

## KEDUSHAS ERETZ YISRAEL

### How Does the Land Acquire Sanctity?

Several agricultural *halachos*, such as *terumos*, *maasros* and *shevi'is*, depend on Eretz Yisrael having a level of sanctification. In what way was that sanctity acquired at different stages in history? We encounter the nub of a dispute on *Zevachim* 107b, reflected in several Talmudic passages regarding the *kedushah* status of Eretz Yisrael.

#### SANCTIFICATION OF YERUSHALAYIM AND THE MIKDASH

King David and King Shlomo accomplished the initial sanctification of Yerushalayim and the Mikdash, and Rabbi Yochanan holds that this sanctification endures for all time, even after the destruction of the Beis HaMikdash. Yerushalayim never lost its status as the Beis HaBechirah, the chosen place. Reish Lakish holds that the initial sanctification sanctified them only for that time, but did not sanctify them for all future times. We recall a *machlokes Tanaim* on *Zevachim* 60b, whether the initial sanctification of Eretz Yisrael was permanent in connection with the question of eating *maaser sheni*, the second tithe after removing the first tithe given to the *Leviim*. *Maaser sheni* is eaten in Yerushalayim, as it must be eaten *lifnei Hashem*, in the presence of HaShem. The Baraisa considers whether that presence exists after the destruction of the Beis HaMikdash or only while the Temple is still standing. Whilst these sources debate the status of Yerushalayim and the Temple, other sources use the same phraseology (קדושה ראשונה קדשה לשעתה וקדשה לעתיד לבא, the initial sanctification sanctified for its time and for all future time) when discussing *terumos*, *maasros* and *shevi'is*, which apply to the whole of Eretz Yisrael. The *machlokes Amoraim* between Rabbi Yochanan and Reish Lakish on *Zevachim* 107b does not appear to be interdependent on that *machlokes Tanaim*. There are two separate issues: the permanence of the sanctity of Yerushalayim, including the Temple site, and the sanctity of Eretz Yisrael. The Rishonim debate as to how to reconcile these opinions and to understand the points of dispute and the halachic outcome. There are many facets to this discussion and we will touch on just a couple of points.

#### CONQUEST OR SETTLEMENT

The Rambam rules that Yehoshua's sanctification of Eretz Yisrael lapsed, whereas Ezra's sanctification was permanent and remains in effect today in all areas settled by those returning exiles. The Rambam explains (*Hilchos Terumos* 1:5 and *Hilchos Beis HaBechirah* 6:16) that the sanctification effected by Yehoshua's conquest was only by dint of his conquest of the Land; once the Land was taken away from the Jewish people, Yehoshua's conquest was reversed and the sanctification was annulled. At that point, the Land could no longer be called "Eretz Yisrael," the Land of the People of Israel. However, the second sanctification of the Land by Ezra was based on *chazakah*, taking hold of the Land through settlement, and this does not lapse.

#### KESEF MISHNEH'S OPEN QUESTION

Kesef Mishneh (to *Hilchos Beis HaBechirah*) is at a loss to explain this distinction. Why should "taking hold" endow the possession with any more permanence than "conquest"? Moreover, the original conquerors of the Land also settled and "took hold" of it, yet their sanctification did not endure! Regarding this last question, the Chidah answers that the acquisition of the Land imparts sanctity to it. Since the original acquisition was through conquest, the sanctity that took hold of the Land was impermanent. The subsequent settling of the Land could not impart any more permanent sanctity to it. The returning exiles, however, acquired the Land through "taking hold" of it; the sanctification that flowed from it was therefore permanent (*Teshuvos Chaim Shaal* 2:39). Concerning the first question, Tosafos Yom Tov (*Eiduyos* 8:6) answers that when the Babylonian exiles returned to the Land they did so with the permission and at the invitation of the then ruler of the Land, the Persian emperor. Their "taking hold" of the Land was thus like the acquisition of a gift through a *kinyan* of *chazakah*. Since the rule is that land can never be stolen (i.e., its original owner never loses his rights to it even if he is physically dispossessed from it), this acquisition remains permanent.

