians,] their [original] conquest was nullified. Thus, according to Torah law, the land was freed from the obligations of the Sabbatical year and of tithes because it was no longer *Eretz Yisrael*.

When Ezra returned [to *Eretz Yisrael*] and consecrated it, it was not sanctified by means of conquest, but rather through *Chazzakah*. Therefore, every place which was repossessed by the [exiles returning from] Babylon and consecrated when Ezra consecrated [the land] the second time, is sacred today.

Thus, as explained in *Hilchot Terumah*, it is necessary to keep the laws of the Sabbatical years and the tithes [on this land] even though it was taken from [the Jewish people in later years].

8. אבן האזל על הרמב"ם, R. Isser Zalman Meltzer, 18th-19th c. Minsk, Volozhin, Hadera

...דזה מוכח מדברי הרמב"ם דחזקה עדיף מכיבוש לענין זה דמה שזכו ישראל ע"י כיבוש מהני כיבוש להוציא מידם, אבל מה שזכו ישראל משל הפקר לא מהני כיבוש מלחמה להוציא מידי ישראל...

...for this is proven from the words of Maimonides, that possession is more effective than conquest for this purpose - for when the Jews acquired land through conquest, a subsequent conquest removed it from their hands; but when the Jews acquired land that was ownerless, subsequent conquest could not remove it from the hand of the Jews...

9. פירוש יכין לעדויות ח'ו, R. Yisrael Lifschitz, 18th-19th c. Dessau and Danzig, also known as Tiferet Yisrael

קדשה לשעתה וקדשה לעתיד לבא

וקיי"ל דקדושת א"י לענין מעשר ושביעית דוקא אותה הארץ שנתן להם כורש, והחזיקו בה עולי גולה, חייבת גם השתא במעשר מדאורייתא, דמדלא התנבא נביא בפירוש שיחזרו עכו"ם ויטלוה מהן, לא אתא כיבוש עכו"ם ומבטל חזקה דידן. אבל מה שכבשו עולי גולה אח"כ, פטור מדאורייתא ממעשרות, דאתא כיבוש עכו"ם ומבטל כיבוש ישראל: And we maintain that the sanctity of the land of Israel for the purpose of tithing and sabbatical applies specifically to the land that Cyrus gave them and the returning exiles possessed - which is now always obligated Biblically in tithing: for because no prophet prophesied explicitly that the gentiles would come back and take it from them, the conquest by the gentiles did not undo their possession. But that which the Babylonian exiles conquered later is rabbinically exempt from tithing, because the subsequent conquest by gentiles nullified the Jewish conquest thereof.

10. Rabbi Joseph B. Soloveitchik, "Expiation, Suffering and Redemption," in *On Repentance*, adapted and edited by Phinchas H. Peli (Maggid Modern Classics), 219

When Maimonides speaks of the "possession with which the returnees from Babylon possessed the land," where did this occur? Not in the peripheries but first of all right in the center, in Jerusalem...

How was the land sanctified in the days of Ezra? By the right of possession? Possession in itself does not bring any sanctification! When the Holy Temple, the chosen dwelling place for the *Shekhinah*, was built, it bestowed sanctity on the whole Land of Israel. This time the sanctification did not gravitate inward from the circumference, from the outer peripheries toward the center. Quite the contrary, the sanctity was established first in the center itself and from there it spread outward, like a fountain gushing forth, overflowing into the Jerusalem environs and, from thence, to the rest of the Land of Israel, until all of it was completely sanctified.

That which sanctified the Land of Israel in Ezra's day was the Temple, the dwelling place of the *Shekhinah*. This is why Maimonides ruled that the sanctification of the Land by Ezra was in the same category as that of the Temple, whose sanctification by Solomon was not terminated because the *Shekhinah* cannot be withdrawn.

11. רמב"ם הלכות תרומות א:כו

הַתְּרוּמָה בְּזֶמַן הַזֶּה וְאֶפְלוּ בְּמָקוֹם שֶׁהִתְחַזְקוּ עוֹלֵי כָּבֵל וְאֶפְלוּ בִּימֵי עֶזְרָא אֵינָהּ מִן הַתּוֹרָה אֲלָא מִדְּבָרֶיהֶן. שְׂאִין לָהּ תְּרוּמָה שֶׁל תּוֹרָה אֲלָא בְּאֶרֶץ יִשְׂרָאֵל בְּלִבְדּוֹ וּבְזֶמַן שֶׁכָּל יִשְׂרָאֵל נָשָׂא שֵׁם שְׁנַעְמֹר (ויקרא כה ב) "כִּי תָבֹאוּ" בִּיאַת כָּלְכֶם כְּשֶׁהָיוּ בִּירֵשָׁה רִאשׁוֹנָה וְכִמוֹ שֶׁהָיוּ עֲתִידִין לַחְזֹר בִּירֵשָׁה שְׁלִישִׁית. לֹא כְּשֶׁהָיוּ בִּירֵשָׁה שְׁנִיָּה שֶׁהָיְתָה בִּימֵי עֶזְרָא שֶׁהָיְתָה בִּיאַת מִקְצָתָן וּלְפִיכָף לֹא חִיבָה אוֹתָן מִן הַתּוֹרָה. וְכֵן יֵרָאֶה לִּי שֶׁהוּא הַדִּין בְּמַעֲשָׂרוֹת שְׂאִין חִיבִין בְּזֶמַן הַזֶּה אֲלָא מִדְּבָרֵיהֶם כְּתְּרוּמָה:

In the present era, even in the areas settled by the Jews who ascended from Babylonia, even those [settled] in the era of Ezra, [the obligation to separate] *terumah* does not have the status of a Scriptural commandment, merely that of a Rabbinic decree. [The rationale is that] the Scriptural [commandment to separate] *terumah* applies only in *Eretz Yisrael* and only when the entire Jewish people are located there. [This is derived from the phrase] "When you enter...." [Implied is that] the entire [Jewish people] must enter [the land], as they did when they took possession of the land originally and as will happen in the future when they take possession of the land a third time. In contrast, the second time [the people] took possession of the land, in the time of Ezra, only a portion entered. Hence, they were not obligated according to Scriptural Law. Similarly, it appears to me that the same concept applies with regard to the tithes. In the present era, this obligation [as well] has the status of a Rabbinic decree like *terumah*.

12.R. Joseph B. Soloveitchik, *The Emergence of Ethical Man* (Jersey City, NJ: Ktav Pub. House, 2005), 150.

With all my respect for the *Rishonim*, I must disagree with such an opinion. I do not believe that it is halakhically cogent. *Kedushah*, under a halakhic aspect, is man-made; more accurately, it is a historical category. A soil is sanctified by historical deeds performed by a sacred people, never by any primordial superiority. The halakhic term *kedushat ha-aretz*, the sanctity of the land, denotes the consequence of a human act, either conquest (heroic deeds) or the mere presence of the people in that land (intimacy of man and nature). *Kedushah* is identical with man's association with Mother Earth. Nothing should be attributed a priori to dead matter. Objective *kedushah* smacks of fetishism.

