

# HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

## SERIES 2: 22 - GOING ONTO HAR HABAYIT - PART 2

OU ISRAEL CENTER - SPRING 2022

### A] IS THE TEMPLE AREA STILL HOLY?

1. אין מוסיפין על העיר או על העזרות אלא על פי המלך וע"פ נביא ובאורים ותומים ועל פי סנהדרין של שבעים ואחד זקנים שנאמר (שמות כה"ט) כָּל־אֲשֶׁר אֶנִּי מְרַאֶה אוֹתְךָ וְכֵן תַּעֲשֶׂה לְדוֹרוֹת. וּמֹשֶׁה רְבִינוּ מֶלֶךְ הָיָה.

רמב"ם הלכות בית הבחירה פרק ו הלכה יא

*The kedusha of the Temple can only be created in the presence of a King, a prophet, a Sanhedrin of 71 Rabbis and the Urim veTumim, which were part of the Cohen Gadol's clothing. If so, how did Ezra inaugurate the Second Temple when he was missing the King and the Urim veTumim?*

2. ... אמר רבי יהושע שמעתי שמקריבין אף על פי שאין בית, ואוכלים קדשי קדשים אף על פי שאין קלעים, קדשים קלים ומעשר שני אף על פי שאין חומה - שקדושה ראשונה קדשה לשעתה וקדשה לעתיד לבא.

משנה מסכת עזריה פרק ח משנה ו

3. כל מקום שלא נעשה בכל אלו וכסדר הזה אין קדוש גמור. וזה שעשה עזרא שתי תודות זכרון הוא שעשה לא במעשיו נתקדש המקום שלא היה שם לא מלך ולא אורים ותומים. ובמה נתקדשה? בקדושה ראשונה שקדשה שלמה. שהוא קדוש העזרה וירושלים לשעתן וקידשן לעתיד לבא. השגת הראשון: ד: בקדושה ראשונה שקדשה שלמה: א"א סברת עלמו היא זו! ולא ידעתי מאין לו ... אלמא למ"ד קדושה ראשונה לא קדשה לעתיד לבא לא חלק בין מקדש לירושלים לשאר א"י. ולא עוד אלא שאני אומר שאפילו לרבי יוסי דאמר קדושה שנייה קדשה לעתיד לבא לא אמר אלא לשאר א"י, אבל לירושלים ולמקדש לא אמר. לפי שכיב יודע עזרא שהמקדש וירושלים עתידים להשתנות ולהתקדש קידוש אחר עולמי כצדוד יי לעולם. כך נגלה לי מסודר כי ליראיו לפיכך הכנס עתה שם אין צו כרת.

רמב"ם הלכות בית הבחירה פרק ו הלכה יז

*The position of the Rambam<sup>1</sup> is that Shlomo Hamelech invested the Temple with a kedusha which was never nullified, even after the Temple was destroyed. Thus, when Ezra came to build the Second Temple it did not matter that he had no King or Urim veTumim to create new kedusha - the kedusha was already there and remains to this day. The Ravad (12C) disagrees and clearly states that there is NO punishment of karet to go onto Har HaBayit today. Does this mean that he rules that it is **permitted**, or just not punishable with karet?<sup>2</sup>*

4. אע"פ שהמקדש היום חרב בעונותינו חייב אדם במוראו כמו שהיה נוהג בו בבניינו, לא יכנס אלא למקום שמותר להכנס לשם ולא ישב בעזרה ולא יקל ראשו כנגד שער המזרח שנאמר את שבתותי תשמורו ומקדשי תיראו, מה שמירת שבת לעולם אף מורא מקדש לעולם שאע"פ שחרב בקדושתו עומד

רמב"ם הלכות בית הבחירה פרק ז הלכה ז

5. ומ"מ יש לי לתת טעם למנהג שנהגו כל העולם לעלות באותם עליות לראות משם את הבית כלו ולא שמענו ולא ראינו מי שמיחה בידם. דע כי הראב"ד ז"ל סובר כי האידנא אין כרת למי שנכנס למקדש וכן תמצא בהשגה פרק ששי מהלכות בית הבחירה הרי שעיקר הדין הוא מחלוקת והדבר ספק שמא עליות אלו הם בנויות בקדש או לא ....