#### RAAVAD DISAGREES

Until this point, we have cited the Rambam's view regarding the sanctity of Eretz Yisrael in general. However, in *Hilchos*



The original boundaries of Yehoshua's conquest (yellow) with the smaller area occupied on Ezra's return (pink).

*Beis HaBechirah* 6:16, the Rambam distinguishes the Land's sanctity from that of the Temple and Jerusalem. The first sanctification of the Land lapsed for the reason given above; the sanctity of the Temple, however, derived from the *Shechinah* that came to reside in it, and the *Shechinah*'s Presence cannot be nullified. That sanctity, therefore, remained even after the Temple's destruction. The Raavad vigorously disputes both of the Rambam's positions. In his view, all the sanctities were subject to the same law. Thus, if the sanctity of the Land lapsed with its destruction, so too did the sanctity of the Temple and Jerusalem. And if the sanctity of the Temple did not lapse, neither did the sanctity of the rest of the Land. Moreover, the Raavad asserts, the permanence of the Temple's sanctity is even more problematic than that of the Land. For even the view in *Yevamos* 82b that holds that the sanctification of the Land remained in force after the destruction of the Second Temple, would agree that the special sanctification of the Temple and Jerusalem did lapse.

### **CONTRADICTION OF RABBI YOCHANAN**

The *sugya* in *Zevachim* 107b attributes to Rabbi Yochanan the view that the initial sanctification remained in effect even after the destruction of Yerushalayim and the Beis HaMikdash. In *Yevamos* 82b, however, Rabbi Yochanan maintains that the initial sanctification did not endure after the destruction, implying that, since Yehoshua's sanctification of Eretz Yisrael lapsed, the *mitzvos* of *terumah* and *maasros* were merely Rabbinical from the time of Ezra and on. *Tosafos* (to *Yevamos* 82b, s.v. *yerushah*) queries the contradiction between the two stated views of Rabbi Yochanan. *Tosafos* differentiates between sanctification of Eretz Yisrael, which is the subject of the Gemara in *Yevamos*, and which did not endure after the destruction, and the separate sanctity of Yerushalayim and the Beis HaMikdash, which was established in perpetuity, as stated by Rabbi Yochanan in *Zevachim*. The *Ri* advances several possible reasons for this distinction but then concludes that it is impossible to imagine that any authority would hold that the obligations of *terumah* and *maasros* were nothing more than Rabbinical enactments during the Second Temple. There is, however, a *Midrash* which appears to state just that.

### **HEAVENLY RECOGNITION OF THE DECREE**

*Midrash Rabbah, Ruth* 4:5, relates that the Jews were exiled from their Land due to the sin of not separating the required *terumos* and *maasros* from their produce. Shimon bar Abba said in the name of Rabbi Yochanan: Once they were exiled from the Land, they became exempt from these obligations, but they subsequently undertook these obligations upon themselves of their own accord. What did the *Anshei Knesses HaGedolah* do when instituting this obligation? They wrote a document pledging themselves to fulfil the tithing decree, and they spread the document out in the Temple Courtyard. On the following morning, they found that it had been signed by the Heavenly Court.

### **THE RI'S RECONCILIATION**

The *Ri* therefore posits that the subject of this *Midrash* was tithing fruit generally other than the biblically obligated produce, namely, grain, wine, and olive oil, such as apples and oranges. When they went into exile, biblical tithing lapsed, and when they returned they undertook to obligate themselves to a higher level than previously by including all types of produce. Alternatively, everyone agrees that *terumah* and *maasros* are Biblical obligations, and everyone agrees on their extent during the Second Temple period. The dispute concerns how they became Biblical obligations: Rabbi Lazar says that Ezra could choose which parts of the Land to sanctify and which parts to leave as they were. By extension, Ezra could also select how long those areas should remain sanctified. However, once Ezra did so, the Land became sanctified Biblically in those places and for those times. On the other hand, Rabbi Yose bar Chaninah maintains that the Torah commanded Ezra to sanctify all the Land, and he could not limit the sanctification. According to Rabbi Yose bar Chaninah, the Land remains sanctified even today, after the Destruction of the Second Temple. In contrast, according to Rabbi Lazar we presume that they intended to impose these obligations upon themselves only as long as the Temple stood.