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# Mandatory War in the State of Israel & The IDF Code of Ethics

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Seton Hall University

# **MANDATORY WAR IN THE STATE OF ISRAEL**

**&**

# **THE IDF CODE OF ETHICS**

A Thesis submitted to the Faculty of the  
Graduate Program in Jewish-Christian Studies

In partial fulfillment of the requirements  
for the degree of Master of Arts

By

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South Orange, NJ

December 2011

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**Date**

***Basic Values of Israel Defense Force (IDF):***

***Defense of the State, its Citizens and its Residents*** - The IDF's goal is to defend the existence of the State of Israel, its independence and the security of the citizens and residents of the state.

***Love of the Homeland and Loyalty to the Country*** - At the core of service in the IDF stand the love of the homeland and the commitment and devotion to the State of Israel-a democratic state that serves as a national home for the Jewish People-its citizens and residents.

***Human Dignity*** - The IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, nationality, gender, status or position.

— ***IDF Code of Ethics*** —

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It says in the Talmud, עשה לך רב וקנה לך חבר, "Make yourself a Rabbi (a teacher) and acquire for yourself a friend" (Verses of our Fathers 1:6). During my studies at Seton Hall University I had the privilege of accomplishing the above through the brilliant teachings of Father Lawrence Frizzell, Rabbi Asher Finkel and Father David Bossman. From each I am taking not only greater knowledge about topics taught from the Jewish Christian curriculum, but also tools and life lessons that will forever color the way I think and act.

Father Bossman taught me about the danger of generalization, as well as how to recognize benefits of pluralism. I incorporated these learnings into this thesis when I discussed the Arab world.

Rabbi Finkel, through his passionate style of teaching showed me how to read critically Jewish texts, how to find patterns with meanings other than P'shat (what appears to be) and how the Torah offers mind sets not only through words, but also through structure of sentences, tenses and how a text is presented visually. Rabbi Finkel also taught me about the relationship of humans to everything else: to nature, to one another, to the self and ultimately to G-d. Rabbi Finkel also removed the "fear" I had towards Christianity and Jesus and gave me "permission" to learn about the religion and its many beautiful teachings without inhibitions.

From my beloved teacher and mentor Father Frizzell, I learned more about my own Jewish religion than from many other Jewish teachers. It was fascinating to me to experience so much love, compassion and support towards the Jewish people from a priest. Father Frizzell also taught me how to put information in perspective by emphasizing that we should never come to any conclusion without first examining the context in which the information is presented. In Father Frizzell's classes I experienced the power of tolerance through his love for humanity as well as how not to be a by-stander when you see discrimination and actions done wrong. Father Frizzell's par excellence teachings rewarded both my mind and my heart with knowledge and spirit. I will always be grateful for his guidance, support and encouragement during my studies at Seton hall University and especially while working on this thesis.

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I would also like to thank my beloved husband, Perry Fine and my two sons Yonatan and Daniel for their ongoing support and encouragement throughout my studies. Perry would always joke that when I returned from a class, I would walk into the house "floating and glowing" as if on a cloud. My family was there for me every step of the way.

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# **Abbreviations**

## **Protocanonical and Deuterocanonical Books of the Bible:**

Gen	Genesis
Exod	Exodus
Lev	Leviticus
Num	Numbers
Deut	Deuteronomy
Josh	Joshua
Judg	Judges
1-2 Kgs	1-2Kings
1-2 Macc	1-2 Maccabees
Ps(s)	Psalms(s)
Eccl	Ecclesiastes (Qoheleth)
Ezek	Ezekiel
Mic	Micah
Matt	Matthew

## **Targumic and Rabbinical Works**

T. Onq.	Targum Onqelos
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# Introduction

“Stop! Stop and identify yourself! ” This is the first step that is required from every Israeli soldier when he or she encounters a suspicious person approaching. Following written instructions, as well as verbal ones, each soldier must adhere to procedures that facilitate care for human life and dictate careful steps of conduct with potential killers. This is called: “Conduct of Suspicious Arrest”.<sup>1</sup>

In February 2011, I visited Israel where I conducted three interviews with three military officials of Israel Defense Force (IDF). My first interview was with a young commander, Neryah, who also serves as an instructor of a unit of soldiers. This person is fulfilling part of his three years mandatory service to the Israeli army.

My second interview was with a lieutenant, Hanan, who served in the IDF for over twenty years. His position allowed him to oversee all soldiers’ logistics, beginning with basic needs and finishing with supply of weapons, behavior during service and conduct at war. He has served all over Israel, moving around from the north to the south as needed. He participated in a number of major wars.

The third person I interviewed was an officer in the Israeli army: my brother, Yoram. He served for over ten years and was in a position of giving directions and commands especially during military actions and dangerous encounters with the enemy. I spent a few hours with each

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<sup>1</sup> Material shared by the military officials during an interview in Israel, February 2011. These are the instructions Commander Neryah gives his soldiers during a course titled: Conduct during Ground Force via Tanks. His unit is: Merkava, Mark # 4. The next paragraph gives more information about the interview.

one of them separately. They were all willing to answer my questions and they all shared their views honestly and knowledgably, referring at times to written material that they brought with them to the interview.<sup>2</sup>

The information that I am sharing below, as well as throughout the thesis comes from these three military officials, as well as other documented and researched material. I will indicate my source for references throughout this investigation. All three were in concert as far as the response of a soldier to a potential threat during a military encounter, for example, during war or an attack. They all gave or had received the same instructions and they all seemed to know very well what must be done during the discussed threat.

Three different people, at three different interview settings, offered me similar answers about behavior during a potential threat. Their answers showed me that human life is placed at high priority. According to them, there is a careful and calculated handling of a potential threat so neither the life of the soldier nor the life of the enemy is in danger. Let us see the next steps of the discussed “suspicious behavior”: If the suspect does not stop, the soldier must move to step number two: Cock the gun without using the magazine (of bullets). This step is meant to serve as a deterrent to the suspect and make him (or her) stop moving towards the soldier.

If the suspect is still defiant, there is step three: Load the gun, shoot two bullets in the air, “sixty degrees above the target.”<sup>3</sup> The logic behind this step of two shots (as opposed to one

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<sup>2</sup> Commander and instructor: Neryah. Lieutenant: Hanan. Officer: Yoram. For more information about these people, please refer to bibliography.

<sup>3</sup> Sixty degrees distance is the calculated measurement that would yield the smallest chance of actually

shot) is to assure that the suspect is not deaf or for some other reason unable to comprehend the first request to stop. In addition, the two shots, one after the other, show intent of shooting. A bullet does not escape by chance but rather, a second one is shot to make a point of the intent of the soldier to shoot. At this point a suspect, should stop approaching the soldier.

If the suspect does not stop after all these steps, only then the soldier is required to proceed with step number four and shoot towards the suspect, aiming at the bottom of his body towards the ground. Again, this is meant to stop the suspect from approaching the soldier and not to kill him. Step number five is to shoot at the suspect in order to stop his defiant behavior and “neutralize” him. The shooting should hit the lower part of the body, causing a wound only. This step is called: “Conduct of Opening Fire”.

At what point should a soldier use force in order to stop a suspect from approaching him with possible intent to harm him? What other way does a soldier have to stop a potential killer? Where is the fine line between giving the benefit of the doubt to a suspect and risking one’s life?

According to the IDF, Israel’s Defense Force, Israeli soldiers must do all they can to avoid harming others (even a potential enemy) short of allowing the other person to kill them. “Conduct of Opening Fire” is advised once the Israeli soldier realizes a concrete danger that is expressed through the following three conditions: The suspect is approaching them with an

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hitting/hurting a person or an object, according to instructions, (IDF instructions as per Commander Neryah).

object ("cold" or "warm" weapon: knife, gun...). The suspect shows intent of harm and demonstrates ability (he walks or runs towards the soldier not stopping at requests to stop).<sup>4</sup>

Clearly, the above demonstrates an exhausting procedure that is required from an Israeli soldier to avoid harming others. I intentionally chose to specify those steps so the reader may learn of the care that is taken by the IDF to avoid harm. The IDF requires from its every soldier to adhere to a behavior code that places life of self and others at high priority. These Codes of Ethics are delineated more thoroughly through the principles of Purity of Arms that are at the heart of expected conduct of the Israeli army. These ethical and moral considerations are an integral part of Israel's army not only now but also in the far past, going back to the biblical era.<sup>5</sup>

Of course there are complications, at times, and things may not always run smoothly. For example, what if a soldier or a commander does not follow a certain code of behavior? These people will have to deal with consequences. There are clear and written laws as to handling delinquents in the IDF. These people will have to explain themselves in a military court. For example: a commander is not allowed to abuse his or her position and take the law into his or her own hands. The officer is not exempt and also must adhere to rules. Or another example: a soldier may refuse a commander if he feels morally conflicted over a command. This is called:

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<sup>4</sup> Ibid.-Interview with military officials of the IDF- Israel Feb. 2011

<sup>5</sup> During biblical times, soldiers may not have had written and documented instructions of behavior such as the IDF provides via their principles of Tohar Haneshek and other documents nowadays. Nevertheless, as we will learn throughout this thesis, especially in Chapter 1, discussing Biblical and Talmudic investigation on War, fighters of the past were versed with moral conduct during war, and also had to follow rules.

“Obvious Refusal of a Command”. His choice suggests that he had done so knowingly and willingly and he is prepared to report to a military court and deal with the consequences.<sup>6</sup>

And how does the military handle the “Rambos” and the “angry” ones who take the law into their own hands and do not follow the behavior code? These people are placed on trial and are dealt with accordingly, including the possibility of serving prison time.<sup>7</sup>

Having shared the above, I would add that there is a very small percentage of delinquency in the IDF. The Israeli army is not considered one of the best in the world because it is filled with delinquents who do not follow rules. It is considered one of the greatest armies because it has soldiers who follow rules, indeed.

The world, nevertheless, depicts Israel as aggressive, non-ethical and even accuses Israel of war crimes ignoring clear evidence to the contrary.<sup>8</sup> Many times the world chooses to turn a blind eye to many ills all over the world. Many of them are very obvious unacceptable behaviors, and are clearly wrong, causing abuse to humanity. Yet the world is quick to criticize and condemn Israel at the slightest opportunity of projecting her as evil, without shying away, at times, from lies to support their accusations.

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<sup>6</sup> Interview-February 2011-Commander Neryah, with reference to Pinkas Kis L'chayal: “Soldier’s Pocket Reference Book”- This booklet is given to every soldier at the start of their service. See also Chapter 5 discussing Purity of Arms.

<sup>7</sup> Interview-February 2011- Commander Neryah.

<sup>8</sup> The Goldstone Report is one example. A thorough discussion on this report can be found in Chapter 5 section D: “Universal moral values based on the value and dignity of human life.”

In the past, when Israel had to engage in war in order to defend herself and her people, conditions were more defined. The fights were usually army against army, soldiers against soldiers, country against country. Nowadays, Israel is facing a different beast: the enemy is not always clearly defined. In addition to defending herself against other armies, Israel needs to defend herself against terrorists, who are sometimes attack as a group and sometimes attack as individuals, depending on their choice at the time.<sup>9</sup>

Additionally, Israel needs to defend herself against suicide bombers who are civilians. Israel also must be on alert against a potential atomic attack or use of other weapons of mass destruction against her. And ultimately, Israel needs to defend herself against killing the “idea (the existence) of Israel”, as Daniel Gordis suggested in his book: “Saving Israel, How the Jewish People Can Win a War that May Never End”.<sup>10</sup> Israel seems to fight forever to achieve peace of existence.

Albert Einstein defined peace this way: “Peace is not merely the absence of war but the presence of justice, of law, of order--in short, of government.”<sup>11</sup> Is this the Jewish view of peace as well? And in order to obtain this kind of peace, how far can a country go? Can a country choose to go into a war in order ultimately to achieve peace? If one’s life is threatened on a regular basis, and life’s reality is that the person may be murdered at any given moment by fanatics, is it permitted then to go into war? What is one’s recourse? What is the country’s recourse? What is the country’s obligation? Where is the fine line between attempting to reason

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<sup>9</sup> Hazut. H-Lieutenant of IDF-Interview-February 2011

<sup>10</sup> Gordis. Saving Israel. See Bibliography.

<sup>11</sup> Einstein on peace. p. 371 (See bibliography).

with potential threat and declaring war on that entity? Who makes the decisions and what are they based on?

We all seek peace. Peace is the epitome of safety. As Abraham Maslow suggests in his theory of Hierarchy of Needs: a person cannot go to the next level of functioning in life if his basic needs are not first met: food, shelter and safety.<sup>12</sup> Safety needs are the most basic human needs, allowing a person to move on and to function normally. We need to have peace in order to feel safe. Peace, however, does not happen automatically, especially not to Israel. Sometimes we need to bring it about. Sometimes we need to demand it. And sometimes, ironically, we need to 'fight' for peace.

Under what circumstances is it permitted to go into war? Jewish law is quite clear when it comes to matters of life and death. "הבא להרוגך השכם להרוג" "If one arises to kill you, kill him first."<sup>13</sup> The Talmud says the following about this verse:

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<sup>12</sup> Rosenhan and Seligman. *Abnormal Psychology*, p. 119.

<sup>13</sup> The saying, הבא להרוגך השכם להרוג, "If one arises to kill you, kill him first" is rabbinic. It occurs in several contexts. One of the primary contexts is in Midrash Rabbah and Midrash Tanchuma on Numbers 31:1: the Midianites were a threat to the Israelites, and a war is commanded to take pre-emptive action against them.

Also in Masekhet Berakhot 58a and 62b, there are two occurrences of this phrase. Each of these involves a fanciful story in which someone invoked the argument of self-defense to apply to their own case, and they quote: "The Torah says, הבא להרוגך השכם להרוג" but they don't say where the Torah says this. The manner in which they quote it implies that it is well-known and well-established.

In b. Yoma 85b the phrase is used in connection with the law of Exodus 22:1, about the thief breaking into your house, which is used as a support for the principle of פיקוח נפש (saving a life) on Shabbat: if you are permitted to kill the thief to save your life, you are certainly permitted to perform work on Shabbat to save your life! The phrase הבא להרוגך השכם להרוג is used in Yoma 85b but not in Mekhilta on Exodus 22:1 (though the same deduction from the thief from Shabbat is found in Mekhilta). The phrase is, however, found in Rashi in Exodus 22:1.

Given these pieces of evidence, I would venture to guess that the principle originated in the midrash on Exodus 22:1 and Numbers 31:1—it is hard to say which of these came first but they may have arisen at about the same time. It is my guess that it came first on Exodus 22:1 since that is a primary legal text whereas Numbers 31:1 is historical. From there, it was quoted derivatively in the Gemara of Yoma and Berakhot. (This reference is used again in this thesis).

“מניין לפקוח נפש שדוחה את השבת? נענה רבי ישמעאל ואמר: (שמות כב) אם במחתרת ימצא הגנב. ומה זה, שספק על ממון בא ספק על נפשות בא, ושפיכות דמים מטמא את הארץ וגורם לשכינה שתסתלק מישראל - ניתן להצילו בנפשו, קל וחומר לפקוח נפש דוחה את השבת.”

“How do we know that when life is in danger Sabbath may be violated? Rabbi Ishmael answered: It is written [Exodus 22:2]: "If a thief is found while breaking in and is hurt so that he dies, there shall be no bloodshed for him." We can deduce, a fortiori, from this: If in this case, when it is doubtful whether he had come to steal only or to murder that taking his life is permitted even though bloodshed defiles the land and causes God's presence to distance from Israel, how much more is violation of the Sabbath (less important than bloodshed) permitted to save a human life.”<sup>14</sup>

If a person faces a deadly threat from someone, and he is in a position of being chased **נרדף**, then, the pursuer, **רודף**, must be stopped. In order to save one's life, the person may go to the extreme of killing if he has to. This is considered self defense. If a country faces a deadly threat, going into war may be self defense, as well. In Judaism, that is called Mandatory War or Just War, **מלחמת מצוה**. National self-defense is as much a moral right as is personal self-preservation.

Why is Israel always placed on the defensive, not only from the obvious enemies but also, many times, from her so called “friends?” Why is the world so harsh with Israel while it is so accepting of others who clearly demonstrate evil intentions and catastrophic plans towards

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<sup>14</sup> b. Yoma 85b

others? Should Israel change its tactic of defense, whether it is militarily, diplomatically, politically, socially and psychologically so it can continue to exist? What does Israel need to do in order to allow her citizens to live in peace and fulfill the basic right for freedom and safety? Why do others place Israel in situations that depict her as the “bad one?”? Where were the Jews in general and Israel in particular in the past and where are they now as far as their right to exist? Did anything change?

Threats towards Israel are ample. Take for example Iran. In this era of nuclear threat and intimidation, rules change. Countries use nuclear threat with great deviation from decency. Some countries have nuclear weapons in order to defend themselves from complete annihilation. Other countries use the threat of their nuclear weapons to intimidate and bully and threaten to attack for the purpose of destruction.

The focus of this paper is to investigate and understand the origins of Israel’s ethics and behaviors during war. Israel follows a code of ethics that dictate their behaviors at challenging times, namely during attack. In order for us to fully understand the origins, we will have to look at present behaviors and present encounters with enemy, as well as learn how Israel plans to handle threats in the future. For example, we know that Israel does not threaten to use its nuclear power unless it has to defend its people. Others, namely Iran, would gladly activate its nuclear power in order to erase Israel from the map. Historically, going back to Biblical time, we will learn that threats take different forms and that realities change, hence, they dictate changes in tactics of war.

The use of nuclear weapons is fundamentally in order to advance one's political gain. Historically, armies used two basic tactics in war: attack and defense. The presence of nuclear weapons introduced the element of intimidation and deterrence. Nuclear use has the capacity of global destruction and eradicating whole peoples. Are we really aware of the massive consequence of an attack with such a power? It is very scary indeed to live in a world that offers this prospect.

An important text is read from the Passover Haggadah by every Jew, year after year for hundreds of years: "In every generation they stand over us to eradicate us, but the Holy One, may His name be blessed, is saving us from them." Is this still relevant today? Why is it still relevant today? When will Israel and her people attain their ultimate dream: Peace? When will Israel have the external peace that will allow her people the inner peace that is always sought?

Is Israel's approach to threat wise? Should the world take notice and analyze, in a non-biased manner, why Israel is involved in so many wars throughout history? How do we accomplish that awareness? What kind of wars was Israel engaged with? How does history view Israel in war? How do the Bible and Talmud view war? Are there moral and ethical rules for it? How does a country react when "talks" don't work? When do you sit back and when do you strike? How far should Israel go for the sake of peace?

Many questions! This thesis is an attempt to answer some of the above questions and to learn how Israel manages to survive in spite of continuous attempts to destroy her throughout history, while utilizing a code of ethics that is based on decency and care for humanity from

Biblical times to the modern period. This thesis reflects an insider's point of view and its approach and conclusions are based upon a historical analysis of Jewish teachings whose principles I share. A complementary study would include a presentation of international law and its implications. This could be the subject of further research.

This thesis is an investigation of the four principles or traditions from which the IDF draws its spirit, with an attempt to correlate these principles to biblical and rabbinic sources, as well as modern interpretations:

- The tradition of the IDF and its military heritage as the Israel Defense Forces.
- The tradition of the State of Israel, its democratic principles, laws and institutions.
- The tradition of the Jewish People throughout their history.
- Universal moral values based on the value and dignity of human life.<sup>15</sup>

My hope is, also, that by understanding the approach that Israel takes and learning how and where these principles of ethics come from, the world will be more empathetic towards Israel. By learning that Israel has exercised moral behavior throughout history and has embedded in her the very fabric of ethical behavior may offer respect and pride for the brave State.

I hope for the world to know, feel, empathize and help a small country in the Middle East that fights for her existence. It is to challenge the reader to rise above old, hateful notions that are targeted against a feisty, brave democratic country, and find the courage to stand up to

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<sup>15</sup> Appendix C offers a full version of the IDF Code of Ethics. The above traditions are listed in the order that it appears in the original IDF Code of Ethics document. Deeper analysis of these traditions are discussed in Chapter 5 of this paper.

what is right. By learning the historical connections to moral choices, I hope that this paper will shed light on the discrimination against Israel and the Jews, and hopefully will take that torch of truth and realism and illuminate unseeing eyes.

I will do so by investigating a number of topics that will be divided into chapters. I will look into the concept of war, namely Mandatory War, and investigate this concept while tying it to the Israeli society and their dilemma: To react to an attack or not? To initiate fights sometimes or not...? To divide the land or not...? Should Israel, at times, strike first, and if yes, how? When? I will look at some biblical and rabbinic sources, as well as examples in modern times. I will also investigate tactic of war, with emphasis on its ethical side.

My investigation will focus heavily on the concept of טוהר הנשק (Tohar Haneshek), or Purity of Arms, which will clarify for us expectations of moral behavior during war historically and currently in the Israeli army, the IDF. I will investigate the four traditions or sources from which the IDF draws its spirit from and offer examples to support those sources.

The country of my focus is Israel, since it had been involved in many wars, and many times was accused of being the aggressor. The country of my focus is Israel because for some reason the land, or the people or both are always under siege... from beginning of time until now. And the world acts oblivious to this!

# CHAPTER 1

## Biblical and Rabbinic Investigation on Mandatory and Discretionary War

In Judaism, there are two kinds of wars: מלחמת מצוה and מלחמת רשות Mandatory War and Discretionary War. The Talmud defines Mandatory War as a war of self-defense and Discretionary War as one that is selected for various reasons.<sup>16</sup> It says that Mandatory War must fall under three categories: a) war to conquer the seven nations of Canaan, b) war to destroy Amalek and c) war of national self defense. The first two are more of a historic fact that is not relevant today. However, war that is based on a national self-defense remains in consideration.<sup>17</sup>

On the other hand, a Discretionary War is defined as a) war to extend the land of Israel, and b) preemptive war against those who might attack Israel.<sup>18</sup> Israel faces both challenges: Constant need to defend itself, as well as consideration of a preemptive war to prevent an attack.

The Talmud also enshrines the religious leadership as a check on power-hungry sovereigns wishing to rush to war. We see Moses commanded by God to make war on the Amorites and nevertheless he begun by offering them terms of peace.<sup>19</sup> In Deuteronomy we see that "God commanded Moses to make war on Sihon, as it is said, 'Engage him in battle' (Deut.

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<sup>16</sup> b.Sota 44b

<sup>17</sup> Father Frizzell, class notes: "The Bible and the Jewish Tradition on War."

<sup>18</sup> Ibid.

<sup>19</sup> b. Sanhedrin 20b

2:24), but he did not do so. Instead he sent messengers to Sihon with an offer of peace (Deut. 2:26). Rabbi Moses Ben Maimon (Maimonides), or as he was known, Rambam, established a law that was based on Moshe's offer for peace first and G-d instructs: "פִּי-תִקְרַב אֶל-עִיר, לְהִלָּחֶם, לְשָׁלוֹם" "עֲלֶיךָ-וְקִרְאתָ אֵלֶיךָ, לְשָׁלוֹם" "When you draw near unto a city to fight against it, then proclaim peace unto it," (Deut. 20:10). Every war upon which Israel enters shall begin with an offer of peace.

The rabbis take the above passage to mean that one must always offer peace and that engaging in war is a last resort.<sup>20</sup> Further investigation of a peace offer prior to an attack will be discussed later in this chapter, as well as in the chapter on Purity of Arms. Whether a consideration of war is made, discretionary or mandatory, it is taught that either choice carries with it many constraints and regulations. Which were the mandatory wars in the Bible? What and who initiated them? How were they addressed by the Israelites? What is G-d's position on war? How is war viewed in the Bible?

We learn that the Bible does not forbid war. G-d forbids (pre-meditated) murder, but not killing in other situations. On many occasions G-d ordered the Israelites to go to war (Josh. 4:13; 1 Sam. 15:3), and even demands the death penalty for many crimes. Although war is a horrible thing, G-d at times commands it for various reasons. We even have instances where G-d himself is called the warrior, as in the case of the Exodus story. G-d imposed His will on all evildoers, starting with Pharaoh (Exod.13-14).

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<sup>20</sup> Deuteronomy Rabbah 5:13; Rambam, Hilchot Melachim, (Appendix A).

Interestingly, according to the New Testament, war is always the result of a sin. In the Letter of James we learn directly of those behaviors that will bring about conflict: "What causes fights and quarrels among you? Don't they come from your desires that battle within you? You desire but do not have, so you kill. You covet but you cannot get what you want, so you quarrel and fight. You do not have because you do not ask God. When you ask, you do not receive, because you ask with wrong motives, that you may spend what you get on your pleasures. You adulterous people, don't you know that friendship with the world means enmity against God? Therefore, anyone who chooses to be a friend of the world becomes an enemy of God" (James 4:1-4).

In the Torah we learn that G-d ordered the Israelites to act: "Take vengeance on the Midianites for the Israelites" (Num. 31:2) and "However, in the cities of the nations the LORD your God is giving you as an inheritance do not leave alive anything that breathes. Completely destroy them--the Hittites, Amorites, Canaanites, Perizzites, Hivites and Jebusites--as the LORD your God has commanded you" (Deut. 20:16-17).

In another passage we read "He said, 'For hands were lifted up to the throne of the LORD. The LORD will be at war against the Amalekites from generation to generation'" (Exod. 17:16). As well as "Go and completely destroy those wicked people, the Amalekites; make war on them until you have wiped them out" (1 Sam. 15:18).

Let us investigate the details concerning war from the Torah. The Torah discusses laws about warfare throughout Deuteronomy chapter 20. It begins with: **כִּי תֵצֵא לְמִלְחָמָה עַל אוֹיְבֶיךָ**

“When you will go to battle against your enemy...” (Deut. 20:1). The chapter discusses rules and regulation of war dividing it to categories: Verses 1-9 focus on how the Israelites are to prepare their army, instructing that it should not necessarily be a standing army but rather civilians who would get to battle as needed.

Verses 10-18 discuss the treatment of a defeated population by the Israelites. It stresses that first an offer for surrender must be given and if the enemy insists on a battle, the Israelites must spare women, children and property and take them as captives. Only men may be killed during that war. The last verses of this chapter (19-20) instruct how to treat the trees of the conquered area by sparing them and not destroying them.<sup>21</sup> Later in this section I will go into more details on specific items from this chapter.

We see more war instructions in the following chapter of the book of Deuteronomy that also begins with the words: “כִּי תֵצֵא לְמִלְחָמָה עַל אוֹיְבֶךָ...When you will go to battle against your enemy...” (Deut. 21:10f). Here, the instructions of war are directed more towards the individual Israelites. For example, after stating that in battle one should not have fear, the Torah then proceeds to discuss who is exempt from war. Interestingly, when it comes to Discretionary War, there are those who are exempt from participating in it (Deut. 20:5-7). However when it comes to Mandatory War, no one is exempt. Even a bride and a groom are obligated to fight.

Another source tells us that the *misvah* of protecting Jews, saving them from enemies that attack them is the same as saving an individual Jew. Yet, should one forfeit his life in order to

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<sup>21</sup> Jewish law teaches “not to destroy” in general “בל חשׁוּיִת” (reference from: Deuteronomy 20:19-20)  
The division to subcategories was from Etz Chaim, Torah and Commentary.

save another? Our sages said no: "Who said your blood is redder than his blood?"<sup>22</sup> This usually applies to a case where a person is threatened by death unless he murders someone else; hence my point is an extension of this principle.

To reinforce this point we know that it is not always required by Jewish Law, Halacha, to fight a battle that does not appear to have a reasonable chance at success. An example to this case is given in the Gemara by Rabbi Yohanan Ben Zakkai, who chose to surrender his forces to the Romans rather than suffer many Jewish casualties, even though it meant relinquishing parts of Israel.<sup>23</sup>

In the book of Deuteronomy, the commentators had a problem with the command given to Joshua: "You shall allow no person to live" (Deut. 20:16). The command to utterly wipe out the seven nations who inhabited the Promised Land was challenging so they devised a number of explanations, strategies, and exceptions to avoid or mitigate the command of omnicide, killing everything.<sup>24</sup>

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<sup>22</sup> b. Sanhedrin 74a.

<sup>23</sup> b. Gittin 56a.

<sup>24</sup> Omnicide is human extinction as a result of human action. Most commonly it refers to extinction through nuclear warfare, but it can also apply to extinction through means such as global anthropogenic ecological catastrophe. The concept of omnicide raises issues of human agency, hence, of moral responsibility about large-scale social processes like the nuclear arms race or ecologically destructive industrial production. That is, part of the point of describing a human extinction scenario as 'omnicidal' is to note that, if it were to happen, it would result not just from natural, uncontrollable evolutionary forces, or from some random catastrophe like an asteroid impact, but from deliberate choices made by human beings. This implies that such scenarios are preventable, and that the people whose choices make them more likely to happen should be held morally accountable for such choices. In this context, the label 'omnicide' also works to de-normalize the course of action it is applied to. Omnicide also refers to the destruction of everything.

[http://en.wikipedia.org/wiki/Human\\_extinction](http://en.wikipedia.org/wiki/Human_extinction)

For example, Rambam made a comment on the following verse: “When you approach a town to attack, you shall offer it term of peace” (Deut. 20:10). He based his comment on his own understanding as well as on Talmudic and Midrashic sources, and said that even Joshua, conqueror of the land of Israel, who was surely conducting a *Milhemet Misvah*, gave the nations there an opportunity to flee or to make peace before he attacked, and two of the peoples he approached selected the peaceable alternatives he offered.<sup>25</sup>

Rambam tells us that only Mandatory War does not require approval of the courts<sup>26</sup>. Rambam stresses that this kind of war, of defending the nation is a commandment rather than a choice.<sup>27</sup> As a matter of fact, a more recent Rabbi, Ovadia Yosef,<sup>28</sup> brings a source that states that any war that is fought for the land of Israel is considered Mandatory War, *מִלְחֶמֶת מִצְוָה*.<sup>29</sup>

Based on the above mentioned interpreters’ analysis in the Talmud and also, mainly, those of Rambam, we may conclude that a pre-emptive war, such as the Six Day War (June 1967) would be considered *Milhemet Misvah*. It was clear then that other nations were ready to attack Israel. Those enemies posed an immediate danger to the Jews. Even enemies who are just preparing to attack Israel are considered an immediate threat and it is permissible, according to

<sup>25</sup> Rambam, Hilchot Melachim 6:1 (appendix A).

<sup>26</sup> As it was required in the past by the Sanhedrin, court of 71 scholars.

<sup>27</sup> Rambam, Hilchot Melachim 5:2.

<sup>28</sup> Rabbi Ovadia Yosef, born in Iraq in 1920, is a Talmudic scholar and recognized Halachic authority. He is the spiritual leader of the Shas party, and former Sephardi Chief Rabbi of Israel. Highly revered in the religious world - especially in the Sephardi and Mizrahi communities - Yosef is among the most important poskim (religious rulers) of recent generations. Yosef has been referred to as Gadol Ha'Dor (greatest of the generation), and Maor Yisrael (The Light of Israel). From the late 1980s, Yosef has also advocated peace negotiations between Israel and its Arab neighbors. Under the halachic principle of pikuach nefesh, which states that all the Jewish commandments (excluding adultery, idolatry and murder) are nullified if a life is put in danger, Rabbi Yosef has claimed that the Arab-Israeli conflict endangers human lives. Therefore, according to Yosef, Israel is permitted, even obligated if saving lives is a definitive outcome, to make serious efforts to reach a peace settlement as well as ensure the protection of its citizens. Haaretz.com, *Wed, March 16, 2011 Adar II 10, 5771*

<sup>29</sup> Sheilot V'tshuvot Siman 54.

Rambam, and even commanded to fight them. He sees it as the same category as Mandatory War for the purpose of saving Israel from enemies now, and in the future.<sup>30</sup>

In Shulchan Aruch<sup>31</sup> we read an argument against attacking a nation without any cause to fear an attack in later years. But as stated, if it is a definite future threat, it is mandatory. It is self defense.

Reviewing some of the points of מלחמת מצוה Mandatory War one sees that it is ordained by G-d in the Torah, and its purpose is to protect the physical and spiritual survival of the Israelites. In this war, everyone must fight, with some exemptions. This war can be called by a king or president or general.

Is Mandatory War morally correct? How could war ever be considered a *misvah*? Well, think of Hitler, for example! Of course, many would agree that killing him would be right. Maybe even some of his Nazi assistants. But when we consider punishing other war criminals by death, we may begin to doubt the idea of killing: is it right or wrong to kill them in return? Are we to take the law into our own hands?

During war, we are not comfortable with the concept of killing someone. And to say it in the name of G-d makes it even more difficult. People murdered Jews, and still do, in the name of their G-d. Should we assume the power of G-d in our hands and attempt to do the same?

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<sup>30</sup> Rambam, Hilchot Melachim 5:2.

<sup>31</sup> Yosef Karo, Shulchan Aruch 72.

Indeed it is a moral dilemma. Yet, sometimes, unfortunately, we must decide to act. Sometimes, we are even obligated to do so.

# CHAPTER 2

## The War of the Maccabees and Modern Israel

The few against the many... The Maccabees against the Syrian Greeks... the few win. Based on this historical event, the Jewish people celebrate the holiday of Hanukkah, attributing the victory to intervention of G-d in strengthening the determined Hasmonean family, led by Judah the Maccabee, to war and ultimately to victory.<sup>32</sup> The focus of the feast was to the re-dedication of the Temple, which had been occupied and polluted by the Seleucid army.

Interestingly, the origin of the term 'guerilla war' is attributed to a historical event: "the English term for guerrilla warfare comes from the Peninsular War (1808-14), where Spanish guerrillas crushed Napoleon's occupying armies – in Spanish 'guerra' means "war"; the suffix 'illa' means "little"—the tactics of the Spanish were so successful, that the name stuck."<sup>33</sup>

The Maccabean war was really the first guerilla war recorded in Jewish history because it fits perfectly with its characteristic and definition. Also from the above mentioned source we learn more what a guerilla war is: "An aspect of popular warfare that is strategically defensive and tactically aggressive. Guerrilla warfare is strategically defensive because it spawns under a repressive government in defense of the interests of workers/peasants, or forms in the interests of

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<sup>32</sup> Maccabee—from Hebrew: מכבי or מקבי which means 'hammer'. This title was given to Judah, third son of Mattathias, whose attacks were "hammer-like".

Also מכבי stands for: מי כמך באלים יי (אדוני) which means: Who is like You, from amongst the mighty, Hashem? (Exod. 15:11).

<sup>33</sup> MIA: Encyclopedia of Marxism: Glossary of Terms  
<http://www.marxists.org/glossary/terms/g/u.htm>

national liberation against an occupying enemy force. It is tactically aggressive because its aim is to overthrow the repressive government, or force the withdrawal of an occupying army. Additionally, Guerrilla warfare commonly begins spontaneously, but may be used as a means of revolutionary struggle.”<sup>34</sup>

Was the Maccabean war Mandatory (Just) War or a Discretionary War? Why did this war take place and how was the war conducted? Were the Maccabees only a group of a barbaric tribe who wanted to resist all attempts to changing a unified (Hellenistic) society and avoid progress? How was that war different from other wars, if at all? Were the circumstances leading to that war any different from those nowadays? How? Was the war conducted ethically, and was there a need to adhere to code of ethics? Was that war different than other Jewish wars in the Bible? Was that war different than Jewish wars in modern Israel? What, if anything has changed?

This chapter is an attempt to investigate the above questions. It will focus especially on causes and backgrounds that would precipitate and ultimately necessitate action and offensive to deal with the oncoming assault of the enemy.

In the first book of Maccabees we learn of the interpretation of the events that took place from 175 to 134 B.C.E. We read how the Greek ruler Antiochus IV Epiphanes placed severe decrees on the Jewish people and practically robbed them of their religious freedom. Seemingly, Antiochus’s attempt was to unite all people to follow one way of life, the Hellenistic practice of

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<sup>34</sup> Ibid.

the same language, religion and culture. “Then the king wrote to his whole kingdom, that all should be one people, *each abandoning* his particular custom” (1 Macc. 1: 41-42).

Although some of the Israelites adopted the new religion, many saw it as a tragic offer, especially when the new decrees were given: “The king sent messengers with letters to Jerusalem and to the cities of Judah, ordering them to follow customs foreign to their land; to prohibit holocausts, sacrifices, and libations in the sanctuary, to profane the Sabbath and feast days, to desecrate the sanctuary and the sacred ministers, to build pagan altars and temples and shrines, to sacrifice swine and unclean animals, to leave their sons uncircumcised, and to let themselves be defiled with every kind of impurity and abomination, so that they might forget the law and change all their observances. Whoever refused to act according to the command of the king should be put to death” (1 Macc. 1:44-50).

The epitome of cruelty to the Jews occurred when the king placed an idol, “the horrible abomination”, in the Holy Temple and desecrated all that was dear to them including burning and tearing apart texts of the holy Torah. Having death as a consequence of not following the above decrees, many chose to die and they did so as martyrs (Kiddush Hashem, קידוש השם).<sup>35</sup> “But many in Israel were determined and resolved in their hearts not to eat anything unclean; they preferred to die rather than to be defiled with unclean food or to profane the holy covenant; and they did die. Terrible affliction was upon Israel” (1 Macc.1:62-63).

Did the Hasmonean family initiate a Discretionary War or Mandatory/Just War? It is very clear that the revolt was mandatory and very justified! The Jewish people’s very existence was

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<sup>35</sup> Story of Hannah and her seven sons in 2 Macc.: 7 is one such story of sacrifice.

at stake. The Jewish people's very identity was about to be erased. The Jewish people had to engage in this difficult war so they could defend themselves and their future.

The leadership and call for a strike by Mattathias came at a period in history that begged for intervention. After his death, his sons, by his testament, continued his mission.<sup>36</sup> We learn of his Ethical Will <sup>37</sup> in 1 Maccabees chapter 2: "Now hath pride and rebuke gotten strength, and the time of destruction, and the wrath of indignation: Now therefore, my sons, be ye zealous for the law, and give your lives for the covenant of your fathers" (1 Macc. 2:49-50).

The passion and zealous action of Mattathias and his sons influenced many other Jews who joined them in resistance. They had to deal with many variables and complications besides the great Syrian-Greek enemy. They had to make a decision of how to handle an attack during the Sabbath, for example. Since Shabbat is considered holy to the Jewish people, they opted, at first, not to react when they were attacked on that day. It is important for this work to examine the topic of 'fighting on the Sabbath' and look at the scholarly analysis. This will be discussed in greater detail in Chapter 5 section D covering the topic of dignity and value of human life.

During the Hasmonean periods, the Syrian Greeks were guilty of murder in its broad and inclusive term. Their total disregard to Jewish humanity and clear disrespect to their laws and needs demanded a reaction by their victims, the Jews. The Syrian Greeks used every aspect of a destructive method in the hope to assume total control over the one people that refused to buy into their offensive offers. That demanded a reaction.

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<sup>36</sup> Father Frizzell-class notes-succession of dynasty/testament of Mattathias

<sup>37</sup> Modern Hebrew for 'testament'

A number of examples show us how the enemy manipulated and attempted to destroy the very heart of Jewish values. Additionally, there are other examples of Jewish people's responses to them. The following examples will further serve as a reinforcement and justification of the decision to fight back and engage in war.<sup>38</sup>

The first example is a testimony of heroism in the face of an attack. This is the story of Hannah and her seven sons, a story about a woman who kept her faith at the expense of seeing her children executed and then she herself endured death.

In 2 Maccabees we are introduced to a Jewish woman<sup>39</sup> and her seven sons who were ordered to eat unclean meat. One after the other the seven sons refused to give in to Antiochus's order and each was put to death in most torturous ways. Each child in his turn demonstrated their strong religious convictions, instilled by their mother, and continued to refuse the king, hence embarrassing and making him angrier. When Antiochus saw that, not wanting to face another refusal he appealed to both the youngest son and his mother, Hannah, and promised them riches and privileges if they would give in to his demand and eat the non-kosher meat, pork, which was a sacrificial offering that would imply acceptance of idolatry. To the king and his people's astonishment, the young son replied: "King Antiochus, what are you waiting for? I refuse to obey your orders. I only obey the commands in the Law which Moses gave to our

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<sup>38</sup> See also Chapter 5 in this paper: "Jonathan Goldstein, in his commentary on Second Maccabees suggests that the writer of the five volume work abridged in the Second Book of Maccabees, Jason of Cyrene, made omissions to change the order of events during the Maccabean period. Goldstein suggests that Jason did so because he perceived Mattathias as a wicked person. So Jason preferred to attribute the climatic turning point to the events telling about acts of martyrdom (Eleazar and Hannah with her seven sons) and not to Mattathias' act of zeal."

<sup>39</sup> That woman was given the name Hannah or Chana and there are variations to the name. I will refer to her as Hannah as it is the most popular designation.

ancestors. You have thought up all kinds of cruel things to do to our people, but you won't escape the punishment that God has in store for you... My brothers suffered briefly because of our faithfulness to God's covenant, but now they have entered eternal life... But you will fall under God's judgment and be punished as you deserve for your arrogance. I now give up my body and my life for the laws of our ancestors, just as my brothers did" (2 Macc. 7:30-37). He was then put to death by even more extreme torture.

According to the source, Hannah was the most admirable character in this story. Hannah watched her seven sons die via terrible torture, one after the other, yet she bore it bravely because she put her trust in G-d: "Don't be afraid of this butcher. Give up your life willingly and prove yourself worthy of your brothers, so that by God's mercy I may receive you back with them at the resurrection" (2 Macc.7:29). According to the text, Hannah, too, was put to death.<sup>40</sup>

The Talmud discusses a similar case with some minor changes. In the Talmud it was a woman and her seven sons who refused to worship an idol, rather than refusing to eat pork. She watched her sons killed and then she: "also went up on to a roof and threw herself down and was killed."<sup>41</sup>

At the end of the chapter, the author of the abridgment of Jason's five volume work gives us his own telling interpretation of those painful events: "But I have said enough about the Jews being tortured and being forced to eat the intestines of sacrificial animals" (2 Macc. 7:42).

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<sup>40</sup> There are other version describing Hannah's death such as the Talmud passage that suggests that she jumped of the roof.

<sup>41</sup> b. Gittin, 57b

There, it is acknowledged that the Jews were “being tortured.” The concluding statement of this chapter “and I have said enough” reinforces to the reader that it is clear that there was terrible pain inflicted on the Jews during that time.

Hannah exemplified devout faith and strong belief in G-d. Yehoshua Grintz wrote in his article: “The strength of the Jews lies in the fulfillment of the practical mitzvot.”<sup>42</sup> The story of Hannah is also showing us the efficacy of Kiddush Hashem (Sanctification of G-d’s Name) to bring G-d’s mercy on Israel (2 Macc. 8:3). The author of 2 Maccabees postulated that the witness of Eleazar (6:18-31) and Hannah and her seven sons prepared by vicarious suffering on behalf of the whole people so that Judah Maccabeus would be victorious (2 Macc. 8:5).<sup>43</sup>

The honorable Eleazar, in the Second Book of Maccabees, is another is another example of sacrifice. Eleazar was a respected man in the Jewish community. This elder teacher was taken by Antiochus and was asked to eat unclean meat so he can set an example to the other Jews. He refused. When he was forced to open his mouth and eat the pork, he spat it out submitting to torture. Later they asked him to eat kosher meat and to pretend it was pork. Eleazar refused that as well: “Such pretense is not worthy of our time of life,” he said, “lest many of the young should suppose that Eleazar in his ninetieth year has gone over to an alien religion, and through my pretense, for the sake of living a brief moment longer, they should be led astray because of me, while I defile and disgrace my old age” (2 Macc. 6:24-25). Eleazar was tortured to death. The

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<sup>42</sup> Yehoshua M. Grintz, 2 Maccabees at Jewish Virtual Library

<sup>43</sup> G-d shows Hesed (mercy) towards Israel and the people respond in an ascending act of Hesed (loyalty, devotion). See Lawrence Frizzell, “Mary’s Magnificent: Sources and Themes,” *Marian Studies* (1999) p. 58

book relates that in his death, Eleazar left "a heroic example and a glorious memory" (2 Macc. 6:31).

The last example is a Midrash. It is not included in the book of the Maccabees. I include it here for its pedagogical value about self-defense, and not for historicity. This is the story of Hannah, the daughter of Mattathias upon her marriage, on the breakout of the rebellion.

As part of their campaign to break the spirit of the Jews, the Greeks decreed that every maiden must spend her wedding night in the bed of the regional governor, and that only afterward would she be permitted to her husband. As a result of this decree, the Jews stopped marrying. For three years and three months, no wedding was held in Judea.

Then it came time for Hannah, daughter of Mattathias the Hasmonean to marry. In spite of the decree, Mattathias held a great celebration, inviting the leaders of the nation, for Mattathias' family was extremely prominent. The bride sat, as was customary, at the head table, but suddenly stood up, clapped her hands together, and tore her expensive wedding dress, exposing herself. Everyone looked away in embarrassment, and her brothers ran to fall upon her and kill her for shaming herself and her family. But Hannah said to them, "Why, when I shame myself before my relatives and friends are you so filled with embarrassment and anger that you wish to kill me, but you agree to surrender me this night so the heathen governor can lie with me? Why do you not learn from Simon and Levy, sons of our forefather Jacob, who avenged the rape of their sister Dinah (in Genesis, chapter 34)?"

Everyone realized that Hannah was right; her brothers discussed the matter and came to a decision. They dressed their sister in the finest garments and brought her with great ceremony, at

the head of a large procession, to the King. Hannah's brother's declared, "We are the sons of the High Priest, and it is not fitting that our sister be given to the governor. Our sister is fit only for the King himself!" The brothers' words found favor in the King's eyes. The brothers accompanied Hannah to the royal bed chamber, and thereupon, seized the King and killed him. Afterward, they stormed out killing ministers, guards, and servants, who were in the palace. So began the Hasmonean revolt.<sup>44</sup>

The idea of desecration of the body (and not only the Temple) is clearly evident. This is example of raping one's body, ones' heart, one's mind and one's soul. Would you remain idle knowing that your daughter was faced with this kind of a humiliation and subjugation? Is this enough reason for self-defense?

Above are a few examples of heroic acts in the face of threat. Deadly threat. These stories serve as an inspirational and theological reason for Judah to strike against the enemy. In the face of such cruelty and murder, war against Antiochus was not a discretionary war. It was a mandatory war, indeed.

We see how the core of Jewish values is challenged. As was mentioned earlier, according to Jewish Law, life is precious and every effort must be made to honor it, unless it involves one

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<sup>44</sup> Micha Joseph bin Gorion. miMekor Yisrael: Abridged and Annotated Edition: Classical Jewish Folktales. Volume 1. This is a collection of folktales. The original story of Hannah, was taken by Bin Gurion from: Otzar Midrashim, Hanukkah, written by Yehuda David Eisenstein, Volume 1. New York, NY 1915. See Bibliography for more information.

of the three cardinal sins: murder, adultery and incest or idolatry. The Syrian Greeks, led by Antiochus challenged every one of these cardinal sins.

Mattathias knew the threat and acted accordingly so he could defend the Jewish people. Eventually, his son, Judah, followed his father's footsteps with the same passion and with the same understanding. Interestingly, in the passion to eradicate the Jewish people from this world, nations may resort to all kinds of destructive ways to do so, including but not limited to attacking the people on a holy day. Let us look at one modern examples where many tools used by the enemy to advance their wish of destroying the Jews.

In modern Israel enemies have used the tactic of surprise attack on a holy day among other methods chosen to inflict greater pain and damage on her. On October 6, 1973, on Yom Kippur, which is the holiest day for the Jewish people, Egypt and Syria launched an attack on Israel. They knew it was Yom Kippur. They hoped that an attack on this day will give them advantage and may increase their chance of success. At least nine Arab countries, including four non-Middle Eastern nations, actively aided the Egyptian-Syrian war effort. Nevertheless, Israel responded quickly and swiftly and was able to recover and push the battle deep into Syria and Egypt.

Interestingly, there are a number of common denominators between the events of the Hasmonean war and other wars and attacks that Israel or the Jewish people had to face. The idea of the 'many' attacking the 'few', or the seemingly 'strong' attacking the 'weak' is prevalent throughout Jewish history.

We can recall the fight of David, the young lad, against the giant Goliath and how a war followed with the few Israelites against the many and the mighty Philistines. We can also go back to 1948, Israel's War of Independence and recall how the Arabs attacked Israel once it was declared as a State and how many of them joined against the tiny State with a small population. We can also recall 1967, The Six Day War in which many Arab countries joined together, and attacked Israel.

The following is an examination of the 1973 war against Israel, the Yom Kippur War, and learn about the similarity and pattern of historical need of self-defense:

#### Hasmoneans War

#### Yom Kippur War

- |  |   |  |
|--|---|--|
| • Attack on the Sabbath—holy day             | ~ | * Attack on Yom Kippur—holiest day             |
| • The element of surprise                    | ~ | * The element of surprise                      |
| • Few people against big army- <sup>45</sup> | ~ | * Few people against big armies- <sup>46</sup> |
| • Ultimate success on the battlefield        | ~ | * Ultimate success on the battlefield          |

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<sup>45</sup> 1 Maccabees 4:28-29 "So the following year he gathered together sixty thousand picked men and five thousand cavalry, to subdue them. They came into Idumea and camped at Beth-Zur, and Judas met them with ten thousand men."

<sup>46</sup> The Middle East 1917-1973-web site: Yom Kippur War. Initially 180 Israeli tanks faced an onslaught of 1,400 Syrian tanks. Additionally, in the South, by the Suez Canal, 436 Israeli soldiers were attacked by 80,000 Egyptian soldiers. Other Arab countries kept sending aid and supplies to help Syria and Egypt.

And as the story continues, the Maccabees engaged with many battles thereafter and managed to secure their borders for a while. Eventually, there was a treaty between the Jews and the king that allowed them freedom of religious practice, at least for a while.

Conclusion: It is so interesting that the story of the Maccabees suggests a pattern to what happens to the Jews throughout history: Enemies gather against the Jews. They want to kill and destroy the Jews. A leader arises who fights against those enemies and deliverance takes place. This cycle is a pattern for recording history followed by the authors of the book of Judges and 2 Maccabees.<sup>47</sup>

What we witnessed in the Maccabean war is the fight for religious freedom. If we examine this more critically, we will see that there was an attempt by another people to really destroy Judaism. There was an attempt for cultural genocide by the Syrian Greeks leaders. They attempted it under the umbrella of words such as 'unity', 'sameness' and 'one people'. But the truth was that they were willing to achieve their goal at any cost through any means.

The desire to eradicate Judaism from existence takes many faces and is camouflaged under many terms. Throughout history we see attempts for genocide through various aspects: culturally, socially, politically, psychologically, economically, religiously and ultimately directly. Directly, it is by stating it unequivocally: We want the Jews dead! We want to throw all of them into the sea! Interestingly, the latter expression is also the most recent in time.

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<sup>47</sup> Frizzell, L. "Education by Example: A Motif in Joseph and Maccabee Literature of the Second Temple Period". p. 123.

Nowadays we hear people such as Mahmoud *Ahmadinejad*, the sixth and current President of the Islamic Republic of Iran, and the main political leader of the Alliance of Builders of Islamic Iran to name one, express the wish for the end of Israel. This man does not hide his thoughts and feelings towards Israel and the Jews.

We also hear and witness the hatred towards the Jews from other extremists such as leaders of Hezbollah and Hamas and their followers. Their hatred is so great and their intent to annihilate Israel is so real that they do not need to hide behind it. They say it proud and loud. And they too, use any means of warfare against Israel to achieve their goal. They lie. They use people, civilians as shields to advance their goal. They rouse their young and brainwash them to hate. And ultimately, they assume G-d's role and they murder.