שו"ת רדב"ז חלק ב סימן תרצא

*The Radvaz (R. David ben Zimra - 16C) writes in a responsum that many people in his time used to go up to view the Temple area from balconies overhanging Temple Mount. He justifies this practice by applying a double safek - sfeika sfeika: (i) it was questionable if these balconies were overhanging the actual Har Habayit area and (ii) the halacha may follow the view of the Ravad that there is no karet today.*

1. The Rambam's position on this is also taken by many other Rishonim - including Tosafot, Yere'im, Smag, Rosh, Ritva; and Acharonim - including the Avnei Nezer, Binyan Tzion, Ridvaz and Rav Avraham HaCohen Kook.

2. See Mishpat Cohen 96:6 of Rav Kook, who argues that the prohibition (even min haTorah) remains although the issur karet is lifted.

- The Radvaz adds a number of other doubts into the halachic equation in order to be lenient, although it is still not clear that he understands the Ravad's view to be that that it is permitted to go onto Har Habayit today. More recent authorities have understood the Ravad's opinion to be stricter in practice and not to allow access to Har Habayit<sup>3</sup>.

6. והמנהג פשוט להיכנס שם כמו ששמענו ....

פ' המאירי לשבועות טו:

*The Meiri (Provence 14C) writes that it was the custom in his time to allow entry onto the Temple Mount. Some recent poskim have questioned whether this wording is accurate and whether it can be relied upon.*

There is a question as to whether the Rambam himself went onto Har Habayit. His words are recorded as follows:-

7. "ויום השלישי בשבת, ארבעה ימים לירח מרחשון שנת כ"ו ליצירה יצאנו מעכו לירושלים תחת סכנה ונכנסתי לבית הגדול והקדוש והתפללתי בו ביום חמשה ימים לירח מרחשון"

ספר חרדים מצות תשובה פג

*It is not clear where Rambam, went although he describes it as 'The Great and Holy House'. It seems at least likely that this was a part of Har Habayit which is permissible to ascend - see source 4 above.<sup>4</sup>*

Non-Moslems were banned by the Mamluk and Ottoman authorities from ascending Temple Mount from around the 13C until 1862 when the first exception was made for the Edward Prince of Wales (later Edward VII). As such, Jewish entry onto the Temple area was not discussed in practice until the end of the the 19C.

8. בית המקדש - והנכנס עתה למקום מקדש חייב כרת שכולנו טמאי מתים וקדושה הראשונה קדשה לשעתה וקדשה לעתיד לבוא (מגן אברהם)

משנה ברורה סימן תקסא ס"ק ה

*The Mishna Berura rules in accordance with the Magen Avraham who follows the Rambam's view - that there is still karet for a tamei person to go to the Temple area. This psak presumably relates to the areas of Har Habayit which involve a chiyuv karet and the Mishna Berura prohibits entering 'Makom Hamikdash'. He does not specifically deal with entering other parts of Har HaBayit.*

## **B] TUMA~TAHARA AND HAR HABAYIT TODAY**

9. הר הבית מקודש ממנה - שאין זבין וזבות נדות ויולדות נכנסין לשם. ומותר להכניס המת עצמו להר הבית, ואין צריך לומר טמא מת שהוא נכנס לשם.

רמב"ם הלכות בית הבחירה פרק ז הלכה טו

*Following the opinion of the Rambam that the kedusha of Har Habayit applies today, those excluded min haTorah from anywhere on Har Habayit are a Zav, Zava, Nidda and Yoledet. Someone who is tamei met is allowed onto Har Habayit, just not into the inner Temple area itself.*

As we saw in Part 1, every opinion agrees that there is no obligation of karet unless one were to walk into (or over) the middle area where the Temple courtyard stood. To enter the other parts of Har HaBayit when tamei (eg Zav, Zava, Niddah, Yoledet etc) would be a Torah prohibition without karet. Furthermore, as we have seen in this shiur, there is a debate (Rambam vs Ravad) as to whether karet (and perhaps the Torah prohibition generally) still applies on Har HaBayit today.

10. דין זה צפרק קמה דכלים. אך לא ידעתי למה לא הזכירו גם כן צעל קרי שהוא ששתלח חוץ לז' מחנות כמו הזב ... אך נראה שהדין דין אמת שהרי כתב שם הטמא המשולה מהר הבית אם נכנס עובר זלא תעשה ... וקרא דמייתי צעל קרי מיירי

משנה למלך שם

*Additionally, a ba'al keris is prohibited min haTorah from entering Har Habayit.*

- The status of a Tevul Yom - someone who has been to the mikve and is awaiting sunset to complete their tahara process - is unclear. Most commentaries rules that a Tevul Yom may go onto Har HaBayit as far as the location of the Ezrat Nashim. However, some understand Rashi's opinion to be that a Tevul Yom is prohibited rabbinically from entering anywhere on Har Habayit. This would mean that, after immersion in a mikve, one could only go onto Har HaBayit the following day.

3. See Shu't Binyan Tzion 1:2

4. Some have suggested that the Rambam may have prayed in a nearby synagogue. Others have questioned the authenticity of the wording of this account (which is not recorded by the Rambam himself).

WHO IS EXCLUDED FROM HAR HABAYIT?

- Zav a man who has experienced a running genital discharge, sometimes associated with a venereal disease.
Zava a woman who has experienced uterine bleeding during the middle days of her monthly cycle (when bleeding is NOT expected).
Nidda a women who has experienced uterine bleeding at the beginning of the monthly cycle (when bleeding IS expected).
Yoledet a woman within 7 days of childbirth of a boy and 14 days of a girl.
Ba'al Keri a man who has emitted semen or a woman who has had sexual relations within the last 3 days.
[Tevul Yom any tamei person who has been to the mikve and awaits sunset on that day to become tahor.]

Halachic issues arising include:-

- Going to the mikve (according to Rashi before sunset the day before to avoid Tevul Yom issues).
Finding a men's mikve which is kosher for a tevila min haTorah, rather than the minhag of 'tevilat Ezra'.
The need for a ma'ayan for a Zav and not just a mikve.
Which men are considered to be a Zav?
Preparation and supervision in the mikve - for men and women.
Halachot of mikve: chatzitza, beracha etc.
Married women must separate from their husbands for at least 3 days before this mikve (and, according to Rashi, must then wait until the day after mikve to go up.)
Unmarried women and mikve - should they go, should they tell anyone they have been; brides before the wedding? Should men only be permitted?
Non-Jews on Temple Mount - permitted areas, behavior?

C] THE MODERN PSAK

Those against

Opposition to ascending Har Habayit is usually based on one or more of four different grounds:

- Halachic concerns that we are not sufficiently sure of where we can and cannot enter.
Concerns that people will go up to Har Habayit without sufficient care as to where they are going and/or without proper halachic preparation and/or without sufficient moreh mikdash.
Hashkafic concerns at pushing the agenda of geula and redemption.
Political concerns at unnecessary provocation of the Arab world and the consequences that could have on the Jewish community.

Charedi Poskim have always and still today totally prohibit entry to Har Habayit. The position of the Religious Zionist poskim is less clear. In 1967 after the Temple Mount was recaptured, the Israeli Chief Rabbinate - Rabbis Unterman and Nissim put out a statement opposing entry to Temple Mount. The positions of Rav Avraham Kook and Rav Tzvi Yehuda Kook is not clear. They are generally understood to have opposed entering Har Bayit but Rav Shlomo Ra'anan, grandson of Rav A. I. Kook wrote that they definitely permitted entry to certain areas.

Rabbanim opposing entry to Har HaBayit include:

- Rabbi Ovadia Yosef zt'l, former Sefardi Chief Rabbi of Israel
Rabbi Yitzchak Weiss zt'l, the Minchat Yitzchak



- A number of Religious Zionist poskim - including Rav Shlomo Aviner - who dismiss the hashkafic concern of the '3 Oaths' regarding moving to Israel in large numbers and creating a Jewish State nevertheless understand that the position of the Vilna Gaon is that the 3 Oaths DO still apply concerning entry to Har Habayit and rebuilding the Temple (Vilna Gaon, Commentary on Shir HaShirim 2:7, in his Siddur). See https://dionline.org/2010/05/27/the-three-oath/ and https://www.yeshiva.co/ask/6695.
Rav Avraham Kook published a warning against entering Temple Mount in Mishpat Cohen, published in 1921. In 1929 he testified before the Shaw Commission that Jews were not allowed onto Temple Mount. Some understand that statement as a public response to Muslim claims of Jewish plans to damage the mosque, rather than as a halachic statement.
R. Yosef ruled that it is even prohibited for Jewish security forces to enter Temple Mount unless there was a pikuach nefesh situation.



