

Rabbi Aaron Soloveichik zt"l

**SETTLING ERETZ YISRAEL
AND
MILCHMET MITZVAH
IN CONTEMPORARY TIMES**

**"YOU SHALL TAKE POSSESSION OF IT":
AN ASPIRATION OR A COMMAND?**

The Ramban in his list of omissions appended to the *Sefer HaMitzvot* of the Rambam (positive commandments, no. 4), criticizes the Rambam for not having counted the *mitzvah* of settling *Eretz Yisrael* among the six hundred thirteen *mitzvot*. In other words, according to the Ramban there exists a Biblically mandated *mitzvah* to possess and dwell in *Eretz Yisrael*. This *mitzvah* according to the Ramban emanates from the verse, "... and you shall dispossess the inhabitants of the land and dwell in it" (*Bamidbar*, 33:53). The Ramban says that this is a positive *mitzvah*, not an aspiration or promise, and his proof for this is that which the verse says in the matter of the spies, "... go up and take possession, as the Lord ... has spoken ... do not fear and do not lose resolve" (*Devarim*, 1:21). It also says, "and when the Lord sent you from Kadesh-barnea saying, 'Go up and take possession of the land I gave you'" (*Devarim*, 9: 23). And when they did not want to go up through this statement, it is written, "then you rebelled against the word of the Lord" (*ibid*). The Ramban says that the statement of the Talmud (*Sotah*), "the battle of Yehoshua to conquer (*Eretz*) is a *milchemet mitzvah* according to everyone," is not limited to war against the seven nations alone. Rather, it refers to all battles to capture *Eretz Yisrael* from the hands of the nations. The Ramban also says that the *mitzvah* to dwell in *Eretz Yisrael*, even in the present time, is included in the *mitzvah* of "and you shall possess the land," and he cites words of the *Sifrei* that dwelling in *Eretz Yisrael* is as weighty as the entire Torah.

The question posed by the Ramban is, why didn't the Rambam count the *mitzvah* of possessing and dwelling in *Eretz Yisrael* in his enumeration of the *mitzvot*? Doesn't the *Sifrei* say that dwelling in *Eretz Yisrael* is as weighty as all of the Torah? In addition to this, we find a conclusive proof from the *Yerushalmi* in *Sotah* (8:9) that the *mitzvah* of dwelling in *Eretz Yisrael* is a positive *mitzvah* from the Torah. In connection with the verse in the Torah, "who is the man who has built a new house and has not inaugurated it? Let him go and return to his house" (*Devarim*, 20:5), the *Yerushalmi* says, "Perhaps one who builds a house outside the land shall return? We learn 'and did not inaugurate it,' he who is commanded to inaugurate, which excludes he who is not commanded to inaugurate it," This *halakhah* is codified by the Rambam in *Hilkhot Melachim*, 7:14. We see from this that the inauguration of a house in *Eretz Yisrael* is a positive *mitzvah* from the Torah, and, therefore, the question against the Rambam stands, why didn't he count this *mitzvah* in his enumeration of the *mitzvot*? This is the first question, and it is directed towards the position of the Rambam.

The second question relates to the position of the *Tosafot*. The Talmud in *Ketuvot*, 110b, says, "he says to go up and she says not to go up, they force her to go up. She says to go up and he says not to go up, they force him to go up." In *Tosafot*, s.v. "*Hu omeir la'alot*," it is written, "It is not practiced today, because there is danger on the roads. Rabbeinu Chaim Kohen used to say that nowadays one is not commanded to dwell in *Eretz Yisrael* because there are many *mitzvot* dependent (on the land) and many punishments which we cannot be careful about and resist them." It is thus explained in *Tosafot* that according to Rabbeinu Chaim Kohen there is no *mitzvah* to dwell in *Eretz Yisrael* in our time, and, therefore, even if there is no danger on the road in our time a man cannot force his wife to go up to *Eretz Yisrael*. However, the *Mordechai*, at the end of *Ketuvot*, says: "'He says to go up and she says not to go up, we force her to go up' – Rabbeinu Chaim Kohen wrote that this applied in their days, when there was peace on the roads. However, now, when the roads are in bad condition, he is not able to force her, because it is like taking her to a place of gangs of beasts and robbers." It is thus clear in the words