On December 10, 2009, at his Nobel Peace Prize Acceptance Speech at Oslo, President Obama said: "And over time, as codes of law sought to control violence within groups, so did philosophers and clerics and statesmen seek to regulate the destructive power of war. The concept of a 'just war' emerged, suggesting that war is justified only when certain conditions were met: if it is waged as a last resort or in self-defense; if the force used is proportional; and if, whenever possible, civilians are spared from violence. Of course, we know that for most of history, this concept of 'just war' was rarely observed. The capacity of human beings to think up new ways to kill one another proved inexhaustible, as did our capacity to exempt from mercy those who look different or pray to a different God. Wars between armies gave way to wars

between nations -- total wars in which the distinction between combatant and civilian became blurred.”<sup>48</sup>

President Obama discussed the concept of Just War, one that is familiar to the Jewish people and is very much discussed in the Torah and by the Rabbis of the Talmud. The Jewish people live by this concept and they have taught the world this concept. President Obama continued and said: “To say that force may sometimes be necessary is not a call to cynicism - it is recognition of history; the imperfections of man and the limits of reason.”<sup>49</sup> President Obama and the modern world are very well aware of the so called ‘killers’ of the world. They are everywhere. Sadly, many of them are aimed towards Israel.

The Maccabees faced them then, too. Israel continues to face them now. Some tactics of war remain the same and some changed. But Israel, throughout history, prides itself for maintaining ethical behavior during war. Many times they do so even at the expense of their own Israeli soldiers. But as long as the war falls under the standard definition of war; utilizing defined army and using defined tactics, Israel adheres to the tradition of **טוהר הנשק**, Purity of Arms.<sup>50</sup>

Are there any conditions in which Israel may not practice their ethical behavior code? Is there any time in which Israel may relax their adherence to “Purity of Arms”? When the Hasmoneans decided to strike back, they reinterpreted the commandment not to engage in a

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<sup>48</sup> White House site:

<http://www.whitehouse.gov/the-press-office/remarks-president-acceptance-nobel-peace-prize>

<sup>49</sup> Ibid.

<sup>50</sup> Code of ethics used by IDF-Chapter 5 and Appendix C.

battle on the Sabbath because of the changed circumstances (1 Macc. 1:29-41). The reality of the time demanded the change. If they did not move away from this long established law, they would have risked total destruction of the Jewish people at that time. It was necessary to fight back and fight hard.

Dennis Prager, in a talk during a Political Science class about 'The Middle East Problem',<sup>51</sup> asked: "If Israel tomorrow puts down their arms and say 'we would fight no more' what would happen? And if the Arab countries around Israel said 'we would fight no more' and put down their arms, what would happen? In the first case there would be an immediate destruction of the State of Israel with mass murder of the Jews of Israel. In the second scenario I presented, where the Arabs put down their arms and said 'we just want peace' there would be peace."<sup>52</sup>

Many in modern Israel are faced with a fundamental wish: saving the Israelis, hence the Jewish people and protecting the State of Israel. Israel cannot afford "offering the other cheek" for peace. Israel's enemy would devour up the State alive, including its people. Israel's responsibility is to: "Take also unto you all those that observe the law, and avenge ye the wrong of your people. Recompense fully the heathen, and take heed to the commandments of the law" (1 Macc. 2: 67-68).

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<sup>51</sup> Prager, D. "The Middle East Problem". <http://www.youtube.com/watch?v=63hTOaRu7h4>

<sup>52</sup> Ibid.

# CHAPTER 3

## Eye For an Eye or Turn the other Cheek: Jewish-Christian view and Modern Israel

In polemics by some Christians, Judaism is often regarded as a legalistic, harsh and inflexible religion, one that believes in retaliation. Christianity is often regarded as a religion of love and compassion that does not believe in retaliation. To support these views one usually brings the most notable expression in Christianity: “turn the other cheek” (Matt.5:38-39)<sup>53</sup>, and in Judaism: “עין תחת עין”, “eye for an eye” (Exod. 21:23-27)<sup>54</sup>. The most common cited proof for this difference, and possibly this contention is in the Gospels, (Matt. 5:38-39).

“You have heard it was said, ‘an eye for an eye, a tooth for a tooth.’ But I say unto you...” Could the method in which Jesus chose to communicate with the people “you have heard...but I say to you” is setting us up for wrong interpretation?

The way “eye for an eye” is sometimes understood in its P’shat, פשוט, (the biblical term indicating ‘plain meaning’)<sup>55</sup> is that one is punished with exactly what one inflicts on another. Therefore, someone who takes someone’s eye will have his eye taken and someone who breaks another’s arm will have his arm broken. And the understanding of “Turn the other cheek” is: if someone strikes you on one cheek, offer him the other cheek for another blow, rather than fight

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<sup>53</sup> Matthew 5:38-39 (full verse is in the research section of this paper).

<sup>54</sup> Exodus 21:23-27 (full verse is in the research section of this paper).

<sup>55</sup> In Aramaic: P’shata. Hebrew Dictionary p. 2131

back. In Judaism, the basic and literal understanding of the above is an expression of retributive justice that is also known as *lex talionis*<sup>56</sup> (Latin for “law of retaliation”).<sup>57</sup>

In Christianity, the basic and literal understanding is that Jesus was about love and compassion. Jesus spoke of offering the other cheek, resisting evil, and allowing oneself to be harmed rather than fight back and resort to violence. But is that what he meant? Although we may think that people do not interpret ‘turn the other cheek’ literally, we see that many do. In the 20<sup>th</sup> century, people from Leo Tolstoy to Mahatma Gandhi interpreted Jesus’ words to mean that one should die rather than fight back against a would-be killer.

Can Judaism be seen as a religion that sometimes does not turn the other cheek and one that is a loving and compassionate, as well? Can Christianity be seen as a religion of love and compassion that knows when not to turn the other cheek? Did Jesus go against the Law? Is one approach better than the other? Is it realistic to take both approaches at face value?

Once we understand the approaches from Biblical and Rabbinic perspectives, I hope that we will understand Israel’s position on Mandatory War and its ethical considerations better. I will first examine the idea of Eye for an Eye, and then look into the second concept of Turn the other Cheek. After my investigation I will analyze the findings and relate them to my main thesis.

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<sup>56</sup> Encarta dictionary ‘Lex Talionis’.

<sup>57</sup> This Law, in Israel, is often understood in a pejorative manner. Critics often accuse Israeli army’s morality of practicing immediate retaliation against attackers.

## Eye for an Eye

In a few places in the Torah we can see the often most misunderstood verse in all of Scripture: עֵיֵן תַּחַת עֵיֵן שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת רֶגֶל “an eye for an eye, tooth for a tooth, hand for a hand, foot for a foot” (Exod. 21:23-25; Lev. 24::20; Deut.19:21) . Many critics of the Torah would point to lines such as this in an attempt to indict Jewish Law for its so-called primitive, harsh nature. Many cite this verse in scornful attacks on the “vengeful G-d of the Old Testament”, but this began in response to the lawless boast of people like Lamech (Gen 4:23-24).

Even in the well known play ‘Fiddler on the Roof’ we can’t forget Tevye’s line in which he decries that we shall all end up “blind and toothless” under this barbarous system. The laughter of the audience confirms the typical misunderstanding of this law. However, rabbinic literature has never understood it this way. The Talmud <sup>58</sup> understands “an eye for an eye” as meaning that someone who damages an eye must pay the value of that eye, in other words, an eye’s worth for an eye.

Let us examine the verse that deals with “eye for an eye”:

וְכִי־יִצְּצוּ אֲנָשִׁים וְנָגְפוּ אִשָּׁה הָרָה וַיֵּצְאוּ יָלְדֶיהָ וְלֹא יִהְיֶה אִסּוֹן עָבוֹשׁ יַעֲבֹשׁ בְּאִשּׁוֹר יִשִּׁית עָלָיו בֶּעַל הָאִשָּׁה וְנָתַן בְּפִלְלִים: וְאִם־אִסּוֹן יִהְיֶה וְנִתְּתָה נַפְשׁ תַּחַת נַפְשׁ: עֵיֵן תַּחַת עֵיֵן שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד

רֶגֶל תַּחַת רֶגֶל: כּוֹיָה תַּחַת כּוֹיָה פָּצַע תַּחַת פָּצַע חֲבוּרָה תַּחַת חֲבוּרָה:

“When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according as the woman’s husband may

<sup>58</sup> b. Baba Qamma 83b, b. Ketuvot 32b

exact from him, the payment to be based on reckoning. But if other damage ensues, the penalty shall be life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise” (Exod. 21:22-25).

The verse begins with a serious fight between two people who hurt a pregnant woman and a miscarriage results, but no other damage ensues. If other damage ensues, meaning probably the death of the mother, then, and only then ‘life for life’ is invoked. This is homicide and according to Jewish Law, the punishment for intentional death is death. This principle was clearly established in the covenant G-d made with Noah (in the case of homicide):

**שֹׁפֵךְ דַּם הָאָדָם, בָּאָדָם דָּמוֹ יִשְׁפָּךְ: כִּי בְצַלְם אֱלֹהִים, עָשָׂה אֶת-הָאָדָם** “Whoever sheds the blood of man, by man shall his blood be shed. For in his image did G-d makes man” (Gen. 9:6).

Intentional homicide, according to Halacha could not be compensated in money, and the offender had to give literally his life for the life he had taken (Num. 35:31).<sup>59</sup> We see it in other places as well (Lev. 24:17, 21; Deut.17:6; Deut. 19:15).<sup>60</sup>

Interestingly, in the very same chapter that deals with “eye for an eye” we see the explicit law for murder: **“מִכָּה אִישׁ וּמֵת, מוֹת יוֹמָת”** “He who fatally strikes a man shall be put to death” (Exod. 21:12). The Torah language is strong and clear about the consequence of intentional murder. The Torah, however, does not use the same language to describe consequences for injury.

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<sup>59</sup> Class notes and studies with Rabbi Finkel, spring 2007.

<sup>60</sup> They all state that capital punishment is to be carried out only on the evidence of two witnesses. Numbers 35: 30-31 prohibits monetary compensation in lieu of execution.

Cassuto, in his commentary on the verse “the penalty shall be life for a life” (Exod. 21:23), raises the issue of monetary compensation for an unintentional killing. Cassuto suggests that the word, תַּחַת<sup>61</sup> ‘for’ is used to indicate that the one who hits would not be killed but rather, would pay money as a consequence, since he did not intend to kill. Cassuto supports this interpretation by showing other places in the Torah that were interpreted in a similar fashion. For example, in Leviticus 24:18, the expression ‘life for a life’ is interpreted according to the Rabbis this way: the person who hits must pay the value of the woman as if she were a maid who is sold in a market (Lev. 19:20)<sup>62</sup>

Similarly, Rambam, in his analysis on ‘eye for an eye... etc, uses the same word “תַּחַת” to mean that in every case of injury, the injurer must pay according to the damage he caused.<sup>63</sup> If the damage “lowered” the value of the person as a slave that is sold in the market, so will be the monetary compensation. According to the sages, in addition to the compensation for the damage caused, it must also include pay for: unemployment, therapy, pain and embarrassment caused by the injury.<sup>64</sup>

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<sup>61</sup> In Hebrew this word means “under” or “in replacement of” or “for”

<sup>62</sup> Cassuto (Hebrew source)

<sup>63</sup> Interestingly, in his list of crimes that support the notion of ‘measure for measure’, Rambam includes the principle of removing the limb of someone who removed someone else’s limb—an eye for an eye. The problem with this inclusion is that the Talmud is very clear that those verses should be taken as a monetary command, not a literal one. Rambam, recognizing this, says that he is discussing the original Biblical law, not the Talmudic legal principles. This is a difficult statement, since we generally do not divide Torah law from the Oral Law in this way. Rambam seems to indicate, that the Torah meant an eye for an eye literally, but also insisted that a monetary payment replace the deserved punishment. The Guide for the Perplexed, chapter 41.

<sup>64</sup> Rambam, Hilchot Chovel Umazik 1:4

Let us also analyze our text by comparing it to the Laws of Hammurabi. The principle of retaliation in kind for bodily injury-talion-was introduced by King Hammurabi of Babylonia. The Code of Hammurabi, which was created in 1792-1750 B.C.E., contains a list of crimes and their various punishments, as well as settlements for common disputes and guidelines for citizens' conduct. This code was one of several sets of laws in the Ancient Near East.

Most of these codes come from similar cultures and racial groups in a relatively small geographical area, and they have passages which resemble one another. (e.g. the earlier code of Ur-Nammu, 21 century B.C.E., and of course the Mosaic Law, traditionally in 1400 B.C.E. under Moses).<sup>65</sup>

The following are examples of some of Hammurabi's laws: "If a son has struck his father, they shall cut off his head. If a seignior has destroyed the eye of a member of the aristocracy, they shall destroy his eye. If he has broken another seignior bone, they shall break his bone. If a seignior has knocked out a tooth of a seignior of his own rank, they shall knock out his tooth."<sup>66</sup>

While we claim that the Torah speaks of monetary compensation, except in the case of intentional homicide, we detect a significant parallel to the ancient codes, namely Hammurabi's. However, we can see also that this parallel diverges from the Code in two important respects: the Torah bases itself on the law of human equality and it eschews the provisions for mutilation which the Babylonian code contains.

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<sup>65</sup> The Code of Hammurabi: Introduction (see bibliography)

<sup>66</sup> Mesopotamia, The Code of Hammurabi. (see bibliography)

In addition, it is interesting to note that no case of physical 'talion' is recorded in the Hebrew Bible. In Deuteronomy 25:11-12, there is a direct mutilation for one special crime, however, there is no record that the penalty was ever exacted. Also, the mutilation of Adoni Bezek, for example, was an act of battlefield revenge and not legal penalty (Judg. 1:6-7).

The 'talion' principle is based on the assumption that the guilty should suffer exactly the same harm as the victim. The Babylonian laws, however, allowed physical retaliation and vicarious punishment, which were applied according to the social class of those involved.

Although biblical law accepted the principle that assault and battery are public crimes, not simply private wrongs, the context of the surrounding laws makes it clear that the Torah prescribed monetary compensation rather than physical retaliation for bodily injury. It also insisted on equal justice for all citizens regardless of social class including the slave, and outlawed vicarious punishment (Exod. 21:26-27).

Rashi tells us the following about 'eye for an eye': If a person blinded the eye of his friend he will compensate him with the value of the eye. The value will be determined based on how much lower it would be if sold in a market. Rashi continues and says: 'and so for all of the body parts'. He stresses that the expression does not mean cutting off a body part, as some of our sages thought previously.<sup>67</sup>

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<sup>67</sup> Rashi, "eye for an eye" on source Exodus 21:24

### Turn the other cheek

The phrase: “turn the other cheek” is taken from the famous Sermon on the Mount in the Gospel of Matthew. Jesus said: “you have heard that it was said, ‘an eye for an eye, and a tooth for a tooth.’ But I tell you, do not resist an evil person. If someone strikes you on the right cheek, turn to him the other also” (Matt. 5:38-42).

In Luke’s Sermon on the Plain, there is a parallel version of this verse: “But I tell you who hear me...if someone strikes you on one cheek, turn to him the other also” (Luke 6:27-29). Both passages are viewed by many in a literal way (similar to the literal interpretation of “eye for an eye”), as promoting nonviolence, pacifism, nonresistance and almost submission.

This is the “פשוט” P’shat, or the literal, plain interpretation. Many also agree that this verse is strongly related to the quotation in Leviticus about “eye for an eye” (Lev. 19:18), and suggest that Jesus criticizes the Old Testament teaching. Most Christian scholars and commentators have agreed that such interpretation is a misunderstanding of the phrase in Matthew. Some suggest that Jesus, while rejecting “eye for an eye” build upon previous Jewish ethical teachings, “you will not exact vengeance on, or bear any grudge against the members of your race, but will love your neighbor as yourself” (Lev. 19:18).

When Jesus began his statement, he started it with “eye for an eye” which is a lex talionis-a retributive punishment. Now, although this principle of retribution dates back at least to the code of Hammurabi, by the first century C.E it had been superseded by a system of fines. It is possible that Jesus meant to discuss the whole principle of retribution rather than just lex talionis.

Under the heading of “unjust aggressor,” the following statement is derived from Thomas Aquinas: “Without doubt one is allowed to resist against the unjust aggressor to one’s life, one’s goods or one’s physical integrity, sometimes even till the aggressor’s death... In fact, this act is aimed at preserving one’s life or one’s goods and to make the aggressor powerless. Thus, it is a good act which is the right of the victim.”<sup>68</sup>

On these grounds, even J. R. Tolkien agrees: “The aggressors are themselves primarily to blame for the evil deeds that proceed from their original violation of justice and the passion that their own wickedness must naturally (by their standards) have been expected to arise. They, at any rate, have no right to demand that their victims when assaulted should not demand an eye for an eye or a tooth for a tooth.”<sup>69</sup>

According to Walter Wink,<sup>70</sup> during the time of Jesus, the left hand was used for unclean tasks.<sup>71</sup> So the only way one could strike the right cheek with the right hand would be with the back of the hand. That means that we are dealing here with a case of an insult, not a fist fight. The intention of the person who “hit” another is not to injure but to humiliate, to put someone in his or her place. In that case, a self defense, or a violent reaction is not warranted.

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<sup>68</sup> Dizionario ecclesiastico. Ecclesiastic dictionary. “Unjust Aggressor.” (bibliography)

<sup>69</sup> J. J.R. Tolkien, Letters of J. J. R. Tolkien p. 243

<sup>70</sup> Walter Wink, Engaging the Powers

<sup>71</sup> This notion of using the left hand for unclean tasks has a long history in rabbinic sources, e. g., Talmud, B’rachot 62a.

Wink explains that the relationship between the hitter and the person who gets hit is not of equals. The people that Jesus preached to were not the imposers or initiating law suits and such, but rather, their victims, people who have been subject to these very indignities.

So why did Jesus advise these people to turn the other cheek? According to Wink, this action of turning the cheek robs the oppressor of power to humiliate them. Almost as if saying: 'I turn my other cheek to show you (the oppressor) that you did not humiliate me, and you don't have the power, status, wealth, gender... to humiliate me.' If the person chooses to hit with a fist and not with the back of the hand again, it is as if he acknowledges the other as a peer and not someone below him. "The whole point of the back of the hand is to reinforce the caste system and its institutionalized inequality."

According to R. T. France,<sup>72</sup> there is an issue of translation in understanding Jesus' words 'don't resist' in the Greek translation. He said that they have a far more restricted meaning, and should instead be translated as 'do not resist by legal means,' as this is how Edward Schweizer<sup>73</sup> believes the words are used. Both state that the translation is questionable. Striking on the right cheek refers to a back-handed slap to the face, which throughout the Middle East, both in the first century and today, is one of the highest forms of contempt. According to France the gesture is a grave insult, not a physical attack, and so, again according to France, this would distance the instruction from espousing non-violence.

Another school of thought suggests that Jesus was not changing the meaning of "eye for an eye" but restoring it to the original context. In order to understand this, we have to read what

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<sup>72</sup> R. T. France (see bibliography)

<sup>73</sup> Eduard Schweizer. (see bibliography)

Jesus said just before the phrase “turn the other cheek”. Jesus begins his statement with “you have heard that it was said”, meaning that he was really attempting to clarify a misconception, as opposed to “it is written” which would be a reference to scripture.

The common misconception was how people understood the guidelines for a magistrate to punish convicted offenders in the Old Testament (Exod.21:24-25). They used it then as a justification for personal vengeance.

If that is true, Jesus said “turn the other cheek” as a command not to take vengeance, rather than to allow someone to beat another person. There are a number of places that show that Jesus did believe in the need for self defense when warranted. For example, Jesus said: “he, who has no sword, let him sell his garment and buy one” (Luke 22:26).

Pinchas Lapide suggests that the translation of “but I say to you” could be better translated as: “and I say to you”. “But” implies a contrast, while “And” suggest a coupling of an idea. This corresponds directly to the common Hebrew phrase: “וְאֲנִי אֹמֵר לָכֶם” which means: “and I say to you.” This phrase never suggests contradiction but elaboration and is very common also in Talmudic writings.<sup>74</sup> So it is as if Jesus said that if the people understood the law a certain way, he also says to them... and only then Jesus gives an elaboration.

We learned from the research that Rabbinic literature understood “eye for an eye” to mean that if one damages an eye, one must pay the value of an eye. Did the Rabbis change the meaning purposely? Did they distort the Torah because they found it objectionable? Further, is

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<sup>74</sup> Pinchas Lapide, The Sermon on the Mount, p.44 (see bibliography)

“eye for an eye” really a statement on how legalistic and harsh the Jewish law is? Conversely, if we know that Jesus said “turn the other cheek” if someone strikes you, does that suggest a meek, submissive and irresponsible Jesus? Further, did he take the Torah Law and change it to make his point?

In order to answer the above questions and understand the phrases “eye for an eye” and “turn the other cheek”, we need to examine both in their context. We need to investigate what preceded these phrases and what was said after. We also need to examine other cases that mention these phrases and check for consistency or discrepancy.

The passage from Exodus (Exod. 21:18-19) opens with two individuals quarreling and then one injuring the other. This is *intentional damage*, but not murder. If the injured party survived, only monetary compensation is due. The punishment is purely financial.

The second case from Exodus (Exod. 21:22-25) discusses two people who accidentally hurt a third party. In this case of *accidental damage*, the punishment is ‘eye for an eye...’ Is it possible that an intentional injury is only punished with monetary damages but an accidental injury is punished harshly with an actual physical punishment? It does not make sense.

In addition, the word , תַּחַת (tahat) could mean a number of things in Hebrew: ‘for’, ‘instead of,’ ‘under,’ ‘in replacement of.’ If we apply any of these translation to our phrase ‘eye for an eye,’ (in Hebrew), we can infer that ‘tahat’ means that one party must give or suffer something in replacement of the damage they caused. We see an issue of translation here.

A relevant example is from the book of Joshua: “The men said to her, ‘our lives for (tahat-instead of) yours!’” (Josh 2:14). The spies told Rahab that if she keeps their secret then they will give their lives for (in replacement of, under, instead of,) her life. They will die ‘in her place’. So the word ‘tahat’ does not necessarily mean that an injurer will be punished with the injury he inflicted. Rather, he will receive corresponding monetary value as compensation.

In the story of Samson, for example, one may argue that the concept of retaliation is exercised. Samson said regarding the Philistines, **כַּאֲשֶׁר עָשׂוּ לִי, כֵּן עָשִׂיתִי לָהֶם** “As they did to me, so I have done to them” (Judg. 15:11).

However, he did not do the exact same thing to them as they did to him. The Philistines took Samson’s wife and gave her to another man. In response, Samson burned their fields. We see that the phrase used does not imply exact equality between the two actions. There is, therefore no compulsion to understand the phrase in Leviticus as meaning that the exact same injury that one party inflicted must be inflicted back upon him. The language does not necessarily mean that, as it was seen in the above examples.<sup>75</sup>

In a similar way, it is possible to deduce the meaning of “eye for an eye” by looking at another law explicit in the Bible, and infer from it. In the Book of Numbers it says:

**וְלֹא תִקְחוּ כֹפֶר לְנַפְשׁ רֹצֵחַ, אֲשֶׁר הוּא רָשָׁע לְמוֹת בְּיָמוֹת, יוֹמָת** “Moreover you shall accept no ransom for the life of a murderer who is subject to the death penalty” (Num. 35:31).

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<sup>75</sup> See Ibn Ezra, on Leviticus 24:19.

Why would anyone think that a court would accept a ransom for a murderer's life? From where is this idea of paying instead of a physical punishment come from? This verse tells us that only in regard to murderer can the court not accept payment. Concluding that for other bodily harm, the court does accept payment.<sup>76</sup>

By studying Biblical examples we were able to focus on specific passages, internal structure and similar use of language. We can conclude that the phrase "eye for an eye" means that the assailant is fined an eye's worth for the damage of an eye.

We can yet find another method to analyze our phrase. We will approach it from a logical perspective. Our verse is immediately following the passage in Leviticus: "one law there shall be for you" (Lev. 24:22).

The Torah demands that all will follow the same law. Everyone is equal in terms of lawful requirements. The Rabbis of the Talmud question this. What if a blind man blinds another? "Eye for an eye" is not possible there. Hence, there is no equity among assailants.

To resolve this and maintain the biblical mandate of "eye for an eye" and be able to give equal punishment, the phrase must refer to monetary punishment.<sup>77</sup> If we accept the fact that 'eye for an eye' is relating to monetary compensation, is there ever a time for physical retaliation according to the Torah? The answer is yes.

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<sup>76</sup> b. Baba Qamma 83b

<sup>77</sup> b. Baba Qamma 83b-84a

The Jewish people are commanded that if one comes to “kill you”, you should kill him first. If it is a matter of life and death, a matter of survival, the obligation of a Jew is self defense.<sup>78</sup>

In a similar fashion we can look at Jesus’ choice of words “turn the other cheek”. As we can see, according to many researchers, Jesus simply intended to condemn the use of exaggerated violence, not the use of force against aggression. Rather than contradicting words of the Old Testament and challenging scriptures, Jesus is cautioning his disciples not to misunderstand the Bible. In fact, if we see what Jesus said in the few lines before this statement we can agree that Jesus’ intent was not to contradict the scriptures but to caution against too much violence: “Therefore, whoever breaks one of the least of these commandments and teaches others to do so will be called least in the kingdom of heaven” (Matt. 5:19).

Jesus says love is better than hatred, and that vengeance can never be the solution. On the other hand, he does not say self-defense is bad. This would lead to the rule of the stronger over the weaker, of the bully over the gentle person. Further, Jesus protested when smitten on the cheek and spoke up: “Jesus answered him, ‘... but if I have spoken rightly, why do you strike me?’” (John 18:22-23).

If we accept that the verse instructs us how one must respond after being insulted, as understood by exegetes, we learn that this is not a passage dealing with what one must do if he is physically attacked and his life is in danger. Rather, it means that personal “revenge” is not to be left in the hands of the victim.

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<sup>78</sup> See analysis of this topic on pp. 21-22 in this paper

The passage teaches that one must have patience when wronged. John Calvin said:  
“When wrong has been done them (believers) in a single instance, he (Jesus) wishes them to be trained by his example to meek submission, that by suffering they may learn to be patient.”<sup>79</sup>

In many places we can see that Jesus is not suggesting submissiveness or meekness for its own sake. In Luke we can find that Jesus encourages his disciples to seek out self-defense:  
“Then said he unto them, but now he that hath a purse, let him take it, and likewise he that hath no sword let him sell his garment, and buy one ”( Luke 22:36 ).

