YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Jewish History**

**Rav Aviad Tabory**

**Shiur #05:**

**Maharam of Rothenburg’s Attempt to Make Aliya**

**1286**

Rav Meir ben Barukh, known as the Maharam of Rothenburg, was born in Worms, Germany somewhere between 1215 and 1220.[[1]](#footnote-1)

Rav Meir moved to France, where he studied under the greatest rabbis of his generation, among them Rav Yechiel of Paris. In Paris, he witnessed the burning of the Talmud.

From there, he moved back to Germany and settled in the city of Rothenburg. Back in Germany, Rav Meir soon became a prominent halakhic authority whose opinion was sought after by many people, including fellow rabbis. His volumes of responsa are considered classics; they have had a major impact on the customs of Ashkenazic Jews.

As mentioned above and in our previous *shiurim*, Rav Meir and his generation were eyewitnesses to the horrible decrees and persecutions that befell the Jewish communities in medieval Germany.

**Attempt to make *aliya* to Israel**

In 1286, the Maharam, his family and a group of Jewish families attempted to flee the country. The same year, the king of Germany, [Rudolf I](https://en.wikipedia.org/wiki/Rudolf_I_of_Germany), issued a decree against the Jews in his kingdom claiming that the Jews and all their assets belonged to the king.

The destination of this group was *Eretz Yisrael*.[[2]](#footnote-2) However, as the group reached Lombardy, Italy, a Jewish apostate reported them to the authorities, and Rav Meir was arrested and imprisoned at a castle in Ensisheim until his death seven years later.

What was the motivation of this group to migrate to Israel? Obviously, life in Western Europe was very difficult during the 13th century as the burning of the Talmud proves; however, conditions in Israel weren’t much better.

Before we attempt to answer this question, it is important to note the earlier attempts of rabbis from Spain, France, England and Germany, as well as the reasons that led them to make *aliya.*

Over a century earlier, in 1141, Rav Yehuda Ha-Levi, the poet and philosopher, made the journey from Spain to Israel.

The Ramban emigrated to Israel in 1267, visited Yerushalayim and settled in Akko.

In their cases, it is clear from their writings that their love and passion for Israel was the main reason for their aliya.[[3]](#footnote-3)

**Mass *aliya***

In the years 1209-1211 a group of three hundred prominent rabbis and leaders from France and England made *aliya* to Israel.[[4]](#footnote-4) The *Aliya* of the Tosafists, as it came to be known, included in its ranks luminaries like Rav Shimshon ben Avraham (Rash) of [Sens](https://en.wikipedia.org/wiki/Sens) and Rav Yonatan ben David Ha-kohen of [Lunel](https://en.wikipedia.org/wiki/Lunel), both leading French [Tosafist](https://en.wikipedia.org/wiki/Tosafist)s.

The Maharam’s rabbi and teacher, Rav Yechiel of Paris, also left Europe in 1260 on a journey to Israel.[[5]](#footnote-5) There is a tradition that Rav Yechiel was considering reestablishing *avodat ha-korbanot* (the sacrificial service).[[6]](#footnote-6)

There is much speculation about the motivations that fueled these leading rabbis to move to Israel. After mentioning the various suggestion and possibilities for their decisions, Professor Kanarfogel suggests that:

The emigration of 1211 was undertaken principally not as a result of political, economic or religious pressure, or as a manifestation of messianic fervor, but indeed as a manifestation of piety.[[7]](#footnote-7)

This claim suggests that religious practice, specifically practicing *mitzvot ha-teluyot ba-aretz,* those commandments which are binding only in the Land of Israel, was the main factor in their decisions to emigrate to Israel. However, this matter seems to have been in dispute amongst the Tosafists of the 13th century.

**Is *aliya* to Israel a mitzva at all times?**

The Gemara rules that spouses may force each other to move to Israel. In the case that the husband refuses, he then must divorce his wife and pay her the full amount of the *ketuba*.[[8]](#footnote-8)

The Tosafists points out:

This does not apply in our time, when the roads are dangerous.

They then mention the opinion of Rabbeinu Chayim:

Nowadays there is no *mitzva*to live in the Land of Israel, because there are various *mitzvot ha-teluyot ba-aretz*and various punishments, with respect to which we cannot take the proper precautions.[[9]](#footnote-9)

Professor Yisrael Ta-Shema published a *teshuva* he believed was written by a rabbi of *Chasidut Ashkenaz* (13th century). The rabbi was responding to a question concerning the preferred way to atone for one’s sin: should one make aliya or remain in the Diaspora learning Torah?

