YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

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**Shiur #**12**: 19 November 1977**

**“No more war, no more bloodshed”**

**Sadat’s Visit to Jerusalem and the Egypt-Israel Peace Treaty**

**Part I**

On 9 November 1977, Anwar Sadat, the president of Egypt, shocked the world by announcing his intention to go to Jerusalem and speak before the [Knesset](https://en.wikipedia.org/wiki/Knesset). He arrived 10 days later and was greeted officially by the Israeli government.

In his historic speech, he explained what brought him to this dramatic decision and claimed the following:

After long thinking, I was convinced that the obligation of responsibility before God, and before the people, make it incumbent on me that I should go to the farthest corner of the world, even to Jerusalem, to address Members of the Knesset, the representatives of the People of Israel, and acquaint them with all the facts surging in me. Then, I would leave you to decide for yourselves. Following this, may God Almighty determine our fate.

…Any life lost in war is a human life, irrespective of its being that of an Israeli or an Arab. A wife who becomes a widow is a human being entitled to a happy family life, whether she be an Arab or an Israeli. Innocent children who are deprived of the care and compassion of their parents are ours, be they living on Arab or Israeli land. They command our top responsibility to afford them a comfortable life today and tomorrow.

For the sake of them all, for the safeguard of the lives of all our sons and brothers, for affording our communities the opportunity to work for the progress and happiness of man and his right to a dignified life, for our responsibilities before the generations to come, for a smile on the face of every child born on our land — for all that, I have taken my decision to come to you, despite all hazards, to deliver my address.[[1]](#footnote-1)

Prime Minister Menachem Begin responded similarly, reminding all that the people of Israel had always extended out their hand in peace; rather, it was the Arab nations who rejected our plea for peace. Mr. Begin agreed that the main purpose of the visit was to end the state of war between both countries. In his speech, he emphasized that his intentions were sincere:

As free men, Mr. President, let us conduct negotiations for a peace treaty and, with the help of God, so we believe with all our hearts, the day will come when we will sign it, with mutual respect. Then will we know that the era of wars has ended, that we have extended a hand to one another, that we have shaken each other's hand, and that the future will be glorious for all the Peoples of the region. Of prime significance, therefore, in the context of a peace treaty is a termination of the state of war.[[2]](#footnote-2)

However, unlike Begin, Sadat made it very clear that his people demanded a high price for any type of normalization between the countries. In his speech, he argued for a complete withdrawal from what he called “Arab-occupied territories.” His conditions are stated in a blunt fashion:

Any talk about permanent peace based on justice, and any move to ensure our coexistence in peace and security in this part of the world, would become meaningless, while you occupy Arab territories by force of arms. For there is no peace that could be in consonance with, or be built on, the occupation of the land of others. Otherwise, it would not be a serious peace.

Following the visit, both countries entered peace negotiations, brokered by the United States. Ultimately, the Egypt-Israel Peace Treaty was signed at the White House on 26 March 1979. The agreement was presented before the Knesset and, with a large majority of 95-18, was accepted. The details of the deal included a full Israeli withdrawal from the Sinai Peninsula. By the date of the signing there were over fifteen settlements in the peninsula, including the town of Yamit.

Although many Israelis supported the government’s decision, there were others who felt that the price was too high and that by giving into Sadat’s demands, Israel was creating a dangerous precedent.

As the time of evacuation came closer, the movement against the withdrawal became more passionate and more dramatic. On 19 April 1982, when the IDF began to evacuate the city of Yamit, some of the residents, together with outside supporters, struggled with the soldiers. The evacuation ended with the residents and the protesters leaving the city while tearing their clothes and declaring their undivided loyalty to the city.

The outcome of these events left trauma and created a deep rift between different political movements within Israeli society.

Similar dilemmas and questions were brought up in the religious world. While Rav Yosef Dov Soloveitchik[[3]](#footnote-3) and Sephardic Chief Rabbi Ovadya Yosef argued in favor of the agreement, granting the government full legitimacy to “trade land for peace,” Ashkenazic Chief Rabbi Shelomo Goren and Rav Shaul Yisraeli were opposed.