of Rabbeinu Chaim Kohen, as they are mentioned in the Mordechai, that the entire reason why in our time a man cannot force his wife to go up to *Eretz Yisrael* is that there is danger on the roads but in essence there is a law of forcing to ascend to *Eretz Yisrael* even in our times. This is in contrast to the words of Rabbeinu Chaim Kohen as they are mentioned in *Tosafot*, that today there is no *mitzvah* to live in *Eretz Yisrael*, even without (the factor of) danger on the roads. In order to resolve these questions, we need to delve into one expression which the Ramban employs in his notes on the Rambam.

MITZVAH KIYUMIT OR MITZVAH CHYUVIT?

The Ramban, in his omissions to the *Sefer HaMitzvot* of the Rambam, after he mentions many verses from which he proves that conquest of the land must be counted in the enumeration of the *mitzvot*, uses the expression, “an indication that it is a *mitzvah*, not a ‘*yeud*’ (aspiration’) or ‘*havtachah*’ (promise).” I think that with this expression, the Ramban is telling us that for the Rambam the verses in the Torah which deal with the conquest of the land such as “and you shall take possession of it,” and similar ones, express only an aspiration and promise, not a command. The meaning of ‘*yeud*’ is that this is only a ‘*mitzvah kiyumit*,’ an act that constitutes a *mitzvah* upon its fulfillment. A ‘*yeud*’ is something lofty that we aspire to, and for whose realization we are hoping. If so, there is no difficulty with the opinion of the Ramban. The Rambam does not count conquest of the land in his enumeration of the *mitzvot* because the Rambam counts only obligatory mitvot, not fulfillment-based *mitzvot*, and the *mitzvah* of “and you shall possess it” is a fulfillment-based *mitzvah*, not an obligatory *mitzvah*. However, even though it is a fulfillment-based *mitzvah*, still, it is a Biblical *mitzvah*, and it is as weighty as the entire Torah. Therefore, the Yerushalmi says that one who builds a house outside the land and has not inaugurated it is not exempt from going out to war, because only the building of a house whose inauguration represents the fulfillment of a Biblical *mitzvah* exempts him from war, and not the building of a house outside the land, which does not represent the fulfillment of a *mitzvah* at all.

Now we can return to the second question, against *Tosafot*. The question was that *Tosafot* mention in the name of Rabbeinu Chaim Kohen that nowadays there is no *mitzvah* to dwell in *Eretz Yisrael* because we are unable to fulfill the *mitzvot* that are dependent on the land, and the Mordechai explains (that according to Rabbeinu Chaim Kohen) if there would be no danger on the roads then the law of forcing (to ascend to *Eretz Yisrael*) is in effect. We can resolve this contradiction. It emerges from the words of Rabbeinu Chaim Kohen that the obligation to dwell in *Eretz Yisrael* is not an obligation in its own right. Rather, the obligation is based on the possibility of fulfilling the *mitzvot* that are dependent on the land.

The source for the obligation of *aliyah* to *Eretz Yisrael* in order to fulfill the *mitzvot* that are dependent on the land is a Midrash which the *Da'at Zekenim MiBa'alei Tosafot* mentions in connection with the verse in *Shemot*, 23:10. The verse says "six years you shall sow your land and gather in its crop." The *Da'at Zekenim* says concerning this, "It is stated in the Midrash that even if a person has only one ruin in his garden he is obligated to work it every day. It appears to Rabbi Moshe that this is only in *Eretz Yisrael*, in order to increase the separation of *terumot* and *ma'asrot*." This Midrash teaches us that there is a Biblical obligation to dwell in *Eretz Yisrael* and to work the land in order to make the *mitzvot* that are dependent on the land possible. The verse "and you shall gather in its crop" represents a *mitzvah* and an obligation from the viewpoint of *mitzvot* that are dependent on the land. However, there is a *mitzvah* of dwelling in *Eretz Yisrael* because of the verse "and you shall take possession of it," and as the *Sifrei* says in connection with this verse, the *mitzvah* of dwelling in *Eretz Yisrael* is as weighty as the entire Torah. Rabbeinu Chaim Kohen cannot argue with the *Sifrei*. The *mitzvah* of "and you shall possess it" is not based on the *mitzvot* that are dependent on the land. Rather, it represents a *mitzvah* in its own right, and therefore the *mitzvah* "and you shall take possession of it" is in effect even in the current time even though there is no possibility of fulfilling the land-dependent *mitzvot*. However, Rabbeinu Chaim Kohen says that nowadays there is no obligatory *mitzvah* to dwell in *Eretz Yisrael* because the obligatory *mitzvah* of dwelling in *Eretz Yisrael* is based on