His response is that one who makes aliya is in fact increasing sinfulness. His understanding is that it is very difficult, if not impossible, to maintain a religious life in Israel.[[10]](#footnote-10)

It is very possible that the aliya of these three hundred prominent rabbis, as well as the aliya of the Maharam, was a direct challenge to these opinions.

Rav Yosef Trani (1538–1639, Greece), argues that the opinion mentioned by the Tosafists that nowadays there is no mitzva to live in Israel was transcribed by an errant student.[[11]](#footnote-11) He explains that the argument of Rabbeinu Chayim is based only on the problem of dangerous roads.[[12]](#footnote-12)

***Shem* and *Kedushat Eretz Yisrael***

However, I would like to challenge the approach that Rabbeinu Chayim does actually connect the difficulty of keeping those *mitzvot ha-teluyot ba-aretz* and the mitzva of living in Israel. We will do this by differentiating between two separate principles regarding the unique halakhic status of the Land of Israel.[[13]](#footnote-13)

There are certain religious matters that pertain only to the Land of Israel. Rav Yehuda Ha-Levi and others hold that prophecy can only be received in Israel.[[14]](#footnote-14) *Semikha* (rabbinical ordination) and *kiddush ha-chodesh* (sanctification of the new moon) are more examples. However, the Gemara teaches us that the sanctity (*kedusha*) of the Land of Israel which was created by the entry of the Jewish people in the days of Yehoshua was annulled with the destruction of the First Temple.[[15]](#footnote-15)

Accordingly, the *kedusha* was returned (according to some, only partially) with the building of the Second Temple.

Does this mean that during the times when there was no temple, the Land of Israel lost its uniqueness? In other words, during those years could prophecy, *semikha* and *kiddush ha-chodesh* be achieved outside Israel?

The answer to this question will be based on the understanding that there are *zvei* *dinim* (two distinct aspects) regarding the uniqueness of Israel. One may be called *shem Eretz Yisrael* and the other *kedushat Eretz Yisrael*.

The Land of Israel is special. It is special because it is the land in which God’s presence is felt more than any other place in the world. The Torah describes it as “a land the Lord, your God, looks after; the eyes of Lord your God are always upon it, from the beginning of the year to the end of the year”(*Devarim* 11:12).

We call this *shem Eretz Yisrael*. This unique status is created early on, perhaps with the creation of the world or at least at the time of the patriarchs.[[16]](#footnote-16)

*Shem Eretz Yisrael* remains forever. Nothing can change that. All religious matters mentioned above depend on *shem Eretz Yisrael*.

However, the *kedusha* of the land depends on Jewish presence and sovereignty over it, which varies from one era to another. Most *mitzvot ha-teluyot ba-aretz* are dependent on the *kedusha* of the land. *Shemitta* (the sabbatical year)*, terumot u-ma’asrot (*agricultural gifts and tithes*), chadash* (the prohibition of eating from the new crop before the second day of Pesach) and other *mitzvot ha-teluyot ba-aretz* only apply at times when there is a halakhic status of *kedusha*.

The mitzva to live in *Eretz Yisrael*[[17]](#footnote-17) depends solely on *shem Eretz Yisrael*. According to the above explanation, this mitzva applies at all times, regardless of the status of *Kedushat Eretz Yisrael.*

Thus, the claim of Rabbeinu Chayim that, because we cannot keep the unique *mitzvot ha-teluyot ba-aretz* nowadays, there is no mitzva to live in Israel is questionable.

**The Maharam’s *Teshuvot* about *Eretz Yisrael***

It is clear that the Maharam was aware of the spiritual hardships in Israel which the Tosafists encountered.

In response to a question about whether he (the Maharam) had heard the reasons for why some rabbis had ordered their sons to return from Israel, he explains that he has heard that due to the hardships of making a living, these rabbis’ sons could not study Torah. He also mentions the lack of Torah guidance, which makes the performance of *mitzvot ha-teluyot ba-aretz* difficult.[[18]](#footnote-18)

The Maharam set out on his journey to Israel recognizing the religious challenges facing him and yet, despite this, he made his way there!

Furthermore, the Maharam was asked if a child may make aliya to *Israel* against his parents’ wishes.[[19]](#footnote-19) This question sets up the mitzva of *kibbud av ve-eim* (honoring a parent) against the mitzva of living in Israel. He quotes the famous rule that if a parent tells a child to break a law of the Torah (or even a rabbinical mitzva), the child must not listen to the parent. Thus, he rules that the mitzva of living in Israel overrides the mitzva of honoring parents.[[20]](#footnote-20)

**Conclusions**

From all the above, we see that:

1. The Maharam’s teacher, Rav Yechiel, as well as many of the rabbis of the century, made aliya to Israel.
2. The Maharam was aware of the religious challenges awaiting him in Israel.
3. His ruling is that it is a mitzva to live in Israel.

We may conclude that the Maharam belongs to those rabbis of his generation who endorsed living in Israel despite all the religious and spiritual difficulties involved.

Professor Grossman concludes:

The (attempted) *aliya* of the Maharam should not be regarded as an insignificant incident in which a lonely man sought an adventure in his later life. This ought to be considered a very influential precedent. One of the greatest rabbis of Ashkenaz (in all generations!) gathered a massive, respected group of Jews with the intention to move to Yerushalayim and to establish there a Jewish community.[[21]](#footnote-21)

1. For a biography of the Maharam, see Ephraim Urbach, *Ba‘alei Ha-tosafot*, pp. 405-446. [↑](#footnote-ref-1)
2. Professor Avraham Grossman proves from various sources that Israel was the destination. See his article: “*Zikato shel Ha-Maharam Me-Rothenburg Le-Eretz Yisrael*,” *Cathedra for the History of Eretz Israel and Its Yishuv* 84 (1997), pp. 63–84. [↑](#footnote-ref-2)
3. Although the Ramban was forced to flee after his famous disputation, it is clear from his many writings that he believed in the mitzva at all times to live in Israel. [↑](#footnote-ref-3)
4. The number three hundred appears in *Shevet Yehuda*, a historical book from the 16th century. Ephraim Kanarfogel claims that “the three hundred could not possibly have all been French and English Tosafists.” See his article: “The 'Aliyah of ‘Three Hundred Rabbis’ in 1211: Tosafist Attitudes toward Settling in the Land of Israel,” Jewish Quarterly Review 76 (1986), No. 3, pp. 191-215. [↑](#footnote-ref-4)
5. Although many are of the opinion that he succeeded and even established a yeshiva in Akko, there are those who claim that he did not make it. See Simcha Emanuel, “*Rav Yechiel Mi-Paris: Toledotov Ve-zikato Le-eretz Yisrael*,” *Shalem* 8 (2009), p. 91. [↑](#footnote-ref-5)
6. See Rav Ashtori Ha-farchi, *Kaftor Va-ferach,* p. 46. [↑](#footnote-ref-6)
7. Ibid. p.196. [↑](#footnote-ref-7)
8. BT *Ketubot* 110a. [↑](#footnote-ref-8)
9. Ibid, s.v. *Hu.* [↑](#footnote-ref-9)
10. Yisrael Ta-Shema, *Inyanei Eretz Yisrael*, *Shalem* 1, p. 86. [↑](#footnote-ref-10)
11. *Teshuvot Maharit,* 2:28. [↑](#footnote-ref-11)
12. There are those who argue with him. A letter signed by Rav Ya’akov ben Ya’akov Moshe Lorberbaum of Lissa (1760-1832) argues profusely with this opinion. However, there are claims that this letter is a forgery. [↑](#footnote-ref-12)
13. This idea is mentioned by many Posekim, but I have found that the Soloveitchik family explains it the best. See Rav Kook in his introduction to *Shabbat Ha-aretz*; as well as Rav Yosef Dov Soloveitchik in *Mikhtevei Ha-Grid* p.264; and Rav Ahron Soloveichik, *Shem U-kdushat Eretz Yisrael*, *Beit Yitzchak* 13, appearing online at: <http://www.yutorah.org/sidebar/lecture.cfm/731852/rabbi-aaron-soloveichik/>. [↑](#footnote-ref-13)
14. *Sefer Ha-Kuzari*, 2:13-14 [↑](#footnote-ref-14)
15. JT *Shevi’it* 6:1; see Rambam, *Hilkhot Beit Ha-bechira* 6:16. [↑](#footnote-ref-15)
16. See *Kaftor Va-ferach*, Chapter 10. [↑](#footnote-ref-16)
17. According to the Ramban and many others who rule like him. [↑](#footnote-ref-17)
18. *Teshuvot Maharam*, 79. [↑](#footnote-ref-18)
19. *Teshuvot Maharam*, 2:28 [↑](#footnote-ref-19)
20. Not all Posekim agree with this *pesak*. For a lengthy discussion of this topic, see Rav Ovadya Yosef, *Yechaveh Da’at* 3:69. [↑](#footnote-ref-20)
21. See Grossman, p. 79. [↑](#footnote-ref-21)