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KORBAN PESACH BAZMAN HAZEH

*A Review of Halakhic Literature
Pertaining to the Reinstitution of the Sacrificial Order**

"...All the conversations of mankind center around the land... All the prayers of Israel center around the Temple... 'Mari matai yitbeni Beit haMikdash—Lord, when will the Temple be rebuilt?'" (*Bereshit Rabba*, 13,2)

A chain forged of the prayers and yearnings of centuries rivets the Jew to Jerusalem with a binding force and tenacity greater than that of an iron bond. Despite the length and vicissitudes of the dispersion, at no time were the links of this chain severed, in no place were they corroded. The Temple ruins, standing desolate in far-off Jerusalem, were always, to the Jew, the focal point of his dreams and aspirations. His heart in the East, his thoughts attuned to Tzion, wherever his physical abode, he stood "before your gates, O Jerusalem!"...

While the specific question of reinstitution of the sacrificial rites has been discussed from time to time in rabbinic writings, for the most part these discussions are recondite analyses of an already obscure subject. Nevertheless, despite the intricate nature of the subject matter, its current relevance demands that we strive for an understanding and appreciation of the grave halakhic issues involved. This review has been undertaken as an attempt at least partially to acquaint the reader with the nature of these issues and to delineate the maze of halakhic difficulties with which they are fraught. As such the scope of this presentation is far from exhaustive. Hopefully, the reader will find his appetite whetted and will be prompted to peruse the original sources...

The proposal to re-establish the sacrificial rites despite the absence of a *Beit haMikdash* is based upon the statement of Rabbi Yehoshua (*Eduyot* 8,6 cited *Shevuot* 16a and *Megilla* 10a) "I have heard that [it is permitted] to sacrifice although there is no Temple." This dictum is accepted by the Rambam as authoritative (*Mishneh Torah, Beit haBehira*, 6,15).¹ Further confirmation that the offering of sacrifices in our own day is at least a theoretical possibility is to be found in the Rambam's statement (*Mishneh Torah, Ma'aseh haKorbanot*, 19,15) that the penalty for *shehutei hutz*—the slaughtering of sacrificial animals other than at the Temple site—applies also in our time. Since the penalty is applicable only in those instances in which the animal is *ra'uy le'fnim*—where there are no halakhic impediments to its being offered as a sacrifice at the proper site—the apparent conclusion is that Maimonides accepted, at least in theory, the possibility of reinstitution of the sacrificial service.²

There is also some historical evidence that sacrifices—particularly the paschal sacrifice—were offered sporadically during the period immediately following the destruction of the Temple. Rabbi Jacob Emden (*She'elat Yaavetz*, Vol. I, No. 89) identifies the Rabban Gamliel quoted in *Pesachim* 74a as commanding his servant, Tabi, "Go and roast the Pesach sacrifice," with the Rabban Gamliel who served as

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head of the Academy in Yavneh after the destruction of the Temple. The *Tashbatz*, Rabbi Shimon ben Tzemaḥ Duran, in his commentary on the Hagadda, *Yavin Shemu'a* (Livorno, 5504) makes essentially the same point in his discussion of the section *Rabban Gamliel omer*. Further evidence that sacrifices were actually brought after the destruction is adduced by Rabbi Tzvi Hirsch Chajes in his Responsa, nos. 2 and 76 and chapter 2 of his *Darkhei Hora'a*.³ These historical contentions are rebutted by Rabbi Ḥayim Nathanson in *Avoda Tama* (Altona, 5632).

Whatever may have been the case in the period immediately following the destruction of the Temple, the centuries which ensued witnessed the total abrogation of the sacrificial rites.⁴ For generations resumption of sacrifice was at best a theoretical possibility; its translation into practice could have been no more than an ephemeral fantasy. Nevertheless, the report of a concrete proposal for the reinstatement of sacrifices occurs in an early 14th century work entitled *Kaṣṣor vaFerah* written by Rabbi Ishturi haParḥi, a victim of the French expulsion...

Quite evidently, nothing came of these plans; Rabbi Ḥayim Nathanson in the *Avoda Tama* concludes that undoubtedly the French scholar was dissuaded from doing so by the sages of his generation.

Once more the issue recedes into the background. Nothing more is heard of the proposal and the entire question is permitted to lie fallow until the middle of the 19th century when we find a new protagonist actively espousing resettlement of the Holy Land and reintroduction of sacrificial worship. In a letter addressed to Baron Asher Anshel Rothschild, dated 12 Elul, 5596, Rabbi Tzvi Hirsch Kalisher solicits the latter's support for plans to colonize the Land of Israel and outlines his views regarding the sacrificial rites. When these opinions regarding resumption of the sacrificial service were incorporated in a work entitled *Derishat Tzion* and published a little over 100 years ago, in 5622, the question for the first time became a live issue.⁵ Considerable controversy was aroused and resulted in a meticulous examination by the foremost authorities of the time of the halakhic issues surrounding the proposed innovation. Opposition to Rabbi Kalisher's views was of a dual nature. Apart from the controversial halakhic ramifications of his proposal, Kalisher's novel eschatological views caused many of his contemporaries to take sharp issue with him. Kalisher argues not only that reinstatement of the sacrificial rites is both permissible and halakhically feasible but that it constitutes a positive mitzva and is in addition a *sine qua non* for the advent of the Messiah. The redemption, he maintains, will take place in the following manner: first, a partial in-gathering of the exiles to be followed by the reinstatement of *korbanot*; after this will occur the war between Gog and Magog and the complete in-gathering of the exiles culminating in the advent of the Messiah. As evidence for his position Kalisher cites the statement of the *Yerushalmi* as quoted by *Tosafot Yom Tov, Ma'aser Sheni*, 5,2: "The Temple [will] be rebuilt before the reign of the House of David."⁶ Referring to the *Sifri* cited by Ramban in his commentary on *Devarim 12:5*, Rabbi Kalisher maintains that the offering of sacrifices is causally connected with the reappearance of prophecy and has as its effect the manifestation of the divine presence just as the *Shekhina* appeared in the Tabernacle in the wilderness only following the sacrificial offerings of the *milu'im*. Therefore, he concludes, reinstatement of the sacrificial rites is not dependent upon a prophetic injunction; rather prophecy cannot become manifest without prior sacrificial offerings.⁷

In a letter to Kalisher the famed Rabbi Nathan Adler cites Rashi in his commentary on *Sukka 41a* and *Tosafot Shevuot 15b* to the effect that not only the Temple itself but also the altar and all utensils and appurtenances of the third Temple will be built miraculously by God by means of a heavenly fire. Since miraculous occurrences are to be anticipated only after the coming of the Messiah, the opinion

of these authorities obviously contradicts the view of the Palestinian Talmud as cited by Kalisher. Rabbi David Friedman in a short treatise entitled *Kuntres Derishat Tzion veYerushalayim* and published as the opening section of his *She'elat David* maintains that the reading cited by Rabbi Kalisher and *Tosafot Yom Tov* is erroneous and that the correct textual reading is "Yerushalayim will be rebuilt" not "the Temple will be rebuilt." Furthermore, he argues, from the context of the statement in the *Yerushalmi* it is not at all evident that this is an assertion of a necessary order of events leading to the redemption (as Kalisher opines) but, on the contrary, merely of a possible order. Thus even accepting Kalisher's reading, the *Yerushalmi* falls short of stating that the Temple must be rebuilt as a prerequisite to the advent of the Messiah. In the *amida* as ordained by the Men of the Great Assembly, the blessing pertaining to the reinstatement of sacrifices follows the blessings alluding to the in-gathering of the exiles, the rebuilding of Jerusalem and the restitution of the House of David. This order is seen by Friedman as corresponding to the optimum chronological sequence, whereas according to Kalisher the order is sequentially impossible and hence without apparent rhyme or reason.

Rabbi Jacob Ettlinger in the first responsum of the *Binyan Tzion* (Altona, 5628) states that the authoritative order of the redemption is that given by the Gemara in *Megilla 17b*. There we find the following sequence: the rebuilding of Jerusalem, the re-establishment of the Kingdom of the House of David, the rebuilding of the Temple, which shall become a place of prayer for all peoples, and finally the reinstatement of the sacrificial rites. This order is reflected in the blessings of the *amida* which were sequentially ordained by the Men of the Great Assembly in a manner paralleling the chronological unfolding of events leading to the redemption. We may accordingly infer that sacrifices cannot be reinstated until after the re-establishment of the House of David and the rebuilding of the Temple.⁸ To this argument Kalisher replies that indeed the reinstatement of sacrificial offerings including private sacrifices is impossible without the coming of the Messiah — and it is to such individual sacrifices that the Gemara and the liturgy refer. Nevertheless communal sacrifices can be reinstated according to his view even though there is no *Beit haMikdash*...

Kalisher's vigorous advocacy of reinstatement of the sacrifice met with determined opposition on the grounds of halakhic technicalities as well. In his own day rabbinical authorities of world repute such as Rabbi Akiva Eiger, Rabbi Moses Sofer and Rabbi Jacob Ettlinger contended that there exist halakhic impediments which completely nullify the proposal. Despite Kalisher's assertions to the contrary, there is no evidence that any of these three halakhic personalities became reconciled with Kalisher's views. Of the three, Rabbi Jacob Ettlinger published his opposition to Kalisher's proposal as the very first responsum in the *Binyan Tzion*, Rabbi Moses Sofer limits the proposal to the *Korban Pesach* alone and Rabbi Akiva Eiger, despite a protracted correspondence with Kalisher, never reversed his views on the subject. Kalisher's work led to the composition of the *Avoda Tama* by Rabbi Hayim Nathanson and the *Migdal David* by Rabbi Alexander David of Lissa, both of which are polemical in nature and devoted to the express purpose of refuting Kalisher's contentions. The controversy gave rise to much heated debate which has continued unabated into recent times.⁹ Alluring as it may have been, Kalisher's proposal was deemed unfeasible in practice. Seen as constituting potential barriers to the implementation of the sacrificial services were the concrete questions of ritual impurity, the sanctity of the Temple site, genealogical purity of the *kohanim*, ascertaining the precise location of the *mizbe'ah* (altar) and its construction, unavailability of the materials required for weaving the priestly garments, problems involved in the appointment of a High Priest, collection of *shekalim*, inauguration of the *Kohanim* and dedication of the altar.