Rav Tzvi Yehuda Kook was the most influential rabbinical figure of the opposing camp. On many occasions, he spoke harshly against any notion of “land for peace,” both from a halakhic perspective and from a moral one:

We have absolutely no right to relinquish control over any piece of *Eretz Yisrael.* We cannot do this, because we are not the only owners of the Land. We are the emissaries of millions of Jews, not only the Jews of today, but the Jews who will come after us as well. A short while ago, an important Zionist activist told me that an old Russian woman approached him in Vienna and told him, “Hold onto all parts of *Eretz Yisrael* for us. Don't relinquish a meter. Soon we will be coming.” There isn't any man who is permitted to make territorial concessions on this Land. Are these kilometers ours? Is someone the owner of them? These kilometers belong to the millions of Jews in Russia and America and throughout the world, no less than they belong to us. We are here as the representatives of the nation of Israel; we are not its owners without them. How can a person not feel ashamed by the thought of making do with a truncated state? No one has the right to relinquish lands which belong to the millions of Jews of all generations.[[4]](#footnote-4)

**Precedents**

There are a few historical biblical precedents for handing over Israeli territory for the sake of the interests of the Jewish people.

King Chiram of Tyre had supplied Shelomo with all the cedar and cypress timber and gold that he required [for building the Temple], King Shelomo, in turn, gave Chiram twenty towns in the region of Galilee.[[5]](#footnote-5)

Some argue that If Shelomo was permitted to give away towns in the Galilee as a token of friendship for services rendered, we too are permitted to give away sections of *Eretz Yisrael* for the sake of peace.

Rav Shelomo Goren mentions other precedents that disturb him ideologically, as these sources seem to indicate the legitimacy to negotiate land for national interests.[[6]](#footnote-6) He quotes the *midrash*[[7]](#footnote-7) about Avraham’s agreement with the Jebusitesregarding the purchase of the [Cave of the Patriarchs.](https://www.chabad.org/library/article_cdo/aid/588225/jewish/Cave-of-the-Patriarchs-Mearat-Hamachpelah.htm) In this agreement, the *midrash* understands that Avraham “gave up” the right to conquer Jerusalem.

At the time of the destruction of the Temple, the Gemara teaches us that Rabban Yochanan ben Zakkai escaped the besieged city of Jerusalem.[[8]](#footnote-8) He negotiated with the Romans total surrender in return for saving the city of Yavneh with its *chakhamim*, thus insuring the future of Jewish people.

Rabbi J. David Bleich argues that this story serves as a powerful source proving that under certain circumstances, difficult and painful decisions can be made to preserve the life of the people at the expense of keeping a hold on the land:

It is unthinkable to suppose that R. Yoḥanan ben Zakkai acted contrary to Halakha. The policies he advocated were clearly stamped with the imprimatur of Jewish values and tradition. It is only the analysis of the considerations upon which those policies were grounded that remains for our elucidation.

R. Yoḥanan ben Zakkai was undoubtedly motivated by a desire to preserve Jewish lives. Continued resistance and warfare would assuredly have evoked repressive measures and resultant loss of additional lives. Accordingly, he must have regarded any continuing obligation with regard to preservation of a Jewish homeland as suspended in face of danger. This can be explained on the basis of a number of considerations and, although the considerations are multiple in nature, they are not exclusive of one another:[[9]](#footnote-9)

Rav Hershel Schachter argues that this source has no relevance in our times:

Surface examination of the two situations, however, reveals that they bear no basis for comparison. Whereas the Jews' revolt against the Romans was obviously doomed to failure, the war of the Israeli army today against the Arab insurgency is being conducted with moderate success. The Sanhedrin under Rabbi Yochanan ben Zakkai acted correctly by surrendering, for there is no mitzva to "stick out" a losing battle. This is quite dissimilar to the present situation in Israel; thus it may be argued that it is incumbent upon them to continue to fight to the victorious finish, despite the possible tragic losses that may occur.[[10]](#footnote-10)

**Prohibition to Sell Land to non-Jews**

Those who oppose “land for peace” argue that the prohibition is biblical, based on *"Ve-lo techanem,”*[[11]](#footnote-11) which can be translated, “Do not give them a foothold in the Land.” This forbids us from giving land in *Eretz Yisrael* to non-Jews.[[12]](#footnote-12)

This law is mentioned by the Mishna[[13]](#footnote-13) as a reason to prohibit selling houses in Israel to non-Jews.

Although most Poskim understand that this *issur* is biblical, some argue that it is of a rabbinical nature.[[14]](#footnote-14)

There is a dispute amongst the rabbis whether this prohibition is limited to the seven Canaanite nations or it applies to all non-Jews. Although the context of this *issur* seems to be referring to the seven nations, Tosafot explain that this is not the case, and the *issur* applies to all idol-worshippers.[[15]](#footnote-15) Many Poskim understand that the *issur* is not limited to idol-worshippers and applies to all non-Jews.

Rav Kook was attacked for his support of the *heter mekhira* (“selling” the land of Israel to avoid the laws of *shemitta*, the sabbatical year). He was accused of transgressing the *issur* of selling land to non-Jews. In his responsum[[16]](#footnote-16) explaining his leniency, he mentions that Rav Yoel Sirkis (*Bayit Chadash*) limits the *issur* to idol-worshippers. Accordingly, as Islam is not halakhically considered idolatry, it is permitted to sell the land to Muslim Arabs.[[17]](#footnote-17)

In fact, Rav Aharon Lichtenstein quotes the *heter* of “selling” land to Arabs in *shemitta* as reason to permit this *issur* in our case. In a response to Chief Rabbi Avraham Shapira, who opposes “land for peace,” Rav Lichtenstein writes:

You open with the assertion that the evacuation is forbidden by Torah law because of the prohibition of *lo tehonnem* [Deut. 7:2]? However, it is a matter of public knowledge that you permit the sale of land in the Land of Israel in order to cope with the problems of the Sabbatical year, and even encourage people to rely on this device. The problem of “*lo tehonnem*” also arises in connection with this sale, and as is well known, leading halakhic authorities have discussed the issue since the days of Rav Kook, ztz”l. Among the arguments for leniency, it has been proposed that the prohibition only applies to the seven Canaanite nations, or, at the very least, that it is limited to idolaters, a category that does not include Muslims.[[18]](#footnote-18)

**The Mitzva to Fight for the Land of Israel**

The second main halakhic source has to do with the understanding of the mitzva of *yishuv Eretz Yisrael*. The Ramban understands that there is a positive mitzva to live in the Land of Israel and that this mitzva applies at all times, even when the Temple does not stand. In his commentary to the Rambam’s *Sefer Ha-mitzvot*, he comments that included in this mitzva is the obligation to fight a war to conquer the Land:

This is what the Sages call obligatory war. And thus they said in the Gemara in *Sota* (44b): "Rava said: Yehoshua's war of conquest, all agree is obligatory; David's war for [greater] comfort, all agree is optional." And the formulation of the *Sifrei* is: "'And you shall possess it and dwell therein' (*Devarim* 26:1) — by virtue of your possessing it, you shall dwell therein”…

And from the fact that they said "Yehoshua's war of conquest," you understand that this mitzva is fulfilled through conquest…[[19]](#footnote-19)

The Rambam does not mention this mitzva in his list, leading some authorities to believe that according to him there is no positive mitzva today to dwell in *Eretz Yisrael*. However, many argue that the Rambam holds that it is a mitzva to live in Israel, but due to “technical” reasons, he does not mention it in *Sefer Ha-mitzvot.*[[20]](#footnote-20)

Let us go back to the words of the Ramban. How far must one go to fulfill this mitzva? When one is faced with a situation of *pikuach nefesh*, can one endanger lives for this mitzva?

*Sefer Ha-chinnukh*[[21]](#footnote-21) explains that if someone has the opportunity to kill a member of the seven nations without endangering himself and fails to do so, he violates the mitzva of destroying the seven nations.