- 4 Rabbi Eliezer Waldenberg zt'l, the Tzitz Eliezer
- 5 Rabbi Issur Yehuda Unterman zt'l, Ashkenazi Chief Rabbi at the time of the 6 Day War
- 6 Rabbi Yitzchak Nissim<sup>8</sup> zt'l, Sefardi Chief Rabbi at the time of the 6 Day War
- 7 Rabbi Yosef Shalom Elyashiv zt'l
- 8 Rabbi Chaim Kanievsky zt'l
- 9 Rabbi Yehoshua Neuwirth zt'l
- 10 Rabbi Avraham Shapiro<sup>9</sup> zt'l, former Ashkenazi Chief Rabbi of Israel and then Rosh Yeshiva of Yeshivat Mercaz HaRav
- 11 Rabbi Yehuda Amital zt'l, Rosh Yeshivat Har Etzion
- 12 Rabbi Shalom Cohen, Rosh Yeshivat Porat Yosef
- 13 Rabbi Shlomo Amar, former Sefardi Chief Rabbi of Israel
- 14 Rabbi Yitzchak Yosef, current Sefardi Chief Rabbi of Israel
- 15 Rabbi Eliyahu Bakshi-Doron<sup>12</sup>, former Sefardi Chief Rabbi of Israel
- 16 Rabbi Yisrael Meir Lau<sup>13</sup>, former Ashkenazi Chief Rabbi of Israel and current Chief Rabbi of Tel Aviv
- 17 Rabbi Shmuel Rabinowitz, Rav of the Kotel
- 18 Rabbi Avigdor Nevensal, Rav of the Old City
- 19 Rabbi Simcha HaKohen Kook, Rav of Rechovot
- 20 Rabbi Arieh Stern, Chief Rabbi of Yerushalyim
- 21 Rabbi Shlomo Aviner, Rosh Yeshivat Ateret Cohanim.
- 22 Rabbi Zalman Melamed, Rosh Yeshivat Bet-El
- 23 Rabbi Zvi Tau, Rosh Yeshivat Har HaMor
- 24 Rabbi Moshe Lichtenstein, Rosh Yeshivat Har Etzion<sup>14</sup>
- 25 Rabbi Shlomo Levi, Rosh Kollel Yeshivat Har Etzion<sup>15</sup>

**Those For**

In recent years increasing number of senior Rabbanim have ascended Har Habayit<sup>16</sup>. Those who permit entry to (at least certain parts of) Temple Mount include:

- 26 Rabbi Shlomo Goren zt'l, former Ashkenazi Chief Rabbi of Israel<sup>17</sup>
- 27 Rabbi Chaim David Halevi zt'l, former Chief Rabbi of Tel Aviv<sup>18</sup>
- 28 Rabbi Yosef Kapach zt'l.
- 29 Rabbi Yechiel Michel Tukuchinsky zt'l
- 30 Rabbi Moshe Feinstein zt'l in a teshuva seems to indicate that some parts of the Temple Mount are permitted to enter<sup>19</sup>

