

קדושת בית הכנסת

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Amidst all of the terrible *nevuos* in the *Tochacha* of what could happen to Klal Yisroel, one *posuk* reads, (במדבר כו, לא) "ונתתי עריכם חרבה והשימותי את מקדשיכם" (*chas v'shalom*, Hashem could destroy the cities and make desolate the *mikdashos*). Rashi seems to understand the *lashon* of שממה means an emptiness and void. He explains that it cannot refer to a void of *korbanos*, because they are included in the ensuing phrase, "ולא אריה ריח ניחחכם". Rather, these words mean to become emptied of the people who were *mekadesh* themselves to be *oleh l'regel* three times a year. The *Sifra* points out how the word "מקדשיכם" refers to *batei knessios* and *midrashos*.

However, the Gemara in כ"ח מגילה דף כ"ח, learns the following *halacha* through a *diyuk* in this *posuk*: If a *beis knesses* is destroyed, it still has *kedusha*. One cannot be *maspid* there, nor use it for commercial purposes or a shortcut, etc. The Tosafos Yom Tov explains simply that the word "והשימותי" coming before "מקדשיכם" implies that the *kedusha* remains even after the שממה. R. Akiva Eiger cites the Maharit who explains the *drasha* differently: The word "שממה" means that a חורבן which occurred many years prior will remain. The *posuk* then means that the חורבן, referred to as "מקדשיכם," will become a permanent שממה. Being called "מקדשיכם" even after the חורבן shows how the קדושה is permanent.

[As an aside, it is very interesting that the Ribono Shel Olam is *megaleh* this *yesod* of permanent *kedushas beis haknesses* in the *Tochacha*. Perhaps, it serves as a bit of *nechama* to have the *mekor* for this embedded in the middle of this tragic *klala*.]

The Shulchan Aruch, in אורח חיים סי' קנא, *paskens* many ways in which it is *assur* to use a *beis knesses* and *beis medrash*. (No *kalus rosh*, eating or drinking, etc.) The *meforshim* understand this to be a *din* of מקדש מעט, and the *dinim* of ומקדשי תיראו of the Beis Hamikdosh apply to *batei knessios* and *midrashos* as well. In י"ט סעיף י"א, the Shulchan Aruch *paskens* that they maintain their *kedusha* even when destroyed.

The Gemara in Megila (דף כח:) states that the *batei knessios* in Bavel were built with a *tenai* that they are able to be used for personal necessities. Tosafos learns that this *tenai* is only a *hetter* after the *shul* is destroyed. However, while it is standing and in use it cannot be used for personal *tzerochim*. While some details of this *din* are a *machlokes Rishonim*, this *shita* is *paskened* in Shulchan Aruch.

What is the *svara* for this? If the *kedusha* still remains in these *shuls* even after they are destroyed, then why should we differentiate about using them for personal things? The rules should be the same both when they are in use and when they are in ruins.

R. Moshe Feinstein has a *teshuva* about this in מ"ד סי' מ"ח and explains the *svara* as follows. The Rambam, in פרק יא הלכות תפילה פרק יא, *paskens* an interesting *halacha* on which R. Moshe makes a beautiful *diyuk*. Rambam says that wherever there is a *minyan* of Klal Yisroel, they have a *chiyuv* to establish a place set aside to meet for *tefilos* for *davening*. This place is called, "*Beis Haknesses*." Furthermore, the local populace can be forced to help pay for its establishment as well as for *sifrei Torah*, *Nevi'im*, and *Kesuvim*.

R. Moshe asks why the Rambam doesn't simply say that any place where there resides a *minyan* of people they have a *chiyuv* to gather for *davening*? We would know from that if there isn't room in anyone's house to carry this out they would have to build a *makom* for it. Why does Rambam say instead that there is a *chiyuv* to set up a place specially for *tefila*? It is clear that he is *paskening* that there is a *mitzvah meyuchedes* to build a *makom* specifically for *tefila*. Just like there is a *mitzvah* of "ויעשו לי מקדש", there is also a *mitzvah* to build a מקדש מעט.

R. Moshe goes on to say that it comes out that when people are building this *makom l'tefila*, they are actually building a מקדש מעט that has all the *dinim* and *peratim* of *Kedushas Beis Haknesses*. This means that were one to build such a place with the *tenai* that those *dinim* don't apply, it is as if he is being מתנה על מה שכתוב בתורה.

One cannot be *mekadesh* a woman on condition that he is free from his spousal obligations; if he tries to the *kiddushin* takes effect but the *tenai* is void. Nor can one sell an item on condition that the rules of *ona'a*

don not apply. Conditions which attempt to change the *dinim* of the Torah are invalid. So too in our discussion: one cannot build a *makom l'tefila* to serve as a מקדש מעט on condition that it does not have all of the accompanying *dinim* applied to it. (Even if it is only a חיוב דרבנן, still, חזק לדבריהם כשל תורה, and one cannot make a *tenai* against their *takanos* either.)

