



# HALACHA WEEKLY

Parshas Va'era

January 4, 2019 Vol. I, Issue 5

## The Mitzvah to Settle in Eretz Yisrael

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In this article we will examine the obligation to settle in Eretz Yisrael. A comprehensive understanding of the various opinions would, in truth, require a complete sefer on the subject. This article will seek to present the main opinions of the Rishonim (medieval authorities) and the halachic conclusion of the great posek Rabbi Moshe Feinstein.

The verse in Parshas Masei (Bamidbar 33:53) states, "You should possess the Land and you shall settle in it, for to you I given the land to possess it." Rashi explains that this verse is not a command, rather, it is a warning. If the Jewish People drive the present Canaanite inhabitants from the Land, they would be able to settle it and remain secure. But if they would fail to expel the Canaanite nations, they would not be able to remain there.

According to the Ramban, however, the verse is teaching us a positive commandment to settle in Eretz Yisrael. He discusses the great importance the Sages attached to living in the Land and states that the prohibition against leaving it are derived from the aforementioned verse. In fact, the Ramban, in his enumeration of mitzvos omitted by the Rambam in his list of the 613 mitzvos, includes this mitzvah (mitzvos aseh 4).

There is much discussion regarding the Rambam's opinion, as he omits this mitzvah from his list of 613 mitzvos. There are different approaches found in the Acharonim (post-medieval authorities). The Megilas Esther writes

that the Rambam is of the opinion that the mitzvah only existed prior to the Jews being exiled from Eretz Yisrael. However, it is important to note the words of the Rashbash (Rabbi Shlomo ben Shimon Doran; Shu"t Rashbash 1), who writes that there is still a Rabbinic mitzvah. He proves this from the Talmud (Kesubos 110b) which states that one spouse can force the other to emigrate to Eretz Yisrael.

There is another approach found in the Tzitz Eliezer (7:48), authored by Rabbi Eliezer Waldenburg. Rabbi Waldenburg writes that based on the introduction of the Rambam to his Sefer Hamitzvos, we can explain why he omitted this mitzvah. The Rambam writes (shoresh 4) that any mitzvah which entails the observance of other mitzvos is omitted, for it is a means to fulfill other mitzvos as opposed to a mitzvah in its own right. The Tzitz Eliezer postulates that the mitzvah of settling in Eretz Yisrael is a means to observe other mitzvos, and that is why the Rambam did not include it in his count of the 613 mitzvos.

Rabbi Waldenburg continues that there are two aspects to this idea. Firstly, it entails the observance of mitzvos that are obligations of the Land, such as separating *trumos* and *ma'asros*. Secondly, the spiritual impact of all mitzvos is greater if performed in Eretz Yisrael, as recorded in the Ramban (Vayikra 18:25).

Based on the approach of the Tzitz Eliezer, we can understand a puzzling Tosafos (Kesubos 110b). Tosafos give two reasons why the mitzvah

of settling in Eretz Yisrael is not applicable nowadays. The first reason is that it is dangerous to travel there. The second reason, given by Rabbeinu Chaim, is that there are many mitzvos which one living in Eretz Yisrael is obligated to observe, and it is difficult to ensure that one will be able to properly fulfill the many details of these mitzvos. This seemingly strange explanation is much more easily understood if we accept that the mitzvah to live in Eretz Yisrael is a means to observe other mitzvos. Since we are not confident of a person's ability to do so, one is exempt from the mitzvah.

However, the Maharit (Rabbi Yosef diTrani; Shu"t Maharit 28) writes that this second approach of Tosafos written by an erring student, as the difficulty of observing Land-based mitzvos is not an exemption. According to the Maharit, we are left with only the first reason of Tosafos, that travelling to Eretz Yisrael is precarious. Nowadays, this is not an exemption as it is not dangerous to travel to Eretz Yisrael. Even according to the approach of Rabbeinu Chaim, if one would commit to properly observing the mitzvos, he would certainly be permitted to settle in Eretz Yisrael and fulfill the mitzvah of settling there.

We have thus seen four opinions from amongst the Rishonim. Rashi opines that even prior to exile, there was not a mitzvah to settle in Eretz Yisrael. The Ramban, however, argues that there is a mitzvah even nowadays. The Rambam's opinion is a matter of debate, as the Megilas Esther explains that there was only a mitzvah prior to exile, while the Tzitz Eliezer explains that, according to the Rambam, there is a mitzvah nowadays as well, but it is a means to observe other mitzvos. The final opinion is that of

Tosafos in Kesubos who states that there is not a mitzvah nowadays.

There is an interesting discussion found in the Avnei Nezer (Yoreh De'ah 454). The Avnei Nezer raises the possibility that one fulfills the obligation to settle in Eretz Yisrael only if his income comes from the Land. However, if one's income comes from other countries, regardless if it is through a profession or charity, one does not fulfill the mitzvah, as the blessing one is receiving is not coming directly through Eretz Yisrael, but, rather, from outside of it. However, he notes that charity outside of Eretz Yisrael with the intent to help support Jewish life in Eretz Yisrael would qualify, as this connects the blessing to Eretz Yisrael. The Avnei Nezer concludes that ideally, one's livelihood should come from Eretz Yisrael to fulfill the mitzvah in the best way possible, but one would fulfill the mitzvah, albeit in an inferior fashion, even if one's livelihood comes from outside the Land.

Rabbi Moshe Feinstein (Igros Moshe, Even Ha'ezer 1:102) notes that according to the many authorities who rule that there is a mitzvah to live in Eretz Yisrael, this mitzvah is not a *mitzvah chiyuvis*, an obligatory mitzvah, but, rather, a *mitzvah kiyumis*, a non-obligatory mitzvah that one can fulfill if he so chooses. Since it is not an obligation, concludes Rav Moshe, one must consider whether he will be able to observe all the mitzvos of the Land properly if he were to settle there.

In conclusion, there is a mitzvah to live in Eretz Yisrael according to many authorities. However, as Rabbi Feinstein points out, this mitzvah would not obligate a person to pick up and move there. Rather, one who is living there is fulfilling a mitzvah.