

## מצוות יישוב ארץ ישראל – The Mitzvah of Settling the Land

<p><b>1) Numbers – Chapter 33</b></p> <p>50) In the steppes of Moab, at the Jordan near Jericho, the LORD spoke to Moses, saying: 51 Speak to the Israelite people and say to them: When you cross the Jordan into the land of Canaan, 52 you shall dispossess all the inhabitants of the land; you shall destroy all their figured objects; you shall destroy all their molten images, and you shall demolish all their cult places. 53 <b>And you shall take possession of the land and settle in it</b>, for I have assigned the land to you to possess.</p>	<p><b>(1) במדבר - פרק לג</b></p> <p>(נ) וַיְדַבֵּר ה' אֶל מֹשֶׁה בְּעֶרְבַת מוֹאָב עַל יַרְדֵּן יְרֵחוֹ לֵאמֹר: (נא) דַּבֵּר אֶל בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם כִּי אַתֶּם עֹבְרִים אֶת הַיַּרְדֵּן אֶל אֶרֶץ כְּנָעַן: (נב) וְהוֹרַשְׁתֶּם אֶת כָּל יֹשְׁבֵי הָאָרֶץ מִפְּנֵיכֶם וְאַבְדַּתֶּם אֶת כָּל מַשְׁכֵּיתֵם וְאֶת כָּל צִלְמֵי מִסְכֹּתֵם תִּשְׁמְדוּ וְאֶת כָּל בְּמוֹתֵם תִּשְׁמְדוּ: (נג) וְהוֹרַשְׁתֶּם אֶת הָאָרֶץ וּשְׁבַתֶּם בָּהּ כִּי לָכֶם נָתַתִּי אֶת הָאָרֶץ לְרִשְׁתָּהּ אֹתָהּ:</p>
<p><b>2) Nachmanides (loc cit)</b></p> <p>(53) .... In my opinion, this is a positive commandment – He commanded them that they should settle the land and take possession of it, because He gave it to them; And they should not loathe the inheritance of YHWH. If it should enter their mind to go and conquer the land of Shinar, Ashur, etc. and <b>to settle</b> there, they will be in violation of the commandment of YHWH... Rashi, however, explained “And you shall take possession” – you shall dispossess it of its inhabitants; and then “you shall settle it” – you will be able to be sustained there. But if not, you will not remain in it.....</p>	<p><b>(2) רמב"ן - שם</b></p> <p>(נג) ...על דעתי זו מצות עשה היא, יצוה אותם שישבו בארץ ויירשו אותה כי הוא נתנה להם, ולא ימאסו בנחלת ה'. ואלו יעלה על דעתם ללכת ולכבוש ארץ שנער או ארץ אשור וזולתן <b>ולתושב שם</b>, יעברו על מצות ה'. .. אבל רש"י פירש, והורשתם את הארץ, והורשתם אותה מיושביה, אז וישבתם בה, תוכלו להתקיים בה, ואם לאו לא תוכלו להתקיים בה.....</p>
<p><b>3) Nachmanides addendum to the Book of Mitzvot (Maimonides) – Mitzvah 4</b></p> <p>We are commanded to take possession of the land which G-d Almighty gave to our forefathers – Abraham, Isaac and Jacob; and we should not leave [abandon] it in any other nation's hands or to be desolate. And this is derived from the verse (Numbers 33:53) “And you shall take possession of the land and settle it...” .....And do not err by saying that this verse is referring to the mitzvah of fighting the seven {Canaanite} nations until their utter destruction, as it is written: “And you shall utterly destroy them.” The matter is not so, for we are commanded to kill those nations when they fight us; and if they want to make peace, we will make peace with them and allow them to remain under the known conditions. <b>But we cannot leave the land in their hands or in the hands of any other nation in any generation. Similarly, if those nations fled from us and went away, as the Rabbis said: “The Gergashi turned aside and left and G-d gave them a good land. Africa - we are, nevertheless, commanded to come into the land, conquer those areas and settle our tribes there. Similarly, if after our conquest, our tribes would decide to leave the land and conquer the land of</b></p>	<p><b>(3) השגות הרמב"ן לספר המצוות לרמב"ם מצוה רביעית</b></p> <p>שנצטוונו לרשת הארץ אשר נתן האל יתברך ויתעלה לאבותינו לאברהם ליצחק וליעקב ולא נעזבה ביד זולתנו מן האומות או לשממה. והוא אמרו להם (מסעי לג ורמב"ן שם) “והורשתם את הארץ וישבתם בה.....” ... ואל תשתבש ותאמר כי המצוה הזאת היא המצוה במלחמת שבעה עממים שנצטוו לאבדם שנאמר “החרם תחרימם.” אין הדבר כן. שאנו נצטוו להרוג האומות ההם בהלחמם עמנו ואם רצו להשלים נשלים עמהם ונעזבם בתנאים ידועים אבל הארץ לא נניח אותה בידם ולא ביד זולתם מן האומות בדור מן הדורות. וכן אם ברחו האומות ההם מפנינו והלכו להם, כמאמרם (דברים רבה פרשת שופעים) הגרגשי פנה והלך לו, ונתן להם הקדוש ברוך הוא ארץ טובה כארצם זו אפריקי, נצטוונו אנחנו לבוא בארץ ולכבוש המדינות ולהושיב בה שבטינו. וכן אחרי הכריתנו את העממים הנזכרים אם רצו אחר כן שבטינו לעזוב את</p>

<p>Shinar or Ashur or any other land – they are not permitted to do so since we are commanded to <b>conquer it and settle it</b>.... And I say that the mitzvah of living in the land of Israel is emphasized by the Rabbis to the point where they said: “Anyone who leaves the land and lives outside it should be viewed as an idolator ... This is a positive commandment for all generations which every individual is obligated in, even during the period of the exile</p>	<p>הארץ ולכבוש להם את ארץ שנער או את ארץ אשור וזולתם מן המקומות אינם רשאים. שנצטוונו בכיבושה ובישיבתה. ... אומר אני כי המצוה שהחכמים מפליגין בה והיא דירת ארץ ישראל עד שאמרו "שכל היוצא ממנה ודר בחוצה לארץ יהא בעיניך כעובד עבודה זרה .... אם כן היא מצות עשה לדורות מתחייב כל יחיד ממנו ואפילו בזמן גלות ...</p>
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<p><b>4) Megilat Esther (loc it)</b> It seems to me that the reason why the Rabbi [Maimonides] do not list this [as a mitzvah] is that <b>the mitzvah of taking possession of the land and settling it applied only during the time of Moshe, Joshua, David and for as long as they [the Israelites] were not exiled from their land. But after they were exiled from their land, this mitzvah is no longer operative until the coming of the Messiah</b>; on the contrary, we are commanded, according to what the Rabbis said at the end of Masechet Ketubot (111a), to not rebel against the nations and go and conquer the land by force.... And as to that which Nachmanides said that conquering the land is an obligatory war – that is only when we are not subjugated by the nations. And as to the importance which the Rabbis placed on living in the Land of Israel – that is only when the Temple was in existence, but today there is no mitzvah.....</p>	<p><b>(4) מגילת אסתר (שם)</b> נראה לי כי מה שלא מנאה הרב הוא לפי שמצות ירושת הארץ וישיבתה לא נהגה רק בימי משה ויהושע ודוד וכל זמן שלא גלו מארצם אבל אחר שגלו מעל אדמתם אין מצוה זו נוהגת לדורות עד עת בוא המשיח, כי אדרבא נצטוונו לפי מה שאמרו בסוף כתובות (דף קי"א) שלא נמרוד באומות ללכת לכבוש את הארץ בחזקה ... ומה שאמר הרמב"ן שהחכמים אמרו כי כבוש הארץ היא מלחמת מצוה, זהו כאשר לא נהיה משועבדים לאומות. ומה שאמר עוד שהחכמים הפליגו בשבח דירת הארץ, זה דוקא בזמן שביית המקדש קיים אבל עכשיו אין מצוה לדור בה....</p>
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<p><b>4) Sifrei Deuteronomy – Parshat Re'eh, Section 80</b> .... It once happened that Rabbi Yehuda ben Betera, Rabbi Matya ben Cheresch, Rabbi Chananya, the nephew of Rabbi Yehoshua, and Rabbi Yonatan were leaving the land of Israel. They arrived in Paltum and recalled the land of Israel. They raised their eyes in tears, tore their garments and recited the following verse: “And you shall take possession of the land and settle it” (Deuteronomy 11: 31). They said: Living in the land of Israel is equivalent to all of the mitzvot of the Torah.... In another incident. Rabbi Elazar ben Shamua and Rabbi Yohanan HaSandlar travelled to Netzivin to study Torah with Rabbi Yehuda ben Betera. When they arrived at Sidon, they recalled the land of Israel. They raised their eyes in tears, tore their garments, and recited the verse: “And you shall take possession of the land and settle it”... They said: Living in the land of Israel is equivalent to all of the mitzvot, and they returned and came back to the land of Israel.</p>	<p><b>(4) ספרי דברים - פרשת ראה פיסקה פ</b> ... מעשה ברבי יהודה בן בתירה ורבי מתיא בן חרש ורבי חנניה בן אחי רבי יהושע ורבי יונתן שהיו יוצאים חוצה לארץ והגיעו לפלטום וזכרו את ארץ ישראל זקפו עיניהם וזלגו דמעותיהם וקרעו בגדיהם וקראו את המקרא הזה (דברים יא:לא) "וירשתם אותה וישבתם בה ושמרתם לעשות את כל החקים האלה." אמרו: ישיבת ארץ ישראל שקולה כנגד כל המצוות שבתורה. מעשה ברבי אלעזר בן שמוע ורבי יוחנן הסנדלר שהיו הולכים לנציבים אצל רבי יהודה בן בתירה ללמוד ממנו תורה והגיעו לציידן וזכרו את ארץ ישראל זקפו עיניהם וזלגו דמעותיהם וקרעו בגדיהם וקראו את המקרא הזה "וירשתם אותה וישבתם בה...." אמרו: ישיבת ארץ ישראל שקולה כנגד כל המצוות שבתורה חזרו ובאו להם לארץ ישראל</p>
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### 5) Babylonian Talmud – Masechet Ketubot 110b

The Sages taught: A person should always reside in Land of Israel, even in a city that is mostly non-Jewish, and he should not reside outside of the Land, even in a city that is mostly Jewish, for anyone who resides in Land of Israel is considered as one who has a God, and anyone who resides outside of Land of Israel is considered as one who does not have a God. As it is stated: “To give to you the land of Canaan, to be your God” (Leviticus 25:38). And is it so that anyone who resides outside of Land of Israel has no God? Rather, this comes to tell you that anyone who resides outside of Land of Israel is considered as though he is engaged in idol worship. And so it says with regard to David: “For they have driven me out this day that I should not cleave to the inheritance of the Lord, saying: Go, serve other gods” (I Samuel 26:19). But who said to David: Go, serve other gods? Rather, this comes to tell you that anyone who resides outside of Land of Israel is considered as though he is engaged in idol worship. Rabbi Zeira was avoiding being seen by his teacher, Rav Yehuda, as Rabbi Zeira sought to go up to the Land of Israel and his teacher disapproved. As Rav Yehuda said: Anyone who goes up from Babylonia to Land of Israel transgresses a positive mitzva, as it is stated: **(111a)** “They shall be taken to Babylonia and there they shall remain until the day that I recall them, said the Lord” (Jeremiah 27:22). Based on that verse, Rav Yehuda held that since the Babylonian exile was imposed by divine decree, permission to leave Babylonia for Land of Israel could be granted only by God. The Gemara asks: And how does Rabbi Zeira interpret that verse? The Gemara answers that Rabbi Zeira maintains that that verse is written about the Temple service vessels, and it does not refer to the Jewish people, as the previous verse states: “Thus says the Lord of Hosts, the God of Israel, concerning the vessels that remain in the house of the Lord” (Jeremiah 27:21). Consequently, Rabbi Zeira sought to go up to Land of Israel. The Gemara asks: And how does Rav Yehuda respond to this argument? The verse is clearly referring to the Temple vessels, not to the people. The Gemara answers that another verse is written: “I adjure you, O daughters of Jerusalem, by the gazelles and by the hinds of the field, that you not awaken or stir up love, until it please” (Song of Songs 2:7). Rabbi Yehuda derived from here that no act of redemption should be performed until a time arrives when it pleases God to bring about the redemption. And Rabbi Zeira maintains that the oath mentioned in that verse means that the Jews should not go up to Land of Israel as a wall, i.e., en masse, whereas individuals may immigrate as they wish. The Gemara asks: And what does Rav Yehuda reply to this? The Gemara answers that this command is derived from another verse in which “I adjure you” (Song of Songs 3:5) is written. The Gemara asks: And how does Rabbi Zeira explain the repetition of this oath in these verses? The Gemara explains: That verse is necessary for that which was taught by Rabbi Yosei, son of Rabbi Hanina, who said: Why are these three oaths (Song of Songs 2:7, 3:5, 8:4) needed? One, so that the Jews should not ascend to Land of Israel as a wall, but little by

### 5) תלמוד בבלי –

#### מסכת כתובות (ק:)

ת"ר: לעולם ידור אדם בא"י אפי' בעיר שרובה עובדי כוכבים, ואל ידור בחו"ל ואפילו בעיר שרובה ישראל, שכל הדר בארץ ישראל - דומה כמי שיש לו אלוה, וכל הדר בחוצה לארץ - דומה כמי שאין לו אלוה, שנא': לתת לכם את ארץ כנען להיות לכם לאלהים, וכל שאינו דר בארץ אין לו אלוה? אלא לומר לך: כל הדר בחו"ל - כאילו עובד עבודת כוכבים; וכן בדוד הוא אומר: כי גרשוני היום מהסתפח בנחלת ה' לאמר לך עבוד אלהים אחרים, וכי מי אמר לו לדוד לך עבוד אלהים אחרים? אלא לומר לך: כל הדר בחו"ל - כאילו עובד עבודת כוכבים. ר' זירא הוה קמשתמיט מיניה דרב יהודה, דבעא למיסק לארץ ישראל, דאמר רב יהודה: כל העולה מבבל לארץ ישראל עובר בעשה, שנאמר: **(קיא.)** בבלה יובאו ושמה יהיו עד יום פקדי אותם נאם ה'. ורבי זירא? ההוא בכלי שרת כתיב. ורב יהודה? כתיב קרא אחרינא: השבעתי אתכם בנות ירושלים בצבאות או באילות השדה וגו'. ורבי זירא? ההוא שלא יעלו ישראל בחומה. ורב יהודה? השבעתי אחרינא כתיב. ורבי זירא? ההוא מיבעי ליה לכדרבי יוסי ברבי חנינא, דאמר: ג' שבועות הללו למה? אחת, שלא יעלו ישראל בחומה; ואחת, שהשביע הקדוש ברוך הוא את ישראל שלא

little. And another one, that the Holy One, Blessed be He, adjured the Jews that they should not rebel against the rule of the nations of the world. And the last one is that the Holy One, Blessed be He, adjured the nations of the world that they should not subjugate the Jews excessively.	ימרדו באומות העולם ואחת שהשביע הקדוש ברוך הוא את העובדי כוכבים שלא ישתעבדו בהן בישראל יותר מדאי....
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<b>6) Avnei Nezer – Responsa 454 (52)</b> Although the oaths apply in all countries, <b>individuals are permitted to make <i>aliya</i></b> , as the oath proscribes only mass, collective <i>aliya</i> . Nevertheless, individuals <b>cannot be obligated</b> to go, since then there would be an obligation on each and every individual - which is impossible, since if they all went together, this is "ascending the wall" which is prohibited... Therefore, there is no obligation on any individual.	<b>(6) אבני נזר – תשובה 454 (52)</b> יש לומר דכיון דהשבעה היא על כל הארצות, אלא <b>דיחידים מותר לעלות</b> , ואין השבעה רק שלא יעלו כולם ביחד. מכל מקום אי אפשר שיהיה חיוב על היחידים לעלות דאם כן שוב יהיה חיוב על כל יחיד ויחיד בפני עצמו – וזה אי אפשר, דהכל ביחד היינו חומה, דאסור.... על כן אין חיוב על שום יחיד.
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<b>7) Rabbi Meir Simcha of Dvinsk</b> <b>Letter to the Jewish National fund</b> Divine providence has brought about that the conference of the enlightened nations in San Remo has issued an edict that the land of Israel should belong to the people of Israel. Since the fear of the oaths has been removed, and the <i>mitzvah</i> of settling the land of Israel, which is the equivalent of all of the <i>mitzvot</i> , has been re-established with the permission of the kings... one can perhaps apply to this situation the verse: "How long will you avoid (Me)" (Jeremiah 31:22)	<b>(7) רב מאיר שמחה מדבינסק</b> <b>מכתב לקק"ל</b> כעת הסבה ההשגחה אשר באספת הממלכות הנאורות בסאן רעמא, ניתן צו אשר ארץ ישראל תהיה לעם ישראל, וכיון ש"סר פחד השבועות" וברישיון המלכים, קמה מצוות יישוב ארץ ישראל ששקולה כנגד כל מצוות שבתורה למקומה..." אולי במצב הזה, אפשר לומר את הפסוק: "עד מתי תתחמקין" (ירמיהו לא: כב)
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<b>8) Exodus – Chapter 23, verse 33</b> They shall not remain in your land, lest they cause you to sin against Me; for you will serve their gods—and it will prove a snare to you. <b>Deuteronomy – Chapter 7, verse 2</b> And the LORD your God will deliver them before you and you will strike them; you must utterly destroy them: so make a covenant with them and do not show them any favor.  <b>Babylonian Talmud – Masechet Avodah Zarah 20a</b> It was taught also in a <i>baraita</i> : ' <i>Lo techanem</i> ' – do not give them an encampment on the ground; another interpretation: ' <i>lo techanem</i> ' – do not show them favor; another interpretation: ' <i>lo techanem</i> ' – do not give them gratuitous gifts.  <b>Tur – Choshen Mishpat, Siman 249</b> It is forbidden to give a gratuitous gift to an idolator, but it is permitted to give [a gift] to a <i>ger toshav</i> since it is a <i>mitzvah</i>	<b>(8) שמות - פרק כג</b> פֶּן יַחֲטִיאוּ אִתְּךָ לִי כִּי תַעֲבֹד אֶת אֱלֹהֵיהֶם כִּי יִהְיֶה לְךָ לְמוֹקֵשׁ: <b>דברים פרק ז, ב</b> (ב) וְנָתַתָּם ה' אֱלֹהֶיךָ לְפָנֶיךָ וְהִפַּיְתָם הֲחָרֵם תִּחָרֵם אֹתָם לֹא תִכְרֹת לָהֶם בְּרִית וְלֹא תִחָנֵם:  <b>תלמוד בבלי - מסכת עבודה זרה דף כ עמוד א</b> תניא נמי הכי: לא תחנם - לא תתן להם חנייה בקרקע; דבר אחר: לא תחנם - לא תתן להם חן; דבר אחר: לא תחנם - לא תתן להם מתנת חנם.  <b>טור-חושן משפט סימן רמט</b> אסור ליתן מתנת חנם לעובד עבודת כוכבים אבל מותר ליתן לגר תושב שהרי מצוה
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<p>to provide for his welfare.</p> <p><b>Beit Yosef (ibid)</b> - Regarding that which our Rabbi [Tur] wrote that it is forbidden to give a gratuitous gift to an idolator – that is not coming to exclude the Yishmaelites [Moslems] but rather a <i>ger toshav</i>, namely one who has accepted upon himself the seven Noahide laws and that we are commanded to provide for his welfare. But other non-Jews have the same law [as an idolator].</p> <p><b>Bach (ibid)</b> - It seems to me- that since the authorities are strict that we not mention the word <i>goy</i> in our books where it is not used in a respectful way; therefore, they removed the word <i>goy</i> and wrote idolator instead. But the correct version in the Tur is that it is forbidden to give a gratuitous gift to a <i>goy</i></p> <p><b>Rashba – Responsa 1:8</b> Regarding that which a lad asked you: how do you reconcile the [rabbinic] statement that one sends a leg of meat to a non-Jew with the statement that is forbidden to give a gratuitous gift? And you answered him: The former case is where the gift was given to him in return for something that he has done [not gratuitous]; or it is speaking about a <b>non-Jew who is not idolatrous</b> – you have said well!</p>	<p>להחיותו :</p> <p><b>בית יוסף (שם) - ומ"ש רבינו</b> אסור ליתן מתנת חנם לעובד עבודה זרה. לאו לאפוקי ישמעאלים אלא לאפוקי גר תושב דהיינו שקיבל עליו שבע מצות בני נח וזהו שאנו מצווים להחיותו אבל שאר גוים כלם דין אחד להם</p> <p><b>ב"ח (שם) - ולפע"ד נראה</b> דלפי שהמלכיות מקפידים אם יזכירו שם גוי בספרינו במקום שאיננו לכבוד על כן הסירו מלת גוי וכתבו במקומו לעובדי עבודה זרה אבל עיקר הנוסחא בספרי רבינו היא אסור ליתן מתנת חנם לגוי</p> <p><b>שו"ת הרשב"א – חלק א:ח</b> ומה ששאל ממך הנער בשולח אדם ירך לנכרי איך יתישב עם מה שאמרו אסור לתת מתנת חנם. ואמרת לו דההוא דשולח ירך לנכרי לא לחנם אלא לגמול למה שקדם או בגוי שאינו עובד עבודה זרה יפה אמרת.</p>
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<p><b>9) Maimonides (Mishne Torah) – Laws of Idolatry Chapter 10, Halakha 6</b> ... During a time period when Israel has power over them [the idolators], it is forbidden to us to leave idolators in our midst. Even if an idolator is just temporarily dwelling or passing through for business purposes, he should not pass through our land until he accepts upon himself the seven Noahide laws, as it is written: "They shall not live in your land" (Exodus 23:33) – even momentarily. However, if he accepted upon himself the seven Noahide laws, then he becomes a <i>ger toshav</i> [resident alien]. We accept "resident aliens" only when the Jubilee year is practiced, but when the Jubilee year is no longer operative, we accept only "righteous" converts. <b>Raavad</b> – Regarding the [Rambam's] statement that idolators cannot even pass through our land, we have never found nor heard of such a thing. The verse which he cites refers only to the seven Canaanite nations, and even according to his understanding, the verse speaks about "settling down" not about passing through.</p>	<p><b>9) רמב"ם - הלכות עבודה זרה פרק י, הלכה ו</b> ... אבל בזמן שיד ישראל תקיפה עליהם אסור לנו להניח עובדי כוכבים בינינו, ואפילו יושב ישיבת עראי או עובר ממקום למקום בסחורה לא יעבור בארצנו אלא עד שיקבל עליו שבע מצות שנצטוו בני נח שנאמר: "לא ישבו בארצך" אפילו לפי שעה, ואם קבל עליו שבע מצות הרי זה גר תושב, ואין מקבלין גר תושב אלא בזמן שהיובל נוהג אבל שלא בזמן היובל אין מקבלין אלא גר צדק בלבד. <b>ראב"ד</b> - ואפילו יושב ישיבת עראי או עובר ממקום למקום בסחורה לא יעבור בארצנו. א"א זאת לא מצאנו ולא שמענו מעולם והפסוק שהוא מביא ב' אומות הוא ואפילו לדבריו ישיבה כתיב בהו ולא העברה.</p>
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<p><b>10) Babylonian Talmud – Masechet Gittin 45a</b> It was taught in a <i>baraita</i>: "They shall not settle in your land lest they cause you to sin against me.." It might be assumed</p>	<p><b>10) תלמוד בבלי – מסכת גיטין (מה.)</b> דתניא: "לא ישבו בארצך פן יחטאו אותך לי..." - יכול</p>
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that the verse is prohibiting the residency of a non-Jew who has accepted upon himself not to worship idols. Therefore it is written: "You shall not hand over a slave to his master.." What should be done with him? – "He shall dwell in your midst..."	בעובד כוכבים שקיבל עליו שלא לעבוד עבודת כוכבים הכתוב מדבר? ת"ל: "לא תסגיר עבד אל אדוניו אשר ינצל אליך מעם אדוניו" מאי תקנתו? "עמך ישב בקרבך"
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### פיקוח נפש – The Value of Saving a Life

<p><b>11) Leviticus –Chapter 18, verse 5</b> And you shall observe my statutes and laws, which a person shall do and live by them – I am YHWH&gt;</p> <p><b>Babylonian Talmud - Masechet Sanhedrin 74a</b> Rabbi Yochanan said in the name of Rabbi Shimon ben Yehotzadak: They decided in the attic of Ben Nitzeh in Lod that if someone is told to transgress any prohibition in the Torah or be killed – he must transgress and not give up his life except for three sins: idolatry, sexual immorality and murder....What is not taught is another <i>baraita</i>: Rabbi Yishmael said: From where do we know that if someone is told: 'worship idols or be killed' – that he should worship and not give up his life? – the verse says: "he shall live by them" – and not die because of them.</p>	<p><b>(11) ויקרא - פרק יח, פסוק ה</b> (ה) וּשְׁמַרְתֶּם אֶת חֻקֹּתַי וְאֶת מִשְׁפָּטַי אֲשֶׁר יַעֲשֶׂה אֹתָם הָאָדָם וְחִי בָהֶם אֲנִי ה'.</p> <p><b>בבלי - מסכת סנהדרין (עד.)</b> אמר רבי יוחנן משום רבי שמעון בן יהוצדק: נימנו וגמרו בעלית בית נתזה בלוד: כל עבירות שבתורה אם אומרים לאדם עבור ואל תהרג - יעבור ואל יהרג, חוץ מעבודה זרה וגילוי עריות ושפיכות דמים. ועבודה זרה לא? והא תניא, אמר רבי ישמעאל: מנין שאם אמרו לו לאדם עבוד עבודה זרה ואל תהרג מנין שיעבוד ואל יהרג - תלמוד לומר "וחי בהם" - ולא שימות בהם.</p>
<p><b>12) Maimonides – Laws of Shabbat Chapter 2, Halakha 23</b> If non-Jews attacked a Jewish city: where their intent is financial [to pillage or steal], then we do not violate the Sabbath on their account, nor do we wage war against them; but if they attack a border town, even if they come only to take straw and stubble, then we go out against them with arms and violate the Sabbath. But whenever they come upon any place with the intent of killing people or waging war, then we go out against them with arms and violate the Sabbath. And it is incumbent upon every Jew, who can go out and help his brethren who are besieged, to do all that he can to save them from the hands of the non-Jews on Shabbat and it is prohibited to wait until Shabbat has ended.</p>	<p><b>(12) רמב"ם - הלכות שבת פרק ב, הלכה כג</b> גוים שצרו על עיירות ישראל אם באו על עסקי ממון אין מחללין עליהן את השבת ואין עושין עמהן מלחמה, ובעיר הסמוכה לספר אפי' לא באו אלא על עסקי תבן וקש יוצאין עליהן בכלי זיין ומחללין עליהן את השבת, ובכל מקום אם באו על עסקי נפשות או שערכו מלחמה או שצרו סתם יוצאין עליהן בכלי זיין ומחללין עליהן את השבת, ומצוה על כל ישראל שיכולין לבוא לצאת ולעזור לאחיהם שבמצור ולהצילם מיד הגוים בשבת, ואסור להן להתמהמה למוצאי שבת,</p>

### The Contemporary Debate

**13) Rav Avraham Elkanah Kahana-Shapira (1911-2007; former Ashkenazi Chief Rabbi 1983-1993; Rosh Yeshivat Merkaz HaRav, succeeding Rav Tzvi Yehudah Kook) - "Eretz Yisrael's Integrity in Halakha and Agadah"**

..... Rambam does not enumerate the conquest of *Eretz Yisrael* among the *mitzvot* of the Torah; however, combating an invader intent on conquering the land, is certainly deemed by him to be an obligatory war. This is evident from his ruling in Chapter 2 of the Laws of



Shabbat, where he permits the desecration of Shabbat to save fellow Jews from the attacks of an invading army. Thus even if we accepted the view that the *mitzvah* to conquer *Eretz Yisrael* does not apply in every generation, it is different once the land has been retrieved by the Jews. In this situation, the commandment of '*lo techanem*' certainly applies and no part of *Eretz Yisrael* must on any account be handed over to non-Jews, whether individually or by national authorities. This, it should be noted, is relevant to all areas lying within the borders of *Eretz Yisrael* outlined in the Torah (Numbers 34:1-12). Accordingly the whole of Judea and Samaria, and even Southern Sinai, would be covered by this prohibition.

Although danger to life overrides the observance of every *mitzvah*, it is hardly a relevant criterion when it comes to the duty of waging war. Evidently, war is a confrontation of opposing armies, and it is inevitable that both sides will suffer casualties. Since the Torah obligates us to fight wars, then clearly this entails disregard, in this instance, of the possibility of danger to life. This is evident from the passage in the Torah dealing with war where only specific people are exempted from army service "lest they die in battle" (Deuteronomy 20:5-7). Nevertheless, there may be situations where *pikuach nefesh*, danger to life, may override the *mitzvah* of waging war. Just as on the basis of a doctor's diagnosis a critically ill patient will be allowed to eat prohibited foods, so, too, if competent military opinion considers it hopeless to attempt the conquest of a certain territory, then the *mitzvah* would lapse. Indeed, since the time of the Bar-Kochva revolt, no attempt was made by the Jewish people to conquer *Eretz Yisrael*, as the task was impossible. Even Ramban, who settled in the Holy Land, intensely conscious of fulfilling a paramount *mitzvah*, at no time envisaged a campaign to conquer the Land. There is obviously no *mitzvah* to shatter one's head on a brick wall!

Similarly, in the matter under discussion, if the military experts were to rule that continued possession of the regained territories was a futile policy and that in the event of war these territories would prove to be a liability, in view of the enemy's preponderance, then clearly considerations would have to be given to the overriding force of *pikuach nefesh*. In such a case, *Eretz Yisrael* would be set aside like all other *mitzvot* because of the danger to life.

The situation, however, is exactly the reverse. Military experts are of the opinion that not only is it feasible to hold onto the territories in question - they are actually of major strategic importance, providing the best borders that Israel could possibly wish for, from a defensive point of view. Thus keeping the territories is apt to diminish, rather than enhance, the likelihood of loss of Jewish life.

Against this the claim is advanced that there is political danger involved in holding on to the territories, the superpowers and world opinion being opposed to such a policy. Moreover, there is the high rate of natural increase of the Arab population, which poses a serious demographic threat; nevertheless, these factors have no direct bearing on *pikuach nefesh* and thus do not warrant nullifying a Biblical commandment.

Here we must consider the relative play of subjective and objective evaluations in a given situation...The military strategists must size up the topography, weapons, manpower and other objective elements of the situation before choosing the optimum course of action. Here, too, the personal element cannot be of decisive significance. It is different in the realm of politics. Here it is much more a question of conjecture... Alternative courses appear on the scene with an often rapid changing sequence. Today you have this person occupying the White House and, tomorrow, another. Similarly, the constellation in the Arab countries is difficult to fix with any degree of certainty for any length of time. With Hussein on the Jordanian throne, an Israeli withdrawal from the West bank may be considered by western powers to be an urgent necessity. But tomorrow the scene may be completely transformed and then the West, too, may change its mind. Thus the world of politics is so full of the unknown and the unexpected that, in many instances, our forecasting amounts to no more than "reading the stars" to ascertain what policy should be followed....



In view of the highly speculative nature of all the arguments favoring withdrawal, is not the Torah all the more a factor worthy of consideration?! It should be noted that a *mitzvah* is more than a mere duty incumbent on us – it represents, over and above that, an element of the Divine plan. The very existence of a *mitzvah* to conquer *Eretz Yisrael* indicates that it is G-d's will that the whole of *Eretz Yisrael* should be in our possession. Thus it is the will of G-d that has brought about the present situation in which Jews are in control of the whole of *Eretz Yisrael*. To claim that everything that has happened in the Middle East in our generation is the product of blind forces, is to deny the Jewish Weltanschauung....

A glance at the map indicates that withdrawing from the regained territories involves a very real danger to the Jewish residents of Jerusalem. Similarly, every settlement and town within shooting distance of the border would be under constant threat, day and night. It is thus not by observing the *mitzvah*, but by disregarding it, that we will endanger life. ...

**14) Rav Ovadiah Yosef (1920-2013; former Sephardi Chief Rabbi 1973-1983)**  
**"Handing Over Territories of the Land of Israel in a Situation of *Pikuach Nefesh*," from a lecture that was given in Mossad Harav Kook, August, 1979**

At the outset of my words, I would like to clarify that I am not coming today to give a halakhic decision as to what the State of Israel needs to do in light of the halakha, whether to give back the territories of the Land of Israel or not. And that is for two reasons: 1) This matter is not practical today since, as of now, there is no one to negotiate with – that is because the Arabs are demanding that we return to them all of the territories, including Jerusalem, something which all of the military commanders and politicians in Israel are totally opposed to. With regard to this situation, it is appropriate to invoke the verse: "I am [for] peace, but, as I speak, they are to war" (Psalms 120:7). 2) In that I recently met with four experts regarding these issues – men who deeply understand the crux of the question, both militarily and politically – and their opinions are split, with each one presenting very powerful arguments to support his position. Some claim that, given today's modern weapons systems, which include sophisticated long-range missiles and chemical weapons, which can cause horrific mass destruction, hundreds of advanced planes, which carry highly destructive missiles – there is no special significance as to where the borders are drawn; so that if we forego on parts of the Land of Israel, according to their understanding, it is more important where the IDF will be positioned and that no foreign troops should be stationed in the areas abandoned by the army. In particular, in the aftermath of the peace treaty that was signed with Egypt, it has been demonstrated that Egypt has abided by the agreement, has not engaged in an "arms race," and has diverted most of its budget to strengthening its economy. It would also seem that any arrangements that would be made with the residents of Judea and Samaria would lead to a lowering of the military tensions with the other countries surrounding us, as well. It would make it difficult for the other countries to go to war with us. Those experts also claim that since most of our budget goes towards defense needs, the lack of a peace agreement could potentially create a severe economic crisis, that could torpedo our ability to protect ourselves, which is quite dependent on the goodwill of the United States government.

On the other hand, there are experts who claim that the territories of Judea and Samaria are absolutely essential [to security] because we need strategic depth; we cannot run the risk of giving back territories for peace because, even in peace times, there is the danger of terror. Beyond that, if we sign an agreement with some of the Arabs, this does not bind the radical terror organizations and they will continue to fight us. Their claim is that the only way to protect Tel-Aviv and Jerusalem is by holding on to Nablus and Hebron. Furthermore, these experts claim that the aspirations of the Arabs is to take over all of the Land of Israel and all of their rhetoric today is nothing other than a plan of "stages" – the final goal being the total





eradication of Israel. According to this view, only a strong and “big” Israel can survive. In particular, it has been demonstrated that we cannot rely on the nations of the world to come to our aid during a crisis, as was shown in the Six-day War and a variety of other times. In light of all of the above, the question of returning territories at this point in time is not relevant; given that the experts are divided on this matter, I do not have the hubris to decide, at this time, between the varied opinions. Given that the present policy of the Israeli government is: 1) to give autonomy to the Arab residents of Judea and Samaria, 2) to demilitarize the area, and 3) to maintain the settlements in their place – I strengthen the Prime Minister and all of the Cabinet ministers for this initiative and express my total support for all of their recent actions that are designed to guarantee peace and security for the residents of the Land of Israel.....

I would like to focus on the claim that has been made recently that the weight of the *mitzvah* of settling the Land of Israel overrides the *mitzvah* of *pikuach nefesh*...therefore I will relate, with my words, to this question on the level of *halakhic* principle.....

**Conclusion** – What emerges from all of the above: If it can be ascertained beyond a shadow of a doubt that there will be true peace between us and our neighbors if we return the territories to them, then we should return the territories to them because there is nothing that stands in the way of *pikuach nefesh*. Therefore, we will need to reflect on this matter with all the gravitas that is due, after hearing an agreed upon proposal from the military commanders and the politicians who are expert in matters of security, and according to the Torah, so shall it be done.....