TUM'A

Admitting the contention that the building of the *Beit haMikdash* itself is manifestly impossible without prophetic direction — in the words of Scripture “All this in writing, as the Lord has made me wise by His hand upon me” (*Divrei haYamim I, 28:19*) — Kalisher points out that only the *mizbe'ah* is necessary in order to offer sacrifices and indeed Ezra reinstated *korbanot* long before the Temple was completely rebuilt. He then himself voices three possible objections to his proposal and endeavors to obviate each in turn. The first problem is that one may not enter the Temple site nor offer sacrifices in a state of ritual impurity. At present, however, we have all been defiled through contact with the dead and lack the ashes of the red heifer to effect the requisite purification. The general principle that communal sacrifices may be offered in a state of ritual impurity, if there is no alternative,¹⁰ applies not only to the actual sacrificial acts but also to preliminary entry into the Temple Mount in order to carry out the necessary preparations.¹¹ Accordingly Kalisher limits his proposal to communal offerings and to the paschal sacrifice to which the principle *tum'a de'huya betzibur* is applicable...

SANCTITY OF THE HAR HABAYIT

The third and perhaps the most weighty problem discussed by Kalisher involves the sanctity of the *Har haBayit* (Temple Mount) following the destruction of the Temple. Kalisher assumes that according to the opinion of Rabad, who maintains that the sanctity of the Temple was abrogated upon its destruction, there ensues no problem regarding sacrifices at the present time. Kalisher maintains that according to Rabad even *bamot* or private altars are now permissible as they were prior to the erection of the Temple; hence an altar erected on the Temple Mount would qualify for the offering of sacrifices no less than a private altar. The Rambam declares that the original *kedusha* or sanctification of the Temple site continues to be in effect and has not been nullified by the destruction of the Temple. According to this view an altar built on the Temple site retains the original *kedusha*.

In a responsum addressed to Kalisher and incorporated in the *Derishat Tzion* Rabbi Akiva Eiger takes strong exception to Kalisher's proposal. Rabbi Akiva Eiger's first objection is voiced in a cryptic statement asserting that we cannot effect a decision with regard to the controversy between Rambam and Rabad concerning the sanctity of the *Beit haMikdash*. Rabbi Friedman, in the previously cited preface to the *She'elat David*, notes that Rabad expresses no disagreement with Rambam's position (*Mishneh Torah, Beit haBehira, 1,3*) that once the Temple was erected the prohibition against private altars became permanent and accordingly continues in effect even after the destruction of the *Beit haMikdash*. Rambam's position in this matter is entirely consistent since he is of the opinion that the original *kedusha* or sanctification of the Temple site continues in effect and has not been nullified by the destruction of the Temple. Rabad, who disagrees and maintains that the original sanctification lapsed with the destruction of the Temple, would hence have been expected to append a gloss disagreeing with Rambam's statement regarding the permissibility of private altars in the period following the destruction of the Temple. Since he fails to do so, Rabbi Akiva Eiger apparently concludes that Rabad agrees with the *Rabbenu Hanneh* quoted by *Tosafot Zevahim 61a* and maintains that *bamot* are now forbidden even though *kedusha rishona lo kidsha le'atid lavo*. Accordingly, since the sanctity of the *Beit haMikdash* has lapsed, an altar on the Temple Mount *bazman hazeh* would constitute a *bama* according to Rabad and is therefore forbidden, as are all private altars.

Rabbi Friedman suggests one possible manner in which the inauguration of sacrificial offerings may be considered. The feasibility to be considered hinges upon a conditional sanctification of the sacrificial animal under a formula pronouncing

that if indeed the Temple Mount retains its sanctity as a *Beit haMikdash*, as is Rambam's view, then the animal is indeed sanctified as a *Korban Pesach*, and the slaughter of the animal and the sprinkling of its blood be effective for sacrificial purposes; but if on the other hand the sanctity has lapsed, as is Rabad's opinion, then the sanctification of the sacrificial animal be null and void and the subsequent slaughter of the animal and the sprinkling of its blood and burning of its flesh be secular in nature. This suggestion is rejected by Rabbi Tzvi Pesach Frank (*Kuntres Har Tzvi* appended to *Teshuvot Har Tzvi*, Jerusalem, 5724)¹² on the grounds that the priestly garments contain a mixture of linen and wool and as such cannot be worn other than for the purpose of performing the sacrificial rites. In the event that such an offering does not in reality constitute a sacrifice, as would be the case according to Rabad, the officiating priest would then be violating the prohibition of *shatnez*. Rabbi Frank rejects the argument of Rabbi Tzvi Hirsch Chajes and others that the benefit derived is an unintentional one and hence not prohibited. Basing himself upon the treatment of the topic by the *Beit haLevi*, I, nos. 1-3, he maintains that since no additional garments other than the priestly vestments may be worn while performing the *avoda* the benefit is inescapable — a *pesik reisha* — which is forbidden even though the benefit is unintentional. Furthermore, Rabbi Frank points out that the *Korban Pesach* (which, for reasons which will be noted, is the only sacrifice whose inauguration can be seriously considered) could not be offered on a private *bama* even during the periods when private altars were permissible. This principle is clearly enunciated in *Zevahim 104b*.