In his *Minchat Chinnukh*, Rav Yosef Babad disagrees with this remark. He points out, that since in the normal course of the world, people are killed in battle, we see that the Torah commands us to fight the seven nations, even if by doing so we endanger our lives. This idea becomes the fundamental principle of the argument that the laws of war overcome *pikuach nefesh*.

Rav Chaim Jachter, of Teaneck, summarizes:

The argument for prohibiting exchange of land for peace is based on a combination of the Ramban and Minchat Chinuch.  The argument is that since the Torah obligates us to conquer Eretz Yisrael this Mitzva by its very nature obligates us to risk our lives in order to fulfill it, we cannot surrender portions of Eretz Yisrael even if we are certain that it will save lives.[[22]](#footnote-22)

As mentioned before, Rav Ovadya Yosef’s opinion is that if an agreement would guarantee genuine peace between the Arab world and *Am Yisrael*, and if it would be supported by military experts, it would be permitted to hand over parts of Israel. The ultimate factor is that *pikuach nefesh* overcomes the value of holding on to *Eretz Yisrael*. He uses a famous story to emphasize this point:

People said to Rav Chaim Soloveitchik, during a conversation, that if this war (the First World War) would bring the redemption, perhaps it was worthwhile. Rav Chaim rebuked them and said, "It is better that many redemptions should be delayed from the Jewish people than that one Jewish life should be lost. And so, if the question were to come before us, that by sacrificing one Jew the Messiah would come, of course we would rule that it is better for the Messiah not to come, and a Jew should not die. Does not *pikuach nefesh* override every mitzva in the Torah, including the Messiah and the redemption”?[[23]](#footnote-23)

**Nature of Our Question**

Those who oppose “land for peace” based on these halakhic arguments understand that the question here is similar to classic halakhic questions mentioned in the *Shulchan Arukh.* Therefore, they relate to the problem as they would to any case in which a religious law stands in opposition to a specific action. Based on this logic, Chief Rabbi Avraham Shapira’s *pesak* can be understood:

Every order that is contrary to Jewish law and compels one to violate the words of the Torah holds no validity, is forbidden to fulfill and no person has the authority to deliver it. About such instances Rambam wrote, “It goes without saying that if an order of the king nullifies a commandment, then it is not listened to” (*Hilkhot Melakhim* 3:9). Anyone who violates this prohibition will not be exonerated, not in this world and not in the world to come.[[24]](#footnote-24)

However there are other opinions which hold that our case in not a typical halakhic one. Chief Rabbi of Tel Aviv, Rav Chayim David Ha-Levi, argues that our topic cannot be measured with classic halakhic parameters and is considered one of those metahalakhic questions that must be decided based on alternative parameters by the leaders and government of the time.

…this is the power of Halakha, that it does not intervene in the details of the laws governing the state, and all it teaches are fundamental principles. In my humble opinion, it seems as exceedingly obvious that the guiding principle in all this is guaranteeing the security of the nation in every context of negotiations on the basis of a very broad understanding of the Torah's mitzva, "That you shall live by them." Therefore, the discussion regarding the return or retention of the territories must be based on a clear and simple principle — what is the best way to guarantee the security of the state, which is the preservation of the nation. This is a *halakha* that is not written, and it certainly does not stem from the law of *piku'ach nefesh*, but rather from simple logic.

We are left then with one clear and simple assumption: the decisive factor in this case is the preservation and security of the nation. Therefore any government of Israel that will come to the conclusion that the surrender of territories will prevent wars and bloodshed, and in its wake will bring true peace, is permitted, and even obligated to do so. By contrast, a withdrawal that is liable to cause any kind of security risk is absolutely forbidden.[[25]](#footnote-25)

**A Question of Values**

Finally, we will end the discussion with Rav Amital’s argument that it is the government’s right to make painful agreements with Arab nations due to the system in which the value of the land of Israel comes into conflict with the value of the people of Israel:

There is a hierarchy of values in Judaism, and anyone who fails to differentiate “*bein kodesh le-kodesh*” (between one level of holiness and another) will end up unable to differentiate “*bein kodesh le-chol*” (between the holy and the profane), as we say in the *Havdala* prayer. The proper order is: the nation, the Torah, the land… The interests of *Am Yisrael* certainly take precedence over the interests of *Eretz Yisrael. [[26]](#footnote-26)*

Next week, we will continue with additional questions raised at the time of the peace agreement.

