

## *Rambam's Missing Mitzvah—Settling the Land of Israel*

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In listing the mitzvos that he feels Rambam had overlooked in his *Sefer HaMitzvos*, Ramban counts the positive command of settling the land of Israel, לרשת הארץ ולשבת בה, as a positive commandment, *mitzvas aseh*.<sup>1</sup>

שנצטוינו לרשת הארץ אשר נתן הא-ל יתעלה לאבותינו לאברהם ליצחק וליעקב ולא נעזבה ביד זולתנו מן האומות או לשממה, והוא אמרו להם והורשתם את הארץ וישבתם בה כי לכם נתתי את הארץ לרשת אותה והתנחלתם את הארץ אשר נשבעתי לאבותיכם...ואומר אני כי המצוה שחכמים מפליגים בה והוא דירת ארץ ישראל עד שאמרו כתובות (דף קי:): כל היוצא ממנה ודר בחוצה לארץ יהא בעיניך כעובד ע"ז שנאמר כי גרשוני היום מהסתפח בנחלת ה' לאמר לך עבוד אלהים אחרים, וזולת זה הפלגות גדולות שאמרו בה, הכל הוא ממצות עשה הוא שנצטוינו לרשת הארץ לשבת בה, א"כ היא מצות עשה לדורות מתחייב כל אחד ממנו ואפילו בזמן גלות כידוע בתלמוד במקומות הרבה.

We were commanded to conquer (inherit) the land that G-d, may He be exalted, gave to our forefathers, Avraham, Yitzchak and Yaakov, and not leave it in the hands of any other nation or leave it desolate, and this is what He said to them, "Inherit the land and settle in it because I have given it to you to inherit it, and you should inherit the land that I swore to your fathers"...And I say that the mitzvah that the *Chachamim* are expansive about, "living in the land," to the extent that they say (*Kesuvos* 110b) that anyone who leaves it and dwells outside of the land should be viewed as an idol worshipper, as it says "you have expelled me today from grazing in the inheritance of G-d, saying go worship other gods," and other extreme statements that they make about it, is all part of this positive command to inherit the land and dwell in it. Thus it is a *mitzvas aseh* for all generations in which all people are obligated, even during our exile as is known from many places in the Talmud.

<sup>1</sup> *Mitzvas Aseh* 4.

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Ramban's mitzvah contains two parts—conquering the land and dwelling in it. His main evidence with regard to conquest is from the Torah's text, while he brings Talmudic texts to make the case that the mitzvah incorporates living in the land as well.

### Conquering the Land

Rambam would respond to the evidence of the *mikra* by interpreting these verses as the command to the Jewish people to conquer the land at the time of their first arrival under Yehoshua. Rambam counts the conquest of the seven Canaanite nations as an independent mitzvah, which he characterizes as the defeat of the essence of *avodah zarah*, but he does not refer to the conquest of Eretz Yisrael *per se* as a מלחמת מצוה.<sup>2</sup>

As Ramban emphasizes conquest, it would seem that he has a vision of Jewish re-conquest of Eretz Yisrael from its occupiers. Though we might assume that he has מלחמת משיח in mind, he does not stipulate that this will be done by Mashiach—it is rather a mitzvah on the *tzibbur*. Interestingly, Ramban faults the Jewish people for not having built the Beis HaMikdash before the appointment of a king,<sup>3</sup> and just like the obligation to build the Mikdash does not demand waiting for a king, so too the mitzvah of reconquering the land does not depend on Melech HaMashiach.

Rambam, on the other hand, never speaks of the re-conquest of Eretz Yisrael. He explains that קדושה ראשונה of Eretz Yisrael was nullified (בטל) because it was accomplished by conquest, and thus when this conquest was reversed the קדושה of the land was nullified. But קדושה שנייה was via settlement and this was never nullified. He describes this settlement as being מחזיק in the land, and hence it is the synergy of the people of Israel and their land that creates a קדושת הארץ that is eternal.

כל שהחזיקו עולי מצריים, ונתקדש קדושה ראשונה, כיון שגלו, בטלה קדושתן. שקדושה ראשונה לפי שהייתה מפני הכיבוש בלבד, קידשה לשעתה ולא קידשה לעתיד לבוא. כיון שעלו בני הגולה, והחזיקו במקצת הארץ, קידשה קדושה שנייה העומדת לעולם, לשעתה ולעתיד לבוא.<sup>4</sup>

<sup>2</sup> *Hilchos Melachim* 5:1; *Sefer HaMitzvos, Aseh* 187. *Arvei Nezer (Yoreh Deah 454)* says that Rambam replaces *Yishuv Eretz Yisrael* with this mitzvah, as it refers to conquest of the land. But in fact, Rambam is very specific that this mitzvah refers to the destruction of the seven Canaanite nations who he says comprise עיקר ע"ו. He writes that David HaMelech completed this mitzvah.

<sup>3</sup> *Ramban al HaTorah, Bamidbar* 16:21–22.

<sup>4</sup> *Hilchos Terumah* 1:5ff. Also see *Hilchos Beis HaBechirah* 6:16: