

## *Entering the Temple Mount— in Halacha and Jewish History*

By: GEDALIA MEYER and HENOKH MESSNER

### **Introduction**

Since the miraculous victory of the Six Day War in 1967, there has been a great deal of interest in the subject of the halachic permissibility of entering the area popularly known as the Temple Mount. While much ink has already been spilled on this subject and the two sides are well known, the time has come to review the issues and bring them up to date. The goals of this article are to do exactly that: to lay out the primary sources on the subject, to state the main opinions of the *Rishonim*, to chronicle the historical development of the Temple Mount, to clarify the archeological issues and debates, and to present the various opinions of modern rabbinic authorities.

It should be understood from the outset that the halachic guidelines for an issue as important as this are in the hands of *poskim*, and with them rests the ultimate authority of decision. When the rabbinic authorities themselves do not agree, however, the educated Jew may wish to understand the issues without preconceived biases. This is particularly true in the case of *Har Habayis*, where opinions may be shaped by non-halachic factors such as international politics, historical changes, and archeological discoveries. Can and should these factors play a role in halacha? Can they be left out of halacha if they influence the questions that must be decided? Entering *Har Habayis* is not a simple question that can be answered while

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Gedalia Meyer, a *musmach* of Yeshiva Chofetz Chaim of Queens, has served as Rabbi in various communities in the United States, and is presently Rav of Kehilat Nachalat Yehuda, Maale Adumin, Israel. His brother-in-law and *chavrusa* by phone is Henoeh Messner who has held various *chinuch* positions in the New York metropolitan area, is today in private business and lives in Monsey, New York.

standing *al regel achas*, on one leg; it must be examined from many angles and weighed out from opposing sides.

### Dimensions Past and Present

Before we can begin to discuss the dimensions of *Har Habayis*, we must keep in mind that the area we are talking about does not have the same dimensions that it did for most of the period of the Second Temple. For this reason, and to avoid confusion, we shall refer to the current enclosed area as the Temple Mount, and reserve the term *Har Habyis* for the complex as it stood in pre-Herodian times. The Temple Mount is approximately rectangular, 488 meters (1,601 feet) on the western side, 471 meters (1,542 feet) on the eastern side, 315 meters (1033 feet) on the northern side, and 280 meters (919 feet) on the southern side. The total area is about 150,000 square meters (about 35.5 acres). The fact that the northern wall is completely hidden by houses and other buildings and that the western and eastern sides are only slightly different in length leads to the mistaken assumption that the platform is indeed rectangular. Of the walls, the southern and eastern are exposed for their entire lengths, while the western wall is visible only at its southern end (the *Kotel Ma'arvi*) and a small portion of the northern end (the *Kotel Hakatan*) and even in these places a good deal of the wall is underground.

The dimensions of *Har Habayis*, however, are quite different from those of the Temple Mount. The two primary sources we have for this crucial difference are the Mishna (*Middos* 2:1) and Josephus (*Antiquities* 15:11). The Mishna in *Middos*, which must be considered the most authoritative from a halachic perspective, is quite clear on the dimensions of *Har Habayis*:

*Har Habayis* is 500 *amos* by 500 *amos*. Its largest (open space) is on the southern side, the second largest on the eastern side, the third largest on the northern side, and the smallest on the western side. Where there was more space there was more activity.

The well-known rabbinic debate concerning the length of an *amah*—minimal 46 cm. (17 inches), maximal 58 cm. (23 inches)—makes *Har Habayis* a square with sides of length between 230 meters (755 feet) and 300 meters (984 feet). The most common measure

of an *amah*, and the one we will be using in this article, is .5 meter, making each side 250 meters (820 feet)

Josephus is also quite clear in his measurements of the *Har Habayis*. He attributes the building of the walls around the hill to Solomon:

This hill it was which Solomon, who was the first of our kings, by Divine revelation, encompassed with a wall; it was of excellent workmanship upwards, and round the top of it... This hill was walled all round, and in compass four stadia (about 185 meters or 607 feet), [the distance of] each angle containing in length a stadia... (Antiquities 15:11)

It is obvious from these two descriptions that neither comes anywhere close to the current dimensions of the Temple Mount, although maximizing the length of the *amah* can make the southern and northern sides fit in (with a little stretch on the northern side). The eastern and western sides of *Har Habayis*, according to the Mishna in *Middos*, are about half the length of those sides of the Temple Mount. From this discrepancy, it is obvious that the Temple Mount is about double the size of Har Habayis and that the two areas are not identical.

There are other critical dimensions concerning both *Har Habayis* and the Temple Mount. Within the walls of *Har Habayis* was an enclosure called the *soreg*. We know of no dimensions of the *soreg* other than its height, which doesn't concern us. Inside the *soreg* was a porch-like area called the *chel*. (Rambam understood the *chel* to be a wall.) Inside the *chel* were the courtyards of the *Beis Hamikdash* and the *Mikdash* itself. It is unclear from the Mishna if the *chel* completely enclosed the *Mikdash* and the courtyards, or if it was only in specific areas (possibly only on the eastern side). The Mishna (*Middos* 2:3) states that the *chel* was 10 *amos*. Most commentaries understand this to be referring to its width, though Rambam says it refers to its height.

The courtyard measurements are given by the *Mishnah*:

The women's court (*ezras nashim*) was 135 *amos* by 135 *amos*. (*Middos* 2:5)

The entire courtyard (of the *Mikdash*) was 187 *Amos* by 135 *Amos*. From the east to the west it was 187 *amos*. The area in

which those who weren't *Kohanim* could enter (*Ezras Yisrael*) was 11 *amos* (wide) and the area in which the *Kohanim* could go (*Ezras Kohanim*) was 11 *amos* (wide). (*Middos* 5:1)

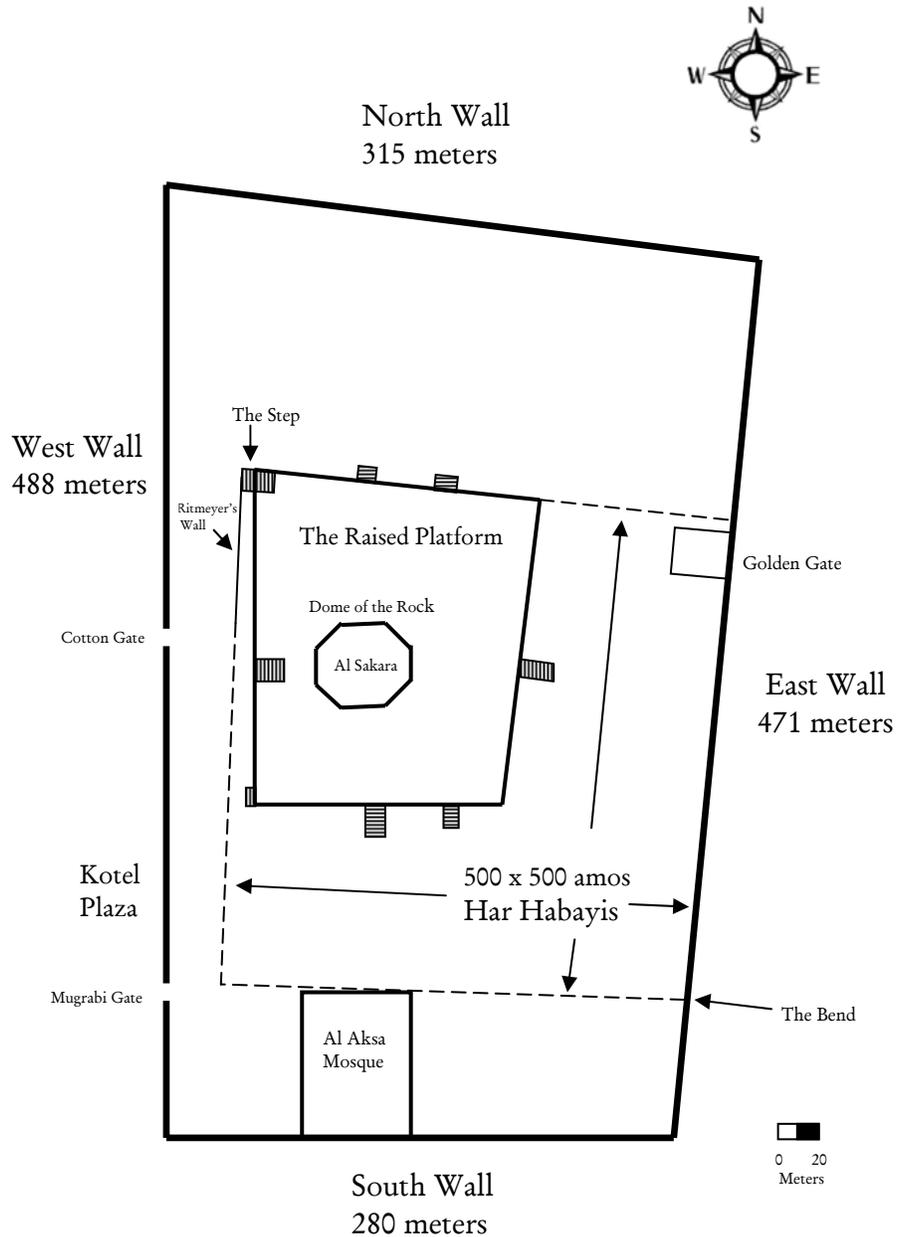
Concerning the individual areas of the Temple Mount, there are two large structures that stand out above everything else. On the southern side is the large domed mosque known as *Al-Aksa*. This building will play no role in our discussion. In the center of the Mount is a large octagonal building called the Dome of the Rock. This building was first constructed by the Moslems in the late 7<sup>th</sup> century, and except for exterior changes, was completed in the late 8<sup>th</sup> century. It encloses a large irregularly shaped rock, known as *Al-Sakara*, of maximal dimensions 13 meters by 17 meters (43 feet by 56 feet). The octagonal building itself is about 50 meters (164 feet) wide in each direction. The Dome of the Rock lies on top of a four-sided stone platform (the 'Raised Platform'<sup>1</sup>) of somewhat uncertain origin that is approximately a trapezoid with the southern side shorter than the other three sides. Some stones at the base of the raised platform appear to match those used in Herodian structures, though the significance of this is debatable.

Following is a diagram of the Temple Mount. The northern side is on the top. The rectangular shape is obvious. The raised platform is the trapezoidal structure in the middle of the diagram surrounding the Dome of the Rock.

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<sup>1</sup> The origins of the raised platform remain a mystery until today and probably will remain so until the time of an archeological investigation. The simplest explanation of its origin is that the Muslims constructed it along with the Dome of the Rock during the 7th and 8th centuries. However, there are no historical records confirming this. One oddity about the raised platform is that its northern, southern, and western sides are more or less parallel to the respective sides of the Temple Mount, while the eastern side runs parallel to the north-south axis of the earth, and is distinctly out of line with the eastern wall of the Temple Mount. One recent theory suggests that the raised platform was constructed earlier than the Dome of the Rock, possibly during an attempt by the Jews under Bar Kochba to rebuild the *Beis Hamikdash* around the year 130. See Resnick, in *Mishpacha Magazine*, May 6, 2009, page 44, 'Solving the Bar Kochba Mystery.'