We can sum up with the words of Samuel Lachs: “In effect, Yeshua built a "fence around the Law"—as indicated by the Aramaic and Hebrew underlying "fulfill"—much as the earlier sages cited by the Talmud (Ethics of our Fathers 1.2). And, his fence is remarkably similar to that of the sages.”<sup>80</sup>

Conclusion: One might think that the literal interpretation of both verses “eye for an eye”, and “turn the other cheek” are uncommon. But in fact they are quite often taken that way. We hear of countless cases in which the Israeli army is accused of harsh and immediate, non moral response to attackers. The critics are not considering the need of Israel to defend herself. We know that people like Mahatma Gandhi interpreted Jesus' words to mean that one should be willing to die rather than fight back against the would be killer<sup>81</sup>. Others claim that Jesus contradicted the Old Testament.

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<sup>79</sup> John Calvin, p. 299

<sup>80</sup> Samuel, T. Lachs A Rabbinic Commentary on the New Testament: the Gospel of Matthew, Mark and Luke.

<sup>81</sup> Joseph Telushkin. Article: Gandhi had it wrong; Martin Luther King had it Right.

The interpretation of both phrases above offers simple view and analyzing it in very basic ways. It seems unrealistic to take both phrases at their face value. "Eye for an eye" does not mean take someone's eye in retaliation. Further, having this phrase written in the Old Testament does not negate the strong element of love and compassion that is commanded throughout the Torah. Conversely, "turn the other cheek" does not mean not to defend oneself when one has to, nor does it negate the Old Testament. There are times when it is not only a suggestion to defend oneself but a commandment. Of course, there are also times, where one can look the other way and choose a non-reactive approach to a dispute.

As a matter of fact, there is a similar concept in the Talmud that corresponds to the Christian idea of "turn the other cheek." In the Talmud it says: "Those who are insulted but do not insult others in revenge, who hear themselves reproached without replying, who perform good work out of the love of G-d and rejoice in their sufferings...are as the sun when he goes forth in his might."<sup>82</sup> However, when Jewish people are faced with anti-Judaism, anti-Semitism, anti-Zionism and anti-Israel, they are obligated to defend themselves, sometimes with force.

The Talmud discusses the concept of justice as **מידה כנגד מידה** "measure for measure." The "measure", in our case, comes in the form of monetary compensation. If the need arises that one needs to defend oneself, even killing is acceptable as it is said:

**"הבא להורגך השכם להורגו"** "If someone arises to kill you, rise up and kill him first"<sup>83</sup> Jews, sometimes, cannot afford to "turn the other cheek".

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<sup>82</sup> b. Yoma 23a

<sup>83</sup> Source used earlier: The saying, **הבא להורגך השכם להורגו**, "If one arises to kill you, kill him first" is rabbinic. It occurs in several contexts. One of the primary contexts is in Midrash Rabbah and Midrash Tanchuma on Numbers 31:1: the Midianites were a threat to the Israelites, and a war is commanded to take pre-emptive action against them.

Also in Masekhet Berakhot 58a and 62b, there are two occurrences of this phrase. Each of these involves a fanciful story in which someone invoked the argument of self-defense to apply to their own case, and they quote:

The idea to revenge for the sake of satisfying the distressed victim is not evident in the Torah. On the contrary, victims are cautioned against even hating or bearing grudge against those who harmed them whether they were brought to justice or not. Also, the Torah teaches to love the fellow and encourages people to do right by others.

“לֹא-תִשָּׂא אֶת-אָחִיךָ בְּלִבְךָ הוֹכֵחַ תּוֹכִיחַ אֶת-עַמִּיתְךָ וְלֹא-תִשָּׂא עָלָיו חָטָא” “Do not hate a fellow Israelite in your heart. Rebuke your neighbor frankly so you will not share in their guilt” (Lev.19:17-18).

Within the context of the Talmud, we learn that this verse of Torah is not indicative of a vengeful G-d. Rather, it represents G-d's system of compensation where victim's rights are protected and the perpetrator comes to understand the gravity of the offense.

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“The Torah says, *הבא להרגך השכם להרגו*” but they don't say where the Torah says this. The manner in which they quote it implies that it is well-known and well-established.

In Yoma 85b the phrase is used in connection with the law of Exodus 22:1, about the thief breaking into your house, which is used as a support for the principle of *פיקוח נפש* (saving a life) on Shabbat: if you are permitted to kill the thief to save your life, you are certainly permitted to perform work on Shabbat to save one's life! The phrase *הבא להרגך* is used in Yoma 85b but not in Mekhilta on Exodus 22:1 (though the same deduction from the thief from Shabbat is found in Mekhilta). The phrase is, however, found in Rashi on Exodus 22:1.

Given these examples of evidence, I would venture to guess that the principle originated in the midrash on Exodus 22:1 and Numbers 31:1—it is hard to say which of these came first but they may have arisen at about the same time. (Continue in the next page).

It is my guess that it came first on Exodus 22:1 since that is a primary legal text whereas Numbers 31:1 is historical. From there, it was quoted derivatively in the Gemara of Yoma and Berakhot.

“מניין לפקדו נפש שדדוהו את השבת? נענה רבי ישמעאל ואמר: (שמות כב) אם במחזורית ימצא דגוב. ומה זה, שספק על ממון בא ספק על נפשות בא, ושפיכות דמים משמא את הארץ וגדרם לשכינה שתסתלק מירשאל - ניתן להצילו בפשעו, קל ודומה לפקדו נפש דדוהו את השבת.”

“How do we know that when life is in danger Sabbath may be violated? Rabbi Ishmael answered: It is written [Exodus 22:2]: “If a thief is found while breaking in and is hurt so that he dies, there shall be no bloodshed for him.” We can deduce, a fortiori, from this: If in this case, when it is doubtful whether he had come to steal only or to murder that taking his life is permitted even though bloodshed defiles the land and causes God's presence to distance from Israel, how much more is violation of the Sabbath (less important than bloodshed) permitted to save a human life.”Yoma 85b

Jesus was exercising the expected behavior of the rabbis in his time. Jesus ministered in Israel four decades before the destruction of the Temple in 70 C.E. At that time the law of retaliation appears in legal context, in courtroom, not in a dispute that was settled by private people. Though the Mishnah was redacted around 200 C.E., the traditions were transmitted long before. Jesus knew the tradition. Jesus knew the approach. Jesus did not contradict the Old Testament.

“The Expounding of the Law” includes a series of six sayings known as the “antitheses” (Mt. 5:21-48). Jesus quoted each saying directly from it as it appears in the Jewish Law. He did not deviate from it, but rather, he deepened and extended the law, and asked his followers to go further than the law demands, in order to be perfect. Jesus asked to choose to go to the opposite extreme, and practice forgiveness, patience, love and compassion even in the face of anger and right to revenge. Jesus made a “סִיג”<sup>84</sup>, hedge or a fence around the Law, as it is written in the Talmud.<sup>84</sup> Jesus wanted to make sure that people are not quick to anger and quick to retaliate, so he approached the Law in a non combative way, hoping that people would choose to exercise restraint and compassion when wronged.

In summation, in order to understand both phrases correctly, we need to focus first on their literal meaning (translation), as well as read them in the right context. If people would really follow their Laws, whether Christians, Muslims or Jewish, the world will be a better place. This is not about who is wrong and who is right. It is about what is wrong and what can we do to

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<sup>84</sup> Mishnah, Ethics of the Fathers. 1:1

correct it. At times we need to “turn the other cheek” and at others we may have to use “eye for an eye”. Both are right approaches. Both have their time and place.

As it is written: **לְכָל-חֶפֶץ, תַּחַת הַשָּׁמַיִם; וְעַתָּה לְכָל-חֶפֶץ, תַּחַת הַשָּׁמַיִם** “Everything has its season, and there is a time for everything under the heaven”( Eccl. 3:1).

# CHAPTER 4

## Peace-שלום

The ideal situation and what we always strive for is peace. But as stated earlier, sometimes we need to fight for peace. Israel is facing constant threat from its neighbors. Either through terrorist attacks, threats of war or declarations of hate such as with the President Ahmadinejad of Iran, who defines Israel as “corpse...”<sup>85</sup>

Israel wants peace and seeks it in many ways. The world is demanding peace. But interestingly, the only people who don't seem to be concerned with peace are the very people with whom Israel is trying to have peace. Is the value “peace” with its definition served as one of the considerations of the IDF in compiling their Code of ethics? Let us look at “Peace” as it was seen in ancient as well as recent history and learn how this spirit was one of the IDF's consideration when deciding what to include in their code.

What is peace? The world chooses to define “peace” as synonymous with absence of war. In Hebrew, the word for peace is שלום *shalom*, from the root שלם

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<sup>85</sup> In a report by Fox News, May 08, 2008 it was published: “Ahmadinejad Calls Israel a ‘Stinking Corpse’ on its 60th Birthday.” The report continues: “It’s Israel’s party but Iran’s president will apparently mock it if he wants to. While world leaders sent the Jewish state congratulations on its 60th anniversary, Mahmoud Ahmadinejad’s birthday wish was that the “Zionist regime” be annihilated, according to the Agence France-Presse. “Those who think they can revive the stinking corpse of the usurping and fake Israeli regime by throwing a birthday party are seriously mistaken,” Ahmadinejad told the official IRNA news agency.

Read more: <http://www.foxnews.com/story/0,2933,354645,00.html#ixzz1deLEHzVe>

*shalem*, "wholeness", or completeness.<sup>86</sup> In the language of the Torah, if there is wholeness, then there is peace. The two go together. We do not achieve peace through division, but rather through completeness.

The Torah describes the people of Israel as **אִישׁ אֶחָד בְּלֵב אֶחָד** (*ish echad b'lev echad*) "one person with one heart."<sup>87</sup> This means that we must not only think about the other, but feel for the other. Not viewed as separate entities, but rather, each and every Jew is a vital part of the wholeness of the Jewish people. The Jewish people are seen as one body. This is the epitome of "Love thy neighbor as thyself". The Jewish people are one whole unit: **שלם**.

Making peace, which is a formal cessation of war occurs many times in the Torah. We see it with the forefathers Abraham Isaac and Jacob. Abraham made a peace treaty after the war with the kings, especially the case with Abimelech where he called the place of peace: **בְּאֵר שֶׁבַע** which means "well of oath", an oath to live in a peaceful coexistence with the neighbors.<sup>88</sup>

We also see the establishment of peace with Isaac and Abimelech (Gen. 26:26-33), as well as with Jacob in a number of situations such as with his own brother, Esau (Gen 33:3-11).

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<sup>86</sup> Philip J. Nel. שלם, *New International Dictionary of Old Testament Theology & Exegesis* Vol. 4 p 130-135.

<sup>87</sup> Talmud, *Mechilta ad locum*. "This was prompted by the Torah's apparent linguistic inconsistency in shifting from the plural **וַיַּחֲנוּ**, *vayahanu*, (they camped) to the singular **וַיָּחַן** *vayahan* (he camped), comment that when the Jewish people arrived at Mt. Sinai they achieved a remarkable degree of unity, hitherto unattained. They were as, "one person with one heart." (*ibid.*). Hence the shift from the plural to the singular form of speech. Also, according to Rav Soloveitchik זצ"ל, Judaism conceives the Jewish nation (as well as any microcosmic Jewish community) not simply as a large aggregate or massive partnership of individuals, but rather as a distinct metaphysical entity." Taken from Rabbi Meir Twersky's essay: "The Community" in *Tradition* Vol. 17, No. 2 pp. 9-10, Fn. 4.

<sup>88</sup> Gen 21:22-34, especially verse 31.

Peace is G-d's ultimate goal. This claim is reaffirmed in the Prophets and Writings of the Bible, as well as in rabbinic literature.

Peace is seen not only as G-d's power, but also as G-d's will. As we read in Isaiah: "וַיִּכְתְּרוּ חֶרְבוֹתָם לְאֵתִים וְחַנְיֹתֵיהֶם לְמִזְמָרוֹת לֹא־יָשָׂא גִי אֶל־גִּי חֶרֶב וְלֹא־יִלְמְדוּ עוֹד מִלְחָמָה:" "They shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war anymore."<sup>89</sup>

We see in Psalms, for example, how justice rather than power to win a war as the main expression of G-d's power:

"יְהוָה מֶלֶךְ, תִּגַּל הָאָרֶץ; יִשְׁמְחוּ, אֲיִים רַבִּים; עָנָן וְעָרַפֶּל סְבִיבָיו; צֶדֶק וּמִשְׁפָּט, מִכּוֹן כִּסְאוֹ" "The Lord reigned; let the earth rejoice; let the multitude of isles be glad. Clouds and darkness are round about Him; righteousness and justice are the foundation of His throne."<sup>90</sup>

Prophets denounced war. Prophet Amos criticized the brutality of war,<sup>91</sup> and both Isaiah and Micah envisioned a day when nations would abandon making a war and turn the implements of war into productive vessels.<sup>92</sup> This is considered by them the essence of Torah which all the nations eventually will come to Zion and learn.

The First Book of Chronicles contains constant criticism of the brutality of war, perhaps the most often of all the books of the Bible. We see it especially at the end of 1 Chronicles, with G-d's decision to David the king saying to him: "You have shed much blood and fought great

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<sup>89</sup> Isa. 2:1-4, 11:6, 45:7. Job 25:2. Micah 4:1-5

<sup>90</sup> Psalms 97:1f

<sup>91</sup> Amos chapter 1 and 2

<sup>92</sup> Isa. 2:1-4, Micha 4:1-5.

battles; you shall not build a House for My name for you have shed much blood on the earth in My sight" (1 Kgs. 22:8). Clearly, bloodshed is antithetical to bringing G-d's presence closer to humankind.

Judaism condemned war as a goal in favor of peace. War of self defense is justified in Jewish religion, but war as a means of diplomacy or for any reason other than defense is to be resisted and limited as much as possible.<sup>93</sup>

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<sup>93</sup> Analysis and texts on this subject will be discussed in depth in Chapter 5.

# CHAPTER 5

## **טוהר הנשק-Tohar Haneshek- Purity of Arms<sup>94</sup>**

The IDF is Israel's Defense Force. The beginning of this army was as small organizations that formed during the Second Aliyah between the years 1904 to 1914. First, in 1909, it was Hashomer (originally, in 1907 was called Bar Giora) which operated to protect against criminals such as thieves or gangs. They did so until the British Mandate of Palestine came in 1920's.

The Haganah organization, that originally was part of the British Army, was first an underground defense organization in 1920. And then with the Arab's attack against the Jews between 1936 and 1939, this group became a full scale, structurally organized defense force that included three units: Palmach, Guard Corps and Field Corps.

There were other smaller organization of defense such as Lehi and Irgun that operated around the same time. The Jewish Brigade took over during War World II. After the establishment of the State of Israel, in 1948, and during the first war against Israel by a number of Arab states (the Arab-Israeli War 1948), most groups joined together and formed the official Israeli army. A structured army was created.

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<sup>94</sup> Note that in this thesis I deal only with ethics for the soldiers and not with the policy and other decisions of the political and military leaders. Perhaps in the future, a Doctoral level investigation can be pursued that will include that dimension of the total picture.  
(Exhibit C is relevant for this chapter as it is a copy of IDF spirit-its code of ethics)

The original IDF Code of Ethics is attributed to Asa Kasher.<sup>95</sup> In 1992, a Code of Conduct was drafted by the IDF that combined Israeli law, international law, Jewish heritage and the army's traditional ethical code, which is called the IDF spirit.<sup>96</sup>

In 2005, Asa Kasher and Amos Yadlin co-authored an article published in the *Journal of Military Ethics* under the title: "Military Ethics of Fighting Terror: An Israeli Perspective". The intent was to have this article serve as a basis for a new "code of conduct" in light of the new Israeli reality of asymmetrical war with terrorists. However, the basis of the "code of conduct" of the IDF did not change. Yet the new eleven rules that were introduced are taught to Israeli soldiers since then and are incorporated into the guide for their expected behavior.<sup>97</sup>

In order to offer great clarity into the IDF code of ethics, I will investigate their four sources or traditions individually, taken from the original document that can be viewed in Appendix C. With each source, I will offer examples, traditions and evidence of past events that may have given rise to a basis for these codes.

In order to make this presentation clear and flowing, I slightly changed the order of the principles or 'traditions' from their original presentation. I first investigated the tradition of the Jewish people throughout their history, addressing the distant past.

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<sup>95</sup> Hazony, Yoram, *The Jewish State: The Struggle for Israel's Soul*. p. 304

<sup>96</sup> IDF original web site: <http://idfspokesperson.com/2011/11/02/the-spirit-of-the-idf/>  
See also Appendix C for the Spirit of IDF card.

<sup>97</sup> For more information about the eleven rules see Conclusions in this paper, pages 120-121

Second, I focused on the tradition of the State of Israel, operating under a modern set of democratic principles, laws and institutions, addressing the present.

Third, I analyzed the tradition of the IDF and its military heritage as the Israeli Defense Force that uses strategies and tactics during war concentrating especially on the modern dilemma of terrorism, addressing more of the present.

The fourth tradition is an extensive analysis of universal moral values that are based on the value of dignity of human life. Here I will discuss how far the IDF will go in order to save life, and I will show how historically, life has the highest value in Judaism.

## **A. The tradition of the Jewish People throughout their history.<sup>98</sup>**

In the original IDF document of Purity of Arms, this tradition is the third one in order. This section will be investigated first so it will flow from past history and work its way into the present time.

This spirit of IDF ethical approach towards war is based on tradition and history, going back to biblical times, followed by rabbinic interpretation and continued into more recent history. To learn more on the biblical and Talmudic sources, I will refer the reader to Chapter one in this thesis that discusses war and ethics thoroughly, under the title: the Biblical and Rabbinic investigation on Mandatory and Discretionary war.

Every time we take the Torah scroll out of the Ark we recite: "וַיְהִי בְּנִסְעֹה הָאָרֶן וַיֹּאמֶר "מֹשֶׁה קוּמָה יְהוָה וְנִפְצוּ אֹיְבֶיךָ וְנִסּוּ מִשְׁנָאִיךָ מִפְּנֶיךָ " "And it came to pass, when the Ark set forward, that Moses said 'Rise up O Lord and let Your enemies be scattered; and let them that hate You flee before You" (Num.10:35). This sentence is special and is recited when we take the Torah, the Jewish book of ethics, from the Ark. But why is the ark associated with the scattering of the enemies?

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<sup>98</sup> IDF Code of Ethics –IDF Official Website—See Appendix C.  
<http://web.archive.org/web/20060430031938/http://www1.idf.il/dover/site/mainpage.asp?sl=EN&id=32>

Rabbi Finkel teaches that Jews recite the above text in the synagogue, and then carrying the Torah scroll around as to emulate what was done in the desert while they were traveling with Moses towards the land of Israel. Rabbi Finkel adds that even then, there were enemies and haters of the Jews but Israel sought G-d to save them as He did throughout history.<sup>99</sup> Jews continue to seek G-d now, as well.

Some may argue whether many of the stories in the Torah are historical or are legends. I suggest that whether they are seen as historical facts, legends or wholesome truth of events the intent is clear: the stories of the Torah are to offer us a value system and codes of behavior that separate us from animals and inspire us to become better people.

This system of ethics comes from G-d, hence the Torah is at “war” against anything that goes against G-d’s teaching and G-d’s ethical principles. And what is the ultimate test for ethical behavior? Clearly, it is when a person faces the most difficult situation, one that requires from him internal strength to resist impulsive reaction of some sort, one that tests his integrity and inner strength.

It is very easy to do the obvious and give in to desires and urges. It is more difficult to show restraint. War time is one of the most difficult situations where one must show constant restraint. So whether we are involved with war, or whether our enemies are “scattered”, the Torah with G-d’s messages and teachings must be kept.

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<sup>99</sup> Written communication of Rabbi Asher Finkel.

The IDF philosophy is based on the above teaching of restraint and moral behavior in order to adhere to the Torah. When Israeli soldiers are drafted into the army they take vows and make commitments. One of them is the adherence to “Tohar Haneshek” (טוהר הנשק) or the Purity of Arms. They promise that when they must use force it will be done with utmost gentleness, purity, goodness and find ways to complete their job in the least harmful way to the enemy. They commit to always have goodness their guide and place ethical behavior as their number one choice.

The need for purity of arms at war is a problem. Does morality supersede all considerations during war, or is it possible to kill without too many concerns? War is fundamentally not an ethical approach to a goal. However, if one is involved in a war already, after being attacked, then could one use “all means of destruction”, as was suggested by Carl von Clausewitz (1780-1831) in his book “On War”?<sup>100</sup>

Let me investigate the Bible and learn how Judaism emphasized ethics and purity of arms during war in the past. Since the current ethical code of behavior takes its basis from the Bible, it is therefore important to learn how that source influenced the formation of Purity of Arms that every soldier is required to follow. We will learn how the Jewish people adhere to rules of war and attempt to do the right thing, even though at times it may be difficult. Purity of arms covers many aspects and not only regards the dealings with human life.

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<sup>100</sup> Clausewitz, C. On War—In this author's view, all enemy's territory, property, and citizens were potential targets. The more ruthless, merciless and complete an army's tactics, the more likely Clausewitz believed their victory to be.

The first example is taken from the book of Joshua during the first time that Israel fought in Jericho. The instructions were clear and specific, instructing the people not to take anything from the spoils:

וְקִצְתֶּם שְׁמֵרוֹ מִהַחֲרָם פְּרִתְחֲרִימוֹ וְלִקְחֲתֶם מִרְהַחֲרָם וְשִׁמְתֶּם אֶת־מַחֲנֵה יִשְׂרָאֵל לְחֲרָם  
וְעִבְרִיתֶם אוֹתוֹ: וְכָל כֶּסֶף זָהָב וְכָל נְחֹשֶׁת וְכָל קְדֹשׁ הוּא לַיהוָה אוֹצֵר יְהוָה יָבֹא:

“But you keep yourselves from the things devoted to destruction, lest when you have devoted them you take any of the devoted things and make the camp of Israel a thing for destruction and bring trouble upon it. But all silver and gold, and every vessel of bronze and iron, are holy to the Lord; they shall go into the treasury of the Lord” (Josh 6:18-19).

When even one person sinned and took some of the spoils, G-d was very angry at the people: “וַיַּעֲלוּ בְנֵי־יִשְׂרָאֵל מֵעַל בְּחֵרָם וַיִּקַּח עָכֹן בֶּרֶכְיָמִי בֶרֶזַבְדִּי בֶרֶזַח לְמַטֵּה יְהוּדָה  
וַיִּחַרְדּוּ” “But the Israelites broke faith in regard to the devoted things: Achan son of Carmi son of Zabdi son of Zerah, of the tribe of Judah, took some of the devoted things; and the anger of the LORD burned against the Israelites” (Josh. 7:1).

Most of Chapter 7 discusses how G-d punished B’nai-Yisrael and what Joshua and the people needed to do in order to atone for the sin. That is not to say that in other wars (with the Canaanites, for example) there was no taking from the spoils. At times, during war, it is unavoidable. However, the emphasis for B’nai Yisrael’s first war was very clear: Do not touch the spoils. This suggests that even if the people will not adhere to rules of war, G-d would intervene and ultimately they will repent, pay back and learn a lesson of what not to do.

The second example is from the book of Esther that states in a number of instances that the Jews did not touch spoils when they defeated their enemies. "ובביזה לא שלחו את ידם" <sup>101</sup>. Their goal was to defend themselves from those who wanted to kill them. This suggests that the people adhered to the rules of war.

Interestingly, the nations knew that the house of Israel, namely the kings of Israel, were kind to others and treated their captives with grace. If we look at the first book of Kings, we will learn about that common knowledge. After Avdi the son of Hadad, the king of Aram, was captured and his army was defeated by king Ahab, his servants told him: "And his servants said unto him, Behold now, we have heard that the kings of the house of Israel [are] merciful kings: let us, I pray thee, put sackcloth on our loins, and ropes upon our heads, and go out to the king of Israel: peradventure he will save thy life." "וַיֹּאמְרוּ אֵלָיו עֲבָדָיו הִנֵּה־נָא שָׁמָעוּ כִּי מֶלֶכִּי בֵּית " "וְיִשְׂרָאֵל כִּי־מֶלֶכִּי חֶסֶד הֵם וְשִׁימָה נָא שָׂקִים בְּמַתְעִינֵנוּ וְחֻבְלִים בְּרֹאשֵׁנוּ וְנֵצֵא אֶל־מֶלֶךְ יִשְׂרָאֵל אוֹלֵי וַיִּכְרַת־לּוֹ בְּרִית (1 Kgs 20:31). And the king let Ben Hadad live, indeed: "וַיַּחֲזֶה אֶת־נַפְשׁוֹ: "So he made a covenant with him, and sent him away" (1 Kgs. 20:35).

So how does the Torah and the Rabbis in the Talmud support this very delicate situation of fighting and killing, when they profess peace at the same time? They do so by providing a balance, or restrictions and ways in which one does not destroy without consideration. Every act has to be calculated and taken into account. They expressed their conclusions with principles.

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<sup>101</sup> Esther 9:10, 9:15, 9:16.

In modern times, we call these principles Purity of Arms--Tohar Haneshek, as mentioned above. Some requirements deal with property while others deal with people and life. In the Talmud, there is a good example that states that a city should not be destroyed if it could be captured without destruction.<sup>102</sup> Other rules state that areas that cannot defend themselves should not be attacked and, more than that, the potential invader always offers negotiation for either surrender or peace before an attack.

All these are expected in order to avoid hurting people or property. In addition, a peace offer is always to precede an attack. If the offer is not accepted, Jewish law dictates to still wait for the first attack, and always leave a certain opening for people to run away and escape.<sup>103</sup>

We have the example of Moses Ben Nahman, or as he was also known, Ramban (died in 1270), who, generations after the Rabbis came up with principles of war, was forced to leave Spain and he settled in Israel. Although he did not love their enemies, and considered the conquest of the land of Israel as one of the highest commandments, nevertheless he condemned cruelty of war. He stated that the Torah wants soldiers to "learn to act compassionately with our enemies, even during wartime".<sup>104</sup>

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<sup>102</sup> Sifre Deuteronomy, section 203. Interestingly, the law of **בל תשחית** 'do not destroy' came from those principles. It is a major rabbinic principle that forbids us to unnecessarily waste or destroy anything that is a productive part of the world we inhabit. Rambam, applies this directly even to cases of warfare when he comments on this verse in Deuteronomy: "Also, one who smashes household goods, tears clothes, demolishes a building, stops up a spring of water, or destroys articles of food with destructive intent, transgresses the command, You shall not destroy". Hilchot Melachim 6:10.

