The image features two men in traditional Jewish attire, including black hats and long coats, silhouetted against a bright yellow background. The man on the left has a beard and is gesturing with his right arm raised. The man on the right has a braid. The text is overlaid on the image.

*Shalosh
Shevuos*

Claims
&
Facts

השבועתי אהרינא כתיב ורבי זירא ההוא מיבעי ליה לכדרבי יוסי ברבי חנינא דאמר ג' שבועות הללו למה אחת שלא יעלו ישראל בחומה ואחת שהשביע הקדוש ברוך הוא את ישראל שלא ימרדו באומות העולם ואחת שהשביע הקדוש ברוך הוא את העובדי כוכבים שלא ישתעבדו בהן בישראל יותר מדאי ורב יהודה² אם תעידו ואם תעוררו כתיב ורבי זירא מיבעי ליה לכדרבי לוי דאמר שש שבועות הללו למה תלתא הני דאמרן אינך שלא יגלו את הקץ ושלא ירחקו את הקץ ושלא יגלו הסוד לעובדי כוכבים² כצבאות או באילות השדה אמר רבי אלעזר אמר להם הקב"ה לישראל אם אתם מקיימין את השבועה מוטב ואם לאו אני מתיר את בשרכם כצבאות וכאילות השדה אמר רבי אלעזר "כל הדר בארץ

T

his year, as Daf Yomi learners covered the famous sugya of the Shalosh Shevuos (Three Oaths), some of them began to wonder about the halachic legitimacy of the State of Israel founded in 1948. At the time, proponents of the state made sure to inundate the learners with a barrage of claims about the oaths. Let's take a closer look at some of those claims and see what the real facts are.

Claim: Rabbi Meir Simcha, author of Ohr Somayach, wrote that after the Balfour Declaration and the San Remo conference that made the declaration officially part of Britain's mandate, "the fear of the oaths is gone." Similarly, the Avnei Nezer wrote, citing Rashi's words "with a strong hand" that the oath not to "go up as a

wall” applies only to a military campaign, not to peaceful immigration with the permission of the ruling power. Therefore the oaths do not apply to the State of Israel, which was founded with the UN’s permission.

Facts: 1) All these poskim said was that the oath does not apply to immigration with permission from the ruling power, such as the Turks or the British. They never discussed the idea of founding a sovereign state. Neither did the British, at that point in time. Founding a sovereign state means effectively ending the exile, and is a violation of the oath against “forcing the end,” one of the additional oaths listed in the Gemara.

In the same letter where the above statement appears, Rabbi Meir Simcha continues, “If Hashem grants that the matter expand and blossom like a rose, as it grew in the time of Artachshasta, when they were under the Persian Empire, a restless bear (Kiddushin 72a) – and all the more so under the rule of civilized Britain – then surely it is a matter that stands at the zenith of the universe.” So it is clear that he is talking only about settlement under the British.

2) The nation that permits immigration has to be the nation ruling the land, not other nations. The two-thirds majority of the UN who voted for a Jewish state in November 1947 did not include Britain, who ruled the

land at that time. So according to the *Avnei Nezer* and *Ohr Somayach*, the UN resolution would have been halachically ineffective even to permit immigration, much less a state.

3) *The State of Israel came into being only through a war; the Israelis had to fight for every inch of the land. That is definitely “with a strong hand” according to all opinions. It makes no difference who fired the first shot. The land was vacated by the British and left ownerless to whoever would succeed in taking it. Neither the British nor the UN made any effort to implement partition. Competing for an ownerless piece of land with military force is no different from invading a piece of land with military force.*

4) *The State of Israel conquered many areas not allotted to them by the UN. The partition plan called for a Jewish state in 55% of Palestine but at the end of the war in 1949, the Israelis controlled 78%, including Jerusalem, which was supposed to have been an international city. In 1967 they conquered the remaining 22% and much more.*

It is also worth noting that the authenticity of this letter by Rabbi Meir Simcha has never been verified. According to the book “Rabbeinu Meir Simcha” by Z. A. Rabiner (p. 162), the letter was written for Menachem Mendel Finkelman, who came to Rabbi Meir Simcha as an emissary of the Zionist Organization in Latvia. It

is highly unlikely that Rabbi Meir Simcha would have written a letter for the Zionist Organization, which he strongly opposed.

