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The Dual Faceted קדושה of ארץ ישראל

There is a fascinating story mentioned in גמרא נדרים כב. The גמרא discusses an episode that occurred when עולא was traveling with two בני מחוזה from בבל to ארץ ישראל. Over the course of their journey, one of the בני מחוזה killed the other one and then asked עולא for his validation of the murder, which עולא granted. Upon arriving in ארץ ישראל, עולא asked ר' יוחנן if it was correct for him to validate this murder to which ר' יוחנן confirms, since if עולא did not validate the murder the בני מחוזה would have killed him as well. עולא then continued to ask, is it not written in ספר יהושע that only those in חוץ לארץ will have such extreme anger, those in ארץ ישראל are supposed to be more subdued? ר' יוחנן answered that the פסוק brought describing this reserved anger was referring to כלל ישראל after they crossed over the Jordan River. Only after their formal entrance into ארץ ישראל proper, once they crossed the entire לירדן, this guarantee would be activated. Before they crossed the Yarden River there was no such guarantee.

The ר"ן in his commentary of this גמרא explains that since the עבר לירדן was not sanctified for laws such as the קרבן העומר and other קדושות. Therefore the קדושה that existed in that area was not akin to the level of קדושה that existed within the land of Israel.

Similarly (א:ב) רמב"ם הלכות ביכורים writes that one may in fact bring ביכורים (first fruits) from these areas but only a Rabbinic level. This implies that, as the משנה points out, on a Torah level, such areas are exempt from ביכורים, in line with the ר"ן's opinion.

At first glance this comment of the ר"ן seems innocent and unassuming. Why would I have thought the עבר לירדן territory would be imbued with a level of קדושה akin to that of ארץ ישראל? After all this territory is not found within the formal boundaries of ארץ ישראל, the seeming prerequisite for territorial sanctity? Moreover, the ר"ן's opinion is troubling in light of an explicit גמרא which states that עבר לירדן is obligated in מעשרות and תרומות on a Torah level! How then can the ר"ן write when it comes to the הלכות of קרבן עומר such area is not sanctified while with respect to tithes this area is obligated? What would be the possible distinction between these two obligations?

Many explain this opinion of the ר"ן based on a משנה in כלים א:ו. There the משנה delineates the various levels of קדושה that exist around ארץ ישראל. The Mishna states

ארץ ישראל מקודשת מכל הארצות ומה היא קדושתה שמביאין
ממנה העומר והביכורים ושתי הלחם

The Mishna explains, the reason that the קדושה of ארץ ישראל is superior to the קדושה of other lands is because one is obligated in the עומר offering, ביכורים and the שתי הלחם. Many commentators ask, of all the things one is obligated in ארץ ישראל why did the תנא choose specifically these? Why not mention the standard מצוות

אזכרה כגון מעשרות ותרומות? Surely obligation in these מצוות would have represented the קדושה that exists in ארץ ישראל?

Perhaps one can suggest there are in fact two facets of קדושת ארץ ישראל. The first is the קדושה imbued in the very land, a sanctity that was introduced as result of the national conquest (ירושה וישיבה) and the קדושה that obligates one living in ארץ ישראל in מצות תלויות בארץ.

However, there exists a parallel קדושה which is the product of being the land that was promised to our forefathers and the Avos; a land whose קדושה emanates from being the land that הקב"ה chose as the promised land for יצחק ויעקב, אברהם and all ensuing generations of כלל ישראל. As opposed to קדושה endowed for the sake of מצוות התלויות בארץ, this קדושה is a product of ancestral heritage, a land whose קדושה is brought forth as a product of being “promised land” to יצחק ויעקב בני אברהם. This idea is further echoed in the *sefer* (פרק י) where he explains the קדושה of the land for מצוות that are תלוי בקרקע are a product of the national conquest while the קדושה of being the chosen land began when it was chosen for the אבות.

Similarly the רמב"ם הלכות תרומות א:ג records that if כלל ישראל were to capture other lands after they conquered ארץ ישראל these lands would still merit to achieve a certain level of קדושה. The רדב"ז adds that these lands would only be sanctified for the purposes of תרומות and

ארץ ישראל of קדושה but not the full blown מעשרות. This comment of the רדב"ז is consistent with the aforementioned approach. Although the national conquest served as a mechanism in endowing ארץ ישראל and even its surrounding lands with a קדושה מצוות, תלויות בארץ, it cannot achieve the full קדושה of ארץ ישראל that was endowed as the chosen land for our forefathers; such a קדושה cannot be mimicked or fabricated. Only Hashem can institute this kedusha.

Rav Schachter, in his sefer נפש הרב, quotes this distinction in the name of Rav Soloveitchik in a slightly different formulation. He explains that in addition to the basic קדושה that exists in ארץ ישראל regarding terrestrial bound מצוות there exists an additional level of קדושה that stems from the presence of the בית המקדש in Eretz Yisroel. In addition to the קדושה that was endowed as a product of the national conquest (כיבוש רבים) there exists another קדושה as a product of ארץ ישראל serving as the host to the Mikdash. Rabbi Genack quotes a proof to this understanding based on a תוספות זבחים ס: that even after the destruction of the second temple the קדושה of the land did not dissipate, as we find regarding the city of Shiloh, where even though there was no מקדש קדושת the קדושה of the land remained.

Based on the above analysis, we can now address the question we began with. Of all the מצוות that could have been used to illustrate the superior קדושה of ארץ ישראל, why did the Mishna in ביכורים, עמר כלים chose specifically

הם? וישתי הלחם? Why not choose more simple examples such as תרומות and מעשרות? We can suggest that perhaps the obligations mentioned in the Mishna are obligated not because they are standard מצוות תליות בארץ but rather these מצוות are obligated as a product of ארץ ישראל being the “Chosen Land” -whether because it was the land destined for our forefathers or because it served as the host of the בית המקדש. Since the Torah describes by all three of these מצוות that we are obligated to bring them to the בית המקדש, therefore they need to be brought from a place with a corresponding קדושה.

We can now explain the ר"ן we began with. Even the ר"ן would concede that the עבר לירדן area has a certain level of קדושה. After all it, was conquered just like all the other neighboring areas in ארץ ישראל. However, since this area was not included in the mandate directed toward the Avos, עבר לירדן was not sanctified with the complete sanctity as ארץ ישראל proper.