



## MEDINA & HALACHA

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# The Mitzvah of Settling in the Land of Israel – Part 5

## The Three Oaths

The Talmud (Ketubot 111a), based upon three verses in Shir HaShirim which begin, “I adjure you, O maidens of Jerusalem,” teaches that Hashem adjured the Jewish People, and the Nations of the World, with three oaths: 1) The Jewish People may not “arise like a wall,” which implies ascending en masse and taking control of the Land of Israel by force, 2) The Jewish People may not rebel against the nations of the world in the Diaspora and 3) The nations of the world may not subjugate the Jewish People “too much.”

As we discussed in Part 2, Rabbi Isaac de Leon explains why the Rambam does not include the mitzvah of settling in the Land of Israel in his Sefer HaMitzvot, and cites the Three Oaths:

“It appears to me that the Rabbi [Rambam] did not count the mitzvah of taking possession of the Land and settling it because it applied only during the days of Moses, Joshua and David and at all times when they [the Jews] are not exiled from their land. But after they have been exiled from their soil, this mitzvah does not apply until the arrival of the Messiah. On the contrary, we were commanded with what is said at the end of Ketubot (111a), not to rebel against the nations and take the Land by force. They proved this from the verse, ‘I have adjured you, O maidens of Jerusalem...’ and expounded that ‘they not ascend like a wall’” (Megillat Esther to Nachmanides’ Addenda to Sefer HaMitzvot, positive commandment no. 4).



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Historically, some challenged the permissibility of a modern aliyah, and the validity in founding the State of Israel based on the Three Oaths. This became the position adopted by the anti-Zionist movement. They argue that we have no right to settle the Land of Israel until the arrival of the Messiah, some even suggesting that the Holocaust was a punishment for re-settling the Land (See, for example, Va-Yoel Moshe, Introduction).

In weighing the legitimacy of this claim, one must consider the social and political climate in which these views were espoused (See Eim HaBanim Semeichah, pp. 20-26. See also Aviezer Ravitzky, Messianism, Zionism, and Jewish Religious Radicalism, pp. 66-78).

The concept of the 'Three Oaths' as binding has been refuted many times, and in many different ways. Most compelling is that the "Three Oaths" should be understood as Aggada, homily (See P'nei Yehoshua to Ketubot 111a). Historically, this passage was never accepted as Halacha and is in fact absent from all major codes of Jewish Law (Avnei Nezer, Yoreh De'ah, no. 454, sec. 50).

Some explain that by receiving permission from the leading world powers, there is no violation of the oaths (Maharsha to Ketubot 111a; Avnei Nezer, Yoreh De'ah, no. 454, sec. 56; Eim HaBanim Semeichah, pp. 307-308; Tzitz Eliezer, Vol. 7, no. 48, sec. 12. See also HaTekufah HaGedolah, Vol. 1, pp. 118, 206-207, 213, 234-235; Eretz Chemdah, Vol. 1, pp. 35-36).

The Balfour Declaration of 1917, the

San Remo Conference of 1920, and the UN Partition Plan of 1947 demonstrated the world's acquiescence in restoring the Jewish State. The Modern State of Israel was created through the consent of world powers. We did not arise "like a wall."

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Others explain that once the nations of the world violated their oath, with the constant persecution of the Jewish People, the other oaths become null and void (See Shittah Mekubetzet to Ketubot 111a; Tzitz Eliezer, vol. 7, no. 48, sec. 12). This notion is in fact based on a principle of Jewish Law. Should two parties take an oath, and one is found to be in violation of his oath, the other party is exempt from keeping his side of the bargain (Shulchan Aruch, Yoreh De'ah 236:6). The persecution, torment and humiliation that the Jewish People have endured over the centuries, certainly would free them from any obligation.

Based on the above, according to most authorities, the Three Oaths are not binding, nor relevant, today. ■

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