8. Rabbis Unterman and Nissim issued an announcement (drafted and supported by Rabbi Bezalel Jolti) within hours of Temple Mount being captured by Zahal, that Jews may not enter Temple Mount. This was broadcast by Israel Radio. This was also supported by Dr. Zerach Warhaftig, then Religious Affairs Minister, who was concerned about the political implications of Jewish entry onto the Temple Mount. 300 leading rabbis (including Rav Zvi Yehuda Kook) also signed a declaration prohibiting access. However, Rabbi Chaim David Halevi, then Chief Rabbi of Rishon LeZion, was NOT opposed to Jewish entry and advised that the issue should be left to individuals' local poskim. Rav Goren actively supported Jewish access, as a mitzva of kibush - see below.
9. This follows the public position of R. Zvi Yehuda Kook. After 1994 however, and the grant of preferential status to Jordan on matters pertaining to Temple Mount, he became more open to entry onto the northern part of the Temple Mount, as long as a proper fence was put in place.
10. Rav Eliezer Melamed writes that he personally asked Rav Shapira who told him that, although he was against it, it was halachically permitted - see <http://www.yeshiva.org.il/ask/?id=184>
11. I heard from talmidim of Rav Amital that he was not opposed to entry onto Har Habayit on halachic grounds, and he himself went up to Har Habayit in the 1970s. However, he became concerned that people would go onto Har Habayit without making the necessary halachic preparations and became opposed in practice to ascending. He was also opposed on political grounds and concerned at unnecessary provocation to the Arab world.
12. R. Bakshi-Doron supported the 1967 ban, which was reconfirmed in 1997.
13. R. Lau opposed the initiative of Rav Mordechai Eliyahu to build a synagogue on Temple Mount - see below.
14. Regardless of the halachic issues, R. Moshe Lichtenstein is against going onto Har Habayit for political reasons since he regards this as unnecessarily provocative to the Arab world.
15. Rav Shlomo Levi is a posek in the Religious Zionist yeshivot. He rules that it is prohibited since we are not sufficiently clear as to the locations of the different parts of the Mikdash.
16. 30 senior Religious Zionist Rabbanim went onto Har Habayit on Yom Yerushalayim 2014 - see <http://www.inn.co.il/News/News.aspx/276982>. MK Yehuda Glick, the Haliba movement and the Temple Institute are at the forefront of moves to raise awareness of Jewish connection to Har Habayit.
17. Rav Goren insisted that there were areas of Temple Mount which certainly did NOT have kedushat Har HaBayit. He recommended to PM Levi Eshkol in 1967 that the Rabbanut should prohibit access to the central areas to all Jews and Non-Jews! Such a ban would have given the Chief Rabbinate time to study the problem and clarify the issues. He also moved his office onto Temple Mount in summer 1967 and held Mincha there on 9 Av that year, with a Sefer Torah and benches. He announced that Yom Kippur services would take place on Har HaBayit, but this was scotched by Defence Minister Moshe Dayan and Chief-of-Staff Yitzchak Rabin. Later, after becoming Chief Rabbi in 1972, Rav Goren sought to reverse the ban of the Chief Rabbinate on entry to and prayer on Temple Mount. He had however lost support due to other controversial decisions, and he was unable to sway other leading Rabbis, even in the Rabbanut, or the PM Menachem Begin. Rav Goren never publicly issued a formal psak while in office permitting entry onto Temple Mount. He was also reluctant to allow access to women. His research concerning Har HaBayit carried out in the 1970s was not published until 1992.
18. Shu't Aseh Lecha Rav 1:15
19. See Igrot Moshe, O.C.2:113 s'v 'uma shetiratza' and also [https://www.templeinstitute.org/harav\\_moshe.htm](https://www.templeinstitute.org/harav_moshe.htm)

Rabbi Moshe Tendler zt'l<sup>20</sup>

Rabbi Menachem Mendel Schneerson zt'l, the Lubavitcher Rebbe<sup>21</sup>

Rabbi She'ar Yashuv Cohen zt'l, former Chief Rabbi of Haifa

Rabbi Mordechai Eliyahu zt'l<sup>22</sup>

Rabbi Aharon Lichtenstein zt'l, Rosh Yeshivat Har Etzion<sup>23</sup>

Rabbi Yisrael Rozen zt'l, Machon Zomet

Rabbi Nachum Rabinovitz zt'l, Rosh Yeshivat Bircat Moshe, Ma'alei Adumim

Rabbi Dov Lior, Rav of Kiryat Arba

Rabbi Shmuel Eliyahu, Rav of Tzfat

Rabbi Ben-Zion Mutzafi, Rosh Yeshivat Bnei Zion

Rabbi Eliezer Melamed, Rosh Yeshivat Har Beracha

Rabbi Yisrael Ariel, Rav of Machon Hamikdash

Rabbi Yuval Sherlo, Rosh Yeshivat Hesder Amit Orot Shaul

Rabbi Yaakov Meidan, Rosh Yeshivat Har Etzion

Rabbi Yitzchak Shilat, Rosh Yeshivat Ma'aleh Adumim

Rabbi Re'em HaCohen, Rosh Yeshivat Otniel

Rabbi Zefania Derori, Rosh Yeshivat Kiryat Shemone

Rabbi Chaim Druckman, Rav of Yeshivot Bnei Akiva

Rabbi Yosef Tzvi Rimon, Rav of Gush Etzion<sup>24</sup>

Other arguments brought to justify going onto Har Habayit today, even into the Temple area, include:-