<sup>103</sup> Sifre Deuteronomy, section 203.

<sup>104</sup> Ramban's Sefer Hamitzvot, 5th Mitzvah."

Let us take the example of war prisoners which is a common unfortunate reality of armed conflict. We hear of many times and situations in which nations killed their prisoners. It is noteworthy to see the profound contrast in the Jewish view of treating those captured in battle.

In the second book of Kings, the king asked Elisha if he can kill the prisoners. Elisha responded: " וַיֹּאמֶר לֹא תִכֶּה הָאָשֶׁר שְׁבִית בְּחֶרֶבְךָ וּבִקְשָׁתְךָ אֵתָּה מִכָּה שִׁים לָחֶם וּמַיִם לִפְנֵיהֶם וַיֹּאמְרוּ לֹא תִכֶּה הָאָשֶׁר שְׁבִית בְּחֶרֶבְךָ וּבִקְשָׁתְךָ אֵתָּה מִכָּה שִׁים לָחֶם וּמַיִם לִפְנֵיהֶם " "Do not strike them! Would you strike down people whom you have captured with your sword and your bow? Rather, place food and water before them" (2 Kgs 6:22). In addition to the instruction not to kill the prisoner, Elisha adds and instructs the king also to treat them humanely and with care; 'place food and water before them.'<sup>105</sup>

Obviously the Torah is very clear and sensitive to how we should treat prisoners. Of course, if the prisoners serve as a threat even at the point of being captured, then other rules may apply. So we see that the Jewish people take pains in deciding how to approach not only war but also the consequences of war.

There is an interesting scholarly discussion that supports our case. According to Rambam, even if we surrender the enemy, we must provide them an exit route so they can escape.<sup>106</sup> According to Rambam, the rationale behind it is strategic: if the enemy becomes too desperate by the prospect of losing the war to the Jews, they may get more energized, end up harming the Jews.

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<sup>105</sup> Ibid.

<sup>106</sup> Rambam Hilchot Melachim 6:7.

On the other hand, Rabbi David iBn Zimra (הרדב"ז)<sup>107</sup> suggests a different interpretation to the need for an exit route. He said that we do so as a merciful act to the enemy even if they attacked us. And we do so since our Torah is all about peace and gentleness, as it is written: "דֶּרֶכֶיהָ דְּרָכֵי נֶעֱמִים וְכָל־נִתיבוֹתֶיהָ שְׁלֹום" "Her ways are ways of pleasantness, and all its pathways are peace (Prov. 3:17).

The above shows us that a lot of care and attention was given not only to the rules of war but also to their interpretation. These discussions were not taken lightly. We can say that the modern approach of conduct during war is utilizing the expectation of the Torah and are delineated through the rules of Tohar Haneshek. In the Bible this approach of honesty and fairness is expressed many times as we saw from the examples above.

Why, according to the Torah, is it so important to use fairness and kindness even during a cruel reality such as war? In the book of Deuteronomy it says: "וְהָיָה מִחֲנִיךְ קָדוֹשׁ" "For the Lord your God walks in the midst of your camp, to rescue you, and to deliver your enemies before you; therefore your camp shall be holy; that He will not see shameful thing among you and, turn away from you" (Deut. 23:15).

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<sup>107</sup> Rabbi David ben Solomon ibn Zimra, in Hebrew: דוד בן שלמה אבן זמרא, also called Radbaz (רדב"ז) was an early Acharon of the fifteenth and sixteenth centuries who was a leading posek, rosh yeshiva, chief rabbi, and author of more than 3,000 *responsa* (halachic decisions) as well as several scholarly works. Taken from Chabad.org (see bibliography for more information on this source).

Rambam, again, looked at the above verse and explained that the army (camp) is like a temple of G-d and not like other armies where the lowest of instincts are expressed among their soldiers: to kill and destroy. Rambam continued and stated that the reasons Jews fight are in order to make the world a better place, and to offer more order and honesty in the world. Jews are messengers of G-d and are doing the work of G-d. And if Jews do not fight in an honest way, it defeats their purpose of doing the work of G-d. Rambam says that sometimes a war is unavoidable and it is a necessity to act with might since previous peaceful attempts did not help.<sup>108</sup>

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<sup>108</sup> The Guide for the Perplexed section 3 part 41

## **B. The tradition of the State of Israel, its democratic principles, laws and institutions.<sup>109</sup>**

Israel is a democratic state that is governed by laws and run by institutions that represent the voice of the people. When there are threats to the democracy or to its people, the IDF is committed to come to its defense.

To understand this in realistic terms, I present the very real threat that the democracy of Israel with her people face: the threat of annihilation of Israel. This threat can be seen in two ways: a) in physical sense, erasing Israel from the map by destroying the country and the people, and b) by attempting to “kill” the idea (of the existence) of Israel. In either case, it is a serious threat to the very basic right of every person in Israel. Let me investigate this area further.

There will never be a shortage of people who will point fingers at Israel and blame her for the wrongs of the world. I am addressing this chapter to the other population that is interested in learning otherwise, in an unbiased way. I am hoping to communicate with the objective person who is willing to hear, analyze and judge reality based on honest facts and make a case for the State of Israel.

It is evident that there is an open threat by many to “kill” the idea of the existence of Israel.<sup>110</sup> We first have the obvious haters, those who clearly state that Israel should be “thrown to the sea,” that Israel should be “erased from the map.” The Palestinian’s Authority’s doctrine

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<sup>109</sup> IDF Code of Ethics –IDF Official Website—See Appendix C.  
<http://web.archive.org/web/20060430031938/http://www1.idf.il/dover/site/mainpage.asp?sl=EN&id=32>

<sup>110</sup> Gordis, Saving Israel. See Bibliography.

calls for the destruction of Israel or the annihilation of the State of Israel. In the words of one of their academics: "Our happiness will be complete only with the return of all of our lands - the [West] Bank, Jerusalem, Tel Aviv, Jaffa, Haifa, Safed, and other stolen cities".<sup>111</sup>

It is known by all, for example that one of the terrorist groups, Hezbollah, states that one of their main goals is the elimination of the State of Israel.<sup>112</sup> Hamas organization is no different and many of the Palestinians support those two groups passionately. Many other Arab countries do not hide their wish for the destruction of the State of Israel. It is clear that ending the existence of the State of Israel is something many Arab countries wish to see and work to achieve. There could be many sources and examples to support the above. And I don't need to go far into the past to bring an example. Let me discuss one.

While working on my thesis (and this is one example of many, unfortunately), horrible news came from Israel: On Friday night, March 11, 2011, at 10:00 PM an innocent couple and their children were slaughtered by Palestinian terrorists. Ruth Fogel was in the bathroom when the Palestinian terrorists pounced on her husband Udi and their three-month-old daughter Hadas, in their home in Itamar, slitting their throats as they lay in bed on Friday night.

The terrorists stabbed Ruth to death as she came out of the bathroom. With both parents and the newborn dead, they moved on to the other children, going into a bedroom where Ruth and Udi's sons Yoav, eleven years old, and Elad, four years old, were sleeping. They stabbed

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<sup>111</sup> Dr. Ismaeil Al-Fara, lecturer at Al-Quds University, and director of the General Union for Disabled Palestinians in Khan Yunis, PA TV, September 2, 2005.

<sup>112</sup> Adam Shatz (April 29, 2004). In Search of Hezbollah". The New York Review of Books. <http://www.nybooks.com/articles/17060> See also Bibliography for comprehensive sources on Hezbollah.

them through their hearts and slit their throats. The murderers apparently missed another bedroom where the Fogels' other sons, eight-year-old Ro'i and two-year-old Yishai were asleep.

The boys were found by their big sister, twelve years old Tamar, when she returned home from a friend's house two hours after her family was massacred. Tamar found Yishai standing over his parents' bodies screaming for them to wake up.”<sup>113</sup>

The reaction of some of the Palestinian in Gaza was very disturbing. They celebrated and cheered while passing candy to all in praise of the murderers. And these people are not considered terrorists!

Does that mean that they support the murder? Does that mean that they encourage such behavior? Does that mean that they are an accomplice to the crime? What does a person do with this information? This behavior of the general Gazan population, who are not defined as terrorists, is making it very difficult not to include them as partners to crime.

In the words of Benjamin Netanyahu, who gave a statement on the following day after the above disaster in a broadcast: “The time has come to stop this double-speak in which the Palestinian Authority outwardly talks peace and allows — and sometimes leads — incitement at home.”<sup>114</sup>

In the same speech, Mr. Netanyahu called onto the hostile world and their leaders: “I expect the international community to sharply and unequivocally condemn this murder, the

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<sup>113</sup> <http://www.JewishWorldReview.com> |

<sup>114</sup> Israel Ministry of Foreign Affairs.  
[http://www.mfa.gov.il/MFA/Government/Communiques/2011/PM\\_Netanyahu\\_terrorist\\_attack\\_Itamar\\_12-Mar-2011.htm](http://www.mfa.gov.il/MFA/Government/Communiques/2011/PM_Netanyahu_terrorist_attack_Itamar_12-Mar-2011.htm)

murder of children. I have noticed that several countries that always hasten to the UN Security Council in order to condemn Israel, the State of the Jews, for planning a house in some locality, or for laying some tiles somewhere, have been dilatory in sharply condemning the murder of Jewish infants. I expect them to issue such condemnations immediately, without balances, without understandings, without justifications. There is no justification and there can be neither excuse nor forgiveness for the murder of children. I expect a similar condemnation, and I demand a similar condemnation, from the Palestinian Authority. I am disappointed by the weak and mumbled statements. This is not how one condemns terrorism. This is not how one fights terrorism. See how Israeli prime ministers, myself among them, have reacted in similar situations, but there has never been anything like this, in which terrorists entered a home and cut children's throats. This requires sharp and unequivocal condemnation. This requires something else. This requires a halt to the incitement. I demand that the Palestinian Authority stop the incitement that is conducted on a daily basis in their schools, mosques and the media under their control. The time has come to stop this double-talk in which the Palestinian Authority outwardly talks peace, and allows - and sometimes leads - incitement at home. The time has come to stop the incitement and begin educating their people for peace.”<sup>115</sup>

The words of Mr. Benyamin Netanyahu that night offer us an important understanding of the general approach that Israel has for her people as far as ethical behavior is concerned. These words exemplify Israel's approach and behavior during attack, or war, for that matter; words that show ethics, morals and humanity: “Despite all the awful pain, I call upon all Israelis to act responsibly, with restraint, and not to take the law into their own hands. When one takes the law into his own hands, there is no law. The IDF and the security forces will carry out their

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<sup>115</sup> Ibid.

responsibilities; only they. We will not allow terrorism to determine the settlement map. The settlement map will be determined by Government policy, which is in accordance with our national interests, with security first and foremost. Terrorism will not determine the settlement map. We will determine it."<sup>116</sup>

It is important to reiterate the exchange Mr. Netanyahu had with the Palestinian Authority Chairman, Abu Mazen, who called to express his regret over the murder in Itamar. And this is exactly where the problem is: On one hand a leader of the Palestinian may call and offer regret but with the same breath he would encourage and entice his people to continue their murderous behavior.

The Prime Minister of Israel stressed that such condemnations were insufficient and added that not only must the incitement stop but education for peace must begin. Prime Minister Netanyahu added that violence had to be condemned not because it went against the PA's political interests but because morally it is unacceptable.

“ ‘I expect you to stop the incitement in schools, textbooks and mosques and for you to educate your children for peace as we are doing. Murdering children in their sleep is murder for its own sake,’ the Prime Minister said.”<sup>117</sup> To quote Albert Einstein: “The world is a dangerous place to live, not because of the people who are evil, but because of the people who don't do anything about it.”<sup>118</sup>

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<sup>116</sup> Ibid.

<sup>117</sup> Israel Ministry of Foreign Affairs.  
[http://www.mfa.gov.il/MFA/Government/Communiques/2011/PM\\_Netanyahu\\_terrorist\\_attack\\_Itamar\\_12-Mar-2011.htm](http://www.mfa.gov.il/MFA/Government/Communiques/2011/PM_Netanyahu_terrorist_attack_Itamar_12-Mar-2011.htm)

<sup>118</sup> Einstein on Peace. 1968.

An Islamic scholar, Ashgar Ali Engineer, said in his writing: “Four key concepts advocated by the Quran are: ‘*adl, ihsan, rahmah, and hikmah*, which mean justice, benevolence, compassion and wisdom...”<sup>119</sup> Clearly, the behavior of many Muslims injure the very basic premise of these key concepts.

In an article by Professor Michael Nagler, an academic and peace activist, I was struck by what he shared. When Nagler read from one of the special issues of Gandhi Marga discussion of Islam and non-violence, two of the writers made the following statement: “Non-violence is a wonderful thing but it does not apply to the Arabian Peninsula (respectively, modern Israel).”<sup>120</sup> This speaks for itself.

There is no need to “prove” scientifically that this deep hatred towards the Jews is prevalent and exists and there is no need to present more examples. We all know it exists. These acts of hatred are obvious, although many choose to act oblivious to that fact even when confronted with it. Yet, my concern is greater with the other group; the one who is more suggestive, hence more dangerous.

My concern is with a group that is much more sophisticated. My suspicion is with those who hide behind the title of historians, reporters, teachers, speakers and leaders and the media, to name a few. These are the real threats of Israel: those who try to use reason, albeit, dishonestly, to project Israel in such a negative light that it almost necessitates questioning her existence.

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<sup>119</sup> Ashgar Ali Engineer, *Sources of Nonviolence in Islam* p. 88-90.

This scholar is an Indian- Muslim reformist-writer and activist. He is an advocate of a culture of peace, nonviolence and communal harmony.

<sup>120</sup> Nagler, *Is there a Tradition of Nonviolence in Islam?* p. 161

One such person, for example, is the influential, brilliant University professor, Jerome Slater.<sup>121</sup> I am offering an example of how one person chooses to depict Israel in a horrible light, and doing so under the umbrella of an academic with credentials and intelligence. I am suggesting to the reader that methods, such as this one, are dangerous in the least and destructive at the most for Israel and her people.

Jerome Slater, in the publication of Pulse Media,<sup>122</sup> viciously refuted Moshe Halbertal's response to the Goldstone Report.<sup>123</sup> This is how he opens his article: "As an academic of nearly fifty years, I take seriously that the core principle and highest calling of our profession is to seek and tell the truth, as best as one can. For those who know the full historical facts about the Israeli-Palestinian conflict, one of the most shocking and depressing phenomena is the extent to which many leading Israeli and American Jewish intellectuals and academicians ignore, conceal, or willfully deny them."<sup>124</sup>

Slater opens up his article by declaring his own academic credentials, one with intelligence and a respected person. This in turn suggests to the reader that his comments should be taken as a serious and honorable source.

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<sup>121</sup> Jerome Slater is professor (emeritus) of political science and University Research Scholar, State University of New York at Buffalo. He writes extensively on this topic of Israel-Palestinian Conflict and he has his own blog (<http://www.jeromeslater.com/2010/09/why-i-blog.html>).

<sup>122</sup> PULSE is a collaborative political weblog featuring work by a variety of writers, activists and academics based in five continents. It is edited by Muhammad Idrees Ahmad, Jasmin Ramsey, Robin Yassin-Kassab and Belén Fernández.—Interesting to note who the editors are...

<sup>123</sup> See chapter 11 in this thesis.

<sup>124</sup> Jerome Slater's article in the Pulse Media report.  
<http://pulsemedia.org/2010/01/06/moshe-halbertal-and-the-goldstone-report/#more-18572>

Even if the reader does not read the rest of Slater's article, with an introduction such as mentioned above, the impression is immediate and negative towards Israel. Readers are not necessarily educated and versed about the historical background of Israel and the Jews. Many people take at face value what they hear or read, especially when it comes from educated figures and leaders. People absorb media presentations as truth. Many hold the position of 'If I see it on TV or hear it on the radio, it must be true.' This is a dangerous phenomenon not only when it comes to Israel, but as far as any news and other information are concerned.

In his blog,<sup>125</sup> Jerome Slater writes hate articles about Israel in a more concentrated and "focused" manner than is fit to be on a blog. But one can get a clear picture of how Slater feels about Israel and how much hatred and purpose he has towards advancing negative opinion toward Israel.

Examining Slater's article further I was struck by the fact that Slater did not bash Halbertal's report for "ignoring, concealing and willfully denying facts that may be against Israel, he also criticizes the actual Goldstone Report for not being even harsher with Israel : "It is striking that while strongly critical of the Israeli methods of war, in effect the Goldstone Commission accepted the premise that Israel did have a just cause, the right to defend itself against Palestinian rocket attacks. In Part II of this analysis, I will argue that this argument is unpersuasive, and the Commission may have committed a serious error in accepting it."<sup>126</sup>

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<sup>125</sup> Slater's blog: <http://www.jeromeslater.com/2010/12/what-really-wrong-with-goldstone-report.html>

<sup>126</sup> Slater's article in the Pulse Media report.

Jerome Slater's message to the world deliberately endangers the existence of Israel. He bluntly supports the attacks of Palestinians on Israeli civilians, rationalizing their behavior: "I have argued that the Palestinian attacks on Israeli civilians are primarily, even if not exclusively, the consequence of over forty years of continued Israeli occupation,<sup>127</sup> repression, assassinations and other killings; of the destruction of governmental, economic, public health, educational, and other societal institutions and infrastructures; and of the deliberate impoverishment and humiliation of the Palestinian people."<sup>128</sup>

Slater's response to acts committed against Israeli civilians clearly shows his double standard: "Consequently, Israel is not engaged in "self defense" when it uses force to crush resistance to its repression – and that holds true even when the form of resistance — terrorist attacks intended to kill civilians — is itself morally wrong."<sup>129</sup> What an obvious declaration by Slater that Jewish blood does not equate to the blood of Palestinians!

Slater accuses Israel of committing war crimes, not only in his response in the Pulse Publication discussed above, but also throughout various articles, messages, speeches and blogs he offers to the public, such as this: "In sum, the uncontested facts leave no doubt that the

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<http://pulsemedia.org/2010/01/06/moshe-halbertal-and-the-goldstone-report/#more-18572>

<sup>127</sup> Rabbi Finkel, via written communication: "It is the Arabs who are occupying the land of Israel not the Jews who returned to their homeland."

<sup>128</sup> Slater's, article in the Pulse Media report.  
<http://pulsemedia.org/2010/01/06/moshe-halbertal-and-the-goldstone-report/#more-18572>

<sup>129</sup> Ibid.

Israeli attack on Gaza constituted a grave war crime.”<sup>130</sup> Slater does not address the daily bomb attacks against Israel from Gaza.

People such as this person are a serious threat to the existence of the State of Israel. Jerome Slater destroys the ‘whatever’ positive image Israel may have and draws her as a blood thirsty criminal that oppresses innocent people. I think the real criminal here is Mr. Slater himself. By using his intellect, his academic position and his gift of speech and education he circulates lies and false information to people. His conclusions about Israel are so negative and he publicly and loudly states them.

How many more Jerome Slaters exist? How much more information is shared with the world, depicting Israel in such a negative light? How many people offer this horrible image about Israel, taking advantage of their position in society? How many leaders, educators, clergy, universities and the media, at times, seize opportunities to convey an image of Israel as vicious? This kind of behavior is a threat to the existence of Israel. It is not only that we hear explicitly the wish for annihilation of the State of Israel, but we also realize it implicitly through other means, such as discussed above.

The creation of the negative image of Israel by strong leadership and propaganda is not addressed only to the non-Jewish world. It is offered to Jewish population, as well, namely the younger generation of Jews both in Diaspora and in Israel. This Jewish population is also a

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<sup>130</sup> Slater’s blog: <http://www.jeromeslater.com/2010/12/what-really-wrong-with-goldstone-report.html>

distance from the events of the Holocaust and they are more removed from the historical realities that brought Israel to where she is now.

Daniel Gordis offers a discussion in his book, *Saving Israel*, that the Jewish younger generation, in a survey that was done, was not able to answer satisfactorily questions such as: Why Israel should have a State, or why Israel matters... They are able to see the current reality only and are not able –or not willing—to dig for deeper meaning. Hence, the result is a generation without strong convictions and passion toward their country. That serves as an added concern regarding the “idea” of the existence of Israel. We have enough threats from the outside world. We certainly don’t need any from within.

Gordis wrote in his book: “Young American and Israeli Jews had no idea how to respond to the above questions. Jews, as an “occupying power” sounded ugly and humiliating, not something of which these kids would be proud. If the Jews had a State, why couldn’t the Palestinians? If Israeli soldiers were really preventing Palestinian pregnant women in labor from getting to hospitals by stopping them at roadblocks, how could these students not feel embarrassed”?<sup>131</sup> This is the dangerous power of propaganda; power of brainwashing and the power of mis-education. If we see hesitations within some of the Jewish population, albeit, some of the younger generation, about the relevance of the State of Israel to her people, it is fair to say that Israel’s problem may be graver than we think.

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<sup>131</sup> Gordis, D. *Saving Israel* p. 12.

On a positive note I may add that we are not including the majority of the Jewish population. I will also add that in a country that participated in so many wars, it is understandable how her population would become tired of them and discouraged. Israel faces the challenge of re-injecting her younger population with passion and meaning and greater identification with national values.

The threat against the “idea of the existence of Israel” is real and present. It shows its seed within a small minority of the younger Jewish population, but it is very prevalent among the general population of the world. Israel has an obligation to do all she can, internally and externally, in order to maintain continuity and progress. Although the concern over the young generation is present, the main struggle is to maintain security within the borders of Israel and protecting the citizen from outside harm.

To sum with the words of Daniel Gordis: “And yet, when peace is not achievable, when enemies will seek to destroy the Jewish state, and thereby to destroy the Jewish people, there is, sadly, no choice but to wage war, however long it may last.”<sup>132</sup> This is war for survival and, unfortunately, a necessity for existence.

In light of the above, we can see why the second source that the IDF draws on, the tradition of the State of Israel, its democratic principles, laws and institutions is an integral part of the ethics that govern the Israeli state.

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<sup>132</sup> Gordis, *Saving Israel*, p. 181.

## **C. The tradition of the IDF and its military heritage as the Israel Defense Forces.<sup>133</sup>**

### **The modern dilemma of terrorism and IDF's military strategy and tactics.**

In the IDF Purity of Arms document, this tradition is placed first. After all, IDF is the body that is responsible for the basic defense of its people. To allow better flow and development of this paper, however, I placed this tradition as number three, moving from past history, into the policies of modern democracy and now, remaining in the present time, focusing on more current events.

In order to investigate this tradition of the IDF and its military heritage as the Israel Defense Forces we must look into the topic of terrorism. Traditionally, throughout history, in biblical times and in the modern period, Israel faced terrorism and needed to develop strategies to deal with it. Terrorism takes many forms yet there are some basic method in which it operates.

The definition of the word 'terror' relates to a person or a thing that causes intense fear or the quality of causing dread; terribleness. The definition of the word 'terrorism' defined as the use of terror and violence to intimidate, subjugate, etc., especially as a political weapon or policy.<sup>134</sup>

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<sup>133</sup> IDF Code of Ethics –IDF Official Website—See Appendix C.  
<http://web.archive.org/web/20060430031938/http://www1.idf.il/dover/site/mainpage.asp?sl=EN&id=32>

<sup>134</sup> Webster Dictionary. Webster New World Dictionary. The World Publishing Company. Cleveland and New York. USA 1960.

Another source defines terror this way: Violence (as bomb-throwing) committed by groups in order to intimidate a population or government into granting their demands (insurrection or revolutionary terrorism).<sup>135</sup> A terrorist is an agent of the above.<sup>136</sup>

Israel is continuously targeted by terrorism. In the last 25 years, especially, we see a serious and defined increase in terrorist attacks in the world in general and in Israel in particular. Life under terror and in a constant state of intimidation and subjugation is a tragically abnormal situation. For Israelis, it is the norm and not the exception.

Terror is an old phenomenon. Terror is expressed in many ways. Terror is sometimes expressed through religious means and sometimes through secular national means, sometimes through a left wing and sometimes through the right wing. It is a tool against countries or against a population by groups or by individuals. The idea is to enforce desired change and advance political gains of the terrorists by eliciting fear and dread. Resorting to violence and to killing is an integral part of how terrorist groups may chose to accomplish their wishes.

Many times, influencing public opinion is one of the main goals of the terrorist. In those cases, where the goal is only to influence the public, terrorists do not shun away from using fearful and dreadful means, even killing, not only combatants but civilians, as well.

Whether a terrorist chooses to use real violence and actually resorts to killing or whether he chooses psychological fear to induce panic, the damage is the same. A great sense of dread and anxiety overwhelms the people. Fear is the ultimate weapon of the terrorists and fear is the ultimate effect on the victims.

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<sup>135</sup> Webster's Ninth New Collegiate Dictionary. Springfield, MA. Merriam-Webster, 1984. p. 1218

<sup>136</sup> Ibid.

How different is terror from war? In terrorist attacks, innocent people are targeted as they are only objects to facilitate the terrorist's cause. Terrorists will kill a child if he or she happens to be in the way, just so that they may advance their cause. That child, or any innocent citizen for that matter, is seen to be part of the government or part of the group that they are fighting against. Hence, in their mind, that citizen is not innocent or neutral.

In war, attacks are targeted against defined warriors or soldiers who usually carry a weapon. It has a beginning and an end. It is focused and between defined entities who report to a greater power such as a State or a government. When terrorists kill innocent people, widespread fear is introduced. By inducing the fear, terrorists make their demands and hope for acquiescence. And as opposed to a war which has a beginning and an end, terrorism may have no end.

In order to comprehend the magnitude of damage terrorists induce in the State of Israel, one can consult the document prepared by Wm. Robert Johnston in his survey collection, depicting the massive number of terroristic attacks on Israelis and their horrific consequence of murder.<sup>137</sup>

In his book, *Why Terrorism Works*, Alan Dershowitz, argues that global terrorism is a phenomenon "largely of our own making and we must and we can take steps to reduce the frequency and severity of terrorist acts." He continues and says that our reaction to terrorist

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<sup>137</sup> Chronology of Terrorist Attacks in Israel  
<http://www.johnstonsarchive.net/terrorism/terrIsrael.html>

attacks is what makes them successful: "We either give in to them or trying to understand their causes and hence, learn ways of eliminating them."<sup>138</sup>

Israel has no option but to eliminate the terrorist and not give in and forget everything she believes and strives for. Negotiation with the terrorist legitimizes their criminal technique and Israel needs to be careful not to do so. If Israel chooses to fight against these groups attempting to eliminate them would it be, then, a Just and Mandatory War? Would it require using Purity of Arms? In light of the above, Israel does not need to adhere to a code of ethics as defined during war.

Terrorism is very much alive. The events of September 11, 2001 are still remembered with pain and fear by many. That attack marked a new era in United States, making Americans face a new reality: Groups or individuals are prepared to kill innocent people in order to send their messages. Americans are now aware that these terrorists are prepared to invade personal space and attack people in their homes in order to advance their mission. Americans are aware, also, that the attackers could be US citizens or not, educated or not, professionals or not, family members, fathers, sons or brothers of someone. These attacker could be anyone.

Unfortunately, the one common denominator in regard to Israel is that almost all of them are from the Muslim faith or related to the religion of Islam on one level or another. And here lies a different kind of danger: The danger of generalization!

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<sup>138</sup> Dershowitz, *Why Terrorism Works*. p. 2

I would agree with the premise that in the Middle East, most terrorists are Muslims, but not all Muslims are terrorists. However, it is very sad that the extremists, who come from the faith of the Islam, are permitted by many in their faith, to carry their acts against non-Muslims who they claim are occupying their land.

When one member of my faith does something terrible, I feel sad and disturbed. But eventually I am able to move on, reasoning that it is an isolated case and is not a representation of my faith. If many people from my faith will murder and terrorize on a regular basis for many years, I would not only feel sad and disturbed, but also embarrassed, shocked, scared and wishing it to end. I would want to do something to stop that pattern of evilness. I am sure these are the feelings and sentiments of many innocent Muslims who have to deal with the reality of terrorists emerging from within.

It is very important to fight this inclination of generalization as it is a dangerous place to enter, not only for Jews but for all people.<sup>139</sup> Historically, once one people is stereotyped, only disaster follows. Jews, for example, are a living example of this danger, facing discrimination and anti-Semitism throughout history.

In the Talmud it says: "What is hateful to you, do not do to your neighbor. This is the whole Torah; all the rest is commentary."<sup>140</sup> This Golden Rule was repeated by many faiths, and in many versions throughout time. We, the human race, need to abide by it, now as well, in the face of the possibility of blaming all Muslims for the crimes of some of their people.

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<sup>139</sup> Dr. Bossman, Class notes, Seton Hall University. Fall 2010.

<sup>140</sup> Hillel, Talmud, Shabbat 31a

Having said that, I still would like to see more of the Muslims speak up and raise loud voices when those crimes are committed by their people. Where is the silent majority who can make a difference? Where are the scholars and teachers and leaders who should speak up and loud in mosques, universities and homes against terrorism? I know there are those who speak up, but not loudly enough and not in enough numbers to make a difference.

Rabbi Finkel teaches that the main issue of Islam is a religious one. The Islamic outlook to our world of Christians and Jews is such that they charge Christians of defiling G-d by their Trinity and they charge Jews of defiling G-d by stealing their (the Muslims') land. Hence, the Muslims justify their war against the Jews as a religious war.

Rabbi Finkel adds: "This is not an issue of 'blaming' or of 'shame' for their people, but rather, it is an issue of 'advancing'. For Islam advances the claim that Israel is their land and that the Jews stole it from them, hence their war against Israel. However, Israel is the only non-Islamic country in their midst."<sup>141</sup>

In his book, *What Went Wrong*, Bernard Lewis, when he discussed the Arab place in the world, said that the Arab people used to be a great and powerful contributor to the world. They were pioneers in many areas and admired by many. Not anymore. Lewis continued and said that we should not ask the question of: "What has Islam done to the Muslims?" but rather, "What have the Muslims done to Islam?"<sup>142</sup>

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<sup>141</sup> Rabbi Finkel, via written communication.

<sup>142</sup> Bernard Lewis, *What Went Wrong*. p. 156.

What have the terrorists done to Islam? What have the extremists done to Islam? I say 'shame on you' to those who are responsible for allowing a deterioration of a great culture and continuing to act barbarically in the name of Islam or in the name of the Quran.

It was very difficult for me to accept the reaction of some of the Palestinians when they heard of the murder of the innocent Fogel family (husband, wife, and their three young children while asleep).<sup>143</sup> They celebrated, cheered and passed candies in delight of the event and in pride of the murderers, the terrorists.<sup>144</sup> How do we categorize them? Are they also terrorists? Should they be considered the "innocent Muslims"? This group of people certainly does not make it easier for the Muslim population to project an image of peace loving people.

In light of this reality of terror and the military challenges that Israel faced in the past and is still facing in the present, the IDF instituted this spirit of war: acceptance of the IDF as Israel's defense force based on military heritage.<sup>145</sup>

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<sup>143</sup> Altman, Yair (03.13.11). "Itamar massacre: Fogel family butchered while sleeping". *YNET news*. <http://www.ynetnews.com/articles/0,7340,L-4041237,00.html>. Retrieved 13 March 2011.

<sup>144</sup> September 11, 2001 terrorist attack on the United States is one example where event was celebrated in Gaza by the Palestinian population, and not only by the terrorists. The murder of Fogel family (see footnote #193 above) is another. And there are many more examples...

<sup>145</sup> Rabbi Finkel, comments: the land of Israel will face constant attack because of the Islamic claim that Israel belongs to Islam.

## **D. Universal moral values based on the value and dignity of human life.<sup>146</sup>**

The value of dignity and human life! Not only for Jewish life but for everyone's life: Jews and non-Jews. This is what distinguishes the Israeli army from their enemies: while the IDF insists on ethical behavior during war, and takes pains to assure that human life is important, even when others do not practice it the same way.

Many an enemy express in words and in action that Jewish blood is not precious, that Jewish blood does not matter. What is the value of dignity of human life for the Jewish people and how is it incorporated into the IDF codes and principles? How was life valued throughout history and to what extent did the Jewish people go to save one life?

There are many values that are expected from soldiers as lineated in the document of טוהר הנשק, Purity of Arms. For example in a decent war, the citizens shall not be harmed since they have not harmed you. Also, the hostages must be treated decently, since they are not able to harm you anymore. A soldier must wear a uniform so he can be identified as a soldier and not be tricking the enemy as if he is a civilian. Finally one must accomplish the goal in the least painful way.

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<sup>146</sup> IDF Code of Ethics –IDF Official Website—See Appendix C.  
<http://web.archive.org/web/20060430031938/http://www1.idf.il/dover/site/mainpage.asp?sl=EN&id=32>

What happens if an army does not have a choice and must cross these boundaries of ethics? What happens if there is no other way but to disobey the rules of Purity of Arms? For example, we know that at the end of WWII the liberating countries had to destroy the German army in its core. They blew one neighborhood after another in a systematic way, until Berlin, for example, was practically leveled.<sup>147</sup>

When I conducted my interview with the IDF commander, Neryah, in Israel,<sup>148</sup> he handed me a booklet. He said: "This is **פנקס כיס לחיל**, soldier pocket handbook. Every person who begins his or her service in the Israeli army receives this little book of instructions. Every soldier must adhere to the rules in this booklet. We also hope that they would be inspired by the other readings in this book."

When one examines the mentioned soldier's pocket notebook it is clear and impressive in a number of ways. First, this pocket is handed to 18 years old men and women who just finished high school. Second, it is striking what material is included in that pocket notebook. After instructions by the commander to refer to this booklet and familiarize oneself with its contents, the very next page is the Israeli anthem: "**התקוה**" "The Hope." Every Israeli knows their anthem, but it was still chosen to be included with these instructions.

Right after the anthem there is the section discussing the value system and the spirit of IDF. First is the focus on general expectation of behavior: Perseverance, responsibility, loyalty/honesty and exemplary behavior. It continues with additional code of behavior and it

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<sup>147</sup> Antony Beevor, *The Fall of Berlin* p. 263.

<sup>148</sup> Interview in Netanya, Israel. February 2011. Commander and instructor: Neryah Keter.

discusses more of the spirit of the IDF: Self discipline, high value for human life, purity of arms and professionalism.<sup>149</sup>

As Commander, Neryah explained during the interview, this instructive pocket handbook is not given and forgotten. The soldiers go through instructive classes that cover this material. They also learn the consequences of not following these rules. It is clear that there are rules and expectations in the Israeli army. Some rules may be very difficult to follow during a battle. Nevertheless, a soldier is expected to do all he or she can humanly do in order to maintain those principles of ethics.

The value of human dignity and human life is at highest priority. IDF will go to great extent in order to save life. Traditionally, saving life was to be achieved even at the expense of desecrating the Sabbath. The following is an examination of this tradition of fighting on the Sabbath in order to save life.<sup>150</sup>

In the First Book of Maccabees we are told that one thousand people were killed while refusing to desecrate the Sabbath and fight during this holy day: "They said, "Let us all die without reproach; heaven and earth are our witnesses that you destroy us unjustly. So the officers and soldiers attacked them on the Sabbath, and they died with their wives, their children and their cattle, to the number of a thousand persons" (1 Macc. 2:37-38).

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<sup>149</sup> See appendix C. for more information on the IDF Spirit and Code of Ethics.

<sup>150</sup> See Chapter 2 in this thesis, The War of the Maccabees, for more reference and discussion on the topic of the Maccabees war.

Mattathias and his people heard about this attack on their fellow Jews during the Sabbath. This senior committed Jew was distraught. The enemy purposely chose to attack the Jews on their holy day, hoping to achieve an easy victory and their goal of weakening their religious determination. Mattathias and his group had to make a decision: Do we stick to our rules and laws in the face of physical endangerment? Do we not defend ourselves when being attacked on a holy day, even on the Sabbath? Mattathias decided to change course and modify an existing law in favor of what was necessary at that time. He decided that they will fight on the Sabbath. Life is precious and valuable.

The First Book of Maccabees 2:31-41 shows us how at first some of the rebels would not fight back on Shabbat, and it was only after many were slaughtered that the decision was made to fight on Shabbat. "So they made this decision that day: "Let us fight against every man who comes to attack us on the Sabbath day; let us not all die as our brethren died in their hiding places" (1 Macc. 2:41).

We also see in the Second Book of Maccabees how many chose not to fight on the Sabbath and it led it to their death : "And there were people who hid in the caves around the town to celebrate the Shabbat, and it was known to Polipus and he burned them on the Sabbath and they still held back from defending themselves because they were afraid to desecrate the Sabbath" (2 Macc. 6:12-13). Considering the alternative of death, the Maccabees chose to fight on the Sabbath in order to save life.

Investigating the topic further it is clear that there was a difference of opinion about the timing of the decision to fight on Shabbat and its attribution to Mattathias as the original person to initiate it. The leadership of Mattathias was not presented in 2 Maccabees, where fidelity of the martyrs is the key to later success in the conflict.

In addition, fighting on the Sabbath, some claim, may not have been necessarily for the altruistic purpose of saving life. The value of human dignity and human life as an important consideration of the IDF spirit requires deeper investigation of the above consideration: Was Mattathias the original person who initiated fighting on Sabbath to save life?

According to Joseph Sievers, the fact that the decision to fight on the Sabbath and not to observe it is attributed to Mattathias could be problematic.<sup>151</sup> Did Mattathias decide to fight on the Sabbath and not observe it or was it a pure self defense strategy that happens to be on the Sabbath? Sievers said that there was no reference in 2 Maccabees that supports fighting on the Sabbath in order to preserve life.

Additionally, the fact that Judah and his men "refrained from pursuing their enemies on the Sabbath (8:26; cf. 12:38) is not relevant, since what was permitted was only defensive fighting, and presumably, aggression remained forbidden."<sup>152</sup> Sievers added that the fact that Nicanor, in 161/0 BCE still thought that he could attack Judah and his people on the Sabbath with complete safety shows that there was no precedence of resistance on Shabbat as seen in 2 Maccabees 15:1.

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<sup>151</sup> Joseph Sievers, *The Hasmoneans and Their Supporters*. p. 32

<sup>152</sup> *Ibid.*

The first time that we hear of a fight on the Sabbath is when Bacchides had a battle with Jonathan at the Jordan, and that was at a later date, 160 BCE. Sievers suggest that the attribution of the decision not to fight on the Sabbath, given to Mattathias is perhaps because of his leadership and the fact that he was an authority figure then. But there is no certainty that he, Mattathias, was indeed the original person who set that rule.

Jonathan Goldstein, in his commentary on Second Maccabees suggests that the writer of the five volume work abridged in the Second Book of Maccabees, Jason of Cyrene, made omissions to change the order of events during the Maccabean period. Goldstein suggests that Jason did so because he perceived Mattathias as a wicked person. So Jason preferred to attribute the climatic turning point to the events telling about acts of martyrdom (Eleazar and Hannah with her seven sons) and not to Mattathias' act of zeal.<sup>153</sup>

Clearly, there are different approaches and views about the reason why fighting on Shabbat was decided. However, whether Mattathias decision to fight on Shabbat was because of pikuach nefesh (saving life) or not, or whether it was a basic self defense does not mitigate the fact that he fought defensively on Shabbat and made the decision to do so.

The fact that there is a discrepancy in interpretation reinforces the fact that no one was one hundred percent certain of those events and of the rationale for acting one way or another.

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<sup>153</sup> Goldstein, II Maccabees, p. 279

That is why, in my opinion, what is relevant and important is the actual decision to fight on Shabbat. The Jewish people were in danger and Mattathias took action to fight on the holy day.

There are number of Jewish laws that would support a decision to fight back in general and to do so on the Sabbath in particular. First, if someone faces a deadly threat from someone, he or she must kill them first in order to save oneself, since the value of life is paramount:

“הבא להורגך השכם להורגו.”<sup>154</sup>

Another Jewish law that emphasizes the value of life is the one that teaches:

“פיקוח נפש דוחה שבת”<sup>155</sup> which means: Saving life takes precedence over the Sabbath. Life is precious and every effort must be made to honor it, unless the situation involves one of the negative cardinal precepts: Murder and incest, adultery or idolatry. If a person is in danger of dying, it is the duty of all to save him or her and certainly the person himself is obligated to self defense if he can. "You shall not stand idly by the blood of your neighbor" (Lev. 19:16).

There are sources that tell us that fighting on the Sabbath originated long before the Second Temple Period. In Tarbitz 2 (1931) we read an argument by Pirkoy Ben Bavoy, who was a student of Rabbi Yehudai Gaon, in response to the Karaites who forbade fighting on the Sabbath. He wrote: “And you also learn from the Torah and all Yisrael and Saul and David and

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<sup>154</sup> See additional sources and elaboration of this verse in the Introduction section of this paper.

<sup>155</sup> Babylonian Talmud, In Yoma 85b the phrase “הבא להורגך השכם להורגו” “If someone coming towards you to kill you, precede and kill him first” is used in connection with the law of Exodus 22:1, about the thief breaking into your house, which is used as a support for the principle of פיקוח נפש (saving a life) on Shabbat: if you are permitted to kill the thief to save your life, you are certainly permitted to perform work on Shabbat to save your life! This concept will be found in other relevant places in this thesis.

all the kings of Israel that they would engage in war with the Philistines and with Edom and Amon and Moab. They would stand against them in war a number of days and a number of months as it is written: 'The Philistine would approach {the Israelite camp} early morning and evening; he presented himself for forty days" (1 Sam 17:16). And also it is written that Joab and all of Israel stayed there for six months until he had destroyed all the males in Edom" (1 Kgs.11:16). The enemy surrounded them all over and Israel had weapons and they were fighting on a week day and on the Sabbath. Why? Because if they did not engage in war, the nations of the world would have arrived and killed them within one hour." <sup>156</sup>

M. D. Herr, in his article, "Problem of War on the Sabbath in the Second Temple and the Talmudic Periods"<sup>157</sup> suggests that the Rule of Mattathias' Rule to defend themselves on the Sabbath was set forth for cases that have no choice: "either fight or die." Herr began his article by claiming that the subject of fighting on the Sabbath is not mentioned in the Torah. He did say, however, that perhaps fighting on the Sabbath did take place during long wars.<sup>158</sup>

Herr suggests that during the early Second Temple Period, when the people were very strict about laws of the Sabbath, they also avoided war on the Sabbath. This strict consideration, continues Herr, created a situation that even during the days of Talmay Ben-Lagos and Antiochus Epiphanes, the Jews did not defend themselves on the Sabbath and thought that it was better to die than to fight on that day.

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<sup>156</sup> Levin, Tarbitz 2, (1931) p. 403.

<sup>157</sup> Herr, Tarbitz 30 (1960-61), p. 246.

<sup>158</sup> Ibid. p. 242.

According to Herr, Mattathias and his people understood that reality and knew that if they follow suit and not defend themselves, they are bound to be destroyed completely as a people; therefore they decided to defend themselves in case of an attack. Hence, Mattathias' Rule was a function based on necessity of the time allowing fighting on the Sabbath in order to defend lives, but it did not discuss offensive war. Mattathias and his people decided to defend themselves on the Sabbath, following the rule of fighting on the Sabbath for purpose of saving life.<sup>159</sup>

In the same article, Herr discusses the contributions of Shammai the Elder who ruled that as long as the Jews attack at least three days prior to the Sabbath, however, if they must, they may continue to fight through the Sabbath (עד רדתה). Herr then added that, in the land of Israel, ever since then they did indeed fight on the Sabbath.<sup>160</sup>

In his concluding article, Herr began by saying that during the war preceding the destruction of the Second Temple (66-70 C.E) the Jews would fight on the Sabbath. And during the Second Century, Rabbi Yoshiah, based on Shammai's rule (which states that fighting is allowed through the Sabbath (עד רדתה)) taught that Jews are allowed to even initiate a siege on the Sabbath. It was clear, adds Herr, that the fight is based on self defense.<sup>161</sup> Then he adds: "The existence of an organized Jewish army in the land of Israel, that before the Rebellion

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<sup>159</sup> Ibid.

<sup>160</sup> Herr, Tarbitz, 1960-61, pp. 252-253.

<sup>161</sup> Ibid. p. 341.

against Rome was not consistent, actually stopped after the destruction of the Temple, but not completely.”

The Jewish people in the land of Israel did not give up on an active policy and the appearance of military power was renewed from time to time for purposes of rebellion and protest such as in the time of Bar Koziba. Nevertheless, during the whole time, the Jewish people did not stop to defend themselves at time of need; however, that defense was now focused on saving lives. This reality comes to expression in the Jewish Law (Halacha) which views saving life during the Sabbath as self explanatory.”<sup>162</sup>

Clearly, the above sources suggest to us that Jewish people will hold high value to human life and dignity, even at the expense of fighting on the Sabbath which is a sacred day. They did so in the past, and they do so now, in modern Israel. IDF is simply an extension of those “armies” in the past that fought on the Sabbath in order to save lives. And as we will see throughout this investigation, it is not only the life of a Jew, but rather, life of all.

Additionally, preserving human life takes precedence over all other commandments in Judaism. The Talmud justified this from the verse in Leviticus: “You shall therefore keep my statutes...which if a man does, he shall *live* by them” (Lev.18:5), and “not that he shall *die* by them.”<sup>163</sup> According to Shulchan Aruch, a person is obligated, not only permitted, to desecrate the Shabbat if it has to do with life or death: “It is a religious precept to desecrate the Sabbath for

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<sup>162</sup> Ibid. p. 341.

<sup>163</sup> b. Yoma 85b.

any person afflicted with an illness that may prove dangerous; he who is zealous is praiseworthy while he who asks questions sheds blood." <sup>164</sup>

If it is allowed to desecrate the Sabbath to save one soul, it is certainly allowed to engage in war even at the expense of desecrating the Sabbath in order to save many souls. Saving life is paramount for all and IDF maintains this tradition that is seen throughout history.

In order to further illustrate the fourth source of the IDF dealing with human dignity and life, we will focus on a discussion by Moshe Halbertal on the Goldstone Report. <sup>165</sup>

Moshe Halbertal<sup>166</sup> published an article in the *New Republic*, titled: "*The Goldstone Illusion*." <sup>167</sup> The article was a thorough and investigative response to the Goldstone Report that accused Israel of war crimes during the Gaza War.

At the end of his article, Moshe Halbertal wrote: "The Goldstone Report as a whole is a terrible document. It is biased and unfair. It offers no help in sorting out the real issues. What methods can Israel--and other countries in similar situations--legitimately apply in the defense of their citizens? To create standards of morality in war that leaves a State without the means of legitimate self-protection is politically foolish and morally problematic; but real answers to these real problems cannot be found in the Goldstone Report. What should Israel do when Hezbollah's

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<sup>164</sup> Shulchan Aruch, Orach Chayim 3:28:2.

<sup>165</sup> Exhibit C. is relevant for this chapter as it is a copy of IDF spirit-its code of ethics.

<sup>166</sup> Professor of philosophy at the Hebrew University and the Gruss Professor at New York University School of Law. Halbertal was one of the participants in the draft of IDF army's code of ethics in 2000. <http://www.tnr.com/print/article/world/the-goldstone-illusion>

<sup>167</sup> Halbertal. "*The Goldstone Illusion*". November 6th issue of *New Republic* P. 9.

more lethal and accurate missiles strike the center of Tel Aviv, causing hundreds of civilian deaths? It is a well-known fact that these missiles are in Hezbollah's possession, and, when they are fired, it will be from populated villages in Lebanon."<sup>168</sup>

Clearly, the above quotation suggests a biased interpretation of Israel's self-defense initiatives. The Goldstone Report questioned Israel's ethical approach to war and accused Israel of crime. Halbertal uses the term *asymmetrical-war* to describe the battle Israel has with the extremists who constantly terrorize and attack Israel. Asymmetrical war is defined as: A war between belligerents<sup>169</sup> with relative military power that differs significantly, or whose strategy or tactics differ significantly. This is in contrast to *symmetric warfare*, where two powers have similar military power and resources and rely on tactics that are similar overall, differing only in details and execution.<sup>170</sup>

IDF (Israel's Defense Force) has the sworn obligation to protect its citizens. The code of ethics aims to do so with moral limits and least disastrous consequences as possible. In his article, Halbertal discusses three principles that are articulated in the IDF code of ethics that allows the IDF to adhere to their ethical principles and to exercise them during war. These are the principle of necessity, of distinction and of proportionality.

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<sup>168</sup> Ibid.

<sup>169</sup> "A belligerent is an individual, group, country or other entity which acts in a hostile manner, such as engaging in combat. Belligerent comes from Latin, literally meaning "to wage war". Unlike the colloquial use of *belligerent* to mean aggressive, its formal use does not necessarily imply that the belligerent country is an aggressor." <http://en.wikipedia.org/wiki/Belligerent>

<sup>170</sup> Wikipedia definition with sources: [http://en.wikipedia.org/wiki/Asymmetric\\_warfare](http://en.wikipedia.org/wiki/Asymmetric_warfare)

The principle of '*necessity*' states the following: "It requires that force be used solely for the purpose of accomplishing the mission."<sup>171</sup> However, in asymmetrical war, where the army of the enemy is not defined, and their collapse is not a clear event, it is difficult to adhere to the above principle.

The second principle, one of '*distinction*' is defined as: "Absolute prohibition on the intentional targeting of noncombatants."<sup>172</sup> A soldier is even allowed to refuse an order in case he is asked to kill a civilian. In the (asymmetrical) war against the terrorists, Israel encounters serious difficulties in distinguishing between the enemy and the civilian. The terrorists do not wear uniforms. The terrorists place themselves among civilians. And at times, even worse, the terrorists use civilians as their shields, whether hiding in hospitals or schools, or holding a child in their hand while attacking. Also, as referred to in Halbertal's article, there is a "food chain" of terrorism where separate individuals are delegated to accomplish a different job beginning with the first one who plans the attack till the last one who blows himself as a completion of mission. Where is the army? Who is the enemy? Who should be targeted? What is the source? How can Israel use the principle of '*distinction*' under these circumstances?

The third principle is the one of '*proportionality*'. It is the idea that in order to target a combatant, sometimes there will be a collateral death of civilians, and that must be in proportion to the military advantage of achieving by eliminating the target. As Halbertal stated in his article, this principle is the most difficult to achieve, partially because of the location of the enemy and their choice of using the citizens as shields. Israel is known to practice many measures of caution to avoid killing civilians. Many times Israel made sure that civilians are warned ahead that an

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<sup>171</sup> Halbertal. "*The Goldstone Illusion*."

<sup>172</sup> *Ibid*.

operation is about to take place and that they need to move out of the way. The IDF gives these warnings in order to avoid killing innocent people. They do so, for example, by dropping warning leaflet from the sky or even calling civilians through their cell phones.<sup>173</sup>

It is important to state that while Israel is applying so many restrictions on the IDF's military reactions, using every measure of restraint possible to avoid hurting others, this is not reciprocated by the enemy. The enemy uses every measure possible to them to inflict pain, terror, and ultimately, death on the Israeli citizens.

Throughout the years, many of Israel's Arab enemies developed a strategy when fighting against Israel. They knew that Israel fights fairly and honestly. They took advantage of the Israeli approach and used it against Israel.<sup>174</sup> They adapted a dishonest and non symmetric strategy. Israel will fight according to rules and the Arabs will fight according to what they see fit at that time, using any means or actions to attain their goal of destroying Israel. It is probably convenient for these Arabs to "hide" behind the concept of "Palestinian Authority" and not the "Palestinian State." It is not a country that is fighting against a country. A country that would use the tactics of terrorists would be condemned. But if the goal is to destroy Israel, it is easier for the extremists to do so without a country, and without a defined army. The consequences of

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<sup>173</sup> These and other points have an extensive history in just war theory, from Cicero to St. Augustine of Hippo and later scholars. This is a list of some books on Just War: Mark Allman, *Who would Jesus Kill? War, Peace and the Christian Tradition* (Anselm Academic, 2008). James Turner Johnson, *Morality and Contemporary Warfare* (Yale University Press, 2001). Brian Orend, *War and International Justice: A Kantian Perspective* (Waterloo: Wilfred Laurier University Press, 2000). Eric Patterson, *Ending Wars Well: Order, Justice, and Conciliation in Contemporary Post-Conflict* (Yale University Press, 2012), *Politics in a Religious World: Building a Religiously Literate U.S. Foreign Policy* (Continuum, 2011 ed.), *Ethics beyond War's End* (Washington: Georgetown U.P., 2012). Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977).