# Temple Mount Bird's Eye View



### **The Restrictions on Entering Areas of the Mikdash**

The Torah basis for restrictions on entering areas of the *Mikdash* is found in *Bamidbar*:

Command *B'nei Yisrael* to send out of the encampment all those with *tzaraas* and any who is a *zav* and any who have been defiled by a corpse. Both males and females must be sent out. Outside of the camp they must be sent; and they shall not defile their camp that I dwell among them. (*Bamidbar* 5:2-3)

*Chazal* learn from these verses that there were three encampments: the *Machane Yisrael* on the outside, the *Machane Leviya* surrounding the *Mishkan*, and the *Machane Shechina*, which was the *Mishkan* and its courtyard. Those with *tzaraas* could not enter any of the camps. Those defiled by *zav*-related emissions could not enter the *Machane Leviya* but could remain in the *Machane Yisrael*. Those who were *tamei mes* could not enter the *Machane Shechina* but could enter into the *Machane Leviya*. When the *Beis Hamikdash* replaced the *Mishkan* as the permanent home for the *Aron Kodesh*, the three camps translated into: the walls of Jerusalem as the *Machane Yisrael*, *Har Habayis* as the *Machane Leviya*, and the *Mikdash* and its courtyards (not including the *Ezras Nashim*) as the *Machane Shechina*. The same prohibitions restricting which person could go into a given area applied to the *Beis Hamikdash* as with the *Mishkan*.

The Mishniac source for all restrictions concerning *Har Habayis* and the various areas within it is in *Kelim*:

*Har Habayis* is holier (than the areas within the walls of Jerusalem) since *zavim*, *zavos*, *nidos*, and *yalados* cannot enter it. The *chel* is even holier since *goyim* and *tamei mes* may not enter it. The *Ezras Nashim* is even holier since a *t'vul yom* may not enter it, but entering it does not require the atonement of a *chatas*. The *Ezras Yisrael* is even holier since a *m'chusar kipurim* may not enter it and would require the atonement of a *chatas*. (*Kelim* 1:8)

It is clear from this Mishna that a *tamei mes* may enter *Har Habayis*.<sup>2</sup> The *Tosefta* (*Kelim, Bava Kama* 1:7) that parallels this Mishna

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<sup>2</sup> Although we previously noted that we use the term *Har Habayis* to refer to the 500 x 500 area complex as it stood in pre-Herodian times, the

is even clearer: “One who is *tamei mes* may enter *Har Habayis*; not only a *tamei mes*, but even a *mes* itself.” While this ruling is rather startling to those who have never heard it, it still holds today (Rambam *Hilchos Beis Habechira* 3:15, *Hilchos Biyas Hamikdash* 3:4). A corpse may be brought into *Har Habayis*.

The restrictions on entry to *Har Habayis* and the *Ezras Yisrael* are from the Torah, since these were the original restrictions on the *Machane Leviya* and *Machane Shechina*. The restrictions on the *chel* and the *Ezras Nashim* are rabbinic. The Talmud records no debates or analysis on this Mishna, so the Mishna remains the final halacha. Rambam in *Hilchos Beis Habechira* (7:15–18) and *Hilchos Biyas HaMikdash* (3:3–12) details these halachos and follows the Mishna exactly. The only outstanding issue, as far as contemporary halacha is concerned, is whether the laws still apply to a time like today, when there is no *Beis HaMikdash*. Concerning this point there is much debate.

This question clearly revolves around the famous discussion that is found in the Mishna and the Talmud concerning whether the *kedusha* of the *Mikdash* and Jerusalem remains at all times or if it exists only when the *Beis Hamikdash* stands. The source in the Mishna is at the end of *Ediyos* (8:6), in which R’ Eliezer asserts that during the rebuilding of the *Beis Hamikdash* following the return from Bavel, the areas of the courtyard and the *Mikdash* were delineated with curtains. R’ Yehoshua responds with the seemingly irrelevant statement that we can bring all the offerings associated with the *Beis Hamikdash* even though there are no curtains, since ‘the original holiness of the *Beis Hamikdash* was present when it was standing and remained into the future (after it was destroyed).’

The Talmud in both *Shavuos* 16a and *Megilla* 10a assumes that R’ Eliezer is taking the opposite position: that the holiness applies only while the *Beis Hamikdash* is standing but not for the future. Rashi in *Megilla* explains that the Talmud was assuming that the curtains, according to R’ Eliezer, served in place of a wall to make the various areas of the *Beis Hamikdash* functional. In both places the Talmud then falls off this assumption and says that R’ Eliezer

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Mishnah and Tosefta here use the term in a narrower sense, exclusive of the area upon which the *Beis Hamikdash* stood.

could be agreeing with R' Yehoshua that the holiness lasts into the future, and that the curtains served only as a means of hiding the construction from the eyes of outsiders. The conclusion of the Talmud in both places is that there is indeed a debate on whether the *kedusha* lasts into the future, but the opinion in the negative is not that of R' Eliezer.

The position of Rambam (*Hilchos Beis Habechira* 6:14–16) is that the *kedusha* of the *Beis Hamikdash* and Jerusalem does endure into the future, since that *kedusha* comes from the presence of the *Shechina*. He also states that the *kedusha* of the rest of Israel that began with the conquering of the land under Joshua ended when the land was conquered from the Israelites. This apparent discrepancy—one *kedusha* endured while the other didn't—has been the subject of much commentary. Since the *kedusha* of the *Beis Hamikdash* remains, he asserts that the reinstatement of sacrifices is possible even without the rebuilding of the *Beis Hamikdash*; the required *kedusha* is there even if the building and the walls aren't. A further consequence of this is that restrictions on entering a given area due to its holiness still apply. Rambam states this quite explicitly in the next chapter (7:7): 'Even though the *Mikdash* is in ruins today due to our sins, everyone is obligated to revere it like when it was standing—not to enter any place that is forbidden...' Although he does not explicitly state that the same penalties apply as when the Temple was standing, there is no indication that he believes they have changed.

The major opinion opposing Rambam on this issue is that of the *Raavad*. Commenting on halacha 6:14, he states that the conclusion of Rambam that the *kedusha* of the rest of Israel could be removed while that of Jerusalem could remain is merely the personal opinion of Rambam and need not be treated as authoritative. He goes even further and claims that we actually see the reverse position: that the *kedusha* of the rest of Israel endures while that of Jerusalem and the *Beis Hamikdash* does not, since Ezra knew that it would be destroyed some time in the future.<sup>3</sup>

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<sup>3</sup> The logic of the *Raavad* here needs some explaining. He first criticizes Rambam for taking the position that one element of *kedusha* can survive destruction while the other cannot, seemingly implying that either both

The *Raavad* concludes his comment with a definitive halacha: ‘one who enters now does not receive the penalty of *kares*.’

A simple understanding of the *Raavad*’s conclusion indicates that there is no prohibition whatsoever on entering any area where the *Mikdash* was.<sup>4</sup> However, many later authorities temper his leniency to the mere elimination of the *kares* penalty while the Torah prohibition remains. These later authorities, who include Rav Avraham Yitzchok Hakohen Kook, see no contradiction in the *Raavad*’s assertion that the *kedusha* did not remain in the ruins of

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types of *kedusha* must remain or both must not remain. Then he allows the reverse—the *kedusha* of Israel remains while that of the *Beis Hamikdash* does not, apparently in contradiction to his own critique of Rambam. His own position is that of R’ Yossi, who maintains (*Yavamos* 82b) that once Ezra resanctified the land of Israel, no further *kedusha* would be necessary, but who also holds (*Makkos* 19a) that the *kedusha* of the *Beis Hamikdash* is no longer present. But isn’t R’ Yossi’s opinion contrary to *Raavad*’s basic rule concerning *kedusha*? This question is asked by both the *Ramban* and the *Ritva* in their commentaries to *Makkos* 19a. The *Ramban* there suggests that the *kedusha* of the *Beis Hamikdash* is subject to profanation by non-Jewish conquerors—a fate that apparently cannot happen to the land of Israel. The *Raavad* seems to be giving his own answer to this inconsistency in his suggestion that Ezra knew that the *Beis Hamikdash* would one day be destroyed and thus it was given a non-permanent *kedusha*, which was not the case with Israel. Both answers imply that there is no rule that if one *kedusha* vanishes the other must vanish with it. Rather, the rule is that if the *kedusha* of the land of Israel vanishes then the same must be true for the *Beis Hamikdash*. But it is possible that the *kedusha* of Israel would remain while that of the *Beis Hamikdash* doesn’t, as shown by the opinion of R’ Yossi. Perhaps the reasoning behind this is the reverse of the logic of Rambam—namely that the *kedusha* of Israel is not man-made and thus is permanent, while that of the *Beis Hamikdash* was man-made and is subject to change.

<sup>4</sup> This would seem to be the opinion of the *Radvaz* in a responsum we shall be examining later (691). He uses the *Raavad* to validate a custom in his day of people walking near the site of the *Beis Hamikdash*, even though they may be walking within the areas prohibited when the Temple was standing.

the *Beis Hamikdash* but the prohibition on entering the premises did remain.<sup>5</sup>

The other *rishonim* are divided on the Rambam/*Raavad* debate concerning the penalty of *kares* and the ability to bring sacrifices without a *Beis Hamikdash*, though it is probably safe to say that more favor the position of Rambam. An interesting case is that of Rav Yechiel (some say it was Rav Chananel) of Paris. The book *Kaftor V'ferach* (Ch. 6) mentions that he embarked on a journey to Israel with the express purpose of bringing sacrifices. This remarkable event took place in the year 1257. Rav Yechiel clearly held like Rambam concerning the *kedusha* of the *Beis Hamikdash*. Nevertheless, he seems to have not been bothered by the problem of going on *Har Habayis*, even within the area of the *Ezras Kohanim*, despite his ritually impure status (*tamei mes*). The reason for this, the author says, is because some sacrifices can be offered when the majority of the Jews are *tamei* (specifically the *Korban Pesach*). It is clear that without this reason, the problem of *tumah* would have prevented Rav Yechiel from going into the problematic areas. The results of Rav Yechiel's attempt are not recorded in the *Kaftor V'ferach*.

The *Me'eri* in his commentary on *Shavuos* 16a is the only mainstream *rishon* who directly addresses the question of entering *Har Habayis*. After summing up both positions, he writes that the practice in his day, according to what he had heard,<sup>6</sup> was to enter the

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<sup>5</sup> Rav Kook explains the position of the *Raavad* in *Mishpat Kohen* 96 (sec. 6). He says there that the *kedusha* of the *Machanos* remains even if the *kedusha* of the *Mikdash* itself does not. The prohibition (either Torah or rabbinic) of entering the location would apply, since the place remains holy. The penalty of *kares*, which is dependent on the presence of the *Mikdash*, no longer applies. Rav Kook's proof for this is that the *Raavad* argues only here on Rambam and not in other places in which Rambam maintains that the *kedusha* of the *Beis Hamikdash* still remains. Furthermore, the *Raavad's* own language backs this up. He says that one who enters now does not receive the penalty of *kares*, implying that only the *kares* penalty has been removed, not the basic prohibition on entering.

<sup>6</sup> It is not clear from where the *Me'eri* might have heard of this practice. He was writing in the late 13<sup>th</sup> century, and it is likely that by this time non-Muslims were prohibited from entering the entire *Har Habayis* area. Per-

entire area. It appears he accepts the opinion of *Raavad* and holds that according to *Raavad*, there is no prohibition on entering the previously forbidden areas. However, he never actually states that the lenient custom that he had heard follows the opinion of *Raavad*.

The *Kaftor V'ferach*, written by Istori Haparchi in 1322, gives what is possibly the most reliable report on the actual status of Jews going up on *Har Habayis*. He traveled all over the Mediterranean with the goal of settling in Israel. His work is the first reliable geographical study of Israel and includes extensive description of Jerusalem and the area of the Temple Mount. He weaves into his description quotes from *Chazal* and more recent authorities such as Rambam, and it is clear that he was quite learned. In Chapter 6 of his book, he gives a detailed description of *Har Habayis* and its surroundings. He explicitly states that there is a penalty of *kares* for entering the area of the *Mikdash*, a view like Rambam's. But he goes further, stating that the visible walls surrounding the Temple Mount (eastern, southern, and western) are the walls of *Har Habayis* and that the Jews, due to their sins, are unable to enter inside those walls. He concludes that the current practice is for the Jews to pray outside the gates on the eastern side.

