Land for Peace: A Halachic Perspective

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Introduction

Due to our *Galut* situation, we are often only able to study various halachic concepts on a theoretical plane. Interestingly, due to current circumstances, the subject of *milchama*—war, formerly one such topic, must now be examined in practical terms.

The Gemara in *Yoma* 22b relates that "שאול באחת ועלתה לו, דוד בשתים ולא עלתה לו".

King Saul made one mistake for which he lost his kingdom, whereas David erred on more than one occasion yet still retained his monarchy. The commentaries clarify this passage, explaining that it is not that G-d favored David and therefore pardoned his errors where he did not tolerate Saul's, but that whereas David's transgressions were of a personal, private nature, Saul's was in the realm of government. Having failed to fulfill properly one of his major functions as king, namely that of waging war, he was deemed unworthy of remaining King of Israel. The Torah dictates that one employ a proper measure of each character trait as required by individual situations; Saul is faulted as having misplaced his mercy by applying it while waging war against Amalek. Instead, we are instructed to emulate King David who was humble when studying Torah yet, simultaneously, a ruthless warrior when the need arose.[1]

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1. See *Moed Katan* 166.

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Historical Precedent of Returning Land

The Gemara in *Pesachim* 56a reads:

> ת"ר: ששה דברים עשה חזקיה המלך. על שלשה הודו לו ועל שלשה לא הודו לו... קיצץ דלתות של היכל, ושיגרן למלך אשור ולא הודו לו... רש"י: שהיה לו לבטוח בהקב"ה שאמר (מלכים ב, ט:ל"ד): וגנותי על העיר הזאת להושיעה.

This passage lists various activities undertaken by King Hezekiah on his own initiative, some of which are deemed praiseworthy, whereas for others he is criticized. Included in this latter category is his attempt to pacify Sanherib by removing golden fixtures from the Temple and sending them to the Assyrian king. Rashi clarifies his point of error by commenting that Hezekiah should have placed his trust in G-d who had promised to protect the city (Jerusalem) and deliver it from the threat of the enemy. From this it is evident that Hezekiah's action was deemed unproper only in light of the prophet's assurance that the city would benefit from G-d's special protection. Had he not received such assurance, even this action of partly dismantling the Temple would have been justified in face of the impending situation of *sakanat nefashot*, (mortal danger), the *issurim* involved not being among those for which one is mandated to give up his life (*yehareg v'al ya'avor*). Similarly, in the current political situation in Eretz Yisrael it is argued that since the Jews there are in mortal danger, and being that we do not have a clear promise of divine protection from a prophet, it is proper to forfeit control of Judea and Samaria and even Jerusalem to the Arabs. Although such an act would be in violation of the injunction of "*Lo techanem*,"[2] (not to give Gentiles a permanent settlement in the Land) it is permissible in the interest of avoiding a situation of *sakanat nefashot*.

Sakanat Nefashot in Wartime

In his commentary on Mitzvah 425 which commands us to

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2. See *Avodah Zara* 202.

destroy the seven Canaanite nations, the *Minchat Chinuch* limits the above precept by stating that the imperative to avoid *pikuach nefesh* (danger to life) does not apply in wartime for, in a battle situation losses are invariably suffered and thus we would never be permitted to wage war![3] Applying this detail to the situation in Eretz Yisrael, it must be ascertained whether the State of Israel, in the eyes of the halacha, is currently considered in a state of war or at peace.

In response to this it would appear that although the State of Israel is not presently engaged in battle with any of her neighboring enemies, it is nonetheless halachically categorized as in a state of war. This conclusion served as the basis for a *psak* of Rav Yaakov Kaminetsky in response to a halachic inquiry that was made during the 1970 Arab hijacking of two airplanes from Lod to Jordan. At the time, the terrorists threatened to kill all passengers on board. When it became known that Rav Hutner, Rosh Yeshiva of Yeshiva Rabbi Chaim Berlin, was one of those being held, there was talk among his students of offering his captors a large ransom in exchange for his release. Although generally in a case of *pidyon sh'vuyim* (rescue of captives) the Jewish community is forbidden to ransom a captive for an exorbitant sum, the ruling in the case of a great scholar is that he should be ransomed even for a sum that exceeds his "worth."[4] Thus many Rabbis were of the opinion that every effort should be made to secure Rav Hunter's release. Rav Yaakov Kaminetsky dissented, however, arguing that the mitzvah of *pidyon sh'vuyim* only applies in peacetime, but surely not during hostilities, when the delivery of ransom money to the enemy would strengthen their position! He continued to explain that although a cease-fire existed at the time, the 1948 War of

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3. In concurrence with the *Minchat Chinuch* are the Netziv in his comments to *Kiddushin* 45; *Chidushei HaGriz* on the *pasuk: "Zevulun am cheref nafsho lamut"; Nachlat Yitzchak* (Semiatycky) Chapter 69; *Dvar Yehoshua* (Ehrenberg) Volume II, Chapter 48 and additional comments in the table of contents; *Mikdash Mordechai* (Ilan) pages 228-229, among others.
4. שו"ע יורה דעה סי' רנ"ב ס"ד.

Independence had never really ended, for the Arabs' avowed goal to destroy the State of Israel and drive the Jewws into the sea had never been renounced. In his view, although Israel was not then engaged in active battle, in the eyes of the halacha it was considered to be experiencing a mere lull in the ongoing original 1948 War of Independence.

Likewise today, since Israel's enemies (with the exclusion of Egypt) have thus far refused to sign peace treaties with her, and since their avowed aim continues to be the destruction of the State, Israel must be considered to be in a state of war. In light of this, it is argued that the Israeli army's reaction to current border incidents, terrorist attacks, and Arab riots should be conducted as it would in wartime; Israeli soldiers should shoot to kill when necessary and, as in times of war, may even punish or kill innocent Arabs when the situation calls for such action.[5] Furthermore, if we follow the reasoning of the *Minchat Chinuch* (and others who concur with his opinion) Israeli policymakers are not halachically required to be concerned with the danger the current situation poses to individual Israelis. Realizing that in a war people will get killed, the policymakers have to determine whether war may nevertheless be essential in preserving the viability and ultimate security of the state.

Milchemet Mitzvah and Milchemet Reshut

With regard to the waging of war, the halacha defines the categories of *milchemet mitzvah* versus *milchemet reshut*. *Milchemet mitzvah* is a war required by the Torah, while *milchemet*

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5. The Maharal of Prague, in his commentary *Gur Aryh* to *Parashat Vayishlach* writes, "...Although the Torah reads, 'When you approach a city to wage war against it, you shall greet them peacefully' (first atempt to reach a peaceful agreement), this speaks of a city that did not harm us. But as regards those who attack the Jews, as Amalek did, even if only one of their members was responsible for this act, revenge may be exacted from the entire nation because he is one of them. Likewise, regarding any war such as that waged against the nation of Midian, all of whom were attacked, despite the fact that not all were guilty of wrongdoing; and this is the nature of all wars."

reshut is in the nature of a permissible military venture, which requires the prior authorization of the Great *Bet Din* (Sanhedrin).[6] Considering the fact that other nations have no High Court with the equivalent moral and spiritual authority of the Sanhedrin, it is understood that they are only justified in waging wars that are parallel in nature to what would be considered *milchemet mitzvah* for the Jewish nation.[7] It appears that *milchemet mitzvah* refers not only to wars of self-defense, but also to wars in defense of one's country.

The instinctive readiness of all people to defend their countries being a universal phenomenon, it can be deduced that such a war would be categorized as *milchemet mitzvah;* (otherwise, according to the responsa of the *Chatam Sofer* (see note seven, above), such a war would be forbidden even to the nations of the world). Having established this premise, we may conclude that Israel, too, may defend its terrority, notwithstanding the possibility that lives will be lost in the process.

The Winning Battle vs. the Losing One

There are those who contest the above conclusion, echoing the charge of Rabbi Yochanan ben Zakkai to his nephew Abba Sikara, leader of the militant Zealots of Jerusalem (*Gittin* 56a): "Until when will you continue to do this [Rashi: refuse to make peace with the Romans] and cause the nation to die of hunger?" Rabbi Yochanan demanded that they relinquish control of Eretz Yisrael in order to spare the Jewish nation further anguish. Eventually, Rabbi Yochanan ben Zakkai escaped from the besieged city of Jerusalem to negotiate a truce with Vespatian, conceding to the Roman general sovereignty over all of Eretz Yisrael, the Temple Mount included. Relying on this precedent, there are those who argue that land should be ceded to the Arabs if that will save lives.

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6. Mishna *Sanhedrin* 22; see also *Sotah* 44b where the Talmud defines the categories of *milchemet mitzvah and* milchemet reshut.
7. The *Chatam Sofer* (תשובות חלק יו"ד סי' י) makes this point in explaining the Talmudic passage *(Sanhedrin* 59a): "עכו"ם לאו בני כיבוש נינהו".

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 mitzvah to "stick out" a losing battle.[8] This is quite dissimilar to the present situation in Israel; thus it may be argued that it is incumbent upon them to contunue to fight to the victorious finish, despite the possible tragic losses that may occur.

We have to examine very carefully the premise that Israel can ultimately succeed in its military struggle with the Arabs. Perhaps, despite the fact that the Israel Army is succeeding in retaining the territories it has held since 1967 and enforcing tenuous order there, the toll that the current situation is exacting from the nation's morale and from its standard of living might warrant our redefining Israel's current status as "winning the battle, but losing the war." If in truth Israel is in a losing position, then perhaps a land-for-peace negotiation (assuming that Israel were assured that it would thereby achieve a real, lasting peace) would be in order. Indeed, Israel's current situation must be evaluated to determine whether it is presently engaged in a winning battle or, G-d forbid, a losing one, or perhaps a stalemate. Resolution of this question will determine whether Israel is halachically mandated to fight or alternately required to withdraw from the struggle.

Israel Today: Winner or Loser?

But who is authorized to make this crucial decision? To shed light on this question, let us return to the point that *sakanat nefashot* must be disregarded when waging war: is it merely in the interest of maintaining our national pride that we are prepared to sacrifice the lives of Jewish soldiers? Or is the mitzvah of waging war one for which a Jew is required to forfeit his life?

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8. See Rav Moshe Neriyah's essay "On the Permissibility of Waging War on the Sabbath" in Mossad Harav Kook's *Torah Sheba'al Peh*, תשכ"ז.

In answer to this it would appear that at the heart of our preparedness to fight for Eretz Yisrael is the fact that Israel's role today is as the national home and of the Jewish people. Since a nation's land is vital to its existence as a nation-state, to the point that in various limited contexts only those Jews residing in Eretz Yisrael are considered full members of *Klal Yisrael*,[9] conquest by a foreign power is considered a lethal blow to the essence of the

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9. The Torah rules that one who unintentionally does a violation which, if done intentionally, would have warranted the punishment of *karet*, must bring a *korban chatat*. If the majority of the Jewish nation sins in this manner due to an erroneous *psak* issued by the *Beit Din Hagadol*, rather than requiring of each individual to bring a *korban chatat*, the Torah requires that the Sanhedrin offer a sacrifice known as *par ha'alem davar shel tzibbur*.

The Talmud in *Horayot* 3A states that when calculating whether the majority of the Jewish nation has sinned, only those living in Eretz Yisrael are to be considered. This notion is derived from *Melachim* (I:8:65), which states that when King Solomon celebrated the completion of the building of the first Temple, all of the Jewish nation from the northernmost to southernmost points of Eretz Yisrael was in attendance, *"Kahal gadol milevo chamat ad nachal mitzrayim."*

The Rambam in his commentary to the Mishna *(Bechorot* 29) cites this halacha in explaining why *smicha* can only be conferred in Eretz Yisrael: Conferring ordination is not a private affair between Rebbe and talmid but is considered an act taken by all of the Jewish community, the Rebbe conferring the *smicha* acting on behalf of all of *klal Yisrael*. Since the Jews who live in *chutz la'aretz* cannot really constitute *klal Yisrael*, *smicha* cannot be conferred there, as it cannot be viewed as on behalf of the *tzibbur*.

