



Selling Tashmishei Kedusha

Chapter three of *Masechet Megillah* opens by discussing the laws of selling items of *kedushah*. The *Tosefot Yom Tov* comments that the placement of these laws in *Masechet Megillah* is logical, as this *masechet* deals with the reading of the *megillah* which shares common themes with the reading of the *Sefer Torah*, namely, that both readings arise from *takkanot neviim* (edicts from the Prophets) and they are read in *Beit HaKnesset*. Following on from this theme, the *Mishnah* begins by discussing the laws of the *kedusha* of a *Beit HaKnesset*.

The first *Mishna* lists a scale of items that may be bought with the proceeds of sale of a *tashmish kedusha*. The scale of *kedusha* ascends from a public street (in which prayers are held on fast days), through to a *Beit HaKnesset*, *Teivah*, *Mitpachot* (shrouds of a Torah), *Sefarim* and finally a *Sefer Torah*. One may only use the proceeds of sale from a lower ranked item for an item infused with higher *kedushah*. The basis for this ruling is the concept of “*maalin bekodesh ve'ein moridin*” - one may only ascend in *kedushah*, and not descend.

There is a *machloket haposkim* whether not being able to decrease in holiness is a Torah or rabbinic prohibition. The *Gemara* in *Menachos* (99a), states a *pasuk* “*et machtot hachataim...v'asu otam rikuay pachim tzipui lemizbeach*” “*Even the fire-pans of these men who have sinned at the cost of their lives, and let them be made beaten plates for a covering of the altar*” (*Bamidbar* 17:3) . This source seems to indicate that *Bnei Yisrael* made use of these fire-pans, which were *tashmishei kedushah* and proceeded to use them for a higher purpose, namely, a covering for the *Mizbeach*. The *Pnei Yehoshua* holds that this prohibition is from the Torah, while the *Pri Megaddim* seems to hold that the prohibition is rabbinic in nature and the *pasuk* is an *asmachta*. The practical difference between these two opinions arises in the case of doubt. For example, in a case

where one is not sure what *davar she'bkdushai* was sold, those that hold that this prohibition is from the Torah would be *machmir*, while those that maintain it is rabbinic would allow another item of *kedusha* to be bought. The *Shulchan Aruch HaRav* (34:9) reconciles the two opinions by stating that there is only a *Torah* prohibition in decreasing in holiness in relation to those items that are associated with the *meilah* prohibition (i.e. *kedushat hamizbeach* or *bedek habayit*), however for all other items the prohibition is only rabbinic.

Another question that arises is whether one may use the proceeds to buy something with the same level of *kedusha*. The *Beit Yosef* (*Orach Chayim* 153:4) states that there are those that forbid this and those that permit. The *Mishnah Berurah* explains that those that forbid seem to take the phrase of “*maalin bekodesh v'ein moridin*” quite literally – and even though there is no reduction of *kedusha* in this circumstance, since there is no increase it is prohibited¹. Those that permit do not take the statement literally, and allow one to not decrease *kedusha* even though they are not elevating. The *Mishnah Berurah* does qualify this by saying that this is on a *b'dieved* as in the first instance one should try and only use the funds for a more holy item.

Interestingly, the *Taz* mentions that in his days it was quite common for people to sell *sefarim*, and use the proceeds to purchase other *sefarim*. The *Taz* explains that it seems that in those times, when one would purchase *sefarim* it would be done on condition that it would be his property for the time that he requires its use. Therefore, if he did not need it anymore or found a better one, he would be able to sell the used *sefer* to fund the purchase. This condition was assumed in the purchase and does not necessarily have to be expressed or clarified.

Yehuda Gottlieb

¹ The *Mishnah Berurah* does note that in a case where there is no option – i.e. the sale of a *Sefer Torah*, one may certainly use the proceeds to purchase another *Sefer Torah*.

Revision Questions

מגילה ג' ב' ד' ט'

- On what conditions can one sell a Shul? (List the three opinions) (ג' ב')
- What five things does *R' Yehuda* prohibit from engaging in inside a shul ruin? (ג')
- Should one remove the vines that are growing over a shul ruin? (ג')
- In what order are the "four *parshiyot*" read? (ד')
- When is the first of the "four *parshiyot*" read? (ד')
- What portion for the *Torah* is read for: (ה')
 - *Pesach*?
 - *Shavuot*?
 - *Rosh Hashanah*?
 - *Yom Kippur*?
 - *Chol Ha'moed Sukkot*? (ה')
 - *Chanukah*?
 - *Purim*? (ו')
- What is the source for allocating a special *Torah* reading during a festival? (ו')
- Is one allowed to read the *megillah* seated? (ז')
- Can one fulfil his obligation of hearing the *megillah* if it is read by two people at the same time? (ז')
- Is one allowed to add additional *aliyot* for *Shabbat Mincha*? (ז')
- How many people are called up to the *Torah* on: (ז')
 - *Rosh Chodesh*?
 - *Chol Ha'moed*?
 - *Yom Tov*?
 - *Yom Kippur*?
 - *Shabbat*?
- On which days can extra people be called up to the *Torah*? (ז')
- What ten things (listed in the *Mishnah*) require a *minyan*? (ז')
- What requires a *minyan* that includes at least one *kohen*? (ז')
- What is the minimum number of *p'sukim* that must be read for an *aliyah*? (ז')
- Explain how the *Torah* reading would be performed with a *meturgeman*. (ז')
- Explain how the *haftorah* reading would be performed with a *meturgeman*. (ז')
- What other honours would they give the person that read the *haftorah*? (ז')
- Can a minor be a *ba'al koreh*? (ז')
- Can a minor be a *chazzan*? (ז')
- What is a "*poche'ach*" and which parts of *tefillah* is he prohibited from taking part? (ז')
- Concerning a *kohen's* hands, what invalidates him from performing *birkat kohanim*? (List both opinions) (ז')
- What manner of wearing *tefillin* is described as: (ח')
 - *Derech minut*?
 - *Derech ha'chitzonim*?
- What are the three phrases that if one says them in his *tefillah*, we must silence him? (ט')

Local Shiurim

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
 Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Beit Ha'Roeh
 Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
 9:00am
Kollel Magen Avraham
 Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendar/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
 In US dial: 718 906 6400
 Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
8 th April ט"ז ניסן	9 th April י"ז ניסן	10 th April י"ח ניסן	11 th April י"ט ניסן	12 th April כ' ניסן	13 th April כ"א אדר	14 th April כ"ב ניסן
Megillah 4:10 – Moed Katan 1:1	Moed Katan 1:2-3	Moed Katan 1:4-5	Moed Katan 1:6-7	Moed Katan 1:8-9	Moed Katan 1:10-2:1	Moed Katan 2:2-3