- The halachic permission to go onto Har Habayit even when tamei in order to construct and fix it. They argue that this includes inspection and survey.
- The halachic obligation to conquer Har HaBayit - they argue that each ascent makes it politically harder for the Moslems to retain ultimate control.



*This sign near the Kotel was tampered with by activists who added the word 'טמא' into the Chief Rabbinate's ruling to give the impression that it WAS permitted for tehorim to ascent. The sign was corrected and the word 'טמא' removed!*

## D] MOREH MIKDASH

11. א מצות עשה ליראה מן המקדש שנאמר (ויקרא יט:ל) **וּמִקְדָּשֵׁי תִיגָאָו**. ולא מן המקדש אתה ירא אלא ממי שצוה על יראתו. ב ואי זו היא יראתו? לא יכנס אדם להר הבית במקלו או במנעל שברגליו או באפונדתו או באבק שעל רגליו או במעות הצוררין לו בסדינו. ואין צ"ל שאסור לרוק בכל הר הבית אלא אם נזדמן לו רוק מבליעו בכסותו. ולא יעשה הר הבית דרך שיכנס מפתח זו ויצא מפתח שכנגדה כדי לקצר הדרך אלא יקיפו מבחוץ. ולא יכנס לו אלא לדבר מצוה. ... א' אע"פ שהמקדש היום חרב בעונותינו חייב אדם במוראו כמו שהיה נוהג בו בבניינו. לא יכנס אלא למקום שמותר להכנס לשם ולא ישב בעזרה ולא יקל ראשו כנגד שער המזרח שנאמר (ויקרא יט:ל) **אֶת־שַׁבְּתֵי תִשְׁמְרוּ וּמִקְדָּשֵׁי תִיגָאָו**. מה שמירת שבת לעולם אף מורא מקדש לעולם שאע"פ שחרב בקדושתו עומד.

רמב"ם הלכות בית הבחירה פרק ז

There are a number of halachic issues of 'Moreh Mikdash' - Reverence for the Temple - involved in going onto Har Habayit including:-

- not wearing leather shoes - people must go barefoot or in cloth socks or shoes.
- not becoming 'light headed' - chit chat, small talk etc eating is questionable.
- not to carry a wallet which is visible.

20. See a fascinating video of Rav Tendler on Har Habayit at <http://www.youtube.com/watch?v=cw91yrKuQec>

21. see [http://lamikdash.blogspot.co.il/2009/10/blog-post\\_8181.html](http://lamikdash.blogspot.co.il/2009/10/blog-post_8181.html) and generally <http://large1.blogspot.co.il/> for copies of letters and personal writings of a number of (surprising!) Rabbanim who may permit entry to Har Habayit

22. Rav Eliyahu's position was confusing and contradictory. His name appears on the sign (above) prohibiting ascent to Temple Mount. Nevertheless, he is reported to have supported the building of a synagogue on Har HaBayit at the far north or far south of Temple Mount. He also supported further rabbinic enquiry on the issue. He was however unable to move rabbinic opinion on the matter. The idea of a synagogue on Temple Mount also had political support from PM Yitzchak Shamir in 1983 and more recently from MK Uri Ariel. See <https://blogs.timesofisrael.com/israeli-chief-rabbinate-and-the-temple-mount-dilemma/>

23. I heard from talmidim of R. Aharon Lichtenstein that, although he himself did not go onto Har Habayit out of a sense of yirat Shamayim (which was entirely consistent with his personality), R. Lichtenstein assisted and guided others who wished to go onto Har Habayit and was not against it in principle.

24. See his halachot of Aliya to Har HaBayit.

<http://vbm.etzion.org.il/he/%D7%94%D7%9C%D7%9B%D7%95%D7%AA-%D7%A2%D7%9C%D7%99%D7%99%D7%94-%D7%9C%D7%94%D7%A8-%D7%94%D7%91%D7%99%D7%AA>

- not to spit.
- men must have their heads **properly** covered - not all kipot will satisfy this requirement, which is min haTorah.
- Rav Ovadia Yosef also rules that since moreh Mikdash prevents entering the Har Habayit other than for a mitzva (eg bringing a sacrifice), it is prohibited to go there today. Others claim that going up today IS a mitzva (eg conquering the site, keeping it in Jewish hands etc). There is also a debate as to whether the mitzva of moreh Mikdash lapses with the prohibition of tuma according to the Ravad's view (above) or will exist independently of it today, even according to the Ravad.

12. פגימה אחת הקדושת מקום בית חיינו עולה לנו על כל מליונים של ישובים מעשיים

אגרות הראיה, אגרת תרע"ד (1914), כרך ב' עמ' רפה

*Rav Kook appears to suggest that even one small trespass of the holiness of the site of the Beit HaMikdash is equivalent to the establishment of millions of Jewish settlements in the Land of Israel.*

## **E] HASHKAFIC ISSUES**

Consider how the halachic aspects of this issue are intertwined with the politics and hashkafa including:-

- Should we be pushing the rebuilding of the Temple?<sup>25</sup>
- Should there be a synagogue<sup>26</sup> on Har HaBayit?<sup>27</sup>
- Should Jews be allowed to pray on Har HaBayit?
- Should issues regarding Temple Mount be entirely in our hands? Should the Waqf<sup>28</sup> be allowed charge of the site? If not, who else?
- How do we keep Jewish control of Temple Mount/Jerusalem?
- How does Temple Mount impact upon the Middle East peace process? Does going onto Temple Mount justify the the risk of inflaming passions in the Arab world<sup>29</sup>? To what extent do we take such risks into account when performing a mitzva? Is this a mitzva?
- Should Jews be prohibited from ALL areas of Temple Mount to avoid them straying (accidentally or purposefully) into the central areas where there may be a prohibition of *karet*?
- Should Jews be prohibited from ALL areas of Temple Mount to avoid them entering without proper preparation?
- Is this part of what it means to be Religious Zionist or is it Messianic?

## **F] FURTHER READING**

- Entering the Temple Mount in Halacha and Jewish History, Meyer and Messner, Hakira Journal Vol 10 p 29 - <http://www.hakirah.org/Vol%2010%20Messner.pdf>
- Halachic Aspects of Visiting the Temple Mount, Daniel Stein, Journal of Halacha and Contemporary Society XLIV, 79
- The Political Role of the Israeli Chief Rabbinate in the Temple Mount Question, Yoel Cohen, Jewish Political Studies Review, Volume 11:1-2 (Spring 1999) - <http://www.jcpa.org/jpsr/s99-yc.htm>
- Har Habayit - Rav Sholmo Goren

25. Rav Goren was in favor of precipitating the rebuilding of the Beit HaMikdash, both before and immediately after the Six Day War (he later changed his position). This followed naturally from the establishment of a Jewish State and legal structure in the Chief Rabbinate. Almost all other Rabbinic voices, certainly in the Charedi world and the Rabbanut but also beyond, have rejected from the practical agenda any thought of rebuilding the Temple and have focused instead on other issues. According to them, the rebuilding of the Beit HaMikdash requires either Mashiach or at least a major shift towards the Messianic Age.

26. There is evidence that a synagogue existed on Temple Mount from the 7C until 1080 roughly in the area of Al Aqsa.

27. This was Rav Goren's later position and also that of Rav Mordechai Eliyahu. It was proposed to build a synagogue on of the areas of Temple Mount which almost certainly do not have kedushat Har HaBayit. The idea was to have a separate entrance from outside Temple Mount without any internal access to Temple Mount.

28. Following the 1994 Peace Agreement between Israel and Jordan, Jordan now has a preferential status in deciding on any changes in the status quo on Temple Mount.

29. Rav Goren himself said that "the subject is controversial. I don't want to raise the issue of prayer access for Jews which will create difficulties for the government in relations between Jews and Moslems. As somebody under whom passed 10,000 corpses who fell in Israel's wars, one should at all costs avoid conflict. I will be the last to cause new problems". Ha'aretz 12 October 1977.