

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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Shiur #04: Beit Kneset and Mikdash – Part 2

The previous shiur discovered a faction of Rishonim who claimed that a *Beit Kneset* (shul) is imbued with the Biblical status of a *Mikdash* (Temple). This identity dictates certain halakhot which shape our conduct toward and in a *Beit Kneset*.

Selling a Beit Kneset

The primary gemara which contradicts this theory is located in *Megilla* (25-26). The gemara discusses selling a *Beit Kneset* and the halakhic limits governing use of the sale money. Normally, money from a sale of a *Beit Kneset* may be used only to purchase items of "higher *kedusha* (holiness)" such as a Sefer Torah. However, sales conducted by public representatives "in the presence of the entire city" yield greater latitude regarding use of these proceeds. As the gemara asserts, under these circumstances the money may even be designated to purchase beer.

In some ways the gemara appears to support the position of the Rambam that a *Beit Kneset* possesses *Mikdash*-like status. Upon describing the limitations, the gemara mentions the status of *kedusha* which attends the *Beit Kneset*, seemingly corroborating this theory. However, the gemara also authorizes the use of proceeds for ANY purpose, in a situation of a public sale supervised by the town leaders. Typically, an element of *hekdesh* (items dedicated to use in the Temple) may only be relieved of its *kedusha* through a process of *pidyon*; merely SELLING a *Beit Kneset* would not constitute *pidyon*. Furthermore, the elements of *Mikdash* which a *Beit Kneset* appears most related to do not typically allow *pidyon* at all under normal circumstances. Finally, even if some sort of *pidyon* were realized or enacted, the monies themselves would acquire the *kedusha* status and would not be available for non-*hekdesh* purchase, such as beer.

Cheftza shel mitzva

Based upon these concerns the Ramban rejects the Rambam's position and claims that a *Beit Knesset* does not possess a quasi-*Mikdash* status. Accordingly, the gemara in Megilla and the Sifra which do associate the two should be taken in a non-halakhic manner. To explain the purchase limitations described by the gemara the Ramban develops a provocative theory. The gemara in *Shabbat* (23a) prohibits trampling on blood which is about to be covered (in fulfillment of the mitzva of *kisuy ha-dam*); similarly it prohibits counting money by the light of the Chanukah candles. The Ramban interprets these statements as a general ban on abusing mitzva items while the mitzva is still operative. Though the gemara in *Megilla* (26b) claims that mitzva items may be discarded after the mitzva expires (for instance, a lulav may be thrown out, halakhically), they may not be mistreated while the mitzva still exists. Consequently, while the Chanukah candles are burning, they should not be utilized for non-mitzva use.

In a very striking fashion the Ramban claims that a *Beit Knesset* is considered a "mitzva item" (*cheftza shel mitzva*) and therefore, though not possessing ACTUAL *kedusha*, cannot be abused. As such, it cannot simply be sold and therefore eliminated. Its money must be utilized for objects of higher purpose unless it is sold by public leaders with popular awareness and support. Under this circumstance the public has decided to DISCONTINUE the status of *Beit Knesset* and the structure loses its status as a mitzva item. No longer possessing this status, the *Beit Knesset* can be sold and the proceeds utilized for any purpose.

Effectively, the Ramban asserts two primary novel ideas (*chidushim*). First, he assigns status of *cheftza shel mitzva* to a *Beit Knesset* even though the *Beit Knesset* is not as integral to the mitzva of prayer as a shofar is to its mitzva or a lulav to its. The *Beit Knesset* certainly "enhances" and "enriches" the mitzva but should this enhancement be sufficient to render it a halakhic mitzva item which disallows ulterior usage?

Second, the Ramban assumes that the status of *cheftza shel mitzva* of a *Beit Knesset* may be cancelled if the sale is authorized by the town leadership with popular support. Once he admits that a *Beit Knesset* achieves status of mitzva item, can it be arbitrarily removed? Typically an object loses its identity as a mitzva item only once the TIMEFRAME of the mitzva closes. Furthermore, when that time passes the status of the mitzva item is automatically and independently altered. After Rosh Hashanah, for instance,

the mitzva of hearing the sound of the shofar no longer exists and the shofar abdicates its status. Similarly, after the Chanukah candles are extinguished, the mitzva of that night has passed and any remaining oil (at least according to the Ramban's reading of the gemara in *Shabbat*) may be utilized. We have little record of DELIBERATELY terminating the status of mitzva items.

The Ramban does cite a gemara in *Sukka* (46b) about one who designated a new etrog for each day of Sukkot. As each day passes the etrog of that day becomes permitted for general use. This signals, at least according to the Ramban, an ability to PROGRAM the timeframe of a mitzva item. Of course, even if the Ramban is correct, it may only be feasible to PRE-PROGRAM the status of a mitzva item by determining timeframes PRIOR to the onset of a mitzva. Consequently, the ability of the public and its leadership to sell a *Beit Knesset* at some future point would have to be stipulated at the time of its building. In fact, the Meiri does suggest this model in order to explain the ability to sell a *Beit Knesset* for general use (see also the Biur Halakha - *Orach Chayim siman* 154). Though a *Beit Knesset* possesses *kedusha*, its construction (and hence its *kedusha*) was preconditioned upon the ability to terminate it through public decision.

The Ramban, however, assumes that even AFTER the mitzva of *Beit Knesset* has been set in motion, the public can jointly decide to halt its mitzva item status and allow the *Beit Knesset* to be sold for any use. This is the second novelty underlying the position of the Ramban.

AFTERWORD:

It is fascinating to consider the broader ramifications of this dispute between the Rambam and Ramban. The former attributed quasi-*Mikdash* status to a *Beit Knesset* whereas the latter denied it. Is there logical consistency between this debate and their more "famous" debate as to whether prayer entails a Biblical mitzva? Is it merely incidental that the Rambam both viewed prayer as a mitzva de-oraita and also viewed a *Beit Knesset* as a miniature *Mikdash* (as we pointed out last week)? Is the Ramban opposing this strategy by both rejecting prayer as a Biblical mitzva as well as denying *Mikdash* status to a *Beit Knesset*?