In his supplement to mitzvah 284, the *Minchat Chinuch* interprets three additional Talmudic passages based on this principle:

A) The Gemara in *Megilla* 11b cites that one reason that *hallel* is not recited on Purim is because *hallel* can only be recited on a miracle that occurred in Eretz Yisrael. The *Minchat Chinuch* understands this as ruling that the obligation to recite *hallel* in commemoration of a miracle only applies if it is a *"nes hatzibbur"* (miracle of the community). Although the majority of the Jewish population at the time lived outside the Land, since only Jews in Eretz Yisrael can constitute *klal Yisrael*, this miracle was considered a *"nes yechidim"* (miracle of individuals).

B) The Gemara in *Ta'anit* 14b states that if private individuals are in need of rain in the summertime, a prayer requesting this may be inserted in *shema kolenu*. Only if the entire *tzibbur* is in need of rain is *veten tal* said in *barech aleinu*. In *Chutz la'aretz*, however, even if the entire community of Nineveh is in

conquered nation. Therefore, just as a doctor would amputate a patient's limb in order to save life,[10] when the "life" of an entire nation is endangered, it is permissible to sacrifice the lives of the few for the purpose of sparing the nation at large.

Thus the question at hand seems comparable to that of a sick individual who must decide the course of action his doctors should undertake. The *poskim* discuss the case of a patient who is fatally ill but who could receive treatment that would prolong his life although cause painful side-effects. In such a situation, since there is no clear consensus whether going ahead with such treatment is desirable, the decision is left to the sick individual.[11] Likewise, in the case of a nation in mortal danger, faced with a solution of dubious value, the decision on the course of action to be taken should be in the hands of the majority of those affected.

In earlier times the Sanhedrin or even a single accepted leader[12] could render such decision on behalf of the entire *tzibbur*

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need of rain in summertime, all are treated as individuals.

C) The Gemara in *Ta'anit* 11b states that although in Eretz Yisrael the Rabbis were empowered to institute a *ta'anit tzibbur* during times of difficulty, there is no *taanit tzibbur* in Babylon. Various explanations have been suggested for this passage; the *Minchat Chinuch* claims that because the Jewish population outside of Eretz Yisrael is to be treated as *yechidim*, the problem of individuals *(yechidim)* cannot warrant a *ta'anit tzibbur*.

The Talmud in *Sanhedrin* 43b cites that the principle of *kol Yisrael areivim zeh bezeh* only applied after the Jewish people crossed the Jordan River. It would appear that the reason for this is that *areivut* is dependent upon our status of nationhood, a status only attained with our possession of a national homeland. Thus, before entering Eretz Yisrael, *Bnei Yisrael* had not yet fully attained a status of nationhood. Today, however, even Jews outside of Eretz Yisrael are still bound by this principle of *areivut* because they identify with Eretz Yisrael, considering it their homeland. However, based on the above passages, it becomes apparent that their level of membership of *klal Yisrael* is of a weaker nature and therefore, with respect to an issue that must be determined by the majority of the nation of Israel, only those residing in Eretz Yisrael must be considered.

10. See Rambam, second *perek* of *Hilchot Mamrim*, fourth halacha.
11. See essay *"Elav hu noseh et nafsho," Beit Yitzchak* 1986, page 104.
12. The Gemara in *Brachot* 63a cites that Rabbi Akiva assumed the authority to intercalate the months from Babylon, because he was the greatest Torah leader of his generation.

(community), as the halacha regards them as representative of the majority opinion of *Klal Yisrael.*[13] However, inasmuch as there exists neither a Sanhedrin, nor any one person or group of persons widely accepted as leaders by the Jewish nation, it seems that the only course available is to assess the majority opinion of the Jews afflicted by this "malady."

It should be noted that this decision is not a matter of *psak halacha*. Therefore, just as only the individual patient — and not his rabbis — may decide which form of treatment to undergo, in this case, too, the opinion of rabbinic leaders should carry no more weight than that of anyone else. Yet, if military experts insist that it is impossible for Israel to maintain permanent control over Judea and Samaria, then even if the opinion of the entire Israeli population were unanimously otherwise, their demand would not be heeded.

Again we draw on the medical analogy — if all medical experts agree that they are unable to prolong the life of a particular patient, even if the patient insists that he receive a specific form of treatment, his request would be ignored.[14] Only in a situation in which the doctors themselves admit that there are valid considerations favoring either possibility is the decision left to the patient. Therefore, in this case in which military experts claim that it is possible to maintain control of Judea and Samaria but at the cost of regular losses in lives, it is for the public to decide whether the war is worth fighting.

In tallying the majority opinion of *Klal Yisrael*, it must also be stipulated that not everyone who is Jewish is considered a member of *Klal Yisrael* for this purpose. Among the criteria for "qualified membership" is that the individual be a *ma'amin* (believer), that he circumcise his sons, that he be married to a Jewess, that he believe

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13. See Rav Josef Dov Soloveichik's *Kovetz Chiddushei Torah*, pp. 51-52, p.55.
14. Rav Soleveichik always emphasized that in every situation, the experts in that field be consulted as, for example, a competent doctor must be consulted in order to determine whether a person should eat on Yom Kippur or if one may eat forbidden foods for health reasons.

that Eretz Yisrael is the Jewish homeland, *and that he live there.* Only such people may have input into the decision as to whether we are currently engaged in a winning situation or a losing one.[15] In addition, the process of seeking the majority consensus is to be undertaken for the sole purpose of appraising the situation with regard to the danger which people involved feel that it poses to them. Thus, one who feels that Israel is in a winning position may not allow his opinion to be colored by humanitarian or other considerations. Indeed, if it were ascertained that Israel maintains the upper hand in its current engagement, then not only is it mandatory that we continue to fight, but it would actually be *forbidden* to stop or impede the war, as will be explained.

Atchalta D'Geula; A Halachic Concept

The term *Atchalta d'Geula* (onset of the Redemption) originates in a passage in *Megilla* (17b) which states that wars signify the *atchalta d'geula.* In halachic literature, the era of *atchalta d'geula* has two ramifications:

a) According to the *Megillat Starim,* the commentary of the *Netivot* to *Megillat Esther* (9:19), it is permissible to establish a holiday in celebration of a manifestation that this era has arrived.

b) In a responsum, the *Minchat Elazar* rules that according to *Chatam Sofer's Sefer Hazikaron,* one may not pray that the wars heralding the *atchalta d'geula* end, for by doing so he would be "prolonging the *galut* and preventing the coming of the redemption."[16]

Before determining what constitutes *atchalta d'geula,* the definition of *geula* must first be established. The Ramban prefaces his commentary to *Sefer Shemot* by stating that it is the book of the first exile of the Jews and their redemption from it. The redemption culminates at the end of *Shemot* not in the entry of the Jews to the

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15. For more detailed discussion of this topic refer to אור המזרח, ניסן תשמ"ז, "בגדרי היוחסין באומה הישראלית".
16. *Minchat Elazar,* Vol. IV, Chapter 5.

Land of Israel (which only occurs forty years later in Joshua's era), but in the building of the *mishkan* (Tabernacle) through which the Divine presence was manifested in their midst. Likewise, the *Gevurot Ari,* in his comments on *Ta'anit* 17, understands the talmudic argument *(Rosh Hashanah* 11b) whether the ultimate *geula* will take palce in Nisan or Tishrei as referring to when the Temple is destined to be rebuilt. Thus, *geula* has been defined as the construction of the Holy Temple.

Sequence of Mitzvot Upon Entering the Land of Israel

The Gemara in *Sanhedrin* 20b concludes on the basis of various biblical sources[17] that upon the Jews' entry to Eretz Yisrael, the mitzvot of appointing a king, destroying Amalek, and building the Temple are incumbent upon them, in that sequence.

A. The Mitzvah of Establishing a King

In his supplement to the Ramban's enumeration of the 613 mitzvot, the Ramban writes that the passage in *Bamidbar "vehorashtem et ha'aretz viyeshavtem bah"* entails the obligation of all Jews to live in Israel (positive mitzvah No. 4). In addition, a Jewish government must be established there. In explaining why the Rambam did not incorporate this commandment in his own listing of the mitzvot, the *Megillat Esther* claims that the mitzvah only applied in the era during which the Jews resided in Eretz Yisrael and will only be reinstated in the Messianic times.

The *Avnei Nezer* strongly disagrees with this reasoning, claiming that if the case were such, Rambam would not have enumerated other mitzvot such as *terumot, ma'asrot* and *hafrashat chalah* which are no longer biblically applicable today.[18] It would appear, instead, that the simple explanation for the Rambam's omission of this mitzvah is that he views it as identical to that of appointing a king, which he already enumerated elsewhere.

A further aspect concering the mitzva of appointing a Jewish

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17. שמואל ב:ז:א, ב; דברי הימים א:כ"ב:ז - י'.
18. יורה דעה סי' תנ"ד אות ד'.

king can be deduced from the Ramban's commentary on *Parshat Korach* (*Bamidbar* (6:21). Discussing the fact that many centuries elapsed from the time the Jews entered the Land of Israel before the Temple was built, he claims that had they requested to build it earlier, they could have done so as early as the period of the Judges. Since it is clear from the above talmudic passage that a king must be appointed before the Temple is built, it appears that the Ramban's position is that it is merely necessary that a Jewish governing body — and not necessarily a monarchy — be established before the *Beit Hamikdash* is built. Similarly, a source in the *Yerushalmi*[19] claims that the third *Beit Mikdash* will be built prior to the renewal of the kingdom of the House of David. This also seems to indicate that it is merely necessary that a Jewish government exist at the time that the building of the Temple is undertaken.[20]

In view of the above, many people consider that the establishment of the modern State of Israel should be heralded as the *atchalta d'geula*, the first step in the redemptive process. As such, it is an essential step in the chain of events culminating in the rebuilding of the Temple. In fact, we are taught that it is only in the *z'chut* of our intent to build the *Beit Hamikdash* and renew the Divine service there that we merit to have sovereignty over Eretz Yisrael. The Gemara in *Megilla* 31b interprets the biblical account of a dialogue between G-d and Abraham as indicating this symbiosis: having been promised that the Land will be given to his progeny, Abraham queries: *"bameh eida ki irashenu"* — "In what merit will they receive the Land?" To this G-d responds by having him participate in the *brit bein habtarim*, symbolic of the Temple sacrifices in whose merit the Jews would retain ownership of Eretz Yisrael. (Furthermore, in the absence of the *Beit Hamikdash*, G-d assured Abraham that the Jews could compensate by the daily

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19. מעשר שני פ"ה ה"ב.