Claim: Two of the three oaths are for the Jews, and one is for the nations of the world. Since the nations of the world violated their oath and persecuted the Jews too much (i.e. the Holocaust), the Jews are allowed to violate theirs. This claim is based on the Midrash and the Zera Shimshon on Megillas Esther (Rabbi Shimshon Chaim Nachmani, 1778).

Fact: The Midrash on Shir Hashirim actually says as follows: "Rabbi Yossi bar Chanina says: There are two oaths here, one for Israel and one for the nations of the world. He made Israel swear that they would not rebel against the yoke of the kingdoms, and He made the kingdoms swear that they would not harden their yoke upon Israel, for if they would harden their yoke upon Israel, they would cause the end to come not in its proper time."

The Midrash does not say that the oaths are a covenant between the Jewish people and the nations, nor does it say that if the nations harden their yoke upon the Jewish people the oath is annulled and the Jewish people is permitted to violate its oath. It says only that if they harden the yoke, Hashem – not the Jewish people on their

own - will bring an early end to the exile.

The Zera Shimshon is a commentary on the Megillah, not a halacha sefer; nevertheless, let's analyze what he says as if it were said as halacha. He does indeed say that the oaths are a contract and that if one side breaks it, the other may also break it. But, crucially, he says this only regarding the Jews' second oath, not to rebel against the nations. Thus, he says, the Jews in the Megillah story were allowed to kill Haman's followers because Haman's followers had violated the oath by trying to kill the Jews. Neither he nor any other posek or commentator in history ever suggested that the oath not to go up to Eretz Yisroel "as a wall" was part of a contract with the nations. The reason for this is simple: they never viewed that oath as being for the nations' benefit. It is for our benefit, to keep us in golus until moshiach comes so that our kaparah can be complete.

Even regarding the oath on "rebellling against the nations" the Zera Shimshon does not support Zionism, because he is only saying that the Jews have a right to fight back when a group of gentiles (such as Haman's followers) attack them. This is similar to the rule that one may kill an attacker in self-defense (הבא להרגך השכם להרגו). He is not talking about a war to conquer land, or to take over or maintain a government.

It is also a fact that prior to the Holocaust, throughout

Jewish history, there were, unfortunately, many other times when the nations violated their oath, and yet we never find any of the poskim and commentators who quote the oaths (see below) saying that they no longer apply.

Claim: The Three Oaths are aggadah, not halacha. The poskim don't bring them down as halacha.

Fact: The Gemara begins with the story of Rabbi Zeira and Rav Yehuda. Rabbi Zeira did not want Rav Yehudah to know he was moving to Eretz Yisroel, because Rav Yehuda held, based on the Three Oaths, that it was halachically forbidden even for an individual to move to Eretz Yisroel. Rabbi Zeira countered that the Oaths apply only to the Jewish people as a whole, not to individuals. This was clearly a halachic dispute.

True, the Rambam and Shulchan Aruch don't bring them, but we never reject something as halacha simply because it is not brought down in those two works. The commentaries on the Rambam and Shulchan Aruch are full of halachos that these poskim didn't bring down, and explanations are sought and found as to why they didn't bring them down. The law is included in another law, contradicted by another law, etc. Every yeshiva student knows this.

In this case, the Rambam makes it clear in his Letter to

Yemen that he did in fact view the oaths as binding law. The Megillas Esther in Sefer Hamitzvos (end of Mitzvos Aseh, responding to the Ramban's argument that the Rambam should have counted living in Eretz Yisroel as a positive commandment) also makes clear that the Rambam viewed the oaths as binding law.

As to why he did not include them in his Mishneh Torah, one simple explanation is that the Rambam did not need to do so, because he describes the process of the coming of moshiach (Hilchos Melachim 11:1), and the oaths are implicit in that process. He writes: "The king moshiach will arise and restore the dynasty of David to its original power. He will build the Temple and gather the dispersed of Israel." If moshiach will be the one who gathers in the Jewish people, then it is clear that we are not allowed to gather ourselves in before the coming of moshiach.