Moreover, Rabbi Frank expresses astonishment that Rabbi Akiva Eiger did not comment on the logical inconsistency inherent in Kalisher's proposal. According to Rabad a *mizbe'ah* erected on the Temple site is to be considered a private altar. Hence, according to Rabad, communal sacrifices are impossible in our day since even an altar on the Temple Mount would have the status of a *bama* and communal sacrifices cannot be offered on a private altar. But according to the Rambam, who maintains that the original sanctity prevails even after the destruction, the question of re-establishment of the sacrificial rites arises *only* with regard to communal sacrifices since it follows from his position that only communal sacrifices may be brought in the state of *tum'a* (impurity). Kalisher's argument is thus dramatically demolished by Rabbi Tzvi Pesach Frank.

Rabbi Friedman raises an engaging question based upon the ramification of Rabad's position. As established by Rabbi Zekharya haLevi, author of the *Hinukh*, the commandment to build a *Beit haMikdash* is not deemed to be incumbent upon us except at such time as a majority of Jewry resides in the Land of Israel. (The building of the Second Temple by Ezra, even though this condition was not fulfilled, was the result of specific prophetic edict.) Nevertheless, the rebuilding of the Temple should be obligatory according to Rabad, not as an intrinsic obligation, but because the attendant sanctification is requisite in order to fulfill the mandatory obligation of offering sacrifices. The offering of sacrifices, if not for technical impediments, would, of course, be mandatory even in contemporary times. Friedman concludes that the prospect of rebuilding the Temple cannot be entertained by us since the Mishna (*Shevuot 14a*) declares that sanctification of the Temple area requires a king, a prophet, the *urim ve'tumim* and the *Sanhedrin*. Although there is one opinion in the Gemara that any one of the four requirements enumerated is sufficient, we do not possess any of them at present. In addition, though a prophet, according to this opinion, may not be required for the act of sanctification, the *Korban Toda* (thanksgiving sacrifice) offered on that occasion requires a prophet in order to direct the manner in which it is to be sacrificed. Moreover, notes Rabbi Friedman, the Rabad himself states that Ezra did not promulgate a perpetual *kedusha* because he knew by means of the Holy Spirit that eventually both the

Temple site and Jerusalem itself would be expanded and the enlarged boundaries would be sanctified with enhanced and unprecedented glory; therefore it does not behoove us to sanctify the Temple Mount other than according to the directions of a prophet.

MIZBE'AH

As previously indicated a *Beit haMikdash* is not necessarily required for the offering of sacrifices. Yet any sacrifice must be offered on the precise location of the original altar. In the Rambam's phraseology, "*mekom haMikdash mekhuvan beyoter* — the site of the altar [is located] with extreme precision." This spot, hallowed through the ages, is pin-pointed by tradition as the exact site of Adam's first sacrifice to the Almighty, of Noah's offering upon emerging from the Ark and of the binding of Yitzhak. The difficulties in the task of locating this site with exactitude are such that the Gemara (*Zevahim 62b*) relates that at the time of the construction of the Second Temple the location of the altar was revealed by a prophet who returned from Babylonia for this purpose. Kalisher maintains that this was necessary only because no remnant whatsoever remained of the First Temple as was foretold: "Rase it, rase it, even to the foundation thereof" (*Tehillim 137:7*). Of the Second Temple, however, there are yet extant sections of the walls; these, Kalisher asserts, may be utilized for purposes of determining the distance between the walls and the altar. In the previously cited responsum Rabbi Akiva Eiger argues that we cannot rely on our measurements in order to determine the exact location of the *mizbe'ah* since these measurements are based upon the *tefaḥ* or handbreadth measuring four finger-widths. These dimensions cannot be determined with exactitude at present since physical proportions have changed over the course of centuries. Although various halakhic standards dependent upon these measurements may vary according to the average physical proportions of mankind in each generation, standards derived in this manner cannot enable us to measure geographical distances and locate spatial points which are unvariable.

Rabbi Friedman expresses the same objection, but with a most interesting twist. Our point of demarcation in any such attempt at determining the location of the *mizbe'ah* is the Wailing Wall. Our authority for identifying the *kotel ma'aravi* with the western wall of the Temple is the statement found in the Midrash *Tanhuma, Shemot*, that the western wall will never be destroyed.¹³ We are, however, governed by the principle that halakhic applications may not be derived from aggadic sayings. This principle is rooted in the recognition that:

1) By virtue of its figurative nature we cannot be certain of the precise meaning of the aggada.

2) There may well be differences of opinion among the various and varied aggadic sources which are either unknown to us or not properly understood by us.

With regard to this particular question, Rabbi Friedman reasons, if we are indeed to take the pertinent aggadic dicta literally, we must also be mindful that the Gemara declares (*Gittin 57a*) the place known as *Har haMelekh* to have contained 600,000 cities, each one serving as the dwelling place of no less than 600,000 inhabitants; but today the locale could not encompass 600,000 reeds! If this aggadic statement is to be understood literally we must conclude that now the area has shrunk in physical size. If so, this phenomenon may very well have taken place in the area of the Temple Mount as well! Then, even accepting the western wall as a landmark on the testimony of the *Tanhuma* we may still have no accurate means of measurement, for the location upon which the *mizbe'ah* stood originally may indeed have shifted. Furthermore, the *kotel ma'aravi* can give us only the western boundary from which to measure the distance to the location of the altar. The wall is not complete in length and therefore we cannot determine the northern and

southern extremities. Hence we cannot ascertain where the altar stood *vis-a-vis* the north and south walls. Moreover, a comparison of the pertinent statements in *Yoma 36a* and *Zevahim 53a* and the Mishna in *Midot 2,1*, discloses a basic contradiction regarding the location of the *mizbe'ah*. This is reflected in a difference of opinion between *Tosafot, Yoma 16b* and Rambam, *Mishneh Torah, Beit haBehira 1,6* and *5,16*. Since it is not in our power to resolve this dispute we remain in a quandary with regard to the determination of the original location of the altar. The same hesitation regarding the location of the altar is echoed by the Hafetz Hayim (*Zevah Toda, Zevahim, ch. 13.*)¹⁴

The first significant modern investigation of the dimensions of the *Beit haMikdash* site and its implements was that undertaken by the Sutzker Rav, Rabbi Jacob David Wilovsky. In the *Teshuvot Beit Ridvaz* (Jerusalem, 5665) No. 38, Rabbi Wilovsky questions whether the Wailing Wall is the remnant of the wall surrounding the Temple Mount as is commonly assumed, or whether it is rather the wall of the Temple courtyard proper. His query is based upon statements found in *Teshuvot Radvaz*, vol. 1 nos. 648 and 691. He concludes that even given the measurements of Tractate *Midot* we have no single point of demarcation whose location is known with certainty...

SHEKALIM

A number of letters dealing with this subject were exchanged between Rabbi Akiva Eiger and Rabbi Tzvi Hirsch Kalisher, until the former found it physically difficult to continue the correspondence due to the infirmities of advanced age and consequently forwarded the relevant manuscripts to his son-in-law, Rabbi Moses Sofer. In his reply, published as Responsum no. 236 in the *Teshuvot Hatam Sofer, Yoreh De'ah*, Rabbi Moses Sofer rejects the proposal on the basis of the objection expressed by Rabbi Jacob Emden in the *She'elat Yaavetz*, Vol. I. No. 89, in which the latter demonstrates that all communal sacrifices must be purchased with the half shekel collected from each Jew once a year for this purpose. The obligation of *Mahatzit haShekel* is not incumbent upon us after the destruction of the Temple. Moreover, in any event it would be exceedingly difficult effectively to collect this tax from all Jews. Hence Rabbi Jacob Emden concludes that such communal sacrifices would be impossible and he limits the pertinence of reinstatement of *korbanot* to the *Korban Pesach* which is purchased with private funds. A similar view is expressed by Rabbi Moses Sofer in the aforementioned responsum and by Rabbi Chajes in his *Kuntres Aharon, Avodat haKodesh*.

DEDICATION OF THE MIZBE'AH AND INAUGURATION OF THE KOHANIM

In view of the conclusions of these authorities that other sacrifices do not come into question, Rabbi Tzvi Pesach Frank poses the problem of *hinukh* (dedication) of the altar. The *Mishna* states explicitly (*Menahot 49a*) that a newly-fashioned altar must be inaugurated through the sacrifice of the *tamid shel shahar* and no other sacrifice may precede the morning sacrifice on the new altar. Since this sacrifice cannot be offered due to the lack of *shekalim* with which to purchase the sacrificial animal any altar constructed by us would remain uninaugurated. Consequently no other sacrifice, including the *Pesach* could be offered on this *mizbe'ah*.

