

מסעי

TO ESTABLISH *ERETZ YISRAEL* — OR NOT

והורשתם את הארץ וישבתם בה, כי לכם נתתי את הארץ לרשת אתה
“Occupy the land and dwell in it, for I have given you the land to occupy”
(*Bamidbar* 33:53).

Rashi (ibid.) interprets “you shall dwell in it” as a command to evict the seven nations from Canaan. Rashi indicates that this *pasuk* refers exclusively to those seven nations and that it has no bearing on future generations.

The Ramban (ibid.), on the other hand, claims that this *pasuk* expresses the *mitzvah* of *yishuv Eretz Yisrael* — settling in *Eretz Yisrael* — for all future generations. The Ramban (based on the *Sifri*, *Devarim* 12:29) asserts that it is a *mitzvas aseh* — positive commandment — for all generations to conquer the land, regardless of who the occupying nation might be. It is *Klal Yisrael*'s duty to conquer the land from other nations so that it ceases to be theirs. Conquest is to be followed by dwelling in the land. The Ramban elaborates on this idea much more extensively in his annotations to the *Sefer Hamitzvos* (in “Additional Positive Commandments,” 4). He proclaims that this *mitzvah* is in effect “For all generations, every person being obliged in the performance thereof, even during exile.” This view is also echoed by the *Chareidim* in the section on the positive *mitzvos* dependent on *Eretz Yisrael* (15).

The *Or Hachaim Hakadosh* (*Bamidbar* 33:53) explains the cause of these divergent views. The Ramban's main emphasis is on the second clause of the *pasuk*, “*vishavtem bah*” — “dwell in it” — hence the application is for all generations. However, Rashi interprets the *mitzvah* in question to be from the first clause in the *pasuk*, “*Vehorashtem*” — “occupy” — while the second clause, “dwell in it,” is only a conditional promise, a *mitzvah* unique only to that generation. The *Or Hachaim* concludes that Rashi's is the correct interpretation, as proven by the last statement of the *pasuk*. The *pasuk* ends, “I have given you the land to occupy.” The *pasuk* emphasizes the term “occupy,” and ignores the term “dwell,” indicating that the true interpretation is that of Rashi. The reference applies exclusively to the generation which conquered the Land of Canaan.

The Rambam completely omits any mention of the *mitzvah* of *yishuv Eretz Yisrael* in his *Sefer Hamitzvos*. In his *Yad Hachazaka*, he does seem to imply that there are numerous *mitzvos* which are tied into the concept of *Yishuv Ha'aretz*. For instance, in *Hilchos Ishus* (13:20) the Rambam rules that either spouse can force the other to relocate to *Eretz Yisrael* or face divorce. In *Hilchos Melachim* (5:9), he rules that it is forbidden for a Jew to leave *Eretz Yisrael*. In *Hilchos Avadim* (8:9), the Rambam rules that if a slave wishes to move to *Eretz Yisrael*, his master is forced to move with him, or else he must sell the slave to someone who will move to *Eretz*

Yisrael. Having said that, the Rambam still does not see fit to list this concept in his “count of the *mitzvos*.”

The *Chesam Sofer* (*Yoreh Dei'ah* 234) explains this omission in terms of a distinction between the concept of *kedushas Eretz Yisrael* — the inherent holiness of *Eretz Yisrael* — and the concept of *yishuv Eretz Yisrael*. In *halachah*, the Rambam recognizes the intrinsic holiness of *Eretz Yisrael*; there are, therefore, many *mitzvos* which are associated with this holiness. However, the Rambam does not necessarily see a unique *mitzvah* of settling in *Eretz Yisrael*; therefore no mention of this is made.

The *Avnei Nezer* (454) suggests that the Rambam did not enumerate *Yishuv Eretz Yisrael* as an independent *mitzvah*, because it is part and parcel of the *mitzvah*, “You shall utterly destroy [the seven nations]” (*Devarim* 20:17). There, *Klal Yisrael* was commanded to utterly eliminate the seven nations of Canaan, and the implication is for them to ultimately settle in *Eretz Yisrael*. The “settling” aspect of the *mitzvah* is inherently included in the “You shall utterly destroy” aspect. Although the *pasuk* only implies it, this is an example of one of the many *mitzvos* associated with the inherent *kedushas Eretz Yisrael*. This view of the *Avnei Nezer*, however, is rejected by the Ramban in *Sefer Hamitzvos*.

The *Megilas Esther* (the commentary on *Sefer Hamitzvos*) agrees with the Rambam as opposed to the Ramban. He adds that the *mitzvah* of *Yishuv Eretz Yisrael* was to be in effect only during the period of Moshe *Rabbeinu*, Yehoshua, and David *Hamelech*. Once *Klal Yisrael* was sent into exile the *mitzvah* of *yishuv* was no longer in effect due to the oath of “not going up in force” (which will be explained later). The *Megilas Esther* bases his view on a *Tosafos* (*Kesubos* 110:):

Today it is not a *mitzvah* to live in *Eretz Yisrael*, because there are a number of positive and negative *mitzvos* that are dependent on the land, and we are not able to be meticulous in observing them (see the Maharit, *Yoreh De'ah* 28).

The *Kli Chemdah* (*Parshas Masei*) refutes the position of the *Megilas Eshter*. The *Kli Chemdah* quotes a ruling of the Ram-bam (*Hilchos Beis Habechirah* 6:14) that the first sanctification of *Eretz Yisrael* (that of Yehoshua) was nullified, while the second sanctification (that of Ezra *Hasofer*) will endure forever. The first sanctification was a result of conquest, while the second sanctification was a result of *chazakah* — presumptive ascertained status. Once the first *Beis Hamikdash* was destroyed, the *mitzvah* of conquest became nullified, because the oath of “not going up in force” (to be explained later) took effect. In contrast to the times of Yehoshua, *Klal Yisrael* was given the permission of the nations to reestablish *Eretz Yisrael* in Ezra’s time. Hence, the *mitzvah* of settling *Eretz Yisrael* remains extant because the second sanctification (for which they had permission) stands for all time.

The *Chesam Sofer* (*Yoreh Dei'ah* 233) approaches this concept a bit differently. The conquest and acquisition of *Eretz Yisrael* for the first *Beis Hamikdash* was ordained by a *Navi*, and its destruction was ordained by a *Navi*. Therefore, its sanctification is no longer valid, for what was established by the *Navi* was undone by the *Navi*. However, the second sanctification and the second *Beis Hamikdash*, although ordained by a *Navi*, did not have its destruction declared by a *Navi* (for prophecy was no longer in existence). The second *Beis Hamikdash*, in effect, was

destroyed by Titus' order, not by the word of Hashem through his *Navi*. Hence, its sanctification still stands.

Although the second sanctification is still in effect, there are some quarters who feel it is halachically illegal to occupy *Eretz Yisrael* today. The Munkatcher Rebbe, Reb Eliezer Chaim Shapiro (*Os Chaim Vehashalom*) portrays the modern attempt to reestablish *Eretz Yisrael* in terms of the post-*meraglim* era. After the incident of the *meraglim*, entry to *Eretz Yisrael* became prohibited by Hashem to *Klal Yisrael*. There were those who rebelled against Moshe's warning and defiantly attempted to enter the land on their own. They were annihilated by the neighboring gentiles (*Bamidbar* 14:40). These insurgents symbolize the groups which forcefully went up to *Eretz Yisrael* one hundred years ago, to establish colonies, and when necessary they engaged the nations in combat. The Munkatcher Rebbe finds them to be in violation of the oaths (which will be explained). Anyone who views the inheritance of *Eretz Yisrael* in materialistic terms and in a physical sense will be unsuccessful. *Sheivet* Gad and Reuvein viewed their inheritance in trans-Jordan in a materialistic sense; they did not consider the spiritual reality involved in settling in a Holy Land for a holy purpose, hence their tenure there was unsuccessful (*Os Chaim Vehashalom*). Similarly, the Munkatcher Rebbe claims that in the modern era, the establishment of a vibrant Jewish state can successfully be accomplished solely in terms of a spiritual reality. Certainly material success is essential in maintaining the nation, but that materialism must be driven by spiritual ideology.

The Satmarer Rebbe, Reb Yoel Teitelbaum, popularized the notion of the oaths administered to *Klal Yisrael* "not to take *Eretz Yisrael* by force." The *Gemara* in *Kesubos* (111•) relates that there were three oaths proffered by Hashem. Two to *Klal Yisrael*: *Klal Yisrael* shall not occupy *Eretz Yisrael* using force, nor shall they rebel against their host nations. The third oath was directed to the nations: they were not to make *Klal Yisrael* suffer unnecessarily. The Maharsha (*ibid.*) explains that while it is certainly permitted to enter *Eretz Yisrael* on an individual basis, it is not permissible for groups to go up in force and to build fortifications around Yerushalayim. The *Eitz Yosef* (*ibid.*) adds that it is imperative to wait for Mashiach's arrival before *Klal Yisrael* can go up to *Eretz Yisrael* in force to reestablish the *Beis Hamikdash*.

There is a reference to these oaths in the *Tisha Be'av Kinot* (14).

Then they heard [Hashem declare], "I make you take an oath," they sealed [their mouths]. When they all heard this together, their [hearts] melted, and they clapped their hands [in anguish].

The *Kinot* alludes to the four times that the statement, "I make you take an oath" appears in *Shir Hashirim* (2:7, 3:5, 5:8, 8:4). The *Midrash* (*Shir Hashirim Rabbah* 2:7) explains that these four statements relate to four oaths that Hashem administered to *Klal Yisrael*: that it would not rebel against their sovereign governments; that it would not seek to hasten *the End*; that it would not reveal the Torah's secrets to other nations; and that it would not attempt to take *Eretz Yisrael* by force.

The *Midrash* states explicitly that there are two separate sets of oaths. One set was administered to *Klal Yisrael* and the other administered separately to the nations. A violation of the oath by the nations does not exempt *Klal Yisrael* from its oath to Hashem. "One [set] is for *Klal Yisrael*, and one is for the nations" — each independent of the other.

The *Or Hachaim Hakadosh* (*Bamidbar* 24:17) seems to effect a position of compromise. He deduces from the prophesy of Bilaam that there are two possible scenarios. If *Klal Yisrael* would be deemed worthy, *Mashiach* would then make a glorious, wondrous appearance from the heavens. The end of the *galus* would be determined by Heaven, and *Klal Yisrael* would be privy to the miracles of *Mashiach*. However, if *Klal Yisrael* is unworthy, Heaven forbid, the end of the *galus* and the heralding of the epoch of *Mashiach* will be initiated by individuals of low character. *Eretz Yisrael* will be settled and established in a very natural fashion by the coarser element of *Klal Yisrael* in preparation for *Mashiach*. The *Or Hachaim Hakadosh* concludes his commentary on *Parshas Netzavim* by stating:

Living in the land is a *mitzvah* that encompasses the entire Torah. One can see this from the fact that *Chazal* said that whoever walks four *amos* in it has a portion in the World To Come, which is eternal life.

The previous Gerer Rebbe writes (in his collected letters):

It is indeed my view that the *mitzvah* of *yishuv Eretz Yisrael*, that we were commanded in our holy Torah, is not dependent on any time, but only on one's ability and the possibilities.

Obviously, *yishuv Eretz Yisrael* is a very emotional matter, and it strikes deep chords in *Klal Yisrael's* psyche. Every attitude has a basis in Torah, and should be used to sanctify the Name of Heaven. "*Eilu ve'eilu Divrei Elokim Chaim*" — "These and these are the Words of the Living G-d."

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