the possibility of fulfillment of the *mitzvot* dependent on the land, and in this time we are not able to fulfill all of the *mitzvot* that are dependent on the land. However, there is a *mitzvah kiyumit* even in the current time, on the score of the verse “and you shall possess it.”

The wording of *Tosafot* is: “Rabbeinu Chaim Kohen used to say that today it is not a *mitzvah* to dwell in *Eretz Yisrael* because there are many *mitzvot* dependent on the land and many punishments that we are unable to be careful about and fulfill.” We are accustomed to read the word ‘m-z-v-h’ with a ‘chirik’ under the ‘mem’ and a ‘sheva’ under the ‘tzadi,’ rendering ‘*mitzvah*.’ However, this is a mistake. If this was the intention of *Tosafot*, then they should have said that today ‘*einena mitzvah*’ (so that there is gender agreement with the feminine word ‘*mitzvah*’). However, *Tosafot* use the expression ‘*eino* (masculine form) m-z-v-h.’ Therefore, the word ‘m-z-v-h’ certainly must be read with a *sheva* under the ‘mem’ and a ‘kubuts’ under the ‘tzadi,’ rendering ‘*metzuveh*,’ meaning ‘commanded. Therefore, *Tosafot* use the expression ‘*eino metzuveh*,’ not ‘*eino mitzvah*,’ thus saying that in this time there is no obligatory *mitzvah* to dwell in *Eretz Yisrael*, but there is a *mitzvah kiyumit* on the score of the verse “and you shall possess it,” and this *mitzvah* is applicable even in the current time when we are unable to fulfill the *mitzvot* that are dependent on the land. On the score of the *mitzvah* of “and you shall possess it” there is also a rule of coercion on the part of the husband on his wife and on the part of the wife on her husband. However, when there is a fear of danger on the roads then there is no coercion, but if there will not be any danger in the roads then there will be a rule of coercion based on the verse “and take possession of it.” Therefore, the Mordechai says that in the current time in which there is danger on the roads there is no rule of coercion. Now there is no contradiction in the words of *Tosafot* between the way they are cited in *Tosafot* and the way they are cited in the Mordechai.

**MILCHEMET MITZVAH BASED ON THE RULE OF
'SOMEONE WHO COMES TO KILL YOU'**

One can ask, according to what we said – that the Rambam admits that conquest of the land is a Biblical *mitzvah*, except that it is a *mitzvah kiyumit*, not an obligatory *mitzvah* – if so, why doesn't the Rambam mention in *Hilkhot Melachim* that a war of Israel to capture *Eretz Yisrael* from the hands of the nations is a *milchemet mitzvah*, while the Rambam mentions in connection with *milchemet mitzvah* only war against the seven nations, against Amalek, and a war to deliver Israel from the hand of an enemy that has attacked them.

It appears that this question can be answered through examination of another question. The Rambam omits the Talmudic statement in *Ketuvot* 111b, that God imposed an oath on Israel not go up as a wall, which means to say, that they should not conquer *Eretz Yisrael* through force of arms. We need to understand why the Rambam omits this. The Rambam, in *Hilkhot Melakhim*, 5:1, lists wars to deliver Israel from the hand of an enemy that has risen up against them among the obligatory wars that the nation of Israel (must) fight. Some have asked, doesn't the Talmud in *Sotah* 44b say that (the status of) a war to diminish the heathens so that they do not march against them depends upon a dispute between R. Yehudah and the Rabbanan, and according to the Rabbanan this is not a *milchemet mitzvah*, but rather an optional war (*milchemet hareshut*), and it is clear from the Rambam's *Commentary to the Mishnah* on *Sotah* that the *halakhah* is like the Rabbanan. The *Keren Orah* on *Sotah* already answered that according to the Rambam the dispute between the Rabbanan and R. Yehudah deals with a war against a nation that is planning an attack against Israel but hasn't yet attacked. However, if a certain nation already attacked Israel or is prepared to attack Israel then the Rabbanan will also admit that it is a *milchemet mitzvah*.

