YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**20th Century Teshuvot**

**By Rav Gidon Rothstein**

**Shiur #24: R. Chayim David Ha-Levy on Taking Wedding Pictures at the Kotel**

People can mistake the sanctity of a place, *kedushat makom,* for magical power instead of what it really means – a venue for a closer relationship with Hashem. *Shu”t Aseh Lekha Rav* 6:43, dated 11 Cheshvan 5745 (1984), answers a young woman who had been planning on taking wedding pictures at the Kotel. (It’s unusual for R. Ha-Levy to date his responsa. Usually, he opens with the words, “I received your letter of….”)

The writer refers to *rechavat ha-Kotel*, which I always thought meant the area behind the prayer zones, where people gather when not praying (and tourists stand to watch the proceedings); later in the responsum, R. Ha-Levy will blur the issue of exactly which area is under discussion – the area right in front of the Kotel, or the *rechavat ha-Kotel*. The bride-to-be seems surprised to have heard from friends who thought taking pictures there was prohibited, and wants to know R. Ha-Levy’s view.

**Defining the Sanctity of the Place**

R. Ha-Levy first discusses the sanctity of the courtyard area. He cites Rambam, who differentiated between Jerusalem (the location of the Temple) and the rest of Israel, in *Laws of the Beit Ha-Bechira* (literally, *of the Selected House*)6:15-16. Jerusalem, as the location of the *Shekhina*, the Divine Presence*,* never lost its sanctity when the first Temple was destroyed – as opposed to the rest of Israel, where Rambam held that *kedusha rishona kadsha le-she’atah*, the first sanctification lasted only temporarily, while the *Mikdash* stood.

[Rambam’s ruling sparked discussion of his sources as well as what it means for Israel to lose its sanctity. R. Ha-Levy’s focus is Jerusalem, which did retain its sanctity, so we will stay there with him.]

In the same section, Rambam quotes *Megilla* 28a, where a *mishna* says synagogues and other sacred spaces retain their sanctity after being abandoned or left desolate, based on *Vayikra* 26:31. Part of the rebuke of *Parashat Bechukotai*, the verse mentions desolation of sacred spaces among the punishments for our national failure to serve Hashem. Despite the context, the Torah still refers to these spaces as *mikdesheikhem*, your holy places; despite being laid waste, they remain sacred.

In chapter seven, Rambam codifies the mitzva obligation to be in awe/fear of the *Mikdash*, and states (in paragraph seven) that the same obligation applies nowadays, even though it is destroyed. A paragraph later, he tells us the geographic extent of the obligation: no *kalut rosh,* levity, was allowed anywhere the Temple was visible.

**Although the Courtyard Is Not the Temple Mount**

The rule about levity within sight of the *Mikdash* will matter, since no one believes the technical sanctity of the Temple Mount extends beyond the Kotel, the Western Wall. (Although R. Ha-Levy does say he knows of people who are careful not to insert their fingers into the cracks of the Kotel, since those spaces might already count as being on the Temple Mount and we are all *teme’ei met* – bearing the unremoved ritual impurity, from contact with corpses, that precludes entry into the Temple Mount.)

*Shemot Rabba* 2:2 reads *Shir Ha-Shirim* 2:9 (“look, there He stands behind our wall”) as indicating the Western Wall is a permanent site for the Divine Presence. Other *midrashim* speak of a divine oath to protect the Kotel from destruction, since it is where the Divine Presence took up residence after the Temple was destroyed.

**Were It Just a Synagogue**

The courtyard, despite having no prayer services, is in a direct line of sight of the Kotel; once we know the tradition regarding the Divine Presence, the code of conduct to be expected in the courtyard [and much of the Old City] rises to a higher level of solemnity. Certainly the area is no less than a *beit kenesset*, a place of prayer, since Jews flock there to pour out their hearts before the Divine Presence. (R. Ha-Levy’s current line of thought applies only to the section of the plaza where people *do* pray, but his points about being able to see the Temple or the Wall include the back parts of the plaza as well.)

Nor does the practice to take these pictures in the women’s section alleviate the problem, because that section, too, counts as part of a *beit kenesset* (since women pray there). *Megilla* 28 prohibits eating and drinking, walking for pleasure, or going in to escape the sun and/or rain in any part of a *beit kenesset*.[We today stipulate when we build our synagogues that the space will be used for multiple purposes. No such condition was made when the Kotel was built.]

**Going Into a Synagogue**

*Shulchan Arukh Orach Chayim* 151 codifies Rambam’s additional requirement to enter a *beit kenesset* (and the Kotel is no less than a *beit kenesset*)only for a specific mitzva reason. The bride, groom, and their entourages have no such justification to invade the Kotel (making sure to have wedding pictures is not a mitzva; going to the Kotel for it is likely the opposite, as he will explain), so the entry itself is prohibited, let alone taking pictures.

Remarkably, he has a precedent for his claim. R. Chaim Palachi discussed a practice in 19th-century Turkey to bring a bride to the local synagogue on her way to the wedding hall. She would circuit the room and light candles, and friends and family who joined her would have a small celebration inside. R. Palachi thought the practice inappropriate, though he suggested ways they could salvage it. Were the bride to study or read some Torah or pray, she could justify her entry; an illiterate bride could sit in the synagogue for a while, since sitting in a place of prayer is itself a mitzva (I think because awareness of the sanctity conveys valuable religious messages).

R. Palachi still discouraged it, however, since he thought such excuses were only for pressing cases, such as the need to communicate with someone already inside. Besides, important authorities objected, seeing the ordinary *beit kenesset* as too similar to the *Beit Ha-Mikdash* to allow workarounds. Only someone whose main purpose was to perform an act of service to Hashem (pray or study Torah) could enter.

*Rokeach* was reported to have taken the analogy to the Temple another step. He obligated a person who spoke idly in a *beit kenesset* to atone through forty days of fasts and lashes. Since *bi’a reikanit*, entry with no purpose, to the *Beit Ha-Mikdash* violated a Biblical prohibition, purposeless entry into a *beit kenesset* would incur a similar punishment.

**Haircuts and Other Shul Activities**

There was a tradition to have celebratory haircuts (such as a toddler’s first haircut) in a *beit kenesset*. Jerusalem custom allowed such a celebration, with musical accompaniment and a Jewish barber, on *Chol Ha-Moed Sukkot*. However, the rabbi who discussed the issue permitted it only in outer rooms, which were built with the assumption of alternative purposes, and only because no other location could hold all the people who wanted to attend.

*Kapparot,* the practice of symbolically transferring one’s sins to a chicken and then slaughtering it to give to the poor,was another use of the side rooms of a *beit kenesset*.(In that case, obviously, the intent was to be involved in matters of traditional value.)

Sum total, R. Ha-Levy sees little reason to allow a photo shoot at the Kotel – especially because the photographer will pose people with their backs to the Kotel, and he and others will likely make light-hearted jokes, and there is no real reason to go there in the first place.

**His Advice**

He instead suggests she plan the photos for another location, and also recommends going to the Kotel on the day of her wedding, before she gets dressed in her gown, to pray to Hashem (Whose Presence resides there, he says) for assistance and success in building a home true to Hashem and His Torah, filled with happiness and blessing.

A much better “use” of the Kotel than as a backdrop for pictures, he says.