1. The entire speech can be found at: https://www.knesset.gov.il/description/eng/doc/Speech\_sadat\_1977\_eng.htm [↑](#footnote-ref-1)
2. Begin’s speech can be found at: https://www.jewishvirtuallibrary.org/prime-minister-begin-speech-to-knesset-following-historic-speech-by-anwar-sadat-novemer-1977. [↑](#footnote-ref-2)
3. In a letter to Chief Rabbi Avraham Shapira, Rav Lichtenstein cites the opinion of his father-in-law, the Rav. “Rabbi Yosef Dov Soloveitchik, ztz"l, resolutely asserted that there is no prohibition to hand over portions of the Land of Israel to the nations of the world when there are considerations of saving lives, and even said that when we come to define these considerations, we must take into account the views of military and political leaders.” [↑](#footnote-ref-3)
4. Rav Kook’s opinions on this topic can be found in numerous places. This section is taken from a paragraph in a collection of his thoughts called *Li-ntivot Yisrael.* Similar quotes are to be found in *Sichot Ha-Rav Tzvi Yehuda: Eretz Yisrael,* edited by Rav Aviner, pp. 54, 138; and in the posters (*pashkevillim*) published in the back of his book. [↑](#footnote-ref-4)
5. *I Melakhim* 9:11. [↑](#footnote-ref-5)
6. *Torat Ha-medina*, p. 91. [↑](#footnote-ref-6)
7. *Pirkei De-Rabbi Eliezer*, Chapter 36. [↑](#footnote-ref-7)
8. BT *Gittin* 56a. [↑](#footnote-ref-8)
9. Rabbi J. David Bleich, *The Journal of Halacha and Contemporary Society*, Vol. 16, p. 62. [↑](#footnote-ref-9)
10. Rabbi Hershel Schachter, *The Journal of Halacha and Contemporary Society,* Vol. 16, p. 77. [↑](#footnote-ref-10)
11. *Devarim* 7:2. [↑](#footnote-ref-11)
12. For a lengthy halakhic discussion on this prohibition see Rav Yaakov Warhaftig, *Techumin* 2, pp.193-212. [↑](#footnote-ref-12)
13. *Avoda Zara* 1:8. [↑](#footnote-ref-13)
14. See Rav Perla in his commentary on the *Sefer Ha-mitzvot* of Rav Saadia Gaon, Negative 13. [↑](#footnote-ref-14)
15. Tosafot, *Avoda Zara* 20a, s.v*. “De-amar*.” [↑](#footnote-ref-15)
16. *Mishpat Kohen* 63. [↑](#footnote-ref-16)
17. Professor Daniel Sperber proves that this opinion is based on an incorrect, censored text. See *Netivot Pesika,* pp. 63-70. [↑](#footnote-ref-17)
18. “A Rabbinic Exchange on the Gaza Disengagement,” Aharon Lichtenstein & Avraham Shapira, *Tradition* 40:1. [↑](#footnote-ref-18)
19. Ramban, *Commandments Omitted by the Rambam*, Positive 4. [↑](#footnote-ref-19)
20. See Rav Shelomo Goren, *Torat Ha-medina*, pp. 212-214. [↑](#footnote-ref-20)
21. Mitzva 425. [↑](#footnote-ref-21)
22. *Gray Matter*, p. 142. [↑](#footnote-ref-22)
23. Rav Ovadya Yosef, *Techumin* 10, p.47. [↑](#footnote-ref-23)
24. As quoted in “A Rabbinic Exchange on the Gaza Disengagement,” Aharon Lichtenstein & Avraham Shapira, *Tradition* 40:1. [↑](#footnote-ref-24)
25. *Torah She-be’al Peh* 21, pp. 39-51. [↑](#footnote-ref-25)
26. Rav Amital, “A Political Message or an Educational Message,” *Alon Shevut* 100 (5743), p. 42. [↑](#footnote-ref-26)