20. See Rav Moshe Zvi Neriyah's essay entitled "Regarding the Significance of the Establishment of an Independent Jewish Government in the Land of Israel" in Mossad Harav Kook's *Torah Sheba'al Peh*.

recital of the *seder hakorbanot.*[21]) Thus, we may be worthy of controlling Eretz Yisrael as a step toward *geula,* for the loftier goal of renewing the service in the *Beit Hamikdash.*

B. **Mechiat Amalek**

The Rambam[22] states that there is a positive commandment to destroy the seven nations dwelling in Eretz Yisrael and adds that they have already been destroyed and blotted from memory; but this is a postcript that he does not add with reference to the mitzvah to destroy Amalek.[23] Commenting on this anomaly in the name of his grandfather Rav Chaim Brisker, Rav Josef Dov Soleveichik notes that although the original Amalekites have been wiped out, it is still incumbent upon us to destry any nation that, like the original Amalekites, is committed to the destruction of the people of Israel.[24]

The *Mabit*[25] concurs with the view of the Rambam, that the destruction of Amalek remains a national obligation. Indeed, it seems obvious that Amalek has not yet been obliterated, for our Sages indicates that our redemption will come after Amalek is

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21. In fact, the *Talmidei Rabbeinu Yonah* in his comments on the Rif to *Brachot* 5a considers the daily recital of the *korbanot* a biblical law, whereas in *Shabbat* 118b, the *Psukei D'zimra* are categorized as a *middat chassidut* (and not even of rabbinically-ordained nature!). Thus despite the fact that many today are more careful to recite the *psukei d'zimra,* it is proper that one rather be more concerned that he recite the *seder hakorbanot* daily. The *Mishnah Berurah* rules that women, too, are obligated to recite the *seder hakorbanot,* possibly including the Mishnaic passage of *Ezehu Mekoman,* as well.
22. הלכות מלכים פרק ה׳ הלכה ד׳.
23. Interestingly, the *Sefer Hachinuch* on commandment 425 quotes the Rambam as having said of both the seven nations and of Amalek, as well, that they have already been completely destroyed. Rav Meir Don Plotsky dismisses this analysis of the Rambam, however, arguing in positive commandment 187 of *Chemdat Yisrael,* his commentary on the *Sefer Hamitzvot,* that the Rambam's view is explicitly opposite.
24. For this reason Rav Soleveichik felt that it was forbidden to accept reparations money from Nazi Germany.
25. *Beit Elokim, Sha'ar Hayesodot,* Chapter 50.

wiped out, and were they already annihilated, our *geula* would have taken place.[26]

In summary, according to the passage in *Sanhedrin*, the mitzvah of establishing a Jewish government in Israel and the destruction of Amalek, in that order, are incumbent upon the Jewish nation upon their entry into the Land of Israel, and are viewed as vital steps in the evolution of the *geula*.[27]

Application to the Present

In order for these two developments to be heralded as *atchalta*

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26. See Rashi, end of Parshat *Beshalach:* "אין השם שלם עד שימחה זרעו של עמלק" as pointed out in *Chemdat Yisrael*, note 23.

27. This concept clarifies the comment of the *Netivot* on *Megillat Esther* (9:19) that claims that the Rabbis established the permanent Yom Tov of Purim because they viewed the destruction of Amalek at that time as *atchalta d'geula*.

The Gemara in *Megilla* 5b points out a discrepancy between two *psukim* in *Megillat Esther*. In 9:19 the *pasuk* reads that Purim was established for the purpose of *simcha, mishteh, v'yom tov*, whereas in *pasuk* 22, the term *"yom tov"* is ommitted. The Gemara resolves this contradiction, explaining that the term *yom tov* connotes an *issur melacha;* originally the Rabbis intended to institute an *issur melacha*, however this was never done.

Simply understood, this passage implies that as just as the Gemara in *Horiyot* 3b rules that the Rabbis may not introduce a *gezerah* that the majority of the population is unable to uphold, the same is true, with respect to *takanot*, which must be accepted by the majority of the people. (This parallel is stated explicitly in the Tosefta at the end of the second chapter of *Sanhedrin* as pointed out by the *Mitzpeh Shmuel* in his commentary there).

The *Netivot*, however, understands this Gemara as indicating that although the Rabbis originally thought that the miracle of Purim was part of *atchalta d'geula* (because it involved destruction of Amalek) they soon realized that they had acted in error and were therefore forced to cancel the Yom Tov status of Purim.

This interpretation seems difficult, firstly because it doesn't fit the wording of the text of the Gemara which states that the people never accepted the *issur melacha* and secondly, because even the establishment of a holiday like Chanukah and Lag B'Omer which do not have an *issur melacha* would pose a problem of *bal tosif* unless the event to be commemorated is related to the building of the *Beit Hamikdash*.

Nonetheless, it is interesting to note that the *Netivot* felt it permissible for the Rabbis of the time to establish a yom tov merely because they *thought* that it was an *atchalta d'geula*, even though they lacked conclusive proof that the case was actually so!

d'geula, however, they must be linked to the rebuilding of the Temple. This being the case, it should be investigated whether the modern State of Israel will necessarily lead to the building of the Temple and therefore should be viewed as *atchalta d'geula* or, if G-d forbid, it may be destined to fail and therefore does not merit to so regarded.

In response to this, it is apparent from the Ramban's commentary on the admonitions of *Bechukotai* and *Ki Tavo* that these correspond to the first and second Temple destructions, and that there will be no others. The Ramban[28] also points out that because the second Temple did not capture the full glory of the first, the description of the second *Churban* is termed as the destruction of the Jewish State, and not of the Temple, and therefore, if we are assured that there will not be another *Churban*, it is understood that there will not be a destruction of the State of Israel, either.[29] If Eretz Yisrael today is not yet to be considered in a state of *binyan*, (built up) it is possible that the Jewish Government there will fail, but if it is considered *"bebinyana"* we are assured that it will never again experience *Churban* and therefore we can assume that the State of Israel can rightfully be termed as *atchalta d'geula*.

What Defines Eretz Yisrael *Bebinyana?*

With regard to the Rabbinic imperative that one rip his garment upon seeing the cities of Judea in a state of destruction (*arei Yehuda bechurbanam*), *Magen Avraham*[30] states that even if a city is inhabited by Jews, if it is under the jurisdiction of non-Jews, it is considered to be in a "state of *Churban.*" From this it can be

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28. *Vayikra* 26:16
29. Although Bar Kochba's government was abolished, this fact does not contradict the prophecy that there will not be a third destruction and exile. History has termed Bar Kochba's era as that of the Bar Kochba *revolt*, not according it the status of a government, whereas the State of Israel today is recognized by the world community as a bona fide government.
30. מגן אברהם ריש סי' תקס"א.

concluded that according to the *Magen Avraham*, a city in Eretz Yisrael that is ruled by a Jewish government and inhabited by Jews is considered a "built state," *bebinyana*. Applying this definition to the current situation in Eretz Yisrael, it appears that since it is both inhabited and controlled by Jews, the halacha would classify Eretz Yisrael as being in a state of *binyan* and therefore, according to the words of the prophets, we are promised that it will never again be subjected to *churban*.

It should be noted that according to the halacha, the states of *churban* and *binyan* are closely linked to the physical state of Eretz Yisrael. In speaking of the destruction of Eretz Yisrael, the *pasuk* states "*veshamemu aleha oyvechem hayoshvim ba*,"[31] that as long as the Jews are in exile, their land will remain in a state of desolation. Conversely, the Talmud comments on the words of the prophet Ezekiel, "And the mountains of Israel shall bear produce for my nation Israel. . . and the Land of Israel shall not make them [the Jewish nation] bereft again."[32] There is no more pronounced indication of of the *geula* than when Eretz Yisrael will cease to be in a state of desolation.[33]

The Talmud also comments that the Rabbis arranged the sequence of the *brachot* comprising the *amidah* in accordance with the order established by the prophet, the *bracha* requesting success in agricultural endeavors (*mevarech hashanim*) directly preceding that dealing with the ingathering of the exiles (*Teka B'shofar Gadol*).[34] The last half-century has indeed been witness to exactly these historical developments — the renewed flourishing of the Land of Israel followed by large-scale influx of Jews — of which the prophet testified[35] "*velo yenatshu od me'al admatam*," "and they will never again be uprooted from their land".[35a]

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31. *Vayikra* 26:32
32. *Ezekiel* 36:8-12
33. *Sanhedrin* 98a
34. *Megilla* 17b
35a. Although we are assured that there will never be another *churban*, this does not guarantee that no lives will be lost in defense of Eretz Yisrael.

Shelo Ya'alu Bachoma

Based on the fact that the verse *"hishbati etchem b'not Yerushalayim"* appears three times in *Shir Hashirim,* the Gemara states that three oaths were administerd to the Jews, the first being *"Shelo yaalu bechoma"* that they would not regain Eretz Yisrael through forceful means.[36] Therefore, some contest the validity of the current Jewish government in Israel, claiming that since control of the Land of Israel has violated the oath of *"shelo ya'alu bachoma,"* the State of Israel should be dismantled and sovereignty relinquished to previous occupiers or to the United Nations.[37] This argument would not be recognized by the many *Acharonim* who claimed that this oath was never halachically binding, as well as by those who offered various suggestions to explain why this oath no longer applied in the twentieth century.[38] In fact, the *Ohr Sameach* rejoiced about the Balfour Declaration, claiming that through it we were absolved of the oaths.[39] Possibly the majority of Torah leaders at the time of the Second World War were of the opinion that the prohibition, if it ever existed, was no longer binding.[40]

In any event, any current discussion of the ramifications of the oaths would only be in theoretical terms, for even if it were concluded that the State of Israel was established in violation of the oath, the overwhelming majority of rabbinic authorities clearly felt that we would not now be obligated to relinquish control of it.[41]

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36. *Ketubot* 111a.
37. According to the commentary of the *Megillat Esther* on the Ramban's supplement to the Rambam's *Sefer Hamitzvot* it is forbidden to establish a Jewish government in Eretz Yisrael until the arrival of the Messiah. Expanding upon this in the introduction to his *sefer Al HaGeula ve-al HaTmura,* the Satmer Rebbe claims that this *issur* requires of us to take such action.
38. See Rav Shlomo Avyner's essay entitled *"Shelo ya'alu BaChoma"* that appeared in *Noam,* volume 20. This essay enumerates these various opinions *le'heter.*
39. See Rav Zev Aryeh Rabiner's *sefer Rabbeinu Meir Simcha Zt"l,* p. 164.
40. See *BaMaaracha Hatzibburit* p. 45-49.
41. See the Steipler's *Kreina D'Igarta,* letter 205, in which he disagrees with the basis of the Satmer Rebbe's claim.

Anti-Religious Leaders

Others dispute the significance of the existence of Jewish government in Israel as an element of *atchalta d'geula*, citing the fact that the original founders of the State and many of the government members today, as well, are irreligious individuals. Therefore they claim the Israeli government cannot be defined as a "Jewish government." Although it carries emotional appeal, this argument seems halachically incorrect in light of the Gemara in *Rosh Hashana* that established the concept of a Jewish government (in contradistinction to a non-Jewish government) without differentiating between the status of government headed by a Torah observer and that of Ahab who was guilty of transgressing the laws of the Torah and causing others to sin, as well.[42]

In light of the above, if the criterion essential to defining Eretz Yisrael as being in a "built state" is the existence of a Jewish governing body there, then the halacha would view Eretz Yisrael as being *bebinyana* (built).[43]

Supernatural Geula

Others cite the *pasuk* in Daniel, *"ve'aru im anenei shmaya*

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42. The Gemara at the beginning of *Rosh Hashana* distinguishes between Jewish and non-Jewish governments, stating that with respect to the dating of legal documents, regardless of when the Jewish king is crowned, at *Rosh Chodesh* Nisan, a new year of the kingdom begins to be counted, whereas by a non-Jewish monarchy, the year begins from Tishrei. Citing the verse *"hachodesh hazeh lachem rosh chodashim" (Shmot* 12:2), the Ran on this source comments that this is not merely a custom, but an actual halacha. In his commentary on *Parshat Bo*, the *Netziv* explains this distinction as follows: Being that history of the nations of the world is governed by the natural principles of history established by G-d at the time of creation, their years begin with Tishrei, the month during which all laws of nature were established. However, *Bnei Yisrael*, whom G-d treats with His Divine Providence and whose history is supernatural, number their years beginning with the month of Nisan, the month of miracles, as the *Chazal* state that in Nisan we were redeemed (from Egypt) and in that month we are again destined to be released.