One can ask, what is the source for this law of the Rambam that a war to save Israel from an oppressor that comes against them is a *milchemet mitzvah*? It appears that the source of this *halakhah* is the *Midrash Tanchuma* in *parshat Pinchas* to the verse, "Vex the Midyanites ... for they vex you" (*Bamidbar*, 25:27); from here the Sages said, "someone who comes to kill you, rise first and kill him." See Rashi to

Berakhot, 58a, who writes that the Torah wrote the rule of “someone who comes to kill you, rise first and kill him” in connection with a burglar who comes through a *machteret* (underground passage). It appears that there are two halakhot of “someone who comes to kill you rise first and kill him.” The section of *machteret* teaches us the rule of “someone who comes to kill you rise first and kill him” on an individual level, and the section of “vex the Midyanites because they vex you” teaches us the rule of “someone who comes to kill you rise first and kill him” on a collective level. If a thief comes through a tunnel then it is permissible for the householder to kill the robber because it is the latter’s intention to kill the householder if the householder will stand up against him and not allow the thief to take his money. Therefore, the robber has the status of an individual pursuer (*rodeif*) even though the thief would not kill the householder if the home owner would allow the thief to take his money. This *halakhah* represents the rule of the pursuer and “someone who comes to kill you” on an individual level.

According to this, if a certain nation from among the heathens attacks Israel and is prepared to kill Jewish people if the Jewish community will not allow the non-Jews to take *Eretz Yisrael* or part of *Eretz Yisrael*, then there devolves upon the non-Jewish nation the status of a pursuer on a collective level, and the Jewish community has the obligation to fight against the nation that is attacking Israel on the score of the rule of “someone who comes to kill you rise first and kill him” on a collective level which emanates from the section of “vex the Midyanites for they vex you.” Had God not imposed an oath upon Israel not to go up in force then we would be obligated to fight against the heathens to capture *Eretz Yisrael* on the score of the *halakhah* of deliverance of Israel from an enemy that has attacked them, which is based on the rule of “someone who comes to kill you, rise first and kill him,” since *Eretz Yisrael* is in our possession from our ancestors, and the non-Jews are holding it through theft. Certainly, if someone has already stolen a field from his friend, and the one robbed knows that if he would enter his stolen house to live there the thief would kill him, then the one robbed is permitted to enter his house and kill the thief if the thief will stand up against him,

just as it is permissible for the householder to kill the thief who comes through the underground passage. If so, why should the rule of “one who comes to kill you rise first and kill him” in respect to the collective, which emanates from the section of “vex the Midyanites for they vex you” be different from the rule of “one who comes to kill you rise first and kill him” on an individual level?

THE OATH NOT TO GO UP BY FORCE

This is, however, how it should have been were it not for the oath that God imposed upon Israel not to go up by force. However, since God imposed an oath on Israel not to go up by force, we do not have permission to fight against the nations, and, therefore, there is no obligation of *milchemet mitzvah* on the score of deliverance of Israel from an enemy that has attacked them that devolves upon them, as long as the heathens do not attack us. However, the oath that God imposed upon Israel not to go up by force obligates Israel only as long as the nations do not make their yoke on the Jews heavier than necessary, since the Talmud in *Ketuvot* says that God imposed upon Israel and the nations corresponding oaths, and just as God imposed an oath upon Israel that they should not capture *Eretz Yisrael* from the nations by force of arms, so too did God impose an oath upon the nations of the world that they should not attack Israel. According to this, if the heathens attack Israel, then there devolves upon Israel the obligation to fight a *milchemet mitzvah* against them on the score of a war of deliverance of Israel from an enemy that has attacked them.

Now we are able to resolve the question that we asked against the Rambam, why he omitted the *halakhah* that capturing *Eretz Yisrael* from the hands of the nations is a fulfillment of a *milchemet mitzvah* (*milchemet mitzvah kiyumit*). The Rambam did not need to mention the *halakhah* that the capture of *Eretz Yisrael* is a *milchemet mitzvah kiyumit* because this point is superfluous, either way you look at it. If the nations do not attack Israel, then there is no permission for Israel to fight a war of conquest against the nations because of the oath that God imposed upon Israel not to go up by force, and if the nations do, in fact, attack Israel, then certainly the war to conquer is

an obligatory *milchemet mitzvah* on the score of deliverance of Israel from an enemy that has attacked them, which flows from the verse, "vex the Midyanites." If so, the Rambam could not have mentioned the rule that a law of conquest is a *milchemet mitzvah kiyumit* on the score of the *mitzvah* of "and you shall possess the land" since in such a case a war of conquest is an obligatory war on the score of the rule of deliverance of Israel from an enemy that has come up against it. However, we need to understand why the Rambam omitted the oath that God imposed upon Israel not to go up by force.

It appears that the oath not to go up by force does not represent an independent prohibition, but that this is included in the prohibition that emanates from the section of "before Elazar the *kohen* he shall stand, and he shall inquire of him the judgment of the *Urim* before God.....he and all of the children of Israel with him and the entire assembly" (*Bamidbar*, 27:21), i.e., the prohibition of fighting a *milchemet hareshut*, which is any war outside of a war against the seven nations, against Amalek, and a war to deliver Israel from an enemy that has attacked them without the permission of the Supreme *Beit Din* and without the permission of the *Urim* and *Tumim*, as it is explained in the *Sefer HaMitzvot* of the Rambam and in the *Yad HaChazakah*, *Hilkhot Klei HaMikdash*, 10:12, and *Hilkhot Melacim*, 5:2. Were it not for the oath that God imposed upon Israel not to conquer *Eretz Yisrael* through force, then the conquest of *Eretz Yisrael* through force would have been included in the category of a war to deliver Israel from an enemy that has attacked it, and we would not have had to procure permission from the Supreme *Beit Din* and the *Urim* and *Tumim*. However, since we were sworn by God not to capture it by force, obviously this kind of conquest is not included in the category of *milchemet mitzvah* on the score of deliverance of Israel from an enemy that has attacked them, and, as a result, it is prohibited for us to wage a war of conquest without the permission of the *Urim* and *Tumim* and the Supreme *Beit Din*, on the score of the prohibition of "and before Elazar Hakohen he shall stand." However, when the heathens attack Israel, then the oath does not obligate us, and then the conquest of the land, even through force, is included in the category of deliverance of Israel from an enemy that has attacked them, and, obviously, it is an obligatory war.

I think that for this reason the Rambam wrote to the sages of Marseilles, "this was the sin of our ancestors, that they did not occupy themselves with the conquest of the land." There were times in Jewish history during which the Jews had the opportunity to conquer *Eretz Yisrael* on the occasion of an attack, and even so they refrained from capturing *Eretz Yisrael*, and this was the sin of our ancestors.

THE CONNECTION BETWEEN *AM YISRAEL* AND *ERETZ YISRAEL*

However, in order to understand the opinion of the Rambam, we must delve deeply into the viewpoint of the Rambam in regard to the connection between *Am Yisrael* (the nation of Israel) and *Eretz Yisrael*. The Ramban, in his omissions to the *Sefer HaMitzvot* of the Rambam points out that the verse "and they rebelled against the word of God" which was said in the Torah in connection to the spies proves that the *mitzvah* of "and you shall possess the land" is a command, not a mere aspiration and promise. In truth, this comment presents a great argument against the Rambam, for if we assume that taking possession of the land is only a *mitzvah kiyumit* and aspiration, then the spies only faltered in that they did not fulfill the *mitzvah* of taking possession of the land, but there is no rebellion here, so why was the sin of the spies so great?

It is possible to suggest that the sin of the spies expressed itself in the fact that since they had been allowed by God to conquer the land of Canaan and the oath not to go up by force was not intended for them, consequently, the conquest of the land, for them, was a matter of deliverance of Israel from an enemy that has attacked them. The rebellion of the spies stood out in that they transgressed the obligation of participating in the *milchemet mitzvah* of deliverance of Israel from an enemy that has attacked them. However, if this is correct, then the spies sinned mainly against *Am Yisrael*, but from the verse in *Tehilim* it is apparent that they sinned mainly against the land, as it says, "they despised the coveted land" (*Tehilim* 106:24). The question is, according to the opinion of the Rambam, why is the sin of the spies considered a great sin against the land? Doesn't the

conquest of the land, in its own right, represent only a *mitzvah kiyumit*, and not a *mitzvah chiyuvit*? Rather, we are forced to say that even according to the Rambam there are incumbent upon *Am Yisrael* obligations toward *Eretz Yisrael*, and these obligations do not emanate from the *mitzvah* of “and you shall take possession.”

The *mitzvah* of “and you shall take possession” is only a *mitzvah kiyumit*, and it applies to the individual and to the collective. However, the obligations that are incumbent upon the nation Israel emanate from the covenant that God made with Israel in connection with *Eretz Yisrael*. In connection with the verse, “I will remember My covenant with Ya’akov, and also My covenant with Yitzchak, and also My covenant with Avraham will I remember, and I will remember the land” (*Vayikra* 26:42) the *Sifra* says, “this teaches (us) that a covenant is made with the land.” Certainly the covenant that is made with the land was not made between God and *Eretz Yisrael*. The land itself is not a legal personality that can be a partner to a covenant. The covenant that is made with the land is made between God and *Am Yisrael*. The meaning of the covenant with the land is an agreement or a contract between God and *Am Yisrael* in connection with *Eretz Yisrael*, and which places mutual obligations on the two parties to the covenant, who are God and the Jewish nation. Through the covenant with the land, God promised *Knesset Israel* (the collective of the Jewish people) of all generations that they will possess and rule *Eretz Yisrael*. However, the commitment in the covenant with the land is not unilateral, but bilateral. God is faithful in fulfilling His promises to Israel, in connection with *Eretz Yisrael*, and we are all today witnesses to the faithfulness of God.

We have seen this in the War for Independence and in the Six-Day War. However, the fulfillment of God’s promise is dependent upon the fulfillment and implementation of the commitments that were placed upon Israel through the covenant of the land. What are the commitments that were imposed upon Israel by the covenant of the land? The covenant of the land imposed upon Israel the obligation to relate to *Eretz Yisrael* as a coveted land. We are able to reach this conclusion from the wording of the verse in *Tehilim* 106:24 in connection with the spies. There it says, “they despised the coveted

land." This expression teaches us that the sin of the spies was expressed in that they did not relate to the land of Canaan as a coveted land, and by this they broke the obligation that was imposed upon them through the covenant of the land.

THE MEANING OF "ERETZ CHEMDAH" (A COVETED LAND)

What is the meaning of a "coveted land"? In order to understand the proper answer to this question we must note the halakhic contrast between the prohibition of "do not covet" and the prohibition of "do not desire." In the first version of the Decalogue (in parshat *Yitro*) it states "do not covet," and in the later version of the Decalogue (in parshat *Vaetchanan*) it says "do not desire." The prohibition of "do not covet" and the prohibition of "do not desire" constitute separate prohibitions, as the Rambam explains in the *Sefer HaMitzvot* (negative commandment 266) and in the first chapter of *Hilkhot Gezeilah VeAveidah*. The prohibition of "do not desire" deals with a case of someone who desires the possessions of his friend and in his heart there beats a desire to acquire those possessions but he does not use any means to realize the desire. The prohibition of "do not covet" deals with a case in which someone not only desires his friend's possessions, but uses means, through urging and pressure, to attain the possessions. According to this, we arrive at the conclusion that 'ta'avah' is desire for a certain object realization and implementation, while 'chimud' expresses a desire so great and strong that it necessarily is destined to be realized and implemented.