From this conclusion alone, it is unclear if the *Kaftor Vaferach* is simply describing the current situation of Jews being unable to go onto *Har Habayis* due to Muslim restrictions, or that halacha forbids them from going up. However, from another section of the same chapter, he clarifies this question. Earlier, he quotes from the Talmud (*Yavomos* 7a) a ruling in the name of R' Yochanon referring to the phrase 'the new courtyard,' from an incident associated with King Yehoshafat. R' Yochanon says that the 'new courtyard' refers to a decree concerning this courtyard that forbade one who

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haps he was relying on the report of the traveler Benjamin of Tudela, who journeyed extensively around the Mediterranean and the Near East, reaching Israel around 1170. Benjamin records that the *Kotel Ma'aravi* is none other than the wall of the Holy of Holies and that people gather within the western courtyard. Perhaps the *Me'eri* knew about this report and he saw it as reflecting contemporary practice.

was a *t'vul yom*<sup>7</sup> to enter into the Camp of the Levites. Rashi (s.v. *Machane Leviyah*) says that the courtyard is the entire area of *Har Habayis* (the common interpretation of the Camp of the Levites), thus forbidding a *t'vul yom* to enter any part of it. *Tosafos* (*Pesachim* 92a, s.v. *T'vul Yom*) raises the obvious problem with this interpretation: that it contradicts the Mishna in *Kelim* that says that a *t'vul yom* is forbidden only in the *Ezras Nashim*, implying that such a person is permitted in the outer areas of *Har Habayis*. Because of this, *Tosafos* says that the 'courtyard' referred to is none other than the *Ezras Nashim*, and the decree of Yehoshafat was the source of the Mishna in *Kelim*. Rambam (*Beis Habechira* 7:15–17), in ruling that a *t'vul yom* can enter *Har Habayis*, agrees with the interpretation of *Tosafos*. The *Kaftor Vaferach*, in quoting this ruling of the Talmud, follows the interpretation of Rashi and says that this is the reason we cannot enter inside the gates of *Har Habayis*.<sup>8</sup>

The next major opinion on this subject is that of *Radvaz*, whose responsum (# 691) addresses precisely the question this article is attempting to clarify. His opinion on the subject would probably be considered final had it not been for his highly problematic conclusions. He phrases the question as 'whether it is permitted to enter the stairways that surround the *Beis Hamikdash* even though they may jut into the *Mikdash* itself.' The questioner assumed that it was permitted based on what he saw people doing.

The first problem with this responsum is that it is not at all clear what areas are under question. The term '*Beis Hamikdash*' originally meant the *Mikdash* proper and possibly the courtyards surrounding it. But the term might mean the entire *Har Habayis* area. However, it can also mean the area of the whole Temple

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<sup>7</sup> A *t'vul yom* is a person who immersed in a mikvah to become cleansed of impurity, but must wait until sunset to become fully pure. In a sense, the *t'vul yom* is in between *tamei* and *tabor*.

<sup>8</sup> Even according to the explanation of Rashi, however, it is far from clear why this should prevent Jews from entering the Temple Mount. The status of *t'vul yom* only delays entrance to *Har Habayis* until sunset after immersion in a mikvah; it does not prohibit entrance entirely. The *Kaftor Vaferach* seems to suggest that the Jews had a permanent status of *t'vul yom*, and thus could never enter *Har Habayis*. This, of course, goes against the common definition of *t'vul yom*.

Mount. Furthermore, what does the *Radvaz* mean by ‘jutting into the *Mikdash*’? What is the ‘*Mikdash*’? Is it the Temple Mount? Is it the raised platform? Is it the Dome of the Rock?

The *Radvaz*’ answer is even more problematic. He first states with complete certainty that *Al-Sakara* is the famous *Even Shetiya*, Foundation Stone. The Mishna (*Yoma* 5:2) describes this rock as the resting place of the *Aron Hakodesh*, and thus the very core of the *Beis Hamikdash*. This conclusion, apparently based on nothing other than tradition, seems rather bold and unwarranted. However, it was not until the 19<sup>th</sup> century that there were any serious challenges to it. Before the time of the *Radvaz* there were no known opinions that the *Even Shetiya* was anywhere else, while there were several that agreed with him.<sup>9</sup>

The *Radvaz* then gives quite detailed descriptions of how close one may go to the Dome of the Rock on each side. He starts with the western side. The Mishna (*Middos* 5:1) states that there was a space of 11 *amos* between the wall of the *Mikdash* and the wall of the *azara*. He writes that he has measured the space from Cotton Market (*Shuk al-katarin*) to the Dome and it is more than 11 *amos*, so there is no problem entering that area. The common assumption is that the area referred to is the Cotton Gate, a gate on the Western Wall, which is slightly to the north of the center of the Dome of the Rock. But the distance from the Dome to the Cotton Gate is actually around 80 meters (about 160 *amos*). The difference between 11 *amos* and 160 *amos* is so noticeable that it would hardly have

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<sup>9</sup> The *Radak* in his commentary to *Yeshayahu* (64:10) writes that the site of the *Mikdash* will never be rebuilt by the gentiles. The *Abarbanel*, in his own commentary on the same verse, essentially paraphrases the *Radak* and says that the site of the *Beis Hamikdash* will not be rebuilt until the time of the *geula*, and that Hashem will not allow the Christians or the Muslims the wherewithal to build a ‘house’ in the original holy place. Both were explaining a verse in the text in which the *Navi* bemoans that the *Mikdash* is still in ruins. The 17<sup>th</sup> century commentary of Rav Shmuel Laniyado, *Cli Paz*, perhaps sensing the problem between the way the *Radak* understood the verse and the reality at the site, writes that the true meaning is that the gentiles will never build a shrine on the exact location of the *Mikdash*.

been worth the *Radvaz*' time to estimate it in order to declare that area permitted.

When the *Radvaz* moves to the southern side the problems get even bigger. He says that the southern wall remains in its original place, since one can see that the stones at the foundation are large, an indication of their antiquity. He also says that one can see the Yehoshafat Valley from the southeast corner. Then he concludes that the end of the building called *Midrash Shlomo*, which is along the southern wall, is the end of the *azara*. He also says that this building is outside of the 187 *amos* east-west dimension of the *azara*. (He is referring to the *Ezras Yisrael* and *Ezras Kobanim* areas.) It is commonly assumed that the wall he is referring to is the southern wall<sup>10</sup> of the Temple Mount, and that *Midrash Shlomo* is none other than the *Al-Aksa* mosque,<sup>11</sup> which lies along the southern wall. But the distance from the center of the Dome of the Rock to the southern wall is about 240 meters (480 *amos*), while the width of the southern half of the *azara* was about 67 *amos*. Even if one could manage to excuse the *Radvaz* for underestimating a distance of 160 *amos* on the western side, he could hardly be excused for declaring the southern wall to be the wall of the *azara* when it lies over 400 *amos* from where it should be.

The eastern side is also not problem free, though the problems here are not as glaring. The *Radvaz* writes that the eastern wall is the wall of *Har Habayis*. In this case he is on much more solid ground, as there is nothing in the primary sources to go against this. However, he then writes that one can measure 313 *amos* (500 *amos* of *Har Habayis* minus 187 *amos* of the *azara* = 313 *amos*) from the eastern wall toward the west and walk in that entire area, since a *tamei mes* can enter *Har Habayis*. However, we have already seen from the Mishna in *Middos* that the *Ezras Nashim*, which was in this area, was forbidden to a *t'vul yom* in addition to a *tamei mes*. We

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<sup>10</sup> The stones at the bottom of the southern wall are quite large, similar to those in the Western Wall, and one indeed has a clear view of the Yehoshafat Valley from the southeast corner.

<sup>11</sup> It happens that *Al-Aksa* lies almost parallel to the Dome of the Rock in the north-south direction, so it is not outside of the east-west area of the *azara*—another problem in the understanding of the *Radvaz*.

also saw that Rambam concludes that the same restrictions on entering that were in place while the *Beis Hamikdash* was standing, remain in place now. Apparently, the *Radvaz* feels that only the prohibitions from the Torah remain in place, while rabbinic restrictions, such as those of the *Ezras Nashim*, do not. Furthermore, it is clear that the *Radvaz* considers the western wall of the *azara* to be at the same place as the western wall of *Har Habayis*: 500 *amos* west of the eastern wall of *Har Habayis*. Apparently, he does not think there was any *chel* on the western side, or that any space on that side was simply *Har Habayis*.<sup>12</sup>

While these problems may seem insurmountable,<sup>13</sup> there may be a way to answer them. For starters, what stairways fit the description of ‘surrounding the *Beis Hamikdash*’ and jutting into the ‘*Mikdash*’? Surely not any stairway leading to the outside gates of the Temple Mount, since they do not ‘jut into the *Mikdash*.’ Perhaps throughout this responsum the *Radvaz* is discussing the stairways leading to the ‘Raised Platform’ upon which the Dome of the Rock rests. After all, the *Radvaz* first states with absolute certainty that *Al-Sakara* is the *Even Shetiya*, so the *Mikdash* must have been right around it. Nothing fits this description better than the Raised Platform.

With this in mind, all the questions can be answered. On the western side, the distance from the western edge of the Dome to the western stairs, while longer than 11 *amos*, is certainly enough within range to need measurement to ensure that it is not prohibited. Similarly, on the southern side, the southern wall of the Raised Platform has stones at its foundation that appear quite large and quite ancient, and it also fits roughly within range of the measure-

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<sup>12</sup> Although this conclusion may seem rather surprising, it does not contradict any known primary sources. The relevant Mishna (*Middos* 2:1) says that the least amount of usable space was on the western side. This does not preclude the possibility that there was no usable space at all on the western side.

<sup>13</sup> Rav Ovadia Yosef (*Yabia Omer*, *Yoreh Deah* Vol. 5, no. 27), Rav Eliezer Waldendberg (*Tzitz Eliezer*, Vol. 10, no. 1) and Rav Yitzchok Weiss (*Minchas Yitzhok* Vol. 5, no. 1) all ask some of these questions on the *Radvaz* and leave them unanswered.

ments of the *Radvaz*.<sup>14</sup> The eastern side actually proves that the *Radvaz* is discussing the Raised Platform throughout his responsum. The only steps on the entire eastern side within the vicinity of the Dome of the Rock are those of the Raised Platform. Thus, the *Radvaz* is clarifying that since those steps are within 313 *amos* of the eastern wall, they are within the *Ezras Nashim* area, and, according to him, are permitted.<sup>15</sup>

Further evidence that the *Radvaz* is referring to the Raised Platform can be demonstrated by the following two pictures. The first is a photograph of how the Temple Mount appeared during the 19<sup>th</sup>

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<sup>14</sup> The problem of identifying the southern wall with the building named *Midrash Shlomo* remains. While it is true, that since the 19<sup>th</sup> century rabbinic literature has occasionally called the *Al-Aksa* mosque by that name, prior to the 19<sup>th</sup> century the situation is not as clear. The Crusaders referred to this mosque as the Palace of Solomon and to the Dome of the Rock as the Temple of Solomon. Neither name fits with *Midrash Shlomo*. The earliest Jewish references to a building by this name date to the late 15<sup>th</sup> century in letters originating in Jerusalem sent to other lands. At least three of these letters mention *Midrash Shlomo* as a building near the *Mikdash*. Two of these letters can be found in the book '*Igros Eretz Yisrael*' by Avraham Ya'ari. One was written by Rav Yitzchok Latif (p. 96), the other by an anonymous student who came to Jerusalem to learn with Rav Ovadia M'Bartenura (p. 158). Both were written in the 1480s, and both are clearly describing a building near the site of the *Mikdash*. A third letter, written by Meshullam ben Menachem, a traveler to Israel writing in 1481, can be found in "Jewish Travelers" by Elkin Nathan Adler (p. 190). He describes *Midrash Shlomo* as a large building on the southern side of the temple area covered with lead. This certainly fits the *Al-aksa* mosque. Possibly *Midrash Shlomo* was the name the Jews used to refer to one of the buildings on the Temple Mount but there was confusion over the years, even among the Jews, as to which building it referred to.

<sup>15</sup> The distance from the eastern wall of the Temple Mount to the eastern wall of the Raised Platform is less than 313 *amos* (about 155 meters). It is actually about 110 meters. However, this discrepancy may not have been noticeable to an observer in the 16<sup>th</sup> century like the *Radvaz*. In reality, there is no reason to assume, as the *Radvaz* does, that there was no *Har Habayis* area west of the *azara*. The exact measurement (110 meters) can be found by shifting the western wall of *Har Habayis* about 45 meters to the west, a shift that is perfectly consistent with *Al-Sakara* being the *Even Shtiya*.

century and presumably for the centuries prior to that. It shows the Raised Platform with nothing other than earth outside of its perimeter. Today this area has been paved over to give the illusion that it is one structure linked to the outer walls of the Temple Mount. The second picture is a copy of a woodcut from the year 1486 that also shows the desolation that was present outside of the Raised Platform. These pictures illustrate what the Radvaz was actually looking at when he issued his ruling permitting entry into those outlying areas that are a good distance away from the forbidden areas that are all located within the Raised Platform.



Rav Shlomo Goren, in his comprehensive work on this entire subject, entitled *Har Habayis*, deals extensively with this responsum

of the *Radvaz*. He ultimately rejects the *Radvaz*' claim that *Al-Sakara* is the *Even Shetiya*, but continues to take the opinion of the *Radvaz* into account throughout the book. His primary problem is that the actual measurement from *Al-Sakara* (the eastern side) to the eastern wall of *Har Habayis* is about 186 meters. He adds the total distance from the western wall of the *azara* to the eastern edge of the *chel* and arrives at a figure of about 321 *amos*. Using the length of the *amah* according to the *Chazon Ish* (58 cm.), he finds that this distance is about 186 meters. Thus, there would be no room for any area on the eastern side that is merely *Har Habayis* land, a glaring problem since the Mishna states that the eastern side was the second largest in terms of *Har Habayis* space. However, Rav Goren seems to have overlooked the obvious fact that the eastern side of *Al-Sakara* could not possibly be the starting point of any measurement of the distance from the *azara* to the *chel*, since there is another 13 meters of rock to the west and an unknown further distance to the western wall of the *azara*. In addition, it is not clear why he chooses the *amah* measurement of the *Chazon Ish* instead of the more standard measurement of about ½ meter. The smaller measurement would add an additional 50 *amos* to the eastern side. Adding it all together, we find that there is at least 80 *amos* of *Har Habayis* land available on the eastern side.

To sum it up, Rambam prohibits entering the areas that were prohibited when the *Mikdash* was standing. The *Radvaz* limits this prohibition to the areas that were forbidden by the Torah. The *Raavad* may prohibit entering those areas, but the penalty is certainly not *kares*. Rambam permits entry to areas of *Har Habayis* that were outside of the *chel*, even to one who is *tamei mes*. Only the *Kaftor Vaferach* (following the explanation of Rashi) prohibits a *t'vul yom* from entering those areas. Furthermore, the *Kaftor Vaferach* appears to make no distinction between the area of *Har Habayis* and the area of the Temple Mount—both are off limits to Jews.

### **Recent Opinions on Entering Har Habayis**

A period of close to three centuries elapsed between the time of the *Radvaz* and the renewal of interest in the Temple Mount among both Jews and non-Jews in the 19<sup>th</sup> century. The Turks were in con-

trol of the entire region, with the Jews being a small and powerless minority, both in Jerusalem and in all of Israel. It was during this period that the Jewish Quarter was established, along with the now-vanished neighborhood that filled in the area of the current Kotel Plaza.

Rav Yosef D'Trani, better known as the *Maharit*, visited Jerusalem during the 1590s and wrote a short commentary on the sections of Rambam that deals with the *Beis Hamikdash*, called *Tzuras Habayis*. Among other issues, he deals with the statement of the *Kaftor Vaferach* that Jews do not enter the Temple Mount due to their status of *t'vul yom*. After rejecting possible explanations as to why there should be any prohibition at all, he ends up claiming that there is plenty of room on the southern and eastern sides to walk without any concern of entering prohibited areas. The early 18<sup>th</sup> century work, *Derech Hakodesh*, by Rav Chaim Alfandari, quotes this *Maharit*, and concludes that entrance to *Har Habayis* is permitted after immersion in a mikvah (or a spring if the person is a *zav*). However, he says further that those who have the custom to forbid entering, even though they do not know the reason, are not permitted to walk onto *Har Habayis*. He records a custom of not entering through the Cotton Gate because the *Aron* was buried somewhere in this area, so it is a matter of maintaining appropriate *kedusha*. The *Radvaz* was also aware of this custom and recorded it in responsum 691.

Late in this period came the first mentioning of a concern related to *tumah* that would solidify the custom of not entering the Temple Mount. The *Chazon Nachum*, a mid-18<sup>th</sup> century work by Eliezer Nachum, writes that all men must be considered to have a possible problem of *zav*. This surprising *chumra* is based on a decree recorded in Mishna *Tabaros* 4:5 that states that we burn *trumah* because of possible contact with the garments of an *am haaretz*. *Tosefos* (*Shabbos*, 15b, s.v. *v'al bigdei*) states that this decree stems from applying a status of *zav* to all those in this category. Consequently, the *Chazon Nachum* extends this status to all men and prohibits them from entering any part of *Har Habayis*.<sup>16</sup>

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<sup>16</sup> Rav Shlomo Goren, among others, thoroughly rejects this concern. First, he writes, this is not the majority reason for the decree in the Mishna.

Historical convention has it that the modern era of Jewish life in Israel began in the 19<sup>th</sup> century with the coming of various groups of Jews from Eastern Europe. Among the earliest were the students of the Vilna Gaon, who reached Israel in 1808 and settled in Tiberias, Tzefat, and Jerusalem. The Jerusalem group became the foundation of the ‘old yishuv’ community in Jerusalem, the forerunner of today’s chareidi communities. The leader of the Jerusalem group was Rav Yisrael of Sklov, the author of the highly influential work *Pa’as Hashulchan*, dealing with halachic issues related to Israel, Jerusalem, and the *Beis Hamikdash*. His decisions set the course for the future direction of the Ashkenazi chareidi world. In section 2:11 of *Pa’as Hashulchan*, he quotes from the *Kaftor Vaferach* concerning the area of the Temple Mount, and he concludes that Jews do not enter it. In his own commentary, Rav Yisrael says that the *Kaftor Vaferach* is following the opinion of Rashi on *Yavamos* 7b, that a *t’vul yom* is forbidden to enter onto *Har Habayis*. Hence, he says, the custom was for everybody to remain outside the gates. This became the normative position for the communities that grew out of the ‘old yishuv.’

As far as modern opinions are concerned, it should be noted that both the *Magen Avraham* (O.H. 561:2) and the *Mishna Brura* (561:5) state unequivocally that entrance to the area of the *Mikdash* makes one liable for *kares*. It is unclear what they would say about the *Ezras Nashim* area or anything further out, though it is safe to assume that they would hold exactly like Rambam. This has effectively ended the relevance of what the *Raavad* really held, as *psak* halacha went with Rambam.

In the years following the Six Day War, a number of *poskim* from the chareidi communities issued rulings concerning going onto the newly liberated Temple Mount. Foremost among these were Rav Ovadia Yosef (*Yabia Omer*, *Yoreh Deah* vol. 5, no. 26),

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Second, the decree applied to *trumah* and nothing else, so extending it to a general prohibition of entering *Har Habayis* is unwarranted. Third, any applying of *zav* to an *am haaretz* is only on a rabbinic level and can be removed by immersion in a mikvah. Thus, this *chumra*, even if it really applies, would require nothing more than immersion in a mikvah to remedy.

Rav Yitzchok Weiss (*Minchas Yitzchok*, vol. 5, no. 1) and Rav Eliezer Waldenberg (*Tzitz Eliezer*, vol. 10, no. 1). All three explicitly prohibit entrance to any part of the Temple Mount, against the earlier conclusion of the *Radvaz*. All three ultimately base their conclusion on the inability to know exactly where the prohibited areas are. Consequently, since one can never really know if one is walking in a forbidden area, the only safe option is not to enter any part of the Temple Mount.

The *Minchas Yitzchok* relies on the *Kaftor Vaferach* as a basis for the tradition not to enter the Temple Mount, thus demonstrating that this practice goes back 700 years,<sup>17</sup> and perhaps centuries before. He also, along with the *Tzitz Eliezer*, brings up the concern of various forms of *tumah* preventing a person from entering within the borders of *Har Habayis*. Specifically, they mention the *tumah* of a *zav* as being particularly problematic. A *zav* is prohibited from entering any part of *Har Habayis*, as stated in the original Mishna in *Kelim* and in Rambam mentioned earlier in this article. Since this prohibition is from the Torah, a *zav* would not be able to enter any part of the Temple Mount that might be *Har Habayis*. Both the *Minchas Yitzchok* and the *Tzitz Eliezer* raise the possibility that all men are in a state of *safek zavim* since the *zav* emission can occur unknowingly during urination. While this concern is a *chumra*, they claim that it must be taken into account when entering a place as holy as *Har Habayis*.

Most of Rav Ovadia's responsum deals with establishing that the halacha is like Rambam in the issue of the *kedusha* remaining even after the *Beis Hamikdash* was destroyed. He seems to be of the opinion that only the *Raavad* would permit entrance to *Har Habayis*, so if the *halacha* is like Rambam the issue is settled. At the end of his responsum, he makes it clear that we have lost any tradition

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<sup>17</sup> He also quotes a letter written by Rav Ovadia M'Bartinura to his father in 1488 in which he states that Jews are forbidden by the Muslims to enter the area of the *Beis Hamikdash*, and that they would not enter even if the Muslims permitted them entry, because of *tumah*. However, it is not entirely clear from this letter if Rav Ovadia himself agrees with this self-imposed prohibition.

as to where the exact locations of the prohibited areas are, so entrance to any part of the Temple Mount is forbidden.

One other important responsum of the modern era is that of Rav Moshe Feinstein (*Igros Moshe* O.H., vol. 2, no. 113). He is responding to a question of why both the *Tur* and the *Shulchan Aruch* do not state the law that forbids spitting on *Har Habayis*. The questioner assumed the reason that they left this law out was that the area of *Har Habayis* is forbidden to enter altogether so the prohibition of spitting is irrelevant. Rav Moshe's response is that according to Rambam, there are areas on *Har Habayis* where even a *tamei mes* could walk, so the law is indeed relevant. Rav Moshe makes it clear that any other problems of *tumah* that may arise can be taken care of with immersion in a mikvah. Thus, according to Rav Moshe Feinstein, all areas of the *Har Habayis* outside of the *chel* are permitted to one who has immersed in a proper manner. It goes without saying that the areas of the Temple Mount that are outside of *Har Habayis* are permitted even with no immersion.

### **Attempting to Determine the Location of the Prohibited Areas**

All these responsa beg the following question: is it possible to know definitively where the courtyards and the *chel* were located, and to determine the borders of *Har Habayis*? Those *poskim* who prohibit entry to any part of the Temple Mount would seemingly be rather skeptical of any attempt to clarify where the original *Beis Hamikdash* was located and thus to determine the exact location of prohibited areas. Rav Moshe Feinstein, on the other hand, seems more open to this possibility.

Where do we start? The most obvious choice is to locate the walls of *Har Habayis* itself. Since we have no tradition that they were ever destroyed, and they are apparently still standing in their original locations, why not simply say that the Temple Mount is *Har Habayis*? There is one glaring problem with this seemingly obvious conclusion, namely that the north-south distance of the Temple Mount is about double the 500 *amos* that the Mishna in *Middos* measures for *Har Habayis*. This is simply too great a discrepancy to overlook. Because of this problem, and because the northern wall was not visible for many centuries, many people who have consi-

dered this problem leave the northern wall out of the picture and say that the other three walls are the walls of *Har Habayis*. This was the standard assumption among both Jews and non-Jews until the mid-19<sup>th</sup> century.

However, this assumption, though apparently obvious, is not without its problems. First and foremost is the question of where to draw the northern boundary. The one prominent landmark we have to guide us is the Golden Gate, presumably described in the Mishna in *Middos* 1:3 as having the city of Shushan inscribed upon it. Thus, the northern border must have been north of this gate.<sup>18</sup> The problem is that the distance from this gate to the southern wall is a little over 300 meters (about 310), making it longer than 500 *amos* even according to the longest version of the *amah*.<sup>19</sup> An additional problem is that the north-south distance is clearly different from the east-west distance along the southern side (278 meters), while the Mishna describes *Har Habayis* as a square. A third problem is that Josephus (*Antiquities* 15:11:3) says explicitly that the southern area of the Temple Mount was a Herodian extension of the Temple Mount and not part of the original 500 x 500 *amos* dimensions of *Har Habayis*.

Because of these problems, most contemporary archeologists and many Torah authorities have rejected the view that the southern wall is the ancient wall of *Har Habayis*. Rather, they say, it is the Herodian wall of the Temple Mount.<sup>20</sup> They place the southeast-

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<sup>18</sup> Traditional layouts of *Har Habayis* have the Shushan Gate placed about 100 meters south of the location of the Golden Gate, in order to make it line up with the assumed location of the gate of the *Mikdash*. No archeological evidence has ever been found that indicates that a gate was ever there. In any case, even according to this view, since this gate would have been in the middle of the north-south dimension of the *Beis Hamikdash*, the northern wall of *Har Habayis* would still be around where the current Golden Gate is located.

<sup>19</sup> The distance of the *amah* varies from 1½ feet (46 centimeters) to 2 feet (60 centimeters). Thus, 310 meters is longer than the maximum distance for 500 *amos* – 500 x .60 = 300.

<sup>20</sup> Contemporary archeologists are in almost unanimous agreement that the southern wall is an extension of the original *Har Habayis*. In fact, most say that it is an extension of an extension. The first extension, they say,

tern corner of Har Habayis at an odd feature of the eastern wall called the 'Bend.' At this point, about 73 meters north of the southeastern corner of the Temple Mount, the wall veers slightly to the east. This directional shift is barely visible from the ground.

So now we have a situation in which the western and eastern walls of the Temple Mount are the walls of *Har Habayis*, while the northern wall is somewhere north of the Golden Gate and the southern wall is at the Bend. According to this, the east-west distance along this span would probably be around 300 meters—the upper limit for 500 *amos*.<sup>21</sup> However, there are still problems. First, the stones in the western wall all along its length appear identical to the stones of the southern wall (both are Herodian stones). Both are different from the stones of the middle portion of the eastern wall, which do not have the smooth surfaces and neat cuts of the stones in the other walls (indicating that they are older than the Herodian stones). This indicates that the western wall, like the southern wall, was a Herodian extension.<sup>22</sup>

Josephus (Wars of the Jews, 5:5:1) seems to say that the Herodian extensions were on three sides of the Temple Mount platform (northern, southern, and presumably western).<sup>23</sup> However, this flies in the face of almost 1500 years of Jewish tradition and virtually all contemporary rabbinic authorities.<sup>24</sup> What Jew with even the barest

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was made in the times of the Hashmonaim, and is located at The Bend. It is almost directly opposite the Mugrabhi Gate, which is the current public entrance to the Temple Mount. The Herodian extension is visible further south along the eastern wall by another odd feature called the 'Seam'—a point in which the masonry to the south does not line up with the masonry to the north. The Seam is located about 32 meters north of the southeast corner.

<sup>21</sup> A recent rabbinic authority determined the measure of the *amah* by dividing the east-west distance by 500. An *amah* would be 1/500 of the east-west span.

<sup>22</sup> Most archeologists agree with this conclusion.

<sup>23</sup> Rabbinic authorities through the centuries and contemporary archeologists are in agreement that all or part of the eastern wall is a wall of *Har Habayis*.

<sup>24</sup> To clarify this point, if the western wall is Herodian, by definition, it is not the original 500 x 500 wall of *Har Habayis*. The Herodian extension must have been made somewhere *west* of the location of the original wall.

familiarity with Judaism is not aware that the western wall, the *Kotel Ma'arvi*, is the wall of *Har Habayis*? In earlier times, some Jews were under the impression that the Kotel was actually a wall of the *azara* or even of the *Mikdash* itself. Now, however, one would find near-unanimity on its being a wall of *Har Habayis*.

This tradition is based in part on the famous midrash found in several places (*Midrash Rabbah*, *Shmos* 2:2, *Shir Hashirim* 2:4) that states that the *Shechina* will never depart from the *Kotel Ma'arvi* of the *Beis Hamikdash*<sup>25</sup> since that wall will never be destroyed. One would be hard pressed to find a Jew who does not interpret this midrash as referring to the *Kotel Ma'arvi* that is so well-known today. Archeological and historical evidence notwithstanding, it is highly unlikely that any rabbinic authority would risk his reputation solely on the evidence of the shapes of the rocks in the walls and a single obscure sentence in Josephus. Aside from all this, what is the alternative? Is there any possible place for a western wall of *Har Habayis* other than where the *Kotel Ma'arvi* is located?

It turns out that there is one other option. In what could be a remarkable discovery, archeologist Leen Ritmeyer found evidence of the remains of a wall at the northwest corner of the Raised Platform. The discovery is described extensively in his book on the Temple Mount called 'The Quest' (p.165–167). This line of stones lies at the bottom of a flight of stairs leading up to the northwest portion of the Raised Platform. The stones are running in the north-south line along the western side of the Raised Platform and are visible for about 17 meters. Currently, they are hardly distin-

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This is a crucial point to understand and probably the most difficult to assimilate since it goes against what would appear to be common sense and one of the most treasured of Jewish traditions.

<sup>25</sup> The text of the Midrash in some places states that the wall of the '*Beis Hamikdash*' will never be destroyed. Nevertheless, it is not unusual to interpret the words '*Beis Hamikdash*' to include areas that were not actually part of the *Mikdash* itself, such as the walls of *Har Habayis*. It is not known why this midrash, probably recorded some time between the years 400 and 800, focused only on the western wall, as opposed to the eastern and southern walls, which were probably more visible and just as accessible.

guishable from the rows of stairs above it or the other paving stones alongside it.

These stones and the stairs above them have one distinguishing feature: they are not parallel to the wall of the platform they lead up to. The western side of the Raised Platform runs parallel to the western wall of the Temple Mount, while these stairs run parallel to the eastern wall of the Temple Mount. The difference between the directions of the eastern and western walls is slight, but quite noticeable in any aerial photograph. Similarly, the divergence of this line of stones from those of the western wall of the Raised Platform is visible from the ground.

In addition to this, Ritmeyer found that the distance from this line of stones to the eastern wall of the Temple Mount is 262 meters, which, when divided by 500, amounts to 50.25 centimeters—an excellent approximation for the standard length of an *amah*. He then goes one step further and says that this line of stones is actually the upper surface of a wall that descends to some unknown depth into the earth.<sup>26</sup> This, he claims, was the actual western wall of *Har Habayis*—500 *amos* from the eastern wall, according to the standard opinions, both rabbinic and historical, of the length of the *amah*. Furthermore, he traces the line of what he claims is the northern wall of *Har Habayis* from other features along the northern side of the Raised Platform, with the northwest corner being the northernmost stone of the ‘step.’ In other words, Ritmeyer claims to have discovered the locations of the northern and western walls of the original *Har Habayis*.

He goes one step further and measures out the same distance (262 meters) to the south of the northwest corner and locates the southwest corner. It meets exactly with an imaginary line running perpendicular to the eastern wall starting at the Bend—the proposed starting point of the Hashmonian extension of the original *Har Habayis*. He has, in effect, mapped out the 500 x 500 *amos*

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<sup>26</sup> The line of stones was partially exposed along their western edge before new paving stones were placed alongside them. One can see evidence of the protruding bosses characteristic of stones used in ancient walls.

square of *Har Habayis*, with the northeast corner being about 10 meters north of the northern edge of the Golden Gate.<sup>27</sup>

Regardless of whether one chooses to go with Jewish tradition or with archeology,<sup>28</sup> the exact location of the prohibited areas still needs to be determined. Where was the *Mikdash* itself, and which direction did it face? The answer to the second question is simple. The Mishna in *Middos* 2:4 states that the gate of the *Mikdash* faced toward the Mount of Olives (toward the east) so that the *Kohen* sprinkling the blood of the *Parah Adumah* (on the Mount of Olives) could see the door of the *Beis Hamikdash*.

As for where the *Mikdash* was located, we have only a few clues and they are not as clear as its orientation. The first clue known from historical evidence and rabbinic tradition places the *Mikdash* on the summit of the mountain. Josephus says this quite explicitly in *War of the Jews* (5:5). Further corroboration is found in the ancient text known as the Letter of Aristeas,<sup>29</sup> a letter attributed to a Jew from Alexandria written sometime around the year 200 BCE. Aristeas, among other things, describes his visit to Jerusalem and his first glimpse of the Temple. In section 84 he says that the Temple

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<sup>27</sup> In his book (p. 242), Ritmeyer estimates the distances from each wall to the corresponding wall of the *azara*. These distances represent the span of the *Har Habayis* area on each side. His measurements are: south, 250 *amos*; east, 213 *amos*; north, 115 *amos*; west, 100 *amos*. Amazingly, these measurements match exactly with those specified by the *Tosafos Yom Tov* in his commentary to *Middos* 2:1. The *Tosafos Yom Tov* writes that his measurements were listed only as a '*dererch mashal*'—an example. It is indeed remarkable that what appears a guess by the *Tosafos Yom Tov* fits in precisely with what may be the correct measurements for these areas.

<sup>28</sup> Jewish tradition saying that the Kotel is the western wall of *Har Habayis*; archeology saying that the western wall of *Har Habyais* was about 40 meters to the east of the Kotel.

<sup>29</sup> Some have questioned the accuracy of this letter on certain details, but none its basic authenticity. It deals essentially with the translating of the Torah at the request/command of the Egyptian king during the 3<sup>rd</sup> century BCE. Much of it is probably exaggeration and hearsay. However, this little detail about the *Beis Hamikdash* being on the summit of the mountain is most likely accurate, as there was no reason to falsify the information.

was build on the summit of the mountain. Rambam (*Beis Habechira*, 6:1) also says that the *Mikdash* was at the summit of the mountain.