Yet another objection was raised in a letter addressed to Kalisher by Rabbi Eliyahu of Gridetz. Before any *kohen* proceeds to perform his priestly functions for the first time it is incumbent upon him to offer a *minhat havitin*. This meal offering has the status of a private sacrifice and as such cannot be offered when the priest is in a state of defilement. Accordingly, runs the argument, how will the priests perform the sacrificial rites since they cannot offer the inaugural sacrifice due to

their defilement through contact with the dead? To this query Kalisher offers an interesting answer based upon a similar problem surrounding the inauguration of the High Priest. The *Mishneh leMelekh* (*Kelei haMikdash*, 5,16) questions how it is possible for the "substitute" High Priest to perform the ritual of the Day of Atonement in the event that it becomes impossible for the High Priest to do so. The problem is based on the fact that the High Priest has to offer a similar sacrifice as part of his inauguration into office; since this *korban* has the status of a private offering it cannot be offered on the Day of Atonement. The *Mishneh leMelekh* concludes that the lack of such prior offering on the part of the High Priest does not invalidate his performance of the sacrificial rites and therefore in instances where this offering is impossible he may perform his duties despite its absence. Kalisher concludes that the same regulation is applicable to the meal offering of the *kohen hedyot*.

INACCEPTABILITY OF SACRIFICES

The *Binyan Tzion* includes another noteworthy objection to Kalisher's proposal. Rabbi Jacob Ettlinger's major contention is based upon the verse, "And I will bring your sanctuaries unto destruction and I will not smell the savor of your sweet odors" (*Vayikra* 26:31). The Gemara prescribes that each sacrifice be offered with six "intentions" (*Zevahim* 46a); among these are *le'shem reah* and *le'shem nihoah*. Ettlinger argues that since God says He will not smell "the savor of your sweet odors" while the Temple lies desolate we cannot offer the sacrifice with such an intention. A similar concept is expressed independently in the *Emek Berakha* (Jerusalem, 5708, p. 66) by Rabbi Aryeh Pomeranchik, a distinguished disciple of the late Brisker Rav. Quoting an oral tradition related in the name of Rabbi Naftali Tzvi Yehuda Berlin, Rosh Yeshiva of Volozhin, Rabbi Pomeranchik asserts that while ordinarily a sacrifice in which these intentions are absent remains valid, nevertheless in instances when these intentions are *impossible*, the sacrifice is rendered invalid. The sole exception is the paschal sacrifice which the Torah never refers to as being offered for purposes of "a sweet odor." Rabbi Pomeranchik explains the difficult phrase in the Haggada, "May we partake there of the sacrifices and of the paschal offerings, whose blood shall be sprinkled upon Thine altar *for acceptance*..." in light of this novel interpretation. The term *le'ratzon* expresses our prayer that we shall be able to offer the *Pesach* in a rebuilt Temple in a perfect manner so that it will also be accepted as "a sweet odor," although this is not strictly required in the case of the paschal sacrifice.

CONCLUDING REMARKS

Apart from the specific problems discussed there is one theme which is recurrent throughout the vast halakhic literature dealing with our topic: In this most nebulous area it is almost impossible to arrive at a definitive *pesak* with regard to the myriads of practical and concrete questions which inevitably arise. Typical of this attitude is an article which appeared in an early journal of Torah scholarship. Writing in *haLevanon*, Vol. I, No. 8, p. 54, Rabbi Meir Auerbach, chief rabbi of Kalish, notes many peripheral questions involving halakhic disputes which we are incompetent to resolve. A case in point is the manner of roasting the paschal sacrifice—a matter which is the subject of a disagreement between the Rambam and the Rabad, *Mishneh Torah, Korban Pesach*, 10,11. The Rambam maintains that the animal must be roasted together with its *gid hanasheh* (sciatic nerve). To this view the Rabad responds, "By my head! There is no greater prohibition... If I will be privileged and will eat the *pesach* and he should bring before me such [an animal] I would hurl it to the ground before his eyes!" Commonplace questions of *kashrut* arising from adhesions on the lung are nowadays rendered *trefa* in instances where

we have no means of reaching a decision. Such questions cannot be disposed of so readily when arising with regard to sacrificial animals. One reason for this is that it is forbidden to dispose of sacrificial animals which are in reality kosher. If the sacrifice is valid the various portions *must* be consumed either on the altar or by the *kohanim* or by those offering the sacrifice, as the case may be.

To illustrate the insurmountable difficulties involved in rendering a final decision in this uncharted field Rabbi Auerbach recounts an anecdote which adds a revealing biographical note to the life of one of the luminaries in the history of Halakhah. Rabbi Auerbach relates that Rabbi Alexander Schorr, author of the *Tevu'at Shor* (Zolokiew, 5473), a standard and authoritative work dealing in minute detail with the laws pertaining to *shehita* and *trefot*, also composed a similar compendium pertaining to the laws of the sacrificial service. The latter work was patterned upon the format of the widely accepted *Tevu'at Shor*. Before his death Rabbi Alexander Schorr ordered that the unpublished manuscript be placed in his grave. His intention was that the work not be circulated since an ultimate decision regarding these matters cannot be rendered until the advent of the Messiah.

One dare not hastily conclude that such an approach reflects a reticence born of fear or mere lethargy. Expositors of Halakha always met the social issues of their day forthrightly and did not hesitate to legislate on every facet of personal and communal life. In all generations Torah scholars have striven to overcome any and all obstacles in order to issue halakhic rulings; consistently the attitude of *Gedolei Yisrael* has been: *yikov hadin et hahar*. However, differing dramatically from all other areas governed by Halakha, questions pertaining to the construction of the *Beit haMikdash* and the sacrificial order, by their very nature, occupy a unique position unamenable to the usual canons of *pesak*. Even a cursory examination of the responsa literature on this topic indicates a dearth of precedents and parallel citations, the very fabric of which legal decisions are woven. One should bear in mind that the monumental works authored by such giants of *hora'a* as the Rif and the Rosh do not include a condensation of the laws of *Kodshim*. There can be no doubt that in protesting their inability to reach halakhic conclusions—and to adduce sufficient evidence in support of such pronouncements—Torah authorities were not reflecting misplaced humility but were stating the simple truth.

Although there are manifold halakhic impediments which prevent us from fulfilling the many mitzvot attendant upon the performance of the sacrificial service, our inability to do so is certainly to our detriment: "If not for the *ma'amadot* heaven and earth would not endure," states the Gemara (*Ta'anit 27b*); the Mishna (*Avot, 1,2*) reckons the sacrificial service as one of the pillars upon which the world stands. But with the lapse of the Temple service we are offered an equally efficacious substitute. The Gemara depicts Avraham as appearing before the Almighty and expressing his fear that the Jewish people might perhaps be destroyed in punishment for their transgressions. To this God replied, "Take for Me a three-year-old heifer." Whereupon Avraham countered, "That is well so long as the Temple stands but when the Temple no longer exists what shall become of them?" God answered, "I have ordained for them the order of the sacrifices. Whenever they study it I shall account it as if they had offered a sacrifice before Me and I will forgive all their sins" (*Megilla, 31b*).

Elsewhere our Sages declare that during the period of the exile worship in the Temple is supplanted by the study of the Halakha pertaining to the *korbanot* denied us in actuality. "Anyone who engages in [the study of] the law of the sin-offering is accounted as if he had sacrificed a sin-offering" (*Menahot, 111a*). The term "*ke'ilu*—is accounted as"—is to be understood quite literally. The study of *Kodshim* effects for us the self-same benefits which flowed from the sacrificial offerings of our ancestors. If indeed *korbanot*, in addition to their other propitiatory effects, are

also essential for the initiation of prophecy, as the Ramban asserts, or requisite to effect the advent of the Messiah, as is Rabbi Kalisher's contention, the use of the term "*ke'ilu*" indicates that these too are attainable through the study of *Kodshim*. The Hafetz Hayim advocated the establishment of *kollelim* whose students would devote themselves to this field of scholarship. He heralded the appearance of such institutions, citing Scriptural references demonstrating that increased proficiency in precisely this area study will speed up the redemption. (*Ma'amar Torah Or*, ch. 10).

"Investigate and receive reward!" exhort our Sages (*Zevahim, 45a*) in answering a query regarding the purpose of pursuing studies pertinent only during the days of the Messiah. From the words of the Hafetz Hayim it follows that they may be understood to have answered that this reward is, in its ultimate form, the very coming of the Messiah alluded to by the Talmudic interlocutor and the hastening of the fulfillment of the prophetic promise, "I shall bring them to my holy mountain... their burnt-offerings and their sacrifices shall be acceptable upon Mine altar, for My house shall be a house of prayer for all the nations."