However, says R. Moshe, there is no *chiyuv* to be *mekadesh* the ground beneath the *shul* when building this *makom l'tefila*. Meaning to say, there is no *chiyuv* to make sure it also retains *kedusha* if it were to become a *churban*. One is fully able to build a *shul* without being *mekadesh* the ground it rests upon. This is why one can make a *tenai* which will work, as Tosafos explains, when the *shul* is *b'churbana*. The person is creating a *makom muchan l'tefila* with the condition that the *kedusha* does not extend to the ground on which it lies.

We now see that the *kedusha* of a *beis haknesses* is not borne simply from the fact that ten people are using that space for *tefila*. It comes because it was built and established to be a *makom* for that purpose. From this, R. Moshe gives his *teshuva* to the following *shayluh* posed to him: There was a group of people who built a *shul* in a neighborhood which they suspected was on its way out, so to speak. They were operating on the premise that in a few years they would have to move the *shul*. They decided to build it as a library and not *l'shem beis haknesses*. They used this library for *minyanim* and learning for four years, and then wanted to sell it and knew it would end up being used as a church, or the like. R. Moshe *paskened* that there was no *kedusha* whatsoever on that *makom* because that only comes from building and establishing it as a *makom l'tefila*.

There is a Magen Avrohom who is *mechadesh* (with *rayos* from Rishonim) that one can even make a *tenai* to use a *beis knesses* for *chol* purposes (provided there is no *kalus rosh*) even while it is still standing and in use. R. Moshe explains that Magen Avrohom holds that there are really two different *kedushos* in *beis haknesses*, *kedusha chamura* and *kedusha kala*. The *kedusha chamura* forbids all *tashmishei chullin*, but the *kedusha kala* only forbids those *tashmishin* that have *kalus rosh*. The Magen Avrohom is talking about making a *beis haknesses* with *kedusha kala*. The other Rishonim, and Shulchan Aruch, who disagree will hold that there is only one type of *kedushas beis haknesses*, *kedusha chamura*, and may never be used for *tashmishei chullin*.

As we approach זמן מתן תורתנו, I want to end with something related to *talmud Torah*. The Gemara in : states "זמר בכל יום, זמר בכל יום" *מסי סנהדרין צט*. It sounds like Torah is supposed to be a זמר. There are different *peirushim* on what this means. The Maharal explains as follows. When a person sings a song, if he wouldn't actually sing it but instead know all of the notes and music in his head, or even if he would imagine in his mind what it would sound like if he sang it, that would not do the song justice. The entirety of a *zemer* comes when one actually sings and experiences the pleasure of singing.

Torah is to be like a *zemer* in this aspect. Torah is not just the *yedios* of it in our heads, it's not even thinking in learning. The *shlaymus* of Torah is only realized in our *debur* of Torah, vocalizing words of Torah. We find this *lashon* used when Chazal say that man was created for the "עמל פה" of *divrei Torah*. There is an emphasis on the *debur* of *limmud Torah* more than just the *mach'shava* of Torah.

It is possible that this *chashivus* of *debur* is a theme in *Parshas Bechukosai*, as it begins with how Rashi explains עמלות בתורה has the power to bring *brachos* to Klal Yisroel. (And, *chas v'shalom*, the lack of which brings *klalos*.) The *parsha* ends with the *inyanim* of *hekadesh* and *aruchin*, which also exemplifies the *koach* of *debur* to create *kedusha*.

Not only does the *ma'aseh* of building a *beis haknesses* create and instill it with *kedusha*, but the *deburim* of Torah also create *kedusha*. To go a little bit deeper, the Maharsha in צו דף defines *debur* as כח הנשמה על ידי כלי הגוף, the power of the *neshamah* expressed through the physical body's instruments. With this he explains the famous Gemara which states that when a *talmid chochom* is quoted for a *dvar Torah* of his own after he is *niftar*, "שפתותיו רוחשות בקבר". The Maharsha understands this is meant to be taken literally, that the *talmid chochom*'s lips actually move in his *kever*. He explains the *lomdus* as follows. When a *talmid chochom* speaks *divrei Torah* it creates a *koach ruchani* in the world. Even after he is *niftar*, if someone says that Torah over, that *koach ruchani* is reawakened and in turn awakens the things that were *molid* it- the *neshamah* in *Olam Haba* and the lips of his *guf*.

May we be *zoche* to a sincere *kabolas HaTorah* with a *chizzuk* in our commitment of נעשה ונשמע.