This idea is really explicit in the Midrash (Shir Hashirim Rabbah 2:20), which tells us the reason for the oath against going up as a wall: "If so, why does the king moshiach have to come to gather the exiles of Israel?" The Maharzu explains that it is moshiach's job to bring all of Israel up together from the exile. The Yefei Kol understands it the same way: "If we come up as a wall from exile, why will the king moshiach have to come to gather the exiles of Israel? And since we know from many verses in Tanach that moshiach will gather our exiles, we cannot gather

ourselves together.”

The Satmar Rebbe offered a different answer as to why the Rambam had no need to bring the oaths: he writes in Hilchos Teshuva 7:5 that the Jewish people will be redeemed only after they do teshuva. Thus, if they haven't yet done teshuva, then the redemption can't come in any case, so obviously we can't take any action to bring it at that point, and if they do teshuva, it will come immediately.

The Shulchan Aruch has no Hilchos Melachim, and so he does not discuss moshiach's criteria at all. Generally, the Shulchan Aruch is not an all-inclusive work; for example, such important laws as the laws of lashon hara are not mentioned in it.

Furthermore, the Shulchan Aruch doesn't cover the principles of Jewish belief, although all would agree that they are important. The Three Oaths are more than halacha - they define our belief in Hashem as the only one who can end the exile, who watches over us and protects us in exile, and puts us in the place that is best for us.

The following is a brief list of some of the poskim who do discuss the Three Oaths as binding: Rashbash 2, Rivash 101, Piskei Riaz Kesubos 111, Kaftor Vaferach chapter 10, p. 197, Maharashdam Choshen Mishpat 364, Pe'as Hashulchan Laws of Eretz Yisroel, Chapter 1, Section 3, Aruch Hashulchan Choshen Mishpat 2:1, the Gadol of

Minsk in Sinai v. 6, p. 213.

And here are some well-known commentators who discuss the oaths as binding: Rabbeinu Bachya on Vayishlach, Abarbanel Bereishis 15:11, Maharal in Netzach Yisroel 24, Ohr Hachaim Hakadosh Vayikra 26:33, Rabbi Yaakov Emden in Sefer Hashimush 66b, Yismach Moshe Tehillim 127:2, Rabbi Samson Raphael Hirsch, Siddur p. 703.

When the Zionist movement began, countless rabbanim and poskim spoke out against it, stating clearly that it violated the oaths. Here are a few of them: Rabbi Naftali Adler, Rabbi Eliyahu Chaim Meisel, Rabbi Sholom Ber Schneersohn, Rabbi Yisroel Zev Mintzberg, Rabbi Moshe Hager, Rabbi Mordechai Leib Winkler, the Rogachover Gaon, the Minchas Elazar, Rabbi Mordechai Rottenberg, Rabbi Shaul Brach, Rabbi Ben Zion Halberstam of Bobov, Rabbi Elchonon Wasserman, Rabbi Yitzchok Weiss of Spink, Rabbi Shlomo Zalman Ehrenreich, Rabbi Michoel Ber Weissmandl, the Brisker Rav and Rabbi Yonasan Steiff. To read these quotes and more, see the sefer Efes Biltecha Goaleinu.

Claim: The Ramban in Sefer Hamitzvos says that we are obligated to conquer Eretz Yisroel in every generation. This clearly shows that he did not pasken in accordance with the Three Oaths.

Fact: The Ramban quotes Chazal's statement that Dovid Hamelech was wrong to conquer Syria before completing the conquest of Eretz Yisroel, and then writes, "So we see that we were commanded to conquer it in all generations." Then he says, "And I say that the mitzvah of which Chazal speak highly, living in Eretz Yisroel...is all part of this positive commandment, for we were commanded to take possession of the land in order to live in it. If so, it is a positive commandment for all generations, in which each one of us is obligated, even during exile."