The natural summit of the hill on which the Temple Mount platform is built happens to be exactly at *Al-Sakara*.<sup>30</sup> In fact, the contours of the bedrock of the mountain fit very nicely into the relative elevations of the various areas of the *Beis Hamikdash* complex as described in *Middos* (2:3–6). For those who rely on historical and/or archeological evidence, this information alone would confirm the location of the *Mikdash* at the Dome of the Rock. But halacha, as we all know, works by a different standard. Without some sort of tradition on which to base an issue as crucial as this, all the archeological facts in the world will not move rabbinic opinion. Is there a tradition within normative Jewish sources that has the *Mikdash* located under the Dome of the Rock?

It turns out that the answer to this question is also yes. The only rabbinic authority that gave an opinion on the exact location of the Holy of Holies is the *Radvaz*. In the same responsum that deals with the issue of walking onto *Har Habayis* (691), he states his unequivocal opinion that the *Even Shetyia* is the rock known as *Al-Sakara*. He emphasizes that this fact is ‘clear’ and ‘without doubt.’ While one might think this would end the debate on the subject, the fact is that the reverse is the case. What was ‘clear’ and ‘without doubt’ to the *Radvaz*, who lived part of his life in Jerusalem, and seems to have been basing his responsum on his own experience and not mere hearsay, has been questioned by many contemporary *poskim*. They question how the *Radvaz* knows this important detail. They make the assumption that the *Radvaz* based his tradition on earlier traditions that come from non-Jewish sources. This means that they carry no weight in halacha.

But is this assumption true? It turns out that the tradition the *Radvaz* states has a long and glorious history among the Jews. A generation or two before the *Radvaz*, Rav Ovadia M’Bartinura wrote in 1488, in his letter from Jerusalem to his father, that the

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<sup>30</sup> The northwestern corner of the Temple Mount is actually slightly higher, but there is a small valley in between the Dome of the Rock area and this corner, so it is really a separate summit. In any case, neither rabbinic opinions nor archeologists consider this corner to be part of *Har Habayis*.

Jews of Jerusalem believe that *Al-Sakara* is indeed the *Even Shetiya*, and that he himself seems to have no problem with this tradition. Further back in time, the famous traveler Benjamin of Tudela, in his description of Jerusalem around 1170, states that the Dome of the Rock was erected on the site of the *Mikdash*. Other travelers of this era wrote of similar traditions—all pointing back to some event in the past that in some way hinted at the origins of the Dome of the Rock.

There are even obscure Midrashim that record in detail the events surrounding the building of this structure. The Midrash known as ‘The Secrets of R’ Shimon bar Yochai’<sup>31</sup> records that the Arab leader who conquered Jerusalem from the Byzantines actively sought out the remains of the Temple. He first received several false leads from the Christians. Then a Jew, perhaps seeking favor with his new ruler, or perhaps already a Muslim, showed him exactly where it was.<sup>32</sup> The place that the Jew showed him was *Al-Sakara*, and there the Muslims constructed their first shrine in Jerusalem: a small structure that may not have faced Mecca and may even have been intended for Jewish use.

What may be the oldest source for these traditions is the well-known Midrash called *Pirke d’Rebbe Eliezer*. Believed to have been compiled in its final form in the first third of the 9<sup>th</sup> century, it sometimes reveals historical events in the form of prophecies and proclamations from some point in the past. In chapter 29 of this

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<sup>31</sup> It must be stated that the origins of this Midrash are unknown. It probably dates to sometime later than the 9<sup>th</sup> century, and may have been compiled as late as the 13<sup>th</sup> century. Like other obscure Midrashim, anything written in them must be examined critically. However, this detail from this Midrash is supported by other rabbinic sources so it seems reasonable to trust its reliability.

<sup>32</sup> A similar version of this same story is found in ‘*Iggrot Eretz Yisrael*’ by Avraham Ya’ari, p. 50, in a letter from the rabbinic authorities of Jerusalem to the Diaspora. The letter essentially seeks funds from Diaspora communities to support the small community in Jerusalem. In it, there are details concerning *Har Habayis* and other holy sites. As in the Midrash, the writer describes the Arab conqueror as benevolent toward the Jews. He says that they sought their help in locating the *Mikdash*, cleaning it out, and maintaining its purity from any idols (presumably Christian).

work, 15 things that the descendants of Yishmael will do in the land of Israel are listed. One of them is the construction of a building on the site of the 'Heichal'—presumably a reference to the Dome of the Rock.

None of these sources has the genuine authority of a Mishna or the Talmud. Put together, however, they form a picture of a well-established tradition passed down among the Jews of Jerusalem that *Al-Sakara* was indeed the *Even Shetiya* and that the Dome of the Rock was built on the site of the *Beis Hamikdash*. This tradition must date from the time *Eretz Yisrael* was conquered by the Arabs (638) and extend to the time of the *Radvaz* (16th century). After the *Radvaz*, the tradition may have submerged a little as the Jewish community diminished. By the time the Askenazi immigrants arrived in the early 19<sup>th</sup> century, it is possible that the tradition had become little more than a rumor and was doubted among the newcomers. However, it was still alive and well in the 20<sup>th</sup> century, as the noted rabbinic authority Rav Yechiel Michel Tukachinsky records it in his highly influential book on *Yerushalyim, Ir Hakodesh V'Hamikdash*.

According to this tradition, it is a relatively simple matter to calculate the locations of the various areas associated with the *Beis Hamikdash*. The north-south distance of the courtyards was 135 *amos* (about 70 meters). Going 67 ½ *amos* (about 35 meters) to the south of the center of *Al-Sakara* puts us about 25 meters north of the southern side of the Raised Platform. The same distance to the north puts us about 55 meters south of the northern side.

The east-west distance of the *azara* area was 187 *amos* (about 90 meters). We know the entire east-west layout of the *azara* from the Mishna (*Middos* 5:1). The *Mikdash* itself was 100 *amos*; west of it was another 11 *amos*, and east of it was 76 *amos*. The 100 *amos* of the *Mikdash* were divided into 17 *amos* west of the Holy of Holies, 20 *amos* for the Holy of Holies, and 63 *amos* east of it (*Middos* 4:7). Assuming *Al-Sakara* was the location of the Holy of Holies, this puts the eastern wall of the *azara* about 139 *amos* (about 69 meters) east of *Al-Sakara*—about at the eastern side of the Raised Platform. The western side was 48 *amos* west of *Al-Sakara*, putting it about 30 meters east of the western side of the Raised Platform.

The *Ezras Nashim* was 135 x 135 *amos* (70 x 70 meters). Its northern and southern walls ran in a line from the same walls of the *azara*. Its eastern wall was about 40 meters west of the eastern wall of the Temple Mount. East of it was the *chel*, with a width of 10 *amos*.<sup>33</sup> Further east was the eastern area of *Har Habayis*. The southern wall of *Har Habayis* would have run from the Bend to about where the Mughrabi gate is located today. The northern wall of *Har Habayis*, the location of which can be determined only by measuring 500 *amos* north of the southern wall, would have run near the northern side of the Raised Platform.

As far as the western wall of *Har Habayis* is concerned, we could go with Jewish tradition and assume that it is the *Kotel Ha-ma'aravi*, although the northern and southern portions of it would have to be Herodian additions, since the original *Har Habayis* was 500 *amos* on each side and the current western wall is nearly double this length. Alternatively, we could use Ritmeyer's discovery and place the western wall slightly to the west of the western side of the Raised Platform, and running parallel to the eastern wall of the Temple Mount. The practical difference between these two is whether or not the area in between the Kotel and Ritmeyer's wall is part of *Har Habayis*. This is an area whose east-west distance is between 25 and 45 meters wide.

### Traditions of Entering the Temple Mount

One might raise the following question: it is all very well and good that we can figure out which areas are prohibited and which are permitted, but if Jewish custom is to avoid going onto the Temple Mount unless absolutely necessary, isn't it all just an intellectual exercise? To answer this question, the history of Jews ascending the Temple Mount must be examined, including the reasons a practice arose not to enter the area.

Contrary to what may be popular belief, the destruction of the *Beis Hamikdash* in the year 70 did not spell the end of Jews ascend-

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<sup>33</sup> As noted at the beginning of this article, most rabbinic authorities understand the measurement of the *chel* stated in the Mishna as referring to its width. Rambam understood that it was referring to its height.

ing to *Har Habayis*. There are several incidents in the Talmud telling of rabbis walking on *Har Habayis* in the generations immediately following the *churban*. The most famous of these is the story of Rabbi Yehoshua, Rabban Gamiliel, Rabbi Eliezer, and Rabbi Akiva walking on *Har Habayis* and wondering about the significance of a fox crawling around the ruins of the *Beis Hamikdash* (*Makkos* 24b).

There is also evidence in the Talmud that some sacrifices were brought during the 2<sup>nd</sup> century.<sup>34</sup> Of these, the most famous is found in the incident in which Rabbi Yehuda ben Betera gives deliberately incorrect instructions to a non-Jew who wants to bring a Peasch offering among the offerings of the Jews. Though it is not clear when this incident took place, it likely happened around the time of the Bar Kochba revolt in 132. Assuming the *Beis Hamikdash* was already destroyed at that time,<sup>35</sup> this would constitute concrete proof for the opinion of Rambam that offerings can be brought without a temple standing. It is self-evident from this incident that those bringing the Pesach offering entered not only the Temple Mount and *Har Habayis*, but also the area of the *azara* itself.

Following the Bar Kochba rebellion, Jews were forbidden to live within eyesight of Jerusalem. It is not known how strictly this law was enforced and what was really happening vis-à-vis Jews entering the Temple Mount. The next we hear of anything definitive is in the report of the so-called Bordeaux Pilgrim. This was an anonymous diary of a traveler who journeyed from France across southern Europe, finally reaching Jerusalem in 333. Among other things, the Pilgrim reports, ‘There are **two statues of Hadrian**, and not far from the statues there is a **perforated stone**, to which the Jews come every year and anoint it, bewail themselves with groans, rend their garments, and so depart.’ The statues of Hadrian were at

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<sup>34</sup> There is a little-known incident recorded in *Bereshis Rabbah* 64:8, in which the Romans actually asked the Jews to rebuild the *Beis Hamikdash*. This incident took place during the lifetime of R’ Yehoshua ben Chananya and probably happened at the beginning of the reign of the Emperor Hadrian (around 117). Due to the influence of the Samaritans, the Romans scuttled the plans and they came to naught.

<sup>35</sup> Even though coins minted at the time of the Bar Kochba revolt show a rebuilt *Beis Hamikdash*, it is generally assumed that this was an expression of the goal rather than the facts on the ground.

the center of the Mount, so the ‘stone’ is likely *Al-Sakara*. *Al-Sakara* has a very visible hole bored into it near its southeastern edge that opens into a cave underneath the rock known as the ‘Well of Souls.’<sup>36</sup>

The next incident of note takes place between the years 360 and 363. The Roman Emperor at this time was Julian, better known as Julian the Apostate, a descendent of Constantine, under whom the empire became Christian. Julian was brought up under the tutelage of pagan philosophers, so when he inherited the title of emperor, he insisted that the old Roman gods be worshipped and Christianity be abolished. Among other things he did to embarrass the Church, he offered the Jews the opportunity to rebuild their Temple.<sup>37</sup> The destroyed Temple was a symbol of Christian triumph over Judaism, so rebuilding would signal defeat for the Christians. Surprisingly, this remarkable event is not recorded in any known contemporary Jewish sources, even though it appears that Jews were aware of it and eager to help.

The Byzantine records state that Julian exerted great influence to get the Jews on his side of his battle with the Christians, including the reduction of taxes and his ill-fated attempt to rebuild the Temple. The original record states that Jews were involved in the actual building and that they had cleared away the foundations of the old Temple. At that point, an earthquake struck and wounded many of the workers. When the earthquake danger ceased, the Jews would have continued the work had not a fire come out of the earth that burned many of the workers. This put an end to the project.<sup>38</sup>

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<sup>36</sup> Assuming this report is accurate and the rock is *Al-Sakara*, it constitutes proof that Jews were ascending to *Har Habayis* and entering the area of the *Mikdash* itself.

<sup>37</sup> This earliest historical recording of this event comes from Socrates Scholasticus, also known as Socrates of Constantinople. His work is called *Historia Ecclesiastica*, or History of the Church. Another version is found in a work of the same name by Salminius Hermias Sozomenus. It appears that Socrates’ work was the original and much of Sozomenus’ work was taken from Socrates. Both were written before the year 450.

<sup>38</sup> The Christian historians saw all this as divine retribution for a rebellious act. They record a third miracle: the sign of the cross appeared on the

A similar incident occurred sometime around the year 589 (Jewish year 4349). It is mentioned in the Jewish historical work of the 16<sup>th</sup> century, *Shalsheles Hakabala* (p. 258) by Gedalia Ben Y'chiya. He writes that the earlier structure built under Julian was destroyed in an earthquake in 589 and the following year a fire melted all the metal that was used. The Byzantine emperor, Valentine,<sup>39</sup> called for Jewish artisans to rebuild it. The ultimate source for this incident is unclear, as the *Shalsheles Hakabala* records it in the vague name of the 'Chronicle,' which could be one of many Byzantine works that went by this name. It seems possible that Julian's rebuilding project was somehow confused with this one and they were recorded as separate incidents.

These two final incidents took place hundreds of years after the destruction of the *Beis Hamikdash* and over 200 years apart from each other. They certainly indicate that Jews of the time were ready to rebuild the *Beis Hamikdash* and believed that they knew where it was to be built. Thus, there would have been a gap of less than 50 years from the time when Jews last attempted to rebuild the Temple and the building of an Arab shrine on the location of the former Temple. It does not seem far-fetched that there were Jews living in Jerusalem who could have informed the Arab conquerors of the exact location of the *Even Shetiya*, as recorded in the *midrash* mentioned above.

Following the Arab conquest we have very little information concerning Jewish activity on the Temple Mount. Unlike during Byzantine times, there is no indication that the Muslims prohibited Jewish visitation to the site. The first solid report of what was going on during this time comes in the early 12<sup>th</sup> century when Jerusalem was already in the hands of the Crusaders. This report is found in a

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garments of the workers. Needless to say, many doubt the veracity of this report and attribute the failure of the project to the death of Julian on the battlefield against the Parthians in 363. *Seder Hadoros*, the well known Jewish historical work, assumes this to be the case.

<sup>39</sup> It is likely the name of the emperor at the time was actually Maurice. *Seder Hadoros* also records this incident and names the emperor Galanti. The *Malbim*, in his commentary on Daniel 12:11, uses this incident to establish the time when rebuilding the *Beis Hamikdash* was permitted.

rarely referenced book called *Megilas Hamegila* by Avraham ben Chiya. He was a rabbi who is believed to have lived in Barcelona and was occasionally quoted by the Abarbanel, among others. On page 99, he mentions that the Arabs had good relations with the Jews. He says that the Jews were even permitted to have a synagogue on the Temple Mount, which they used on holidays to serve in place of the sacrifices that had been offered in the *Beis Hamikdash*. This synagogue was destroyed when the Crusaders came, and since that time the Jews were prohibited from entering the Temple Mount area.

Following this, we have a famous and controversial letter attributed to Rambam. This letter describes what appears to be a visit to *Har Habayis* shortly after he arrived in *Eretz Yisrael* in the year 1165. The controversy surrounding this letter springs from the obvious implications of an incident involving such an influential figure in Jewish law and tradition. That Rambam visited the area in 1165 is beyond dispute. The letter describes his experience in a shipwreck and his making a vow to fast in commemoration of his survival. He then describes a trip to Jerusalem in which ‘I entered the great and holy house and prayed there.’ The letter says that this incident occurred on the sixth of Marcheshvan of 4925 (1165).<sup>40</sup>

To this day, scholars question what Rambam could have meant by these words. It seems far-fetched to say that Rambam would have called the Dome of the Rock the ‘great and holy house.’ Furthermore, Rambam himself states explicitly that even after the *Beis Hamikdash* was destroyed it was forbidden to enter the prohibited areas. But then what is the ‘house’? The synagogue described by

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<sup>40</sup> This letter is recorded in the *Sefer Chareidim*, a 16<sup>th</sup> century work by Elazar Azkari. There the date is given as the year 25 with no mention of which century or millennium. Hence, some say that the actual year of the letter is 5025 (1265) instead of 4925. Furthermore, the letter is attributed to ‘Rav Moshe, *Or Hagola*,’ introducing the possibility that the author of the letter was not Rambam but the *Ramban*, who arrived in Israel almost exactly a century after Rambam (1267). However, this suggestion is clearly incorrect, as the *Ramban* wrote a letter to his son in which he states explicitly that he walked on the Mount of Olives and not on *Har Habayis*.

Avraham ben Chiya was destroyed in 1099, and there is no evidence that another was built on *Har Habayis*. To say that he did not enter *Har Habayis* at all but rather entered some synagogue in the Old City, as many have suggested, is equally problematic. Why would he call anywhere else ‘the great and holy house’? Perhaps the most likely explanation is that Rambam was describing the entire *Har Habayis* area with the term ‘house.’ While this is far from satisfactory, it seems the least problematic interpretation.

### **The Tradition to Not Enter the Temple Mount**

Soon after this almost legendary incident, the trail of Jews going onto *Har Habayis* goes cold. It is generally agreed that the Muslims prohibited non-Muslims from entering the Temple Mount from the time of Saladin’s victory over the Crusaders in 1189 until the early 19<sup>th</sup> century when the Turks began allowing non-Muslims to enter by paying a fee. This is a period of over 600 years. By the time the *Kaftor V’ferach* reached Jerusalem and reported that the Jewish custom was to remain outside the Temple Mount, it had likely been over a century since a Jew had ascended to *Har Habayis*.<sup>41</sup> When Rav Ovadia M’Bartinura wrote in his letter to his family in 1488 that Jews do not enter the Temple Mount because the Muslims will not allow them and because of issues of *tumah*, it had been about 300 years since a Jew had ascended. When the *Derech Hakodesh* wrote that there were people in his time who wouldn’t walk inside of the Cotton Gate, there was a more-than-500-year tradition supporting them. When the Ashkenazi communities began arriving in the early 19<sup>th</sup> century, they had almost 650 years of tradition prohibiting entry to the Temple Mount due to *tumah*.

The *Radvaz*, of course, is the major exception to this long tradition of prohibition. He lived during the 16<sup>th</sup> century, and his responsum states that Jews were indeed ascending steps leading to the Temple area. In this article, we have shown that the *Radvaz* must

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<sup>41</sup> The *Me’iri* mentioned earlier in this article states that he heard that people do enter the area of *Har Habayis*. Given that he was writing at about the same time as the *Kaftor Vaferach*, who actually lived in Jerusalem, and says that Jews were prohibited from entering the area, it seems likely that the *Me’iri* was relying on a report from much earlier times.

be referring to the steps leading to the Raised Platform. Thus, Jews were walking on the Temple Mount during his time. Possibly, this period of leniency was due to the more benevolent rule of Suleiman the Magnificent during the first half of the 16<sup>th</sup> century. It is difficult, if not impossible, to determine exactly what years the *Radvaz* was describing in his responsum. It is even more difficult to ascertain how long this period of leniency lasted. Nevertheless, at some point after the period described by the *Radvaz*, the Muslim prohibition, and the tradition that accompanied it, were renewed. By the time the Muslims lifted the prohibition during the 19<sup>th</sup> century, the tradition to not ascend to *Har Habayis* was firmly entrenched in the Jewish world.

Both the *Tzitz Eliezer* and the *Minchas Yitzchok* stress the issue of *tumah* as the reason for this tradition. Aside from their claim that we do not know the exact location of the prohibited areas, they write that entry on any part of *Har Habayis*, even if it is definitely outside of *chel*, is prohibited since everybody today has the possible status of a *zav*. *Har Habayis* corresponds to the *Machane Leviya*, and is thus prohibited to a *zav*, among others. It is difficult to know if they considered this to be merely a stringency that partially justifies the tradition, or if they genuinely hold it to be normative law. In any case, it is clear that the *Radvaz* would not agree with this prohibition. Furthermore, Rambam (*Hilchos Beis Habechira* 7:7), in discussing the contemporary relevance of the mitzvah of reverence for the *Mikdash*, mentions that one should not sit in the *azara*. Since one must go through *Har Habayis* in order to get to the *azara*, it is clear that he did not consider the *zav* issue to be a problem.

Rav Avraham HaKohen Kook gives an entirely different justification for the tradition in the course of a long responsum in his work *Mishpat Kohen* (no. 96). In the section dealing with the *Raavad*, he proposes that even according to the *Raavad*, who holds that the penalty of *kares* no longer applies today, there is a rabbinic prohibition for entering the *Beis Hamikdash* area. He then suggests a reason for this prohibition: that *Chazal* hoped to maintain a feeling of reverence among the populace for the presence of *Hashem* that could be felt in the *Mikdash*. To this end, they felt that the reverence gained by having to stay away from the site would be more valuable than reverence gained by regularly entering the site, espe-

cially given the probable state of *tumah*. Rav Kook is saying that reverence from a distance is more essential than familiarity, especially while impure, from up close.

It is well known that the followers of Rav Kook generally do not enter the Temple Mount. However, there is some dispute among them as to whether Rav Kook himself ever actually forbade entry to *Har Habayis*.<sup>42</sup> Furthermore, some suggest that even if he did, he would have changed his opinion had he been alive after the Six Day War, when the issue of demonstrating a permanent Jewish presence became relevant.

Another reason for keeping the tradition going is political. It is no secret that the situation between Israel and the Muslims is tense. Before 1967, Jews were not permitted to enter the Temple Mount area. Shortly after the Six Day War, the Israeli government, for whatever reason, effectively handed control of the area back to the Muslim authorities (the Wakf). Israel retained political sovereignty over the area, but the Wakf has control of the religious sphere. As part of this agreement, Jews who wish to go to *Har Habayis* are not permitted to pray there or perform any religious activity. The Israeli government, it appears, is only too willing to limit the number of Jews ascending to the Temple Mount. The Chief Rabbinate, the religious arm of the government, placed a sign at the bottom of the entrance ramp leading to the Temple Mount explicitly forbidding Jews to enter the area.

In summation, it seems that we have two distinct traditions concerning ascending to the Temple Mount and to *Har Habayis*. The original permissive tradition probably ended over 800 years ago. The prohibitive tradition seems to have begun as a result of outside factors, namely Muslim restrictions on entering the area, and remained in place after those restrictions were lifted. The halachic justification for continuing the prohibitive tradition is based

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<sup>42</sup> The dispute can be found in a letter written by Rabbi Eliyahu Shlomo Raanan, a grandson of Rav Kook. A translation of this letter is available on the Internet at <<http://www.600000men.com/mount/default.html>>. He claimed that both Rav Avraham Yitchok and his son, Rav Zvi Yehuda, were not against entering the Temple Mount or *Har Habayis*, as long as one stayed in the permitted areas.

on a combination of halachic stringencies regarding *tumah* and a steadily increasing ignorance of where the prohibited areas really were. So, at the end of the day, which tradition should one follow?

At first glance, it would seem obvious that the more recent tradition should win out. Is it not a guiding principle in Judaism to follow the current tradition even when it conflicts with an earlier tradition? Furthermore, aren't those who follow the prohibitive tradition playing it safer? Why run the risk, they say, of violating an *issur kares*, merely to satisfy a tradition that has not been active for over 800 years?