<sup>174</sup> Throughout history, "enemies" took advantage of Jewish people's rules, convictions and limitations during wars such as surprise attacks on the Sabbath...on Yom Kippur... See Chapter 5; section D, which discusses the Maccabees fighting on the Sabbath.

their actions are not considered by world opinion to be the same as the consequences of the actions of a country that may behave in the same way.

Under what circumstances does a group have to change its technique of war and still meet its goal of defending their people and goals? In the face of asymmetrical war, does Israel have any recourse of action when responding to war? Must Israelis re-examine their code of ethics and their Purity of Arms? Must Israel change their code of ethics in the face of a changing reality, especially in the last ten years?

To answer the above questions, let me quote once again an essential part of Halbertal's article, and this time it is from the beginning of the article: "Let us begin with a sense of the moral stakes. Since the early 1990s, the nature of the military conflict facing Israel has been dramatically shifting. What was mainly a clash between states and armies has turned into a clash between a state and paramilitary terror organizations, Hamas in the south and Hezbollah in the north. This new form of struggle is now called "asymmetrical war." It is defined by an attempt on the part of those groups to erase two basic features of war: the front and the uniform. Hamas militants fight without military uniforms, in ordinary and undistinguishing civilian garb, taking shelter among their own civilian population; and they attack Israeli civilians wherever they are, intentionally and indiscriminately. During the Gaza operation, for example, some Hamas militants embedded in the civilian population did not carry weapons while moving from one position to another. Arms and ammunition had been pre-positioned for them and stored in different houses."<sup>175</sup>

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<sup>175</sup> Halbertal. "The Goldstone Illusion" p. 1.

How should Israel deal with this reality? How can original ethics and considerations be applied when Israel faces an enemy with no moral boundaries and goals? As stated in Halbertal's essay earlier, this is a consideration that Israel must take and the world must understand: "What was mainly a clash between states and armies has turned into a clash between a state and paramilitary terror organizations."<sup>176</sup>

Indeed, IDF, representing the State of Israel places high value on maintaining the dignity of human life, and certainly goes through great lengths to do so for all lives, those of Jews and non-Jews.

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<sup>176</sup> Ibid.

# Conclusions

Some may suggest that Israel's main issue is occupation of land that is not theirs. They add that if Israel would "give back" what does not belong to her, all issues will be resolved and peace will prevail. I say nonsense! I strongly believe that fighting over land is just an excuse to fight Israel. I believe that the ultimate wish of Israel's enemies is to totally destroy the Jewish State and her people. I believe that logic does not play a role here. There is a fundamental, deeply rooted hatred towards Israel and the Jewish people.

To some, annihilation and eradication of Israel and the Jews would be the ultimate triumph and many are willing to sacrifice their life and the life of their loved ones for that purpose. For some, the passion of a world without Israel and the Jews is the ultimate nirvana. Their hate is greater than their love for life.<sup>177</sup> How do you fight that? How does one defend oneself from that passion that is so deeply rooted in religious convictions and miseducation? How can one reason with the unreasonable; with the irrational? And why is the world so blind to this reality?

So many people are focused on details such as settlements, dividing land, building a wall and fence, food supply... and really missing the big picture and the main issue: recognizing that Israel is here to stay and that the Jewish people have the same claim to belong to the human race as any other. Until then, logic is only a noun.

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<sup>177</sup> Similar to what Golda Meir said about the Arabs: "Peace will come when the Arabs would love their children more than they hate us." (Statement to the National Press Club in Washington, D.C., 1957).

For the sake of additional clarification, let me discuss the idea of the “land.” Even if the land was the reason why peace is delayed, there is a good argument against dividing the land. For the sake of this argument, I am offering more information about the land of Israel. We need to keep in mind that Israel has been and is willing to give land for peace, as in the case of Sinai and Gaza, but to no avail. The IDF code of ethics, as we have seen in earlier chapters, considered history as part of their sources of behavior.

Historically, we know that there are many wars that took place in biblical times and in modern times that were based on negotiation of land and expected behaviors during those negotiations. Throughout history “land”, and namely the land of Israel, was many times a reason for combat. Naturally, when negotiating the spirit of the Israeli army, this topic played a significant role in terms of how far a soldier may go to defend the land. Let us examine Israel’s right for the land.

The Torah teaches us that each and every Israelite/Jew possesses a portion of the Land of Israel and is forever connected to the land, regardless of where he or she is living. For the Land of Israel is G-d's eternal gift to the Jewish people. It is integral to our divine mission as the place imbued with the holiness and special spiritual qualities that empower us to flourish as a people and serve as G-d's light unto the nations.

Ultimately, this is the Jewish people’s only true claim to the Land of Israel. The land does not belong to the Jews because Lord Balfour so declared in 1917 or because the UN so voted in 1947; it's not even because Jews lived there for thousands of years or because we "deserved" a homeland after the Holocaust.

These may all be valid arguments, but others can present counter-arguments to them.

The Land of Israel belongs to the Jews because the Creator declared in His Torah that the Land of Israel is the eternal inheritance of the people of Israel: "לְזֶרַעַךְ אַתָּה אֶת הָאָרֶץ הַזֹּאת" "and all this land that I have spoken of will I give unto your seed, and they shall inherit *it* forever" (Exod. 32:13). Every square foot of the land is integral to its wholeness, as every letter is integral to the wholeness of the Torah and every individual Jew is integral to the wholeness of the Jewish people.

Yes, the path to peace requires compromise. However, there are certain areas that will be counterproductive to peace and wholeness: One is dividing the land of Israel, or giving some of its parts. By not maintaining its wholeness, completeness as promised by G-d, we are eliminating the whole, the **שלם**. If it is not whole, **שלם**, it is not complete, hence, peace, **שלום** is hard to achieve, or may not be. Israel must defend not only its people but also its territory.

In terms of security, it is clear that when Israel's land is given away, the result is an increase in attacks and terrorism. When giving our enemy this vantage point, we offer the enemy physical and geographical ability to better attack us, as we have seen with the giving of Gaza. More than that, if land was the real issue, peace would have been realized long ago. My argument is that the Arabs are not looking for land or for peace, but rather for the destruction of the State of Israel.

The idea of dividing the whole in order to realize the truth is beautifully illustrated in the story of King Solomon and the two mothers who both claimed ownership of one child. King

Solomon wisely suggested cutting the baby in half and giving each one a half. That brought forth the real mother who could not bear the thought of cutting, dividing her child in half. She was the real mother (1 Kgs 3:16-27).

The Jewish people are the real mother of the Land of Israel. Cutting it, dividing it, taking away from it and not realizing peace is irresponsible and absurd. For that Israel must fight. Israel must participate in Mandatory War.

Arguing for the importance of Israel to have a land that it is whole, I would nevertheless be willing to give land if I knew there will be peace. I support this whole heartedly. But I believe that it is not the case. I believe that the enemy uses the “land” as an excuse, and the real wish is to eradicate Israel, as stated throughout this thesis. And this is a shame!

In a speech, on July 2010, the English historian, Andrew Roberts pleaded his case for Israel: “Jerusalem is the site of the Temple of Solomon and Herod. The stones of a palace erected by King David himself are even now being unearthed just outside the walls of Jerusalem. Everything that makes a nation state legitimate – bloodshed, soil tilled, two millennia of continuous residence, international agreements – argues for Israel’s right to exist, yet that is still denied by the Arab League. For many of their governments, which are rich enough to have economically solved the Palestinian refugee problem decades ago, it is useful to have Israel as a scapegoat to divert attention from the tyranny, failure and corruption of their own regimes. *The tragic truth is that it suits Arab states very well to have the Palestinians endure permanent refugee status, and whenever Israel puts forward workable solutions they have been stymied by*

*those whose interests put the destruction of Israel before the genuine well-being of the Palestinians.”*<sup>178</sup>

Mr. Roberts shared with great disappointment, that even the Queen of England has never visited Israel in the long fifty seven years of her reign. He informed that she visited one hundred and twenty nine countries around the world, fourteen of them Arab countries, but never visited Israel. He added: “Royal visits are one of the ways legitimacy is conferred on nations, and the Coalition Government should end the Foreign Office’s de facto boycott.”<sup>179</sup>

Interestingly how we can find discrimination and de-legitimization of Israel by an official who is supposedly peaceful! What message does she send to her people and to the world? This is one example of de legitimizing Israel. How many more are there?

When Israel is confronted with “friends” like this, who needs enemies, as the expression goes? And if Israel knows that it cannot rely much on others, she must rely fully on herself. She must do whatever needs to be done in order to survive. Judging from past history of Israel’s actions during confrontation, I am certain, that even in most dire threat, Israel would still choose most ethical approach within that given circumstance.

Reports, such as The Goldstone Report, place a great damage on Israel. It places Israel in a bad light in front of the whole world. A respected man, a judge, such as Mr. Goldstone,

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<sup>178</sup> Andrew Roberts speaking at London Launch Event, July 2010  
<http://www.friendsofisraelinitiative.org/article.php?c=61>

<sup>179</sup> Ibid.

presented an accusing document against Israel. He was convincing and the world absorbed that report readily. Other respected people, such as Jerome Slater, used that report to further damage the image of Israel.<sup>180</sup>

Ironically, new information emerged on March 2, 2011 by Richard Goldstone, the writer of the original report, “retracting his central and most explosive assertion of its report that Israel intentionally killed Palestinian civilians there. ‘If I had known then what I know now, Goldstone Report would have been a different document’” he said.<sup>181</sup>

On one hand, Mr. Goldstone should be admired for having the courage to stand for the truth and admit publically that he was wrong in his report. On the other hand, I wonder how much damage was done already and whether this retraction can repair the image of the IDF in totality.

Interestingly, Rashi (1042-1105) claims that the Talmud argues that Mandatory War in which one must fight would only be a war in which an enemy has already started an attack. If the attack did not take place by the enemy, it will be considered Discretionary War.<sup>182</sup>

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<sup>180</sup> See chapter 8 for more information on Jerome Slater’s accusations against Israel.

<sup>181</sup> On March 2, 2011, the following article appeared in the New York Times: “Head of U.N. Panel Regrets Saying Israel Intentionally Killed Gazans. The leader of a United Nations panel that investigated Israel’s invasion of Gaza two years ago *has retracted* the central and most explosive assertion of its report that Israel intentionally killed Palestinian civilians there. Richard Goldstone, an esteemed South African jurist who led the panel of experts that spent months examining the Gaza war, wrote in an opinion article in The Washington Post that Israeli investigations into the conflict “indicate that civilians were not intentionally targeted as a matter of policy.” New York Times article on line: <http://www.nytimes.com/2011/04/03/world/middleeast/03goldstone.html>

<sup>182</sup> Rashi, Commentary on Mishnah Tractate, Sota.

Has the enemy of Israel already launched an attack on her? At what point would it be defined as an attack? Where is the fine line of responsibility between raising one's sword to fight and doing nothing? How long must a nation use a shield on a regular basis in order to survive? Will there be a time that the world would realize Israel's peaceful position and fearlessly stand against real enemies of peace?

For many centuries the Jewish people lived in oppressed and powerless conditions. A minority that is always picked on, but nevertheless remains in history. Ever since biblical times, Jews had to defend themselves, defend their religion and defend their views.

Joshua conquered the land of Israel and we are the heirs of this land as it is written: **וַיִּתֵּן ה' לְיִשְׂרָאֵל אֶת כָּל הָאָרֶץ אֲשֶׁר נִשְׁבַּע לָאֲבוֹתָם וַיֵּשְׁבוּ בָּהּ** “Thus G-d gave to Israel the entire land that He swore to their forefathers to give; they *inherited* it and dwelled in it” (Josh 21:41). There were many kings and nations that Joshua had to fight, and that was only the beginning.

Israelites had to fight many nations, experiencing both Discretionary wars and Mandatory wars. Most of the wars, sadly, were Mandatory wars; wars of self defense that would enable the Jews to enjoy continuity in this world. We know about the fight of the Maccabees who fought and won freedom (that is, religious freedom) from Syrian-Greek kings. Jews went through exiles, expulsions, Russian pogroms and the twentieth-century disaster of the Holocaust, to name a few tragedies, only to face the present ongoing terrorist attacks and nuclear threat.

The small population of the twenty-first century Jews is the product of the ultimate horrors acted upon humanity while the world was silent. The population of this century's Jews is also the affirmation of life found in the establishment of the State of Israel, as well as the freedom they experience in the USA and Canada.

But this freedom is not free of fear and concerns. The Jews and especially the Israelis live their life with their hand on their heart: at any moment anything might happen that will shudder the temporary sense of security. At any moment a bomb may explode in a hotel in Israel, in a pizzeria, in a street, in a school ...

Sometimes Israel may have a period of relative calm but again, it is only temporary. Not to mention the ongoing threat from countries and organizations that refuse to recognize Israel (and the Jews) as a country, as people...as humans... What a sad reality for people to live in!

Israel is trying to find balance between peace and war and the consideration of self-defense and being ethical. After so many years of struggle, Jews are again required to find the balance between the need to wage war and the obligation to value human life. While the Torah provides guiding principles about how to wage war, there is still a great debate today about how to apply those principles, given our complicated reality.

Especially nowadays it seems even more difficult. Nuclear proliferation threatens our security and the peace of many nations. Terrorism has made us fearful of travel and, sometimes, even afraid in our own towns and homes.

During the Gulf War when Israel was attacked by chemical weapons, it nevertheless exercised restraint and their defense was to provide gas masks to its fearful citizens, including the children and the elders. Suicide bombers are a real threat to the Israeli society, yet Israel is often criticized harshly for being a brutal occupier.

Attempts for peace had been made by the Israelis countless times. It seems that diplomatic engagements don't work. The United States, too, tries to deal with terrorism and violence in the world, yet it is criticized for being a colonial power preoccupied mainly by economic interests. Should we all try to accommodate terrorists? Is the answer only diplomacy and peace talks?

Yes, we are way past the Cold War and we are in a relatively more secure time; however, how secure are we really? Or more important, how secure will our children be if we don't resolve barbaric threats now and for all? Should Israel pursue peace by disarming its enemies or by meeting their demands? At what point has Israel exhausted all options to pursue peace, and waging war becomes the ultimate defense for the security of her citizens? How should Israel wage war against terrorists? Whatever decisions either the USA, other countries or Israel will make, it surely will affect the course of our history.

Refusing to emerge from a place of a "victim" I will attempt to offer possible approaches that I think would benefit Israel more in the long run. Let's face it: Whatever Israel does, criticism of her action is ample and quick. The world points fingers at Israel no matter what.

The world is not going to “love” Israel more if Israel “behaves” a certain way! So Israel might as well do what is good for Israel.

So what is Israel to do? Continue to defend herself and perhaps with greater gusto. ‘If I am not for myself, who will be for me?’ is Israel’s reality. If Israel feels that she is threatened in any way, eliminate that threat. If terrorists use civilian’s homes as their base to attack and kill Jews, Israel may provide warning to civilians, but then needs to eliminate the source of attack. If civilians are killed in this process, I think it needs to be also the concern of their own people to change the situation. And so with everything that places Israel in a dangerous position: Israel needs to be vigilant, alert and pre-emptive. Israel needs to think of Israel first.

There is an ironic reality for Israel not only during conflicts but also in general. Extremists would risk their own civilian lives when they fight against Israel and then they point fingers at Israel as the murderer. How absurd! But the hard fact is that people buy that interpretation, hence depicting Israel as the aggressive criminal. Add to this the involvement of the biased media and we got a virtually worldwide negative opinion towards Israel, precipitating hatred towards her.

I feel saddened when I hear people blame the general Muslim population for the terror in the world. I believe that there are many good people among them. It pains me though, that, when a murderous act is done by a terrorist who comes from their people, many respond with a cheer and celebration rather than with a strong condemnation.<sup>183</sup> I do not believe that it is the

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<sup>183</sup> September 11, 2001 terrorist attack on the United States is one example where the event was celebrated in Gaza by the Palestinians population, and not only by the terrorists. Murder/Slaughter of Israeli families, babies...is celebrated by them, as well.

general population of the Muslim world that is the enemy. It is the extremists among them that are to be targeted and addressed as criminals.

Generalization is never good and should not be directed towards innocent Muslims. I do believe, however, that there is a silent majority that needs to speak up. Not enough people raise their voices in protest in light of what they see coming from the extreme side of their population. Protests have many faces and one of them is the face of refusing to accept violence and barbaric, murderous behavior.

I am not concerned with Israel Defense Force's code of ethics and their treatment of the "enemy" while changing some of their approaches. I am certain that the value of life and moral conduct would still be at highest level. The IDF is not guided only by man-written codes. It is guided by higher authority, by codes that are written in the Torah and are given by G-d.

During my interview with Neryah, he specifically shared that the Israeli army developed the discussed code of ethics and based it on a combination of considerations. The spirit of the IDF, רוח צה"ל is based on their own traditional ethical codes, taken from the past and from the present.

Commander Neryah shared that many times he runs classes that include the following eleven rules.

1. Military action can only be taken against military targets.
2. The use of force must be proportional.
3. Soldiers may only use weaponry they were issued by the IDF.

4. Anyone who surrenders cannot be attacked.
5. Only those who are properly trained can interrogate prisoners.
6. Soldiers must accord dignity and respect to the Palestinian population and those arrested.
7. Soldiers must give appropriate medical care, when conditions allow, to oneself and one's enemy.
8. Pillaging is absolutely and totally illegal.
9. Soldiers must show proper respect for religious and cultural sites and artifacts.
10. Soldiers must protect international aid workers, including their property and vehicles.
11. Soldiers must report all violations of this code.<sup>184</sup>

Clearly, Israel is trying to do all it can to assure decency and to value all life.

Commander Neryah also shared that in addition to receiving these teachings, the soldiers participate in educational computer software simulations. They are presented with real life dilemmas and real life events and they have to make decisions based on those presentations. During these sessions they are guided by their officers and teachers and taught responses that would support the principles delineated in the IDF Code of Ethics.

In an article by David Simpson, *Because We Could*<sup>185</sup> he evaluates Joshua Phillips book: *None of Us Were Like this Before: American Soldiers and Torture*. Simpson shares that many American soldiers, for example, did horrible things in Iraq and Afghanistan to the “enemy.”

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<sup>184</sup> In 2005, Asa Kasher and Amos Yadlin co-authored an article published in the *Journal of Military Ethics* under the title: “Military Ethics of Fighting Terror: An Israeli Perspective”. The intent was to have this article serve as a basis for a new “code of conduct” in light of the new Israeli reality of asymmetrical war with terrorists. The basis of the “code of conduct” of the IDF did not change; however, these eleven additional rules are taught to the soldiers. Harel, MI: *IDF needs new ethics code for war on terror*, Haaretz, 09/30/09 <http://www.haaretz.com/print-edition/news/mi-idf-needs-new-ethics-code-for-war-on-terror-1.6991>

<sup>185</sup> *London Review of Books* November 18, 2010.

Many, he adds, upon returning home, expressed deep regret and even fell into depression, excusing their behavior to external forces beyond their control. Simpson shares that Phillips in his book, offered reasons as to why torture takes place by soldiers in general. Simpson said that in Phillips's words the "recourse to blaming a 'few bad apples' (those that chose to inflict great torture on others) should be recognized as a disgraceful, face-saving fiction."

Simpson adds that Wiki-leaks have revealed greater evidence that torture was not an exceptional form of behavior but rather a combat culture that should be investigated from many angles.

This is not the case with the IDF. There may be times and situations when an Israeli soldier is all alone and is facing a serious life threat. He or she may act in a manner that goes against the code of behavior. Out of fear or for any other reason people do lose control and make bad choices. Sometimes people are driven by other forces. One cannot generalize and say that all Israeli soldiers at all times act in total accordance with the expected code of behavior. But these people are the exception and not the rule.

In addition, these people will be facing a trial. These soldiers will have to take the consequences. The Israeli army does not accept immoral behavior when it comes to life, even if it is the life of the enemy, as discussed throughout this thesis.

Father Joseph Joblin<sup>186</sup> wrote an essay about peace and violence from the Church's perspective and from the perspective of a person of faith.<sup>187</sup> He asked: "What attitude should a

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<sup>186</sup> Fr. Joseph Joblin, Professor in the Pontifical Gregorian University in Rome. Essay: "The Church and Peace." See appendix E.

<sup>187</sup> Article above translated from French by Father Lawrence Frizzell. "The Church and Peace".

person of faith take in the atmosphere of violence imposed by the modern world?" He added that: "As long as the risk of war exists, and after all possibilities of peacemaking have been exhausted, a nation has the right of legitimate defense. However, proportion between the foreseeable damage and the good to defense must be considered, with protection of non-combatants."<sup>188</sup>

Father Joblin gives his analysis from the perspective of Christianity which is known to be a religion that supports peace and love and the demands of conscience. I especially found the following words relevant and important, not only to Christians but to all people: "No Christian with a right conscience can use such methods: Terrorism attacks non-combatants in a blind fashion to manipulate people by fear, contradicting the dignity of each person".<sup>189</sup> Then quoting John Paul II: 'Terrorism is never justified in a civilized society. It is a falling back into barbarism and anarchy. It is always a form of hatred, of ideological confusion'".<sup>190</sup>

David the king held a sword on one hand and wrote Psalms with the other. This is the premise that I see Israel and the Jews must live by. Strong faith in G-d for support, but at the same time raise the sword high up and use it as needed for self defense. David prays: "אֲשֶׁן עֵינַי אֶל־הַהָרִים מֵאֵן יְבֹא עֲזָרִי: עֲזָרִי מִעַם יְהוָה עָשָׂה שָׁמַיִם וָאָרֶץ," "I lift up my eyes to the mountains, where does my help come from? My help comes from the Lord, the Maker of heaven and earth" (Ps.121:1-2).

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<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid. Article quotes John Paul II To the Roman Curia on December 22, 1981) (p. 221)

Footnote in following the quote: Christian moral theology on war can be useful to scholars in Israel, where the political community faces many challenges similar to those addressed here. See Aviezer Ravitsky, "'Prohibited Wars' in Jewish Religious Law" *Meorot* 6 (5767) p. 2-17 and Moshe Halbertal, "The Goldstone Illusion," *The New Republic* (November 6, 2009) p. 1-9.

But at the same time, while relying on Hashem for help, the Jewish people need to follow the words of Mattathias, as well: “Take also unto you all those that observe the law, and avenge ye the wrong of your people. Recompense fully the heathen, and take heed to the commandments of the law” (1 Mac. 2:67-68).

Establishing the State of Israel solved many issues for the Jews but it ignited hatred from many other countries. Unfortunately, at times, Israel must engage in war. And it is always war of self-defense, Mandatory War. Whether Israel needs to handle the enemy in the field or in prison, she always exercises respectful treatment of them. There is an agreement that Judaism demands respectful treatment of others, whether it is an enemy or not. Jews take seriously past experiences of struggle and pain.

Jews understand what it means to live **בצלם אלוהים**, in the image of G-d. Albeit the image of G-d works both ways, and throughout history we see that others are not able to see the Jew with the image of G-d. This thesis offers that it is time for Israel to do less with “world opinion”, which does not really care much, and to care more with the country’s and the people’s needs even at the expense of tougher stances. Israel comes from a premise of morality. As tough as Israel may choose to become, she will not compromise her ethical principles. Let us “worry” about the “other side’s” ethical behavior!

Both war and peace are part of the biblical conception of G-d’s power. In Judaism, war tends to be interpreted as part of a relational view of G-d’s power and to praise peace as the goal for G-d’s plan of salvation. G-d’s power is expressed through partnership with humans: G-d

descends towards us by hearing us and protecting us and we ascend towards him by worshiping him through prayer and observing the commandments.<sup>191</sup>

If only all people would realize the wisdom of this reciprocal relationship with G-d! Let us pray that people would respect the value of human beings who are all created in the image of G-d, בצלם אלוקים, and so strive to bring to the world peace, שלום.

Until then, I hope that this thesis offered a better understanding and consideration of Israel's *past*, acceptance and support of her action in the *present* and prayer for her *future*.

עֲשֵׂה שָׁלוֹם בְּמִרוֹמָיו הוּא יַעֲשֶׂה שָׁלוֹם

He Who makes peace in His heights, may He make peace,

עֲלֵינוּ וְעַל כָּל יִשְׂרָאֵל וְאֲמָרוּ

upon us and upon all Israel. Now say

אָמֵן

Amen

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<sup>191</sup> Frizzell, L. "The Magnificat: Sources and Themes, :Marian Studies 50 (1999), p. 59

# Appendix A.

## A. Rambam. Mishneh Torah. Hilchot Melachim umilchamot. The Rules of kings and Wars. Chapter 6. הלכות מלכים ומלחמות פרק ו

אין עושין מלחמה עם אדם בעולם, עד שקוראין לו לשלום--אחד מלחמת הרשות, ואחד מלחמת מצוה: **א** אם השלימו, וקיבלו שבע מצוות. (דברים כג.) "שנאמר" כי תקרב אל עיר, להילחם עליה--וקראת אליה, לשלום (דברים כ,יא) "שנצטוו בני נוח עליהן--אין הורגין מהן נשמה; והרי הן למס, שנאמר "יהיו לך למס--ועבדוך

קיבלו עליהן המס, ולא קיבלו העבדות, או שקיבלו העבדות, ולא קיבלו המס--אין שומעין להם: עד שיקבלו **ב** שניהם. והעבדות שיקבלו--היא שיהיו נבזים ושפלים למטה, ולא ירימו ראש בישראל, אלא יהיו כבושים תחת ידם; ולא יתמנו על ישראל, לשום דבר בעולם.