NOTES

1. It should however be noted that the *Ri miGash* in his commentary to *Shevuot 16a* limits the application of Rabbi Yehoshua's dictum to cases of temporary demolition or absence of the Temple walls such as occurred during the period of construction following the return of Ezra or the reconstruction of the Temple by Herod, inferring that it is inapplicable during periods of desolation. Despite the quotation by the Mishna of the Halakha in the name of Rabbi Yehuda, the Rabad terms the Rambam's incorporation of this provision in the *Mishneh Torah* "his [Rambam's] own theory." Rabbi David Alexander of Lissa, *Migdal David* (Warsaw, 5635), p. 27, explains that this characterization of the Rambam's position is rooted in Rabad's interpretation of the Mishna in the manner of the *Ri miGash*—an interpretation which effectively negates any inference regarding permissibility of sacrifice after the destruction. In addition, citing numerous parallel uses of the phrase "I have heard," the author of *Migdal David* endeavors to demonstrate that this terminology indicates the transmitter's disagreement with the Halakha he was "heard."
2. It is, however, possible that the intended meaning is that the penalty is actually incurred for the *haktara*—burning of the various parts of the animal—rather than for the slaughtering. *Haktara*, other than on the Temple site is culpable even though the sacrificial animal is not *ra'uy le'fnim*. See *Mishneh leMelekh, Klei haMikdash*, 5,16 and Rabbi Tzvi Hirsch Chajes, *Kuntres Aharon, Avodat haKodesh*, ch. 1.
3. Chajes claims to have seen *Sifrei ha'amin* which report that the paschal sacrifice was offered as late as during the reign of Justinian, at which time it was finally abrogated. See Procopius, *Anecdopa*, ch. 28.
4. On the declared intention of the Emperor Julian (361-363 C.E.) to rebuild the Temple so that the Jews might resume the offering of sacrifices and on Jewish reaction to this abortive proposal see Salo W. Baron, *A Social and Religious History of the Jews* (Philadelphia, 1952), II, 160 and 392, note 41.
5. In fact Rabbi Solomon Drimer of Skole in an undated reponsum quotes an unnamed interlocutor who reported that "the sages of the Sephardim and of Lithuania wished to sacrifice [the paschal offering] this past *Erev Pesach*." *Teshuvot Beit Shelomo* (Lamberg, 5637-5651), *Yoreh De'ah* 2, No. 125.
6. In further support of this view Kalisher cites the wording of the *Mussaf* service of *Rosh Hodesh*: "A new altar shalt Thou establish in Tzion and the burnt offering of the New Moon shall we offer upon it," which is subsequently followed by the phrase "and in the service of Thy Temple shall we all rejoice." Kalisher argues that reference to rejoicing in the Temple service—which is general in nature—should logically precede the more specific mention of the burnt offering of *Rosh Hodesh*. From this he concludes that the prior reference, which is to a new altar (not to a *Beit haMikdash*), refers to the reinstatement of communal sacrifices and hence is not dependent upon the rebuilding of the *Beit haMikdash*, whereas the subsequent mention of the Temple service refers to private sacrifices which are contingent upon the rebuilding of the Temple (for reasons that will be examined later in this review) and will, therefore, be reinstated at a latter date.
7. It is a bit puzzling that in endeavoring to establish this point Kalisher does not cite the more explicit and more *apropos* discussion of the Ramban contained in his commentary on *Vayikra 1:9* in which he analyzes the rationale underlying the sacrificial precepts.

8. David Alexander of Lissa. *Migdal David* (Warsaw, 5635) finds this sequence also reflected in the blessing included in the repetition of the *Amida* prior to the priestly benediction. "...cause My *shekhina* to return to Tzion and the sacrificial order to Jerusalem..." The prior reference to the return of the Divine Presence is a quite apparent allusion to the rebuilding of the Temple and in this context precedes reinstatement of the sacrificial order.
9. For some further references see Rabbi Hayim Medini. *Sedei Hemed* (Warsaw, 5656-5662), Kuntres haKelalim. Ma'arekhet haKof, 77.13. Vol. 3, 1303.
10. *Migdal David* advances a tenuous argument to the effect that the abrogation of the law of *tum'a* with regard to communal sacrifices applies only to incidental occurrences which necessitate suspension of this prohibition in order not to cause a disruption in the chain of communal sacrifice. However once the sacrificial service has lapsed because of other factors, it cannot be resumed other than in a state of ritual purity.
11. Rabbi Samuel David Levine in his *Taharat haKodesh* (Pietrkow, 5690), addressing himself solely to the question of entering the Temple Mount, argues that though there may be halakhic impediments in our day with regard to offering other sacrifices, nevertheless preparation of the *para aduma* (the red heifer) is feasible in order to purify those defiled by *tum'at met*. His proposal provides for conditional sanctification and conditional sacrifice of the *para aduma*. The stipulations to be made are: if the *kohen* is truly a member of the priestly family and if the original sanctification of the *Beit haMikdash* remains in effect, then the sanctification of the sacrifice be effective and its slaughter and the sprinkling of the blood be effective for sacrificial purposes. If, on the other hand, the *kohen* is not of pure descent and if the original sanctification of the *Beit haMikdash* is now abrogated then the sanctification be ineffective and the slaughter and subsequent sprinkling of blood be secular rather than sacrificial in nature. Despite the fact that the slaughter of unsanctified animals is not permitted within the confines of the Temple, conditional sacrifice is possible with regard to the red heifer because that sacrifice takes place on the *Har haMishha* — the Mount of Olives — rather than on the Temple site.
12. It is of interest to note that the fourth edition of Kalisher's *Derishat Tzion* was published in Israel in 5679 and was prefaced by a letter of approbation signed by the *Beit Din* of Jerusalem of which Rabbi Frank was then the junior member. The treatise *Har Tzvi* authored by Rabbi Frank, in which he emphatically disagrees with Kalisher's conclusions was first printed as an appendix to that edition of the *Derishat Tzion*.
13. Similar statements are also found in *Midrash Rabba, Shemot, 2.2; Midrash Rabba Bamidbar 11.3; Shir haShirim Rabba, 2.22; Midrash Eikha, 1.32; Yalkut Shimoni Melakhim, 196; Midrash Shoher Tov, Tehillim, 11:5; and Zohar, Shemot, 5b. Cf. also Tanna deBei Eliyahu Rabba, ch. 30.*
14. Cf. also *Teshuvot Beit Shelomo, Yoreh De'ah 2, No. 125; Yaskil Avdi, Vol. 1, letter of approbation bearing signature of Rabbi Avraham Yitzhak Kook.*