43. Although it can be argued that the majority of the Jewish nation must reside in Eretz Yisrael in order for it to be classified as in a "built state," the simple

kebar inish ata",[44] indicating that the *geula* will arrive in a supernatural manner and argue that this source proves that current developments in Eretz Yisrael are not leading to the *geula.* In his *sefer Eim Habanim Smeicha,*[45] the author raises this issue and refutes it by citing a Gemara in *Sanhedrin*[46] which resolves the apparent contradiction between this passage from Daniel with another in Zacharia, *"ani verochev al chamor"*[47] describing the messiah as a humble man riding on a donkey: *"zachu-im ananei shemaya; lo zachu-ani verochev al chamor."* If the Jews merit the *geula,* it will come in a rapid supernatural manner like heavenly clouds, whereas if G-d brings the *geula* because of His mercy for us, it will arrive as a natural process, at the lazy pace of a donkey.[48]

The *Ohr HaChayim* in his commentary on the *pasuk "darach kochav miyaakov vekam shevet miYisrael"*[49] makes a similar point, claiming that if *Bnei Yisrael* merit the *geula* it will arrive in a supernatural form like a shooting star, whereas if it arrives *"beito,"* in its time, it will be a slower, natural process, *"ushfal anoshim*

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reading of the passage in Sanhedrin that terms the revival of agriculture in Eretz Yisrael as the most prominent sign of *geula* seems to indicate the *kibbutz galuyot* prominent (ingathering of exiles) is not a prerequisite to *binyan ha'aretz.*

It should be noted, however, that although a total *churban* will never again befall Eretz Yisrael, the prophets' words do not preclude the possibility of a partial desctruction of a part of Israel; thus the 1978 evacuation of Sinai does not contradict this premise.

Because of this, the basis for the establishment of *Yom Yerushalayim* in commemoration of the 1967 recapture of the Old City of Jerusalem may be questionable. Whereas the establishment of the State of Israel is clearly categorized as *atchalta d'geula* because it is a necessary, irreversible step clearly leading to the building of the Third Temple, it is unclear whether the conquest of Jerusalem will serve as a step toward the building of the *Beit Hamikdash,* as we have no guarantee that it will remain under Jewish control until that time.

44. *Daniel* 7:13
45. Jerusalem edition, 1983 pages 89-90.
46. *Sanhedrin* 98a.
47. *Zecharia* 9:9.
48. See *Einei Yitzchak,* in his commentary in *Eid Yaakov* on the above passage in *Sanhedrin,* No. 171.
49. *Bamidbar* 24:17.

yakum aleha''[50] during which time lowly individuals will rule the land of Israel.

Thus, although the fact that the *geula* is taking a slow, natural course may be unfortunate, it does not bar these events from being classified as part of the process of *geula.*

Introducing A Yom Tov to Celebrate Atchalta D'Geula

The Gemara in *Rosh Hashana*[51] queries: "being that the holidays established during the second Temple have been abolished, can new ones be introduced?" To this the *Pri Chadash* comments that it is forbidden to introduce a Yom Tov during a period when the Temple is not standing.[52] Although the Maharam Alshakar states that it is permissible for individuals or communities and their descendants who have experienced salvation to celebrate a Yom Tov in annual commemoration of the event,[53] later *poskim* have pointed out that it is forbidden to institute a Yom Tov to be celebrated by all of *Klal Yisrael*[54] unless it corresponds to the rules set forth in *Megillat Taanit.*[55] Because of this, the *Chatam Sofer* objected to the celebration of *Lag B'Omer* in Safed and Meron, claiming that it may

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50. *Daniel* 4:14.
51. *Rosh Hashana* 18b.
52. *Pri Chadash,* in his commentary to *Ohr Hachayim 496.*
53. This view is brought by the *Magen Avraham, Hilchot Purim,* chapter 686.
54. See the *Chayei Adam* at the end of *Hilchot Purim,* the Malbim in his commentary on *Megillat Esther* 9:19, the *Chida* in *Shem Hagedolim* on Rav Ovadiah miBartenura, who quotes this distinction in the name of several *Acharonim.* Surprisingly, in addressing the question of the permissibility of instituting the holdiay of *Yom Ha'atzma'ut* to be celebrated universally by all of the Jewish nation, Rav Meshulom Roth (*Kol Mevaser* I, chapter 21) states that according to the above responsum of the Maharam Alshakar, this is clearly allowed!
55. *Megillat Ta'anit,* the first recorded *tannaitic* work, comprises a listing of all the minor holidays established during the Second Temple period. According to the Talmud in *Rosh Hashana* 18b, these holidays commemorated events related either to the building of the Temple, the improvement of its structure, service, the *Kehuna gedolah,* and preservation of the Temple from destruction.

be in violation of the *issur* of the *Pri Chadash.*[56]

Indeed, many *Acharonim* questioned the validity of the establishment of Purim to commemorate a salvation that occurred during the period of the Babylonian Captivity, to which *Netivot* answers that because the miracle of Purim involved the destruction of Amalek, an aspect of *atchalta d'geula*, the leaders of the time were permitted to establish a Yom Tov. The *Sfat Emet* likewise writes that the miracle of Purim was a preparation for the building of the Second Temple.[57] In an additional note about Purim, it is interesting that although the Jews were unhappy with the sequence of events that led to this salvation, (the fact that Esther was forced to marry a non-Jew and she bore a child, Darius, who was raised as a gentile in the royal palace) the Rabbis nevertheless saw through this apparent tragedy and pronounced it a step toward *geula* and thus an event worthy of commemoration by annual celebration. This establishes a precedent for the innovation of a holiday in honor of an event heralded as *atchalta d'geula*, despite the fact that at the time of the event all does not appear good and well, as discussed previously with regard to the caliber of political leaders in Israel today.

In a similar vein, the Hasmoneans established the holiday of Chanukah to celebrate the sparing of the *Beit Hamikdash* from destruction, and not as a celebration of their military victory. Today, even after the destruction of the second Temple, we continue to celebrate Chanukah, as we believe that the miracle of

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56. The *Chatam Sofer* was not opposed to the European custom of not saying *Tachnun* on *Lag B'Omer* because this is not an indication that the day is viewed as a Yom Tov. *Tur Orach Chaim* (chapter 131) quotes Rav Natronai Gaon classifying the saying of *Tachnun* as optional.

Dayan Ehrenberg in *Dvar Yehoshua* justifies the custom of many Hassidic groups who never say *Tachnun* in *Mincha*, even if they complete *Chazarat HaShatz* before sunset, claiming that being that these people generally have good reason not to recite *Tachnun* (because it is improper to do so after nightfall), this coupled with the fact the *Tachnun* is only a *reshut* allows for the *minhag* that *Tachnun* always be deleted so that it will not mistakenly be said at night.

57. דרשות לפורים תרל"ד ד"ה נראה; תרל"ח ד"ה מה; תרמ"ג ד"ה ענין.

Chanukah was an indication that there will be a third Temple.[58]

The kabbalists write that G-d was motivated to create this world because He desired a dwelling place in the lower world. It is perhaps for this reason that He first created the site of the *Beit Hamikdash,* the essence of the entire creation. The Gemara in *Megilla*[59] also comments that on the day of the consecration of the *Mishkan,* G-d rejoiced as He had on the day that heaven and earth were created, for the building of the *Mishkan* was the ultimate purpose of that creation.[60]

The Gemara states that all of the Creation mourned the destruction of the Temple, for since the Temple comprised the essence of the Creation, at its destruction the world no longer held purpose. Conversely, at the future rebuilding of the Temple, heaven and earth will rejoice (*yismichu hashamayim vitagel haaretz''*)[61] for G-d will once again have a dwelling place in this lower world and purpose will thus be restored to all of the Creation. For this reason, the Ramban[62] declares that celebrating the building of the Temple is a mitzva of biblical nature.[63]

In conclusion, although celebration of the building of the Temple is only mandatory at the start of the building, later commemoration of the event through celebration is not in violation of the *issur* of *bal tosif,* but has the status of a *kiyum d'oraita.* Just as there was no *requirement* to celebrate the miracles of Purim and Chanukah that proved intrinsic to the rebuilding and preservation of the Temple, the Rabbis had the right to institute these holidays for commemoration by all future generations. With respect to the

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58. For more detailed treatment of this topic see "Regarding the Nature of the Holidays of *Megillat Ta'anit,*" *Ohr Hamizrach,* Nissan 1974.
59. *Megilla* 10b.
60. *Vayikra* 9:1.
61. *Psalms* 96:11.
62. *Bamidbar* 7:13.
63. In *Galia D'Masechta,* Rav Dovid of Navardok claims that today, since the synagogue and yeshiva have the status of a *"mikdash me'at,"* we are required to make a *chanukat beit haknesset* and *beit hamidrash* as we would a *chanukat beit hamikdash.*

institution of *Yom Ha'atzma'ut* to commemorate the establishment of the State of Israel, an event categorized as *atchalta d'geula*, although it was not mandatory at the time that a Yom Tov be introduced, it was permissible to do so, even more so than the customary annual celebration of *Lag B'Omer*, as previously explained.[64]

War and *Atchalta d'Geula*

The Gemara in *Megilla*[65] questions why the seventh *bracha* of the *amidah* is that dealing with *geula (re'eh b'anyenu)*, and responds that this because the *geula* will occur in the seventh year, a fact that seems to contradict the tradition that the seventh year will be characterized by war. In reconciling these two concepts, the Gemara details that the seventh year will indeed experience wars, which are also categorized as *atchalta d'geula*, following which the *geula* will take place. The simple understanding of the above-cited text is that the coming of the Messiah will be immediately preceded by war. Although it is difficult to understand the convictions of the *Chatam Sofer* and, later, of the *Minchat Elazar* that certain European wars in their lifetimes represented the *atchalta d'geula*a, the 1948 War of Independence that began immediately upon the establishment of the State of Israel seems clearly applicable to the category of *atchalta d'geula*. Because the start of this war served as a sign that the establishment of the State of Israel was truly *atchalta d'geula*, it would appear that it was within the right of the Rabbinic leaders of the time to institute the Yom Tov of *Yom Ha'atzma'ut* on the date of the outbreak of this war.[66]

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64. Even so, this does not necessarily justify the recitation of *Hallel* or half-*Hallel* on *Yom Ha'atzma'ut*, as we celebrate many holidays on which *Hallel* is not said. The issue of whether Hallel should be recited on *Yom Ha'atzma'ut* merits separate discussion.
65. *Megilla* 17b.
66. Although some argue that like the Hasmoneans who celebrated at the finish of their battles, we should only celebrate the victorious end of the 1948 War of Independence, the cases are not comparable. The Hasmoneans celebrated the ends of their wars because each victory served to spare the *Beit Hamikdash* from

Conclusion

To return to the view of Rav Yaakov Kaminetsky that the 1948 War of Independence continues to be waged today and that current incidents of Arab unrest are merely extensions of that original conflict, it is to be concluded in concurrence with the views of the *Chatam Sofer* and *Minchat Elazar* cited above that it is forbidden to stop or slow this war, for in so doing, we would be preventing the coming of the *geula*.



The author thanks his daughter Aviva for her assistance in translating this essay from the original Hebrew.

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destruction; today, being that there is no *Beit Hamikdash*, we have no right to establish holidays to commemorate military victories, and are only permitted to establish Yomim Tovim intended to commemorate historical events viewed as elements of *atchalta d'geula*. Therefore, because the establishment of the State of Israel (and not winning of the war) constitued the *atchalta d'geula* we celebrate the date of *hakamat hamedina*.