כגון בניין החומות, וחיזוק המצודות, ובניין ארמון, והמס שיקבלו--הוא שיהיו מוכנים לעבודת המלך בגופם וממונם **ג** ואת, וזה דבר המס אשר העלה המלך שלמה, לבנות את בית ה' ואת ביתו ואת המילוא"ה המלך וכיוצא בו: שנאמר חומת ירושלים... ואת כל ערי המסכנות, אשר היו לשלמה... ויעלם שלמה למס עובד, עד היום הזה. ומבני, (מלכים א ט,טו-כב) "ישראל, לא נתן שלמה, עבד: כי הם אנשי המלחמה, ועבדיו ושריו ושלישיו, ושרי רכבו, ופרשיו

**ב**] ויש למלך להתנות עימם שייקח חצי ממונם, או הקרקעות ויניח כל המיטלטלין, או כל המיטלטלין ויניח **ד** [הקרקעות--כפי מה שיתנו. **ג**] ואסור לשקר בביתם ולכזב להם, אחר שהשלימו וקיבלו שבע מצוות

**ד**] ואם לא השלימו, או שהשלימו ולא קיבלו שבע מצוות--עושין עימם מלחמה, והורגין כל הזכרים הגדולים, **ה** (וראה דברים ב,לד; ראה דברים כ,ד) "ובחזין כל ממונם וטפם; ואין הורגין אישה ולא קטן--שנאמר "הנשים והטף זה טף של זכרים

במה דברים אמורים, במלחמת הרשות, שהיא עם שאר האומות. אבל שבעה עממין ועמלק שלא השלימו, אין מניחין **ו** וכן, (דברים כ,טו-טז) "מהם נשמה: שנאמר "כן תעשה לכל הערים... רק, מערי העמים... לא תחיה, כל נשמה (דברים כה,יט) "הוא אומר בעמלק "תמחה את זכר עמלק

ומניין שאינו מדבר אלא באלו שלא השלימו: שנאמר "לא הייתה עיר, אשר השלימה את ישראל, בלתי החיווי, **ז** יושבי גבעון: את הכול, לקחו במלחמה. כי מאת ה' הייתה לחזק את ליבם לקראת המלחמה את ישראל, למען מכלל ששלחו להם לשלום, ולא קיבלו--(ראה יהושע יא,יט-כ) "החרימם

**ה**] שלושה כתבים שלח יהושע, עד שלא נכנס לארץ: הראשון שלח להם מי שרוצה לברוח, יברח; וחזר ושלח מי **ח** שרוצה להשלים, ישלים; וחזר ושלח מי שרוצה לעשות מלחמה, יעשה

אם כן, מפני מה הערימו יושבי גבעון: לפי ששלח להם בכלל, ולא קיבלו; ולא ידעו משפט ישראל, ודימו שאין **ט** פותחין להם לשלום. ולמה קשה הדבר לנשיאים, וראו שראוי להכותם לפי חרב לולי השבועה: מפני שכרתו להם אלא היה דינם, שיהיו למס עבדים. והואיל ובטעות נשבעו; (דברים ז,ב) "והרי הוא אומר "לא תכרות להם ברית, ברית להן--בדין היה שייהרגו על שהטעו, לולי חילול השם

אמרו חכמים, לפי **י** (דברים כג,ז) "ו[עמון ומואב--אין שולחין להם לשלום, שנאמר "לא תדרוש שלומם, וטובתם] יכול עמון ומואב כן--תלמוד לומר "לא תדרוש שלומם". לפי שנאמר, (דברים כג,ז) "שנאמר "וקראת אליה, לשלום יכול עמון ומואב כן--תלמוד לומר "וטובתם". ואף על פי שאין, (דברים כג,ז) ""עימך יישב בקרבך... בטוב לו שואלים בשלומם, אם השלימו מעצמם תחילה, מקבלין אותן

ז] כשצריך על עיר לתופסה, אין מקיפין אותה מארבע רוחותיה אלא משלוש רוחותיה, ומניחין מקום לבורח, ולמי [ יא מפי השמועה למדו, —(במדבר לא, ז) "ויצבאו, על מדיין, כאשר ציווה ה', את משה" שרוצה להימלט על נפשו: שנאמר שבכך ציווהו.

ח] אין קוצצין אילני מאכל שחורץ למדינה, ואין מונעין מהם אמת המים כדי שייבשו—שנאמר "לא תשחית את [ יב וכל הקוצץ, לוקה. ולא במצור בלבד, אלא בכל מקום, כל הקוצץ אילן מאכל דרך השחתה--; (דברים כ, יט) "עצה לוקה. אבל קוצצין אותו, אם היה מזיק אילנות אחרות, או מפני שמזיק בשדה אחרים, או מפני שדמיו יקרים; לא אסרה תורה, אלא דרך השחתה.

ט] כל אילן סרק—מותר לקרץ אותו, ואפילו אינו צריך לו. וכן אילן מאכל שהזקין, ואינו עושה אלא דבר מועט [ יג שאינו ראוי לטרוח בו--מותר לקצו. וכמה יהיה הזית עושה, ולא יקוצנו--רובע הקב זיתים; ודקל שהוא עושה קב תמרים, לא יקוצנו.

י] ולא האילנות בלבד, אלא כל המשבר כלים, וקורע בגדים, והורס בניין, וסותם מעיין, ומאבד מאכלות דרך [ יד ואינו לוקה, אלא מכת מרדות מדבריהם; (דברים כ, יט) "השחתה--עובר ב"לא תשחית

ואפילו, (דברים כב, יא) צריך על עיירות הגויים בשבת, ועושין עימהם מלחמה בשבת--שנאמר "עד רדתה [ טו בשבת: בין מלחמת מצוה, בין מלחמת הרשות.

יב] כשחונין, חונין בכל מקום. ומי שנהרג במלחמה--במקום שייפול, שם ייקבר: קונה מקומו, כמת מצוה. [ יג] טז וארבעה דברים, פטרו במחנה: אוכלים הדמאי; ופטורים מרחיצת ידיים, בתחילה; ומביאין כל מיני עצים, מכל מקום--ואפילו מצאן תלושים ויבשים, אין מקפידין על כך במחנה.

וכן פטורין מלערב עירובי חצרות במחנה, אלא מטלטלין מאוהל לאוהל ומסוכה לסוכה--והוא שיקיפו כל המחנה יז מחיצה גבוהה עשרה טפחים, כדי שתהיה רשות יחיד כמו שנתבאר בהלכות שבת. ואין מחנה פחותה מעשרה. וכשם שפטורין מכל אלו בהליכתן, כך פטורין בחזירתן.

אלא מצות עשה לתקן דרך שם מיוחדת להיפנות [ יד] ואסור להיפנות בתוך המחנה, או על פני השדה בכל מקום [ יח טו] וכן מצות עשה להיות יתד לכל אחד ואחד תלויה עם [ (דברים כג, ג) "בה, שנאמר "ויד תהיה לך, מחוץ למחנה (דברים כג, ד) ". . . כלי מלחמתו--ייצא באותה הדרך, ויחפור בה, וייפנה, ויכסה: שנאמר "ויתד תהיה לך, על אונך (דברים כג, טו) "ובין שיש עימהן ארון, בין שאין עימהן--כך הם עושים תמיד, שנאמר "והיה מחנך, קדוש

## Appendix B.

מורה נבוכים לרבנו משה בן מימון בתרגום פרופ' מיכאל שורץ - באתר אוניברסיטת תל אביב

### Part III — פרק מ"א

המצוות הכלולות בקבוצה השישית הן העונשים. תועלתם באופן כללי ידועה, והזכרונה<sup>1</sup>. אבל שמע את פרטי הדברים ואת דינו של כל עניין מפליא<sup>2</sup> המופיע לגביהם. בדרך-כלל נקבע עונשו של כל התוקף את זולתו שייעשה לו כאשר עשה בשווה. אם הזיק לגוף יינזק בגופו, ואם הזיק לממון יינזק בממונו. אבל בעל הממון רשאי לסלוח ולמחול. רק לרצח אין לסלוח בשום פנים ואין לקחת ממנו כופר, בגלל חומרת תקיפתו: ולא רץ לא יִכַּפֵּר לדם אשר שפך בה כי אם בדם שפכו (במדבר ל"ה, 33). לכן, לו נשאר ההרוג שעה או ימים, כשהוא מדבר ודעתו צלולה, ואמר: "ינח להורגי. סלחתי ומחלתי לו", אין לשמוע בקולו. אלא בהכרח נפש בנפש<sup>3</sup>, כשקטן וגדול, עבד ובן-חורין, מלומד ובור שוים. שהרי אין בכל עוולותיו של אדם חמורה מזאת.

מי שחיסר איבר יחוסר איבר כמותו: כאשר יתן מוס באדם כן יִנָּתֵן בו (ויקרא כ"ד, 20). אל תעסיק מחשבתך בזה שאנו עונשים כאן בתשלומין, כי מטרתי עכשיו לתת טעמים לכתובים ולא לתת טעמים להלכה<sup>4</sup>, אף שגם על הלכה זאת יש לי דעה שאותה אשמיע בעל-פה.

על (גרימת) הפצעים, שאי-אפשר (להעניש עליה בגרימת פצעים) כמותם ממש, נפסקים תשלומין: רק שבתו יתן ורפא ירפא (שמות כ"א, 19)<sup>5</sup>. מי שהזיק ממון יינזק בממונו באותו סכום ממש<sup>6</sup>: אשר ירשיען אלהים ישלם שנים לרעהו (שם, כ"ב, 8)<sup>7</sup>. את אשר לקח, ועוד סכום שווה לו לוקחים מממונו של הגנב. דע שכלל שמירה של הפשיעה מצוי יותר וקל יותר לביצוע, חייב העונש עליו להיות חמור יותר כדי למונעו<sup>8</sup>. ואילו דבר שקורה לעתים נדירות עונשו קל יותר. לכן הקנס על הגנב צאן הוא כפל הקנס (על גניבת) שאר המטלטלין - כוונתי לתשלומי ארבעה - וזאת בתנאי שיצאו מידו במקר או בטביחה<sup>9</sup>. כי גניבת הצאן היא המרובה ביותר תמיד בשל היותם בשדות<sup>10</sup>, במקום שאי-אפשר לשמור עליהם כמו ששומרים על דברים שבתוך הערים. לכן נוהגים הגנבים למהר ולמוכרם, כדי שלא יוכרו בידיהם או לטובחם כדי שגופם ייעלם. לכן היה עונשו של הדבר המרובה ביותר גדול יותר. לקנס על גניבת בקר נוספה עוד יחידה<sup>11</sup>, מפני שיותר קל לגנוב אותם, שהצאן רועים מכונסים, כך שאפשר לרועה להשגיח עליהם, ולרוב ניתן לגנוב אותם רק בלילה, ואילו הבקר רועים מפוזרים מאוד - דבר זה הזכר בחקלאות<sup>12</sup> - ואי-אפשר לרועה להשגיח עליהם. לכן מרבים לגנוב אותם.

כן דין עדים זוממין<sup>13</sup> שייעשה בהם בדיוק מה שביקשו לעשות: אם ביקשו להרוג, ייהרגו, ואם ביקשו להכות, יוכו. ואם ביקשו לחייב בתשלום, יוטל עליהם תשלום שווה למה שביקשו שיוטל. הכוונה בכול להשוות את העונש לפשיעה. גם זאת משמעות של היות המשפטים צדיקים (דברים ד', 8)<sup>14</sup>.

את הגזלן<sup>15</sup> אין מחייבים היטל נוסף בבחינת קנס - שהרי החוקש הוא רק כפרה על שבעת שקר<sup>16</sup> - בגלל מיעוט מקרי גזילה. נזק הגניבה מצוי יותר מהגזל כי הגניבה אפשרית בכל מקום ואילו הגזל אפשרי בתוך הערים רק בקושי. ועוד שהגניבה אפשרית במה שגלוי ובמה שנוהרו להסתיר ולשמור, ואילו הגזל מתאפשר רק במה שגלוי וחשוף. האדם יכול להישמר מפני הגזל, להיזהר ולהתכונן לו. דבר זה אינו אפשרי ביחס לגנב. כמו כן הגזלן ידוע. ניתן לחפש אותו ולצפות להשבת מה שלקח. ואילו הגנב אינו ידוע. מכול הסיבות האלה הטילו קנס על הגנב, ולא על הגזלן<sup>17</sup>. הקדמה

דע שגודל העונש וחומרת הכאבתו או קטנותו והקלות לשאת אותו הם בהתחשב בארבעה דברים. הראשון חומרת הפשע. כי המעשים שנוצר מהם קלקול גדול עונשם חמור, והמעשים שנוצר מהם קלקול פחות ומתעט עונשם קל. השני תדירות האירוע. כי יש למנוע בעונש חמור דבר הקורה לעתים תדירות יותר. ואילו עונש קל יספיק כדי למנוע דבר הקורה לעתים רחוקות מכיוון שהוא קורה לעתים רחוקות. השלישי הוא חומרת ההתפתות לדבר. כי מדבר שהוא מתפתה לעשותו - או מפני שהתאוה מרגה אותו מאוד לעשותו, או מפני שהוא רגיל מאוד לעשותו, או מפני שקשה מאוד לא לעשותו - הוא לא יימנע אלא אם כן צפוי לו דבר חמור. הרכיבי האלה הקלות לבצע את המעשה הזה בהיחבא ובסתר, באופן שאחרים לא ירגישו בו. להרתיע מזה ניתן רק בעונש כבד וחמור.

לאחר הקדמה זאת דע שסדר הענישה הכתוב בתורה הוא ארבע דרגות: דרגת חיוב מיתת בית-דין<sup>18</sup>, דרגת חיוב הכרת והוא ההלקאה בשוט תוך אמונה שהפשע הזה הוא מהעבירות החמורות<sup>19</sup>, דרגת ההלקאה בשוט כשאין מאמינים שהפשע הזה הוא מהעבירות החמורות<sup>20</sup>, אלא הוא לאו<sup>21</sup> בלבד או מיתה בידי שמים<sup>22</sup>, ודרגת האיסור שאין בו מלקות והיא כל לאו שאין בו מעשה<sup>23</sup> חוץ מנשבע<sup>24</sup>, בשל החובה להאמין ברוממותו יתעלה, ומִמָּר<sup>25</sup>, כדי שלא יהיה סופו





ואסור לו שילחצנה במלחמה כמו שהבהירו<sup>106</sup>. כן לא מותר לו לשכב עמה פעם שנייה עד אשר ישכך יגונה ותרפה דאגתה. ואין למנוע אותה מלקונן, מלפרוע את שערה<sup>107</sup> ומלבכות ככתוב: ובכתה את אביה ואת אמה [ירח ימים, ואחר כן תבוא אליה ובעלתה והיתה לך לאשה] (שם, שם, 13), כי הנוגים מוצאים מרגוע בבכיים ובעוררם את יגונותיהם עד שילאו כוחותיהם וגופניים מלשאת פגיעה נפשית זאת, כשם שלשמצחים יש מרגוע במיני משחק. לכן חמלה התורה עליה ואפשרה לה את זאת, עד שתיקע נפשה מן הבכי והיגון. יודע אתה שהוא שכב עמה בגיותה<sup>108</sup>. כן במשך כל שלושים הימים תקיים את דתה בגלוי, אפילו בעבודה זרה. אין להתווכח עמה בענייני אמונה במשך כל אותה תקופה. למרות זאת, אם אין הוא מביא אותה לדיני התורה, אין למוכרה ואסור לו לשעבדה לשפחה. כי התורה מכבדת את היותה (של השבויה) אסורה לזרים, מכיוון שנחשפה (לחייל ששבה אותה) במשגל<sup>109</sup>, אפילו כאשר זה היה בעבירה כלשהי, כלומר, שהיתה אז גויה<sup>110</sup>. עם זאת נאמר: לא תתעמר בה תחת אשר עֲצִיתָה (דברים כ"ב, 14). התברר אפוא אילו מידות נעלות יש במצנה זאת, והתבררו טעמי כל מצוות הספר הזה<sup>97</sup>.

# **Appendix C.**<sup>192</sup>

## **IDF Code of Ethics –IDF Official Website**

### **The IDF Spirit**

The Israel Defense Forces are the state of Israel's military force. The IDF is subordinate to the directions of the democratic civilian authorities and the laws of the state. The goal of the IDF is to protect the existence of the State of Israel and her independence, and to thwart all enemy efforts to disrupt the normal way of life in Israel. IDF soldiers are obligated to fight, to dedicate all their strength and even sacrifice their lives in order to protect the State of Israel, her citizens and residents. IDF soldiers will operate according to the IDF values and orders, while adhering to the laws of the state and norms of human dignity, and honoring the values of the State of Israel as a Jewish and democratic state.

### **Spirit of the IDF-Definition and Origins**

The Spirit of the IDF is the identity card of the IDF values, which should stand as the foundation of all of the activities of every IDF soldier, on regular or reserve duty. The Spirit of the IDF and the guidelines of operation resulting from it are the ethical code of the IDF. The Spirit of the IDF will be applied by the IDF, its soldiers, its officers, its units and corps to shape their mode of action. They will behave, educate and evaluate themselves and others according to the Spirit of the IDF.

### **The Spirit of the IDF draws on four sources:**

- The tradition of the IDF and its military heritage as the Israel Defense Forces.
- The tradition of the State of Israel, its democratic principles, laws and institutions.
- The tradition of the Jewish People throughout their history.
- Universal moral values based on the value and dignity of human life.

### **Basic Values:**

**Defense of the State, its Citizens and its Residents** - The IDF's goal is to defend the existence of the State of Israel, its independence and the security of the citizens and residents of the state.

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<sup>192</sup> <http://web.archive.org/web/20060430031938/http://www1.idf.il/dover/site/mainpage.asp?sl=EN&id=32>

**Love of the Homeland and Loyalty to the Country** - At the core of service in the IDF stand the love of the homeland and the commitment and devotion to the State of Israel-a democratic state that serves as a national home for the Jewish People-its citizens and residents.

**Human Dignity** - The IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, nationality, gender, status or position.

**The Values:**

**Tenacity of Purpose in Performing Missions and Drive to Victory** - The IDF servicemen and women will fight and conduct themselves with courage in the face of all dangers and obstacles; They will persevere in their missions resolutely and thoughtfully even to the point of endangering their lives.

**Responsibility** - The IDF serviceman or woman will see themselves as active participants in the defense of the state, its citizens and residents. They will carry out their duties at all times with initiative, involvement and diligence with common sense and within the framework of their authority, while prepared to bear responsibility for their conduct.

**Credibility** - The IDF servicemen and women shall present things objectively, completely and precisely, in planning, performing and reporting. They will act in such a manner that their peers and commanders can rely upon them in performing their tasks.

**Personal Example** - The IDF servicemen and women will comport themselves as required of them, and will demand of themselves as they demand of others, out of recognition of their ability and responsibility within the military and without to serve as a deserving role model.

**Human Life** - The IDF servicemen and women will act in a judicious and safe manner in all they do, out of recognition of the supreme value of human life. During combat they will endanger themselves and their comrades only to the extent required to carry out their mission.

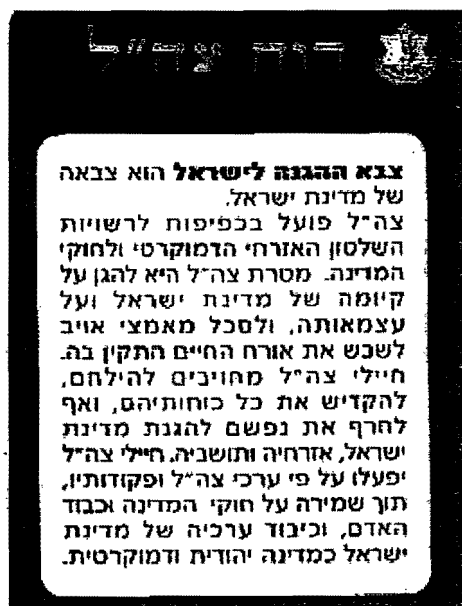
**Purity of Arms** - The IDF servicemen and women will use their weapons and force only for the purpose of their mission, only to the necessary extent and will maintain their humanity even during combat. IDF soldiers will not use their weapons and force to harm human beings who are not combatants or prisoners of war, and will do all in their power to avoid causing harm to their lives, bodies, dignity and property.

**Professionalism** - The IDF servicemen and women will acquire the professional knowledge and skills required to perform their tasks, and will implement them while striving continuously to perfect their personal and collective achievements.

**Discipline** - The IDF servicemen and women will strive to the best of their ability to fully and successfully complete all that is required of them according to orders and their spirit. IDF soldiers will be meticulous in giving only lawful orders, and shall refrain from obeying blatantly illegal orders.

**Comradeship** - The IDF servicemen and women will act out of fraternity and devotion to their comrades, and will always go to their assistance when they need their help or depend on them, despite any danger or difficulty, even to the point of risking their lives.

**Sense of Mission** - The IDF soldiers view their service in the IDF as a mission; They will be ready to give their all in order to defend the state, its citizens and residents. This is due to the fact that they are representatives of the IDF who act on the basis and in the framework of the authority given to them in accordance with IDF orders.



Card-Sized Copy of the "Spirit of the IDF"

# Appendix D.

Jewish World Review March 15, 2011 / 9 Adar II, 5771

## The Other Tsunami By Dennis Prager

It is very difficult to hate babies.

It takes a special person.

As morally wrong as it is to murder innocent adults, mankind seems to have a built-in revulsion against killing babies. If a baby does not evoke any tenderness, if a baby is regarded as worthy of being deliberately hurt or murdered, we know that we have encountered a degree of evil that few humans — even among murderers — can relate to.

That is why what Palestinian terrorists did to a Jewish family on the West Bank this past weekend deserves far more attention than it received.

Normally, Palestinian atrocities get little attention — certainly far less attention than Israeli apartment-building on the West Bank receives. But this particular atrocity got even less attention than usual because the world was focused on the terrible tsunami that hit Japan.

On Friday night, Palestinian terrorists slipped into a Jewish settlement, entered a home and stabbed the father, the mother and three of their children to death: an 11-year-old, a 4-year-old, and a three-month-old baby.

In order to understand what those actions mean, a seemingly separate incident needs to be recalled: the prolonged sexual attack by up to 200 Egyptian men on Lara Logan, chief foreign affairs correspondent for CBS News, in Tahrir Square, Cairo a few weeks ago. It was reported that after stripping her naked and then molesting and beating her, the men kept shouting, "Jew, Jew!"

The two incidents tell the same tale. In much of the Arab Muslim and some of the non-Arab Muslim world today (such as Iran), "Jew" is not a person. "Jew" is not even merely the enemy. In fact, there is no parallel on Earth to what "Jew" means to a hundred million, perhaps hundreds of millions of Muslims.

*Think of any conflict in the world — Pakistan-India, China-Tibet, North Korea-South Korea, Tamil-Sinhalese. There are some deep hatreds there, and atrocities have been committed on one or both sides of those conflicts. But in none of those conflicts nor anywhere else is there something equivalent to what "Jew" means to millions of Muslims.*

*There really is only one historical parallel, and it, too, involved the word "Jew." The Nazis also succeeded in fully dehumanizing the word "Jew." Thus, for Nazism, it was as important (if not more so) to murder Jewish babies and children — often through as cruel a means as possible (being burned alive, buried alive or thrown up in the air and impaled on bayonets) — as it was to murder Jewish adults.*

The human being does not have to learn to hate. It seems to come pretty naturally. Nor does the human being have to learn to murder, steal or rape. These, too, seem to be in the natural human repertoire of evils.

But the human being does have to learn to hate children and babies, and to regard the torture and murder of them as morally desirable acts. It takes years of work to undo normal protective human attitudes toward children.

That is precisely what the Nazis did and what significant parts of the Muslim world have done to the word "Jew." To them, the Jew is not just sub-human; the Jew — and his or her children — is sub-animal.

Palestinian and other Muslim spokesmen and their supporters on the left argue that this unique hatred is the fruit of Israeli policies, not decades of Nazi-like Jew-hatred saturating Islamic education, television, radio and the mosque. But for this to be true, unique hatred would have to be matched by unique evil on the Israelis' part.

Yet, among the injustices of the world, what the Israelis have done to the Palestinians would not even register on a moral Richter scale. The creation of Israel engendered about 750,000 Palestinian refugees (and an equal number of Jewish refugees from Arab countries) and the death of perhaps 10 thousand Palestinian Arabs. And all of that came about solely because Arab armies invaded Israel in order to destroy it at birth. Yet, when Pakistan was yanked from India and established as a Muslim state at the very same time Israel was established, that act engendered 12.5 million Muslim refugees and about a million dead Muslims (and similar numbers of Hindu refugees and deaths). Why then doesn't "Hindu" equal "Jew" in the Muslim lexicon of hate?

Here are some answers in brief:

First, many groups have been hated, but none have been hated as deeply as the Jews.

Second, Jew-hatred is often exterminationist, which is why Jew-hatred has little in common with ethnic bigotry, religious intolerance or even racism. Rarely, if ever, do any of them seek the extermination of the disliked or hated group.

Third, exterminationist Jew-haters are particularly dangerous people. Non-Jews who do not recognize Jew-hatred as the moral cancer it is are fools. Nazism was born in Jew-hatred and led to the death of more than 40 million non-Jews. Islamic terror started against Israeli Jews but has spread around the world. More fellow Muslims have now been murdered by Islamic terror than Jews have.

That is why the tsunami the world ignored this weekend — the Palestinian-Arab-Muslim flood of Jew-hatred — is the one that will prove far more dangerous to it than the Japanese one it understandably focused on.

# Appendix E.

**"The Church and Peace." Joseph Joblin, "L'Eglise et la Paix," Fifteen Years of Catholic-Jewish Dialogue. Translated by Father Lawrence Frizzell. Seton Hall University**

Father Joseph Joblin, S.J. Professor in the Pontifical Gregorian University in Rome, offered a long essay in French titled "The Church and Peace," in the context of the theme of violence. The paradox of human life is that certain forceful actions are necessary in life but they are capable of destruction unless they are controlled.

The biblical vision presented a system of values based on the individual's fidelity to God. In a situation of violence the person should make choices in relation to the basic demands of his own life in the context of his community. The Christian's conscience is the key to solving any problems that arise from violence.

- i. *The rise of the Christian conscience.* Violence marks the human condition; it can be individual or collective; physical or moral. Constraint may be exercised legitimately by one in authority or in resistance to another using force illegitimately. A detailed review of Church history leads to an initial discussion of just war theory (p. 199-204). This is followed by the Church's initiatives in favor of peace (p. 205-6) and the presentation of just war theory by St. Thomas Aquinas (p. 206-8).  
Bellicose violence is contrary to God's will for peace in the world. Incapable of eliminating war, Christian teachers have tried to limit the occasions of conