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The Mitzvah of settling the Land of Israel

The Mitzvah of settling the Land of Israel according to the Ramban

Is having our own State in the Land of Israel a means to an end, or an end in itself? Does the State possess inherent value and holiness, or is it merely a way to accomplish certain goals, such as the observance of Mitzvot? Is it no more than a place to achieve security for the Jews – a "safe haven," to quote Theodore Herzl? If so, then there may be times when we can achieve these goals better somewhere else. We may come to the conclusion that Jews are safer in the Exile than they are in the Land of Israel, or that it is easier to observe the Torah outside of the Land of Israel. If this is the case, are we to give up the idea of a Jewish State?

To answer this question, we must first clarify how Halachah relates to the State, since Halachah is the system that enables us to put the Torah's ideals into practice. Ramban, who categorized the halachot pertaining to the Land of Israel and the State of Israel, derived our halachic obligations regarding the Land from the verse, "And

you shall inherit it [the Land of Israel] and you shall live in it" (Devarim 11:31). This general Mitzvah includes three related stages (Ramban, additions to Sefer Ha-Mitzvot of the Rambam, positive Mitzvah #4):

1. It is a Mitzvah to live in the Land of Israel and not in the Exile. This Mitzvah is incumbent upon every individual Jew.
2. It is a Mitzvah to build up the Land of Israel and to make it flourish: "We may not allow it to remain desolate." This Mitzvah is directed to the Nation and not to individuals. Not every Jew is a contractor or a farmer (though doctors and teachers obviously also play important roles in developing the country). Therefore, it is the Nation as a whole that is responsible for the population and development of all parts of the Land, by creating cities and villages, and developing agriculture and industry.
3. It is a Mitzvah to possess the Land of Israel: "And we are forbidden to allow it to be ruled by any other nation." The Land of Israel must belong to, and be under the sovereignty of the Nation of Israel. And not be ruled by any other nation. This Mitzvah is also incumbent upon the Nation, and not upon individuals (There are other Mitzvot that are the obligation of the Nation of Israel as a whole, i.e. appointing a king, building the Temple and declaring war). Sovereignty of a nation over its land is the definition of a state. Therefore, the Torah commands us to establish a sovereign Jewish State in the Land of Israel.

A Mitzvah for every generation, even in exile

We might think that this Mitzvah applied only until the period in which we entered the Land of Israel under the leadership of Yehoshua, or to the period in which King

David conquered the Land, and that it is not relevant today. After all, G-d sent Assyria and Babylonia to destroy the Kingdom of Israel, resulting in the Nation of Israel's exile. Perhaps this is a sign that He no longer wishes us to have a sovereign State in the Land of Israel. The Ramban, however, reiterates three times that the Mitzvot of conquering the Land of Israel and settling it apply throughout all generations, even during our exile.

It is incorrect to presume that our current dispersion indicates that G-d does not want us to leave the Exile and establish a State. If it is a Mitzvah, no difficulty or obstacle can erase our obligation. We cannot use difficult events as an excuse not to fulfill a Mitzvah. This may be compared to a person who is about to write a check for Tzedakah, when his pen suddenly runs out of ink. Is this a sign that he should not make a donation? No, it is a Mitzvah to give Tzedakah. If someone mistakenly violates the Shabbat laws is that a sign that that person is incapable of observing Shabbat? No, it is a warning to be more careful and study the laws. When we experience difficulty in fulfilling any Mitzvah, we are simply being told to try harder, even if it may take a long time until we see the results of our efforts.

Some of the Mitzvot which require the greatest exertion, and take the longest to bear fruit are Torah learning, prayer, acts of loving-kindness and settling the Land of Israel (Berachot 32b). Before Yehoshua entered the Land of Israel, G-d urged him to "be strong and courageous" (Yehoshua 1:6, 7, 9, 18), signifying that it was going to be a major undertaking. We never received the Land of Israel on a silver platter in the past, and our task today is no less fraught with difficulty. We might wonder why the Ramban himself did not try to establish a State in the Land of Israel. In his times, conditions were not conducive for its fulfillment. Halachah terms this phenomenon as one's "force of circumstance" ("ones"). One who is unable to perform a Mitzvah is

not exempt from it; he is simply not liable to punishment. We must keep on persisting throughout the generations, until we succeed in fulfilling this Mitzvah.

Rambam: The Mitzvah to appoint a king

In his addenda to the Rambam's Sefer Ha-Mitzvot, the Ramban inserts the Mitzvah of possessing the Land of Israel and establishing sovereignty over it. The Rambam himself, however, did not include this Mitzvah there as one of the 613 Mitzvot. Yet, in his Mishneh Torah, he does state that it is a Mitzvah to live in the Land of Israel, and that this Mitzvah is as important as all the other Mitzvot combined. In fact, it is so important that one spouse can legally force the other to fulfill it (Hilchot Melachim 5:9-12). Therefore, its conspicuous omission from the Sefer Ha-Mitzvot is significant and requires explanation.

We do find that the Rambam considers the appointing of a king over the Nation of Israel a Mitzvah and includes it in his Sefer Ha-Mitzvot (ibid. 1:6). Obviously, there can be no king unless there is a Nation over which to rule. If the Nation of Israel does not live in its homeland – or is ruled by another nation – this Mitzvah is meaningless. Therefore, the Mitzvah of appointing a king includes within it the obligation to establish a sovereign State of Israel for the Nation of Israel who resides there. The term "king" does not necessarily mean a king in the narrow sense of the word, but refers to any authoritative leadership agreed upon by the Nation as a whole. This government has all the power and authority of a king. The laws concerning rebellion against a king are deduced from Yehoshua, who was the leader of the Nation of Israel, but nevertheless was not officially its king (Sanhedrin 49a; Hilchot Melachim 3:8). For example, Yehoshua was told, "Any man who rebels against you...shall be killed" (Yehoshua 1:18). Although he was not formally a king, defying his orders was

deemed "rebellion against the king" because he was the national leader (National leaders are only granted kingly powers regarding the leadership of the Nation and do not have the special dispensations granted to kings such as permission to marry eighteen wives, etc...).

The Israeli government of today falls into the same category. Since it is elected by the people, it is empowered to make national decisions. The sovereignty of the State of Israel is certainly not a true kingship; it is a government and not a monarchy. Moreover, it is not run according to religious principles. Despite this, our government has some of the authority of a king of Israel (see *Mishpat Cohain*, pp. 128, 365), and is part of the necessary groundwork for fulfillment of the Mitzvah of establishing the Kingdom of Israel. This is a long and arduous process, consisting of many phases, which will ultimately culminate in the Kingdom of the House of David.

Independence signifies rejuvenation and its loss signifies destruction

Loss of an independent State in the Land of Israel is the halachic definition of destruction. According to Halachah, "One who sees the cities of Yehudah in their destruction must tear his clothes" (*Shulchan Aruch, Orach Chaim 561*). Rav Yosef Karo writes, "As long as the cities are ruled by non-Jews – even if they are settled by Jews – they are termed 'destroyed'" (*Beit Yosef on the Tur, Orach Chaim ibid.* and cited in the *Magen Avraham* and *Mishnah Berurah*). In other words, despite the fact that the cities of the Land of Israel are populated by Jews, if non-Jews rule them, their halachic status is one of "destruction." If, however, Jews control the cities, they are considered "built," even if no one lives there. Therefore, we do not tear our clothes today over the sight of any cities, standing or destroyed, that are under Israeli jurisdiction.

After the Six Day War, our Rabbi, Rav Tzvi Yehudah Kook, ruled that we should no longer tear our clothes upon the sight of the Temple Mount, since it is under Israeli jurisdiction. We have the political power to rebuild the Beit Ha-Mikdash today. The fact that we have no immediate plans to do so, for various religious, political and other reasons (justified or not), does not negate the fact that it is **our** decision not to build the Beit Ha-Mikdash, and therefore we no longer tear our clothes when we see the Temple Mount, as we would if it were under non-Jewish domination (Be-Ma'arachah Ha-Tizburit, p. 55).

Loss of independence and exile also constitute the destruction of the Torah. There are those who say, "The Torah alone is sufficient; there is no need for a State. We managed very well without own State for two thousand years." Our Sages were not of this opinion. They explained, "Her [Zion's] king and princes are scattered among the nations – there is no Torah. There is no greater nullification of Torah than the exile of Israel" (Chagigah 5b). They did not intend us to take this statement to mean that we need devote less time to learning Torah in the Exile. They meant that the Exile invalidates the essence and purpose of the Torah, which can only be realized when the Nation of Israel is in its homeland.

Independence equal peace

Another halachic reference to national independence as an ideal may be found in the laws of fast days. The prophets declared four national fast days: the Seventeenth of Tammuz, the Ninth of Av, the Fast of Gedaliah and the Tenth of Tevet. The prophet Zechariah promised us that in the future, these fast days will become days of joy (Zechariah 8:19). The Gemara in Rosh Hashanah (18b) expands upon this, listing three possible permutations regarding our obligation to fast on these days:

1. In times of peace – these will be days of joy.
2. In times of oppression – these remain fast days.
3. When there is neither peace nor oppression, fasting is optional; it is not an obligatory Mitzvah.

The Rishonim (early halachic authorities) wrote, however, that regarding the Ninth of Av – when so many tragedies occurred – the Nation voluntarily accepted upon itself the obligation to fast from sunset to sunset with accompanying restrictions. On the other fast days, we also fast, but with certain leniencies – only from sunrise to sunset and without the added restrictions of the Ninth of Av. In any case, in times of real peace, we do not fast.

What is the definition of "peace"? According to the Ramban, it refers to the time when the Beit Ha-Mikdash is built. According to Rashi, it means "that the nations of the world do not rule Israel with a heavy hand" (both opinions are cited in the Beit Yosef on the Tur, Orach Chaim 415). In other words, we are autonomous and not subject to foreign rule. Rashi's definition of peace has no organic connection to the cessation of hostilities, but rather of to autonomy. Even during times of war – as long as we have the ability to defend ourselves and fight back without losing our independence – according to Rashi, we are "at peace."

The Rambam writes that the Jews even fasted on the Ninth of Av during the Second Temple Period, after the Beit Ha-Mikdash had been rebuilt (Rambam, commentary on the Misnayot, Rosh Hashanah 1:3). The Admor (Chasidic Rebbe) of Gur explains that the Rambam follows Rashi's definition of peace, which is determined by our independence from other nations. For most of the Second Temple Period, we were under foreign domination – first under Persian rule and then Greek and Roman rule. This period was defined as one in which "there was neither peace nor war," and in

such a case, according to Rashi, the Jews should fast on the Ninth of Av, despite the fact that the Beit Ha-Mikdash was standing. Only later, under the Maccabees, did we achieve self-rule. The Rambam therefore rules that the Jews' lack of liberty during the Second Temple Period obligated them to fast, except for the brief period of the rule of the Chashmonaim (ibid.).

Today, the dove is the universally accepted symbol of peace. Where did this symbol originate? In our sources, the dove first appears in the story of Noach. He sent the dove out of the ark to find out whether the floodwaters had sufficiently dried up, and she returned to him in the evening with "an olive leaf in her mouth" (Bereshit 8:11). Our Sages commented: "The dove requested of G-d: Let my food be as bitter as a raw olive, but only dependent upon You, rather than as sweet as honey, but at the mercy of men" (Eruvin 18b). The dove thereby revealed a desire for freedom, even at the price of self-sacrifice and inconvenience. Thus, the dove is the symbol of independence and of the willingness to sacrifice in order to achieve this aim. This is Rashi's definition of peace: that no other nation will rule over us, even if we have to fight to preserve our freedom. According to this view, peace is not a state of "ceasefire," but rather one of independence despite the wars.

According to Rashi's outlook on peace, it would seem that we should not fast in this generation, since we have the State of Israel in our possession. Aren't we independent in our country, free from the domination of other nations? Aren't we at the stage of "peace," wherein the fast days are transformed into days of rejoicing? There are those who say that our independence is not complete since we are not altogether free from the influence of the nations, as we are subject to political pressure. This is not a valid claim because all nations of the world are subject to such pressure; this does not make them any less independent. Rather, the reason that we still fast in our generation is

because the majority of the Nation of Israel is still in Exile under the rule of other nations; Rashi's definition is peace therefore does not apply to the entire Nation.



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