

# The Mitzvah To Settle The Land Of Israel

By Yehudis (Janet) S. Sunness

“*Vhorashtem es ha’aretz, vishavtem bah* – And you shall possess the Land and you shall settle in it” (*Bamidbar* 33:52). This verse in *Parshas Masei* is the basis for the opinion that living in Israel is a mitzvah.

The Land of Israel is the most desirable of all lands. Hashem watches over the Land constantly and more closely than any other land. We thank Hashem in *Birkat HaMazon* for giving us a desirable, good, and extensive land. Likewise, living in the Land of Israel is a wonderful thing. There are many places in the Gemara, in Rambam, and elsewhere that discuss this. For example, says the Gemara, a person who lives in Eretz Yisrael has Hashem as their G-d, while those who live outside Eretz Yisrael have no god and are considered like idolators. (While there are various explanations of this Gemara that mitigate the fierceness of the condemnation, the fact that the Gemara phrases this in such bold terms is informative.) One who walks four *amos* in Eretz Yisrael merits the world to come. Anyone who lives in Israel has his sins forgiven. If a man or woman wants to move to Israel but the spouse does not, they can force the spouse to move or divorce them.

But is living in Eretz Yisrael, called *yishuv ha’Aretz*, a mitzvah? The Rambam and Ramban disagree on this, and there also is an additional layer involved in the discussion, called the Three Oaths. These all will be discussed below, with flowcharts to make the discussion clearer. The presentation of the material is based largely on Rabbi Yitzchak Breitowitz’s talks on this subject; but any errors are mine. I did not include the sources for the different ideas so that the positions could be stated more simply and clearly; many can be heard on Rabbi Breitowitz’s lectures on Torah-Anytime.

The Rambam in his *Sefer HaMitzvos* did not include *yishuv ha’Aretz* as a mitzvah.

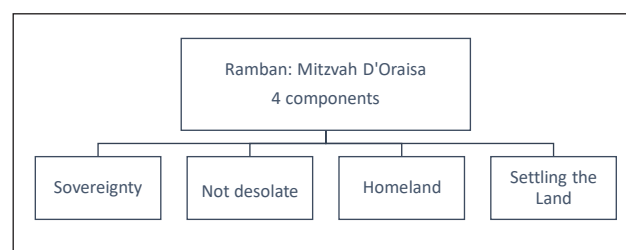
The Ramban (Nachmanides), however, did include *yishuv ha’Aretz* as one of the 613 *mitzvos*, a *mitzvah d’Oraysa* (mitzvah directly from the Torah). There are four components to this mitzvah, says the Ramban; and therefore it can be partially fulfilled even without living in Israel.

1) Sovereignty: All of Eretz Yisrael should be under Jewish rule.

2) Not desolate: Plant trees, build cities, remove trash from street.

3) Homeland: Wherever you live, consider Israel the homeland. At one point, Theodor Herzl contemplated making Uganda a Jewish land; that would violate this component. In practice, when I am in Israel and am ready to leave, I try not to say that I’m going *home*, but rather than I am going back to the U.S.

4) Settling the land: Live in Israel. Perhaps even walking in the Land is a partial fulfillment of this.

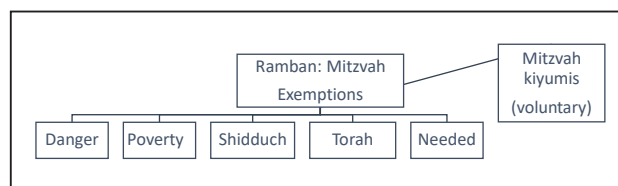


But the Ramban lived in Spain until he was 70 years old. This is when he was forced to dispute Judaism with an apostate Jew who had become a

friar. Ramban won the debate, but was forced to leave Spain to avoid being killed. So why didn’t Ramban go earlier if he felt *yishuv ha’Aretz* is a mitzvah?

Some situations are an exemption from settling in the Land. Many of these exemptions do not apply today. If the way to Israel is dangerous, if one would have to live in poverty in Israel, if one has to be outside Israel for a *shidduch*, or because his *rebbe* is outside of Israel, these are possible exemptions. Or perhaps the Ramban felt that he was needed in Spain and could not leave.

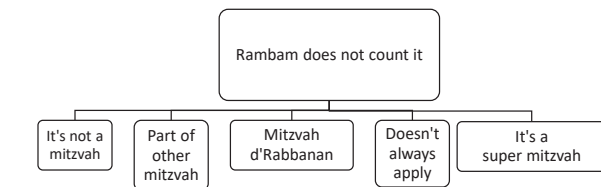
Rav Moshe Feinstein considered *yishuv ha’Aretz* as a *mitzvah kiyumis* (voluntary), not *chiyuvis* (obligatory). It is credited as a mitzvah if you do it, but you do not have to do it. Some other possible examples are eating matzah during Pesach (except at the Seder when it is obligatory), or wearing *tzitzis* that are required only if one wears a four-cornered garment.



The Ramban clearly views *yishuv ha’Aretz* as a Torah mitzvah. So why didn’t Rambam (Maimonides) include it in his *Sefer HaMitzvos*?

Rambam certainly praises and considers *yishuv ha’Aretz* as very important. Rambam does not say it isn’t a mitzvah; he just does not include it. Perhaps he thought it was not a mitzvah at all.

Alternatively, the Rambam lays out a number of criteria for inclusion in his count of *mitzvos*, and he may have felt that *yishuv ha’Aretz* does not meet these criteria; for example, it may be part of another mitzvah (*ma’aser*, etc.); it may be a *mitzvah d’Rabbanan* (rabbinic); it may be a mitzvah that does not always apply; or it may be a super mitzvah – that is, it is part of every mitzvah. One expression of super mitzvah is the view that *mitzvos* outside Eretz Yisrael are only preparation for keeping *mitzvos* in Israel (something Ramban says in his commentary on *Chumash*).



One other deterrent from settling in the land comes from The Three Oaths. The Gemara in *Kesuvos* relates that after the destruction of the *Beis HaMikdash*, Hashem made the people swear three oaths, corresponding to the three times an oath appears in *Shir HaShirim*. (2:7, 3:5; 8:4).

The Gemara regards the speaker as Hashem, and the love as the return to Israel.

The threefold repetition symbolizes three oaths. The first two are oaths imposed on *Bnei Yisrael*:

- Not to go up in a *chomah* (wall): They should not conquer the Land of Israel in a group by aggressive force.
  - Not to rebel against the host country and nations of the world.
- The third is imposed on the other nations:

- Not to oppress *Bnei Yisrael* too much.

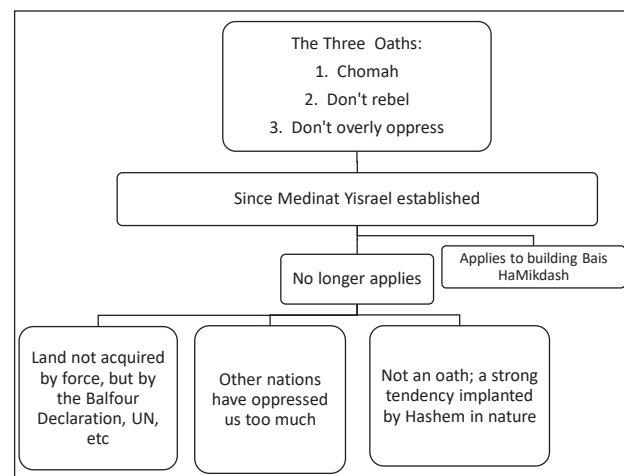
Before 1948, there were many *gedolim* who felt that the three oaths applied, among them Rav Samson Raphael Hirsch. Once the State of Israel was established, however, many *gedolim* felt that the three oaths no longer apply. A notable exception is Satmar.

There are a number of reasons why the three oaths may not apply now. Chief among these is that the State of Israel was created by diplomatic means, not by an aggressive war. The Chofetz Chaim was overjoyed when the Balfour Declaration was proclaimed in 1917. The Balfour Declaration states that “His Majesty’s Government view with favour the establishment in Palestine of a national home for the Jewish people.” Likewise, the state was endorsed by a vote of the United Nations. The subsequent war was defensive, not aggressive.

Another reason why the oaths no longer apply is that the other nations have violated their oath of not oppressing *Bnei Yisrael* too much. The many persecutions of the Jews, including the Crusades, the Spanish Inquisition, the Holocaust, and others, are proof of this. If the other countries violated their oath, then we should be exempt from ours.

Other reasons brought down are that although the language is an oath, the intent is a strong tendency put into nature by Hashem (in other words, Hashem created these truths as general forces of nature, not as a formal oath). Similarly, some *gedolim* say the Gemara is an *aggadata* (more narrative/lesson oriented Gemaras) and not meant to be considered halachically. Finally, perhaps the oaths refer to the rebuilding of the *Beis HaMikdash*, not settling the Land.

How does all this impact us? Rav Yaakov Emden expressed the following in his *siddur*. “Every



Jew must adopt a fixed and firm resolution to ascend and live in Eretz Yisrael. Therefore, listen to me, my brethren and friends who are living in a land that is not ours, on impure ground.... Do not think to settle permanently in the Diaspora, *chas v’shalom*.... This was the sin of our early ancestors who caused weeping for generations because they despised the desirable land.” This is an appropriate attitude, especially during the three weeks that we are in.

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