The sin of the spies was that they related to the land as to an object of desire. The spies felt in their hearts a love for *Eretz Yisrael*, but only in their hearts. They were not prepared to fight for *Eretz Yisrael* and to dedicate their time and their money for *Eretz Yisrael*. They despised the coveted land and through this they violated their obligation that the covenant of the land imposed upon them. The Rambam holds the opinion that the *mitzvah* of "you shall take possession of the land" is only a *mitzvah kiyumit*, but the Rambam admits that the nation of Israel as a collective is obligated to be so devoted and dedicated in its relationship and its coveting for *Eretz*

Yisrael to the point that no difficulty, toil, pressure and burden can halt the realization of the delight (*chemdah*) of the nation of Israel for *Eretz Yisrael*.

The Rambam does not count the *mitzvah* of conquering *Eretz Yisrael* in his enumeration of the *mitzvot* because in relation to the *mitzvah* that is implied in the verse "and you shall take possession of the land" there is only a *mitzvah kiyumit* and the Rambam does not count *mitzvot kiyumiot* in his enumeration of the *mitzvot*. In connection with the commitments that emanate from the covenant of the land, the Rambam does not count covenants in his enumeration of the *mitzvot*.

However, in order to understand well what the commitments of the nation as a collective are, on the score of the covenant of the land, we need to understand what the covenant of the land is. The covenant of the land was first made between God and Avraham our forefather during the vision of the covenant between the pieces, and this covenant between the pieces was repeated to Yitzchak, as it was said to Yitzchak, "and I will perform the oath that I swore to Avraham your father" (*Bereishit*, 26:3), and trebled to Ya'akov, as Yitzchak said to Ya'akov, "and He shall give you the blessing of Avraham, to you and to your seed with you, to inherit the land of your dwelling that God gave to Avraham" (*Bereishit*, 28:4).

However, this covenant of the land that God made with the forefathers was established anew between God and *Am Yisrael* as a collective through Moshe *Rabbeinu* in his role as their agent, and through this *Am Yisrael* in all the generations became a party to the covenant of the land in connection with all of the commitments and the privileges that are tied up and incorporated in it. The first time that this covenant of the land between God and *Am Yisrael* was established occurred at the revelation of the (burning) bush and that covenant and oath was repeated in the beginning of *parshat Vaerah*. When the *Sifra* says in connection with the expression, "and I will remember the land" – "this teaches that a covenant is made with the land," the *Sifra* is not referring to the covenant between the pieces alone, because the fact that God made a covenant of the land with Avraham our forefather is explicit in the Torah, in *parshat Lekh Lekha*, and we do not need to learn this from the expression "and I will

remember the land” because it is already mentioned in the beginning of the verse in the expression, “I will remember My covenant with Ya’akov, and also My covenant with Yitzchak, and also My covenant with Avraham will I remember.” When it says, “this teaches that a covenant is made with the land,” the *Sifra* is referring to the covenant of the land that was established between God and the nation of Israel in the vision of the bush and in the beginning of *parshat Vaerah* in the place where the Torah says, “and I will bring you into the land which I swore to give to Avraham to Yitzchak and to Ya’akov; and I will give it to you as a heritage; I am the Lord” (*Shemot*, 6:8).

Rabbeinu Bachya in his commentary to the Torah to this verse points out that the Torah here uses the expression of ‘*morasha*’ (heritage) in contrast to ‘*yerusha*’ (inheritance), and so in *parshat Vezot Haberakhah* in connection to the Torah itself, the Torah uses the same expression: “The Torah that Moshe commanded us is the heritage of the congregation of Ya’akov” (*Devarim*, 33:4). Inheritance is something that is taken possession of in a passive manner, without toil, without (exertion of) energy, and without planning on the part of the children. However, heritage expresses an acquisition that is transmitted from fathers to sons only through co-operative effort, co-operative planning and co-operative toil between fathers and sons. God swore to Israel that *Am Yisrael* would possess and rule over *Eretz Yisrael*. God promised Israel that the Torah would be the acquisition of Israel; but God wants *Am Yisrael* to relate to the Torah as to an acquisition of a heritage, not as to an acquisition of an inheritance, and God wants *Am Yisrael* to relate to *Eretz Yisrael* as to an acquisition of a heritage and not as to an acquisition of an inheritance.

**“SUSTAIN ME WITH DAINTY CAKES”
THE FIRE OF THE BUSH AND THE FIRE OF MORIAH**

Only a Jew who dedicates himself and all of his abilities to the study of Torah, and only a Jew who ‘sacrifices himself’ in the tent of Torah, can acquire the Torah, but (as the Talmud says) “you have not toiled and you have found, don’t believe.” In the same way, God wants *Am Yisrael* to dedicate its abilities, wealth, and energies toward

the building of the land, and if *Am Yisrael* in any generation fulfills this task, then certainly God will fulfill His promises to us, as he has done for us in our generation through His bringing about that *Am Yisrael* possesses and rules over *Eretz Yisrael*. In order to know how *Am Yisrael* needs to fulfill its task and its commitments to *Eretz Yisrael*, we need to delve deeply into the vision of the bush, in which there is hidden the outlook of the Jewish nation on its encounter with the nations of the world in the course of the generations together with *Eretz Yisrael*.

The Midrash in *Shir HaShirim* says, in connection with the verse "*samkhuni ba'ashishot*" – "sustain me with dainty cakes" (*Shir HaShirim*, 2:5), that the word '*ba'ashishot*' implies two fires (*eish*): the fire of the bush and the fire of *Moriah*. The meaning of this statement is that a Jew needs to be, on the one hand, energetic and enflamed with the flame of enthusiasm, aspiration and love toward *Am Yisrael* and *Eretz Yisrael*, and, on the other hand, a Jew must be energetic and enflamed with the flame of enthusiasm, aspiration and love towards God and His Torah. The fire of the bush symbolizes the flame of love toward *Eretz Yisrael*, and the fire of *Moriah* symbolizes the flame of love toward God. Therefore let us concentrate on the details of the vision of the bush. The Torah tells us that an angel of the Lord of hosts appeared to Moshe in the flame of the fire within the bush, and Moshe saw that the fire burned and the bush was not consumed.

In connection with the identity of the angel, the *Midrash Rabbah* (*Shemot*, 2:8) mentions that R. Yochanan says it was Michael, and R. Chanina says it was Gavriel. Michael is the symbol of patience, or tolerance. The meaning of Michael is "who is like God"? ("*mi ka-keil*"). The Sages said, in connection with the verse "Who is like You, Lord, among the strong ones (*eilim*)"? (*Shemot*, 14:11), "Who is like You, Lord, among the silent (*ilmim*)"? meaning, who is patient, or tolerant, like God? Michael is the angel to whom there is always given a mission of patience. Michael is the angel to whom was given the mission to announce to Sarah that she would yet give birth to a son. On the other hand, Gavriel is the symbol of might. The meaning of Gavriel is '*gevurot*,' the might of God. Gavriel is the angel to whom

a mission of might is always assigned. Gavriel is the angel to whom there was given the mission to overturn Sodom and Amarah.

The question was raised among our Sages, which character traits does *Am Yisrael* need to use in its encounter with the nations? In relation to *Eretz Yisrael*, we need to use the character traits that the angel Michael symbolizes, meaning the traits of patience, peace, concession, forbearance and restraint. R. Chaninah says that, at times, we must use the character traits that the angel Gavriel symbolizes, meaning the traits of might, defense and battle with those who attack us.

“Both these and those are certainly the words of the living God.” In general, the angel Michael must be our agent and our symbol. As long as the nations do not make their yoke too heavy, as long as the nations do not attack us, we are sworn by God not to rebel against the nations and not to go up by force. As long as the nations of the world treat us with dignity we must use the means of peace, patience, love and restraint. However, R. Chaninah says that there are times when the need of the hour forces us to appoint and designate the angel Gavriel as our agent. If the nations of the world violate their oath and make their yoke too heavy, if the nations attack us, than we need to use the means of might and defense for our lives, our land and our honor.