While both of these arguments have some legitimacy, they also have their problems. Regarding the first point, one could ask whether a tradition largely based on an assumed ignorance is really a tradition at all. This question could be (and is) asked on any case in which an ancient practice or law is resurrected. A recent example is the growing use of *techeles* dye from the *murex trunculus* snail on *tzitzis*. Once any arguments about the validity of this source for *techeles* are satisfied, the final reservation invariably rests on the fact that nobody has been doing this for the past millennium or more. Should this point alone prevent Jews from reviving a long-dormant but essential practice?

As far as the second point is concerned, one must ask whether there indeed is an automatic *issur kares* in ascending to *Har Habayis* at all. Given that the opinion of Rambam is normative halacha, and that *kares* would apply to one who walks in the area of the *Mikdash*, why should that prevent Jews from entering those areas that never had this status? Is it that difficult to avoid the prohibited areas? A simple calculation shows that the *kares* area comprises less than 5% of the Temple Mount. Staying off that area is as simple as staying off the Raised Platform—an area considerably larger than the area of the *Mikdash*, the *Ezras Kohanim*, and the *Ezras Yisrael*.

Furthermore, to be liable for *kares*, one must do the act '*b'meizid*.' This means both being aware that he is '*tamei mes*,' and that he is entering a location that has the *kares* penalty. While we are all aware that we are *tamei mes*, the same cannot be said of the second requirement. Those who enter the Temple Mount today claim to know where the problematic areas are and avoid entering them. Those who do not go onto the Temple Mount don't have

any more information that would render the people who go up there ‘*meizid*,’ since they avoid going up specifically because they are unsure of where anything was located. It turns out that anyone who is careful to avoid problematic areas is by definition not *b’meizid*. This would clearly remove the threat of *kares* from any person who enters the Temple Mount after learning where to avoid, or enters under the direction of a Torah authority who has thoroughly researched this topic.

In actual practice there are four common reasons given for not ascending to *Har Habayis*.

1. We do not know which areas are permitted and which are prohibited
2. We are all in a state of *tumah* that prohibits entry on the entire Temple Mount
3. There are no major rabbinic authorities who permit entry to the Temple Mount
4. All those who permit entry must hold like the *Raavad*, which is not normative halacha

Reason 1 has been dealt with extensively in this article. Reason 2 is immaterial once one accepts the response to reason 1 and recognizes that the *tumah* of *zav* is a stringency that is easily dealt with.<sup>43</sup> Reason 3 is valid only if one disregards the authorities who

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<sup>43</sup> It is appropriate to note that a man who is a *ba'al keri*, had a seminal emission, is in a category that may be the equivalent of a *zav*, and may need *tevilah* in a spring. This debate centers on a puzzling Rambam (*Beis Habechira* 7:15, *Biyas Hamikdash* 3:3) in which he lists those who cannot enter *Har Habayis*. Significantly, he does not mention a *Ba'al Keri*. Numerous later commentators ask about this omission, including the *Mishna Lamelech* in both places, and numerous answers are given either to justify the omission or to explain how a *ba'al keri* is actually included in Rambam’s list. It remains an open issue. A woman who is a *niddah* is quite clearly on the list. A woman who has recently engaged in marital relations, though not on Rambam’s list, likely fits into the same category as a *ba'al keri*, and is subject to the same issues. Thus, women who are interested in going onto *Har Habayis* (a highly debatable venture for reasons that are beyond the scope of this paper) should be absolutely sure they are *tobora* from *niddah*, have not had intercourse for at least three full days, and have gone to the mikvah.

permit entering *Har Habayis*. Furthermore, it is difficult to understand why the *Radvaz*, who clearly permits entering *Har Habayis*, is not considered the final authority on the issue.<sup>44</sup> He directly addressed the question and clearly did not consider either reason 1 or reason 2 to be a problem. As far as reason 4 is concerned, the *Radvaz* issued his permissive ruling according to the opinion of Rambam. Additionally, Rav Moshe Feinstein, although he did not directly address reason 1, did not consider reason 2 to be an obstacle. It is obvious from his *t'shuva* that Rav Moshe was writing according to the opinion of Rambam.

### Further Considerations in Deciding Whether or Not to Ascend

There are two additional factors to examine. The first is the fulfillment or possible abandonment of the mitzvah of revering the *Mikdash*. The source for this mitzvah is found in *Vayikra* 19:30 in which the commandments to both keep Shabbos and revere the *Mikdash* are mentioned one after the other. The Talmud (*Yavamos* 6b) uses this juxtaposition of two seemingly unrelated commandments to conclude that just as the mitzvah of Shabbos is eternal, so the mitzvah of revering the *Mikdash* is eternal. This means that it applies even when the *Mikdash* no longer exists. Rambam (*Beis Habechira* 7:1,7) takes this as normative halacha. He then enumerates the many details of this mitzvah: entering only those areas that are permitted, entering only for the purpose of a mitzvah, not using them as shortcuts, not spitting, not carrying a staff, not wearing leather shoes on *Har Habayis*, and several others.

Rambam's list of details suggests that one fulfills this mitzvah only when actually being within the area of *Har Habayis*. This indeed is the conclusion of several contemporary Torah authorities. Against this, there are those who suggest that the requirement of entering only for the purpose of a mitzvah restricts all entry today,

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<sup>44</sup> The *Birchei Yosef* (561:3) rules like the *Radvaz*. In addition, the *Maharit Kuntres Tzurav Habayis* 7:15) also permits entering *Har Habayis*, and gives the distances one can approach from the eastern and southern directions. Although it is difficult to understand how he derives his distances, his lenient ruling on entering *Har Habayis* is clear.

since there is no relevant mitzvah that one can perform there today. Therefore, they say, this mitzvah is relevant only when the *Beis Hamikdash* is standing.<sup>45</sup>

This debate may center on the interpretation/translation of the commentary of Rambam to the Mishna on *Brachos* 9:5. The Mishna states the halacha of not using *Har Habayis* as a shortcut (*kapan-darya*). Rambam writes that the reason for this is that one should not enter such a holy place except for matters of worship (*avodah*). The question is whether the word *avodah* refers specifically to activities associated with the *Beis Hamikdash* or to all forms of worship. This commentary was originally written in Arabic, and various translations have been done through the centuries. The edition in the back of the Vilna Shas translates the final phrase as matters of prayer and *avodah*. The Arabic does not mention the word ‘prayer.’ However, even without the word ‘prayer’ it seems likely that ‘matters of worship’ would include prayer, given that Rambam explicitly says elsewhere (*Hilchos Tefilla* 1:1) that prayer is a form of *avodah*. Furthermore, bowing in reverence is certainly a form of *avodah* that can be performed even without a functional *Beis Hamikdash*.<sup>46</sup>

The *Sefer Hachinuch* (Mitzvah 254) states a third possibility. He writes that the mitzvah of reverence for the *Mikdash* is still relevant, but that its essence is fulfilled in preparation for entering the Temple Mount. The opening description of the mitzvah states: ‘That we should establish in our souls a place (a mindset) of fear and reverence, so that our hearts will be softened when we come there (to *Har Habayis*) to pray or to offer sacrifices.’ It would appear that according to the *Sefer Hachinuch*, the essential mitzvah is purely in the

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<sup>45</sup> The *Radvaz* writes at the end of *Teshuva* 691 that the overriding reason to be lenient in allowing people to ascend the various stairways in question is “the great desire to look at the holiness.” Apparently, he feels that the mitzvah of reverence applied even when the *Mikdash* was not standing. Furthermore, reverence was justification for ascending onto the Raised Platform.

<sup>46</sup> Rav Chaim Kanievsky, in his *sefer Derech Chochmah*, on the *Mishna Torah* (7:7, no. 14), states this explicitly. This certainly does not imply that Rav Kanievsky would also permit entering *Har Habayis* today.

mind, and should be done before entering *Har Habayis*. However, prayer is clearly a valid reason for entry onto *Har Habayis*.

There is one final consideration in making the decision about entering *Har Habayis* that lies on the interface of halacha and politics. This is the issue of demonstrating Jewish control over this crucial area. Since Israel gained sovereignty over the Temple Mount in June of 1967, the actual Jewish presence there has gone from massive to miniscule. In the euphoria after the Six Day War, thousands of Jews entered the Temple Mount, including the chief rabbis and Rav Tzvi Yehuda Kook. The halachic justification many of them gave for this was the matter of *Kibush Haaretz*—conquering a part of *Eretz Yisrael*. Shortly after effective religious control of the area was given to the Islamic Wakf, the number of Jews entering dwindled to a trickle.

Though still considered debatable in many religious circles, it would seem reasonable to say that now more than ever there is a dire need to demonstrate Jewish sovereignty over the Temple Mount. During the Camp David negotiations, the Israeli government came within a hairsbreadth of relinquishing sovereignty to the Arabs. With pressure on Israel only mounting as the years go by to compromise more and more, we have to assume the Temple Mount will soon be on the table again to sweeten any deal. If Jews do not show their bond to the area by regularly entering it and holding it to be at least as essential to their religion as the Muslims do to theirs, why should any Israeli or foreign negotiators value it as sacred and non-negotiable? This political element, which may very well encompass the mitzvah of *Kibush Haaretz*, is all too frequently ignored in the never-ending debate about entering *Har Habayis*.<sup>47</sup> Is it right that a tradition of debatable validity that is based on questionable stringencies regarding *tumah* should outweigh the need to

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<sup>47</sup> No less an authority than the *Ramban*, in his list of commandments that Rambam left out of his *Sefer Hamitzvos* (positive mitzvah 4), states explicitly that *kibush haaretz* applies at all times. He also states there that it applies to individual cities within Israel. It is difficult to believe that he would not apply the same status to *Har Habayis*.

do everything we can to hold on to our most precious piece of land?<sup>48</sup>

### Conclusion

Nobody can deny the importance of this issue for every Jew. Nobody can deny its renewed relevance since 1967 and its continuing relevance each year. For many, the issue was settled long ago with the tradition dating back possibly 800 years of not entering the Temple Mount. But for others, the issue was settled by the even older tradition of entering the area even after the *Beis Hamikdash* was destroyed. For those who are unsure, perhaps this article will serve to clarify some of the issues. Those who choose to enter *Har Habayis* under the guidance of an experienced and knowledgeable guide should, of course, take care to observe the key requirements: immersing in a mikvah (or spring) prior to entering, not wearing leather shoes, and not wearing a money belt. Furthermore, all should keep in mind that entering *Har Habayis* is not another stop on the tourist trail in Israel. If one's goal is to snap a few pictures and have something interesting to talk about, then it is probably best to stay outside. Entering *Har Habayis* is to pray in the holiest spot on the earth. It offers a unique opportunity to experience an awareness of Hashem that may not be attainable elsewhere. As the Talmud states (*Yavamos* 6b), 'One should not revere the *Mikdash* itself; rather, one should revere the One who commanded us concerning the *Mikdash*.' ❧

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<sup>48</sup> Many readers may remember a similar scenario involving Kever Rachel in 2001. Despite an agreement with the Palestinian Authority during the Oslo negotiations guaranteeing Jewish access to the site, visits were virtually impossible. When this became known to Jews worldwide, political activists started a campaign to keep Kever Rachel in Jewish hands. Politicians were lobbied and armored busses were purchased for the purpose of facilitating travel to the site. Eventually, bus service was provided, and today private cars can travel there 24 hours a day. This all happened despite a blatant Arab attempt to deny any Jewish connection with the site. We see confirmation that when we establish a Jewish presence, it ultimately becomes safe and secure; when we do not, the frontier of danger advances.