We see clearly that the Ramban needed a second proof, from the fact that Chazal speak highly of living in Eretz Yisroel, that the mitzvah applies during exile. His first proof from Dovid Hamelech did not cover exile. When he says the first time "in all generations" he doesn't mean literally in all generations; he just means that it wasn't a one-time-only commandment, and thus should be counted in the 613 commandments.

Clearly, the Ramban is making an unstated assumption that exile is different, and during exile there is no mitzvah to conquer, only to live there. This would have to mean an optional mitzvah (see Igros Moshe 1:102), for if it were obligatory on every single Jew, it would usually only be possible through conquest. Therefore, whoever lives there during exile fulfills the mitzvah, but there is not

obligation on anyone to go there.

The Ramban has always been understood this way – in fact, one of the Ramban's sixth-generation descendents, the Rashbash (Rabbi Shlomo ben Shimon Duran, 1400-1467) wrote: "There is no doubt that living in Eretz Yisroel is a great mitzvah at all times, both during and after the time of the Temple, and my ancestor the Ramban counted it as one of the mitzvos... However, during exile this is not a general mitzvah for all Jews, but on the contrary it is forbidden, as the Gemara says in the last chapter of Kesubos, that this is one of the oaths that the Holy One, blessed is He, made the Jews swear: that they not hurry the end and not go up as a wall. Go and see what happened to the children of Ephraim when they hurried the end! However, it is a mitzvah for any individual to go up and live there, but if there are considerations that prevent him he is not obligated." (Shailos Uteshuvos Rashbash, siman 2, brought in the Pe'as Hashulchan)

Furthermore, one cannot learn that the Ramban in Sefer Hamitzvos didn't treat the oaths as a real halachic prohibition, because then one would be faced with a contradiction in the Ramban's own writings. In Sefer Hageulah, end of Shaar 1 (p. 274 in the Chavel edition), he writes that the reason most Jews did not go up at the beginning of the Second Beis Hamikdash is that Jews were uncertain whether King Cyrus had meant to give

permission for all the tribes of Israel to return, or only for Yehuda. And even if he had meant to give permission to all of Israel, they did not wish to force the end, for they knew that Yirmiyahu's prophecy of a 70-year-long exile had only referred to those Jews living in Babylonia proper, not in all the 127 Persian states. So we see clearly that the Ramban does cite the oaths as binding.

And a little later in Sefer Hageulah (p. 284), the Ramban writes, "Based on the teachings of our Sages, we consider ourselves today to be in the Exile of Edom, and that we will not arise from it until the coming of moshiach." This statement would make no sense if the Ramban held that we are obligated to conquer Eretz Yisroel in every generation.

In his commentary on Bamidbar 24:17, the Ramban says, "Because moshiach will gather the dispersed of Israel from the ends of the earth, Scripture compares him to a star that rises from the edge of the sky." Clearly, the Ramban holds that only moshiach will gather in the exiles.

In his commentary on Bereishis 15:12, the Ramban quotes Chazal who say that Hashem showed Avraham Avinu a vision of the Four Exiles. The Ramban explains the connection between this vision and the previous verses. Hashem had just promised to give Eretz Yisroel to Avraham's descendents. Therefore, He placed a limitation

on His gift, telling Avraham that if his descendents would sin, four nations would subjugate them and rule over their land.

Claim: The Zionist movement also had many rabbis to rely on, such as Rabbi Tzvi Hirsch Kalischer, Rabbi Yitzchak Yaakov Reines and Rabbi Yissachar Shlomo Teichtal.

Fact: A minority of rabbanim did indeed advocate Jewish settlement in Eretz Yisroel, but all of them explicitly prohibited a war to take over the land such as took place in 1948. None of them lived to see 1948.

Rabbi Tzvi Hirsch Kalischer (1795-1874) was one of the founders of the Chovevei Tzion movement, and in his 1862 book *Derishas Tzion* he wrote that Jewish settlement in Eretz Yisroel could be the beginning of the redemption. But he made clear that this did not include fighting wars and conquering the land from the gentiles, which would be prohibited under the oaths (*Maamar Kadishin* p. 35b).

Rabbi Yitzchok Yaakov Reines (1839-1915) was a leader of Chovevei Tzion and the founder of the Mizrachi movement. In 1902 he published a book called *Ohr Chadash Al Tzion* calling for settlement in Eretz Yisroel, but cautioning (p. 240) that it must not violate the oaths.

Rabbi Yissachar Shlomo Teichtal, in his book *Eim Habonim Smeicha* (written in 1943), encourages settlement

in Eretz Yisroel but forbids any war before the coming of moshiach, calling it a violation of the oath against going up as a wall (ch. 3, p. 176).

It should be noted that even the movement of peaceful settlement that these rabbanim advocated was opposed by the vast majority of the gedolei hador at that time: Rabbi Samson Raphael Hirsch, Rabbi Chaim Brisker, Rabbi Sholom Ber Schneersohn, Rabbi Eliezer Gordon of Telz, Rabbi Yehoshua of Belz, Rabbi Yechezkel Halberstam of Shineva, and Rabbi Meir Auerbach. The few gedolim who did initially support Chovevei Tzion, such as the Netziv of Volozhin and Rabbi Eliyahu Gutmacher of Greiditz, eventually withdrew their support when they saw the direction the movement was going.

Claim: The Moetzes Gedolei Hatorah of Agudath Israel in 1937 agreed to a Jewish state.

***Fact:** The resolutions produced by the Moetzes were a compromise reached after arguments between those opposed to any state because it would tantamount to denial of the coming of moshiach (among them Rabbi Elchonon Wasserman, Rabbi Aharon Kotler and Rabbi Mordechai Rottenberg) and those in favor (among them Rabbi Zalman Sorotzkin and Rabbi Yehuda Leib Zirelsohn). The resolutions rejected the 1937 British proposal for a state, but for incidental reasons – the borders and the irreligious nature of the state.*

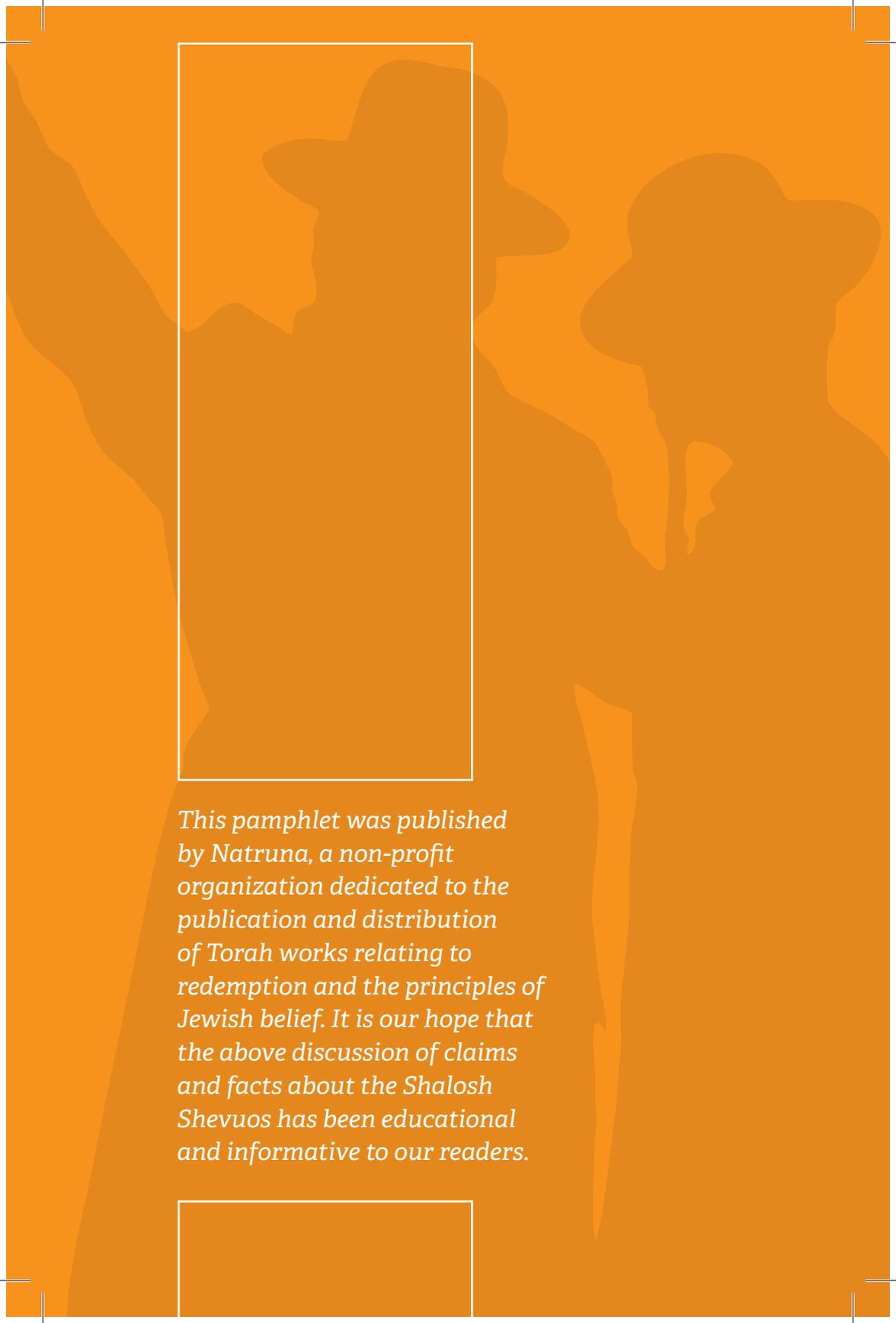
Those few in the Moetzes in favor of a state were certainly going a step further than Rabbi Meir Simcha and the Avnei Nezer, who merely permitted large-scale immigration. And it is not clear whether they can be considered poskei hador with the same stature as Reb Aharon and Reb Elchonon. But in any case, even they were only talking about a state given by the British and peacefully established. Their words have no bearing on what happened in 1948.

The records of the Knessia do not tell us how the pro-state rabbis explained the Three Oaths, but we have on record a 1944 letter from Yaakov Rosenheim, the founder and political leader of Agudah, that explains their position: "The agreement of Agudah to the establishment of a state before the coming of moshiach is based on the rulings of the Gedolei Torah. However, those rulings depend on two basic conditions, which are far from reality and possibility: 1) the state must be conducted in accordance with Torah and tradition; 2) there must be peace with the Arabs. The second condition is in order to fulfill the oath against going up as a wall (Kesubos 111a). This oath forbids us to take any military action or conquest of the land against the will of the Arabs and the governments of the world. The oath prohibiting rebellion against the nations refers to revolution by military force... I do not believe that under the current circumstances it is possible to have a state according to Torah law... I would

consider the founding of a state to be a disaster and a misfortune." (Mikatowitz Ad Hei B'Iyar, p. 340)

In conclusion, we hope that the above discussion of claims and facts about the Shalosh Shevuos has been educational and informative to our readers. It is especially important to know the facts about this issue because many people today mistakenly believe that this was an evenly balanced debate about halacha. As we have seen, there were a range of opinions, but there was no one at all prior to 1948 who permitted founding a state through warfare. Keeping the Three Oaths was the unanimous position of every single gadol and posek. Furthermore, in light of statements like that of Reb Aharon and Reb Elchonon quoted above - that a state amounts to denial of the coming of moshiach - we see that the issue here is not only one of halacha. In all past generations, Jews believed that only Hashem sent them into exile, they waited only for Hashem to redeem them from exile, and in the meantime they trusted in Hashem to protect them as long as the exile lasted. The State and its army, explicitly or implicitly, deny all of that. The fundamentals of our emunah and the future of the Jewish people are truly at stake.





This pamphlet was published by Natruna, a non-profit organization dedicated to the publication and distribution of Torah works relating to redemption and the principles of Jewish belief. It is our hope that the above discussion of claims and facts about the Shalosh Shevuos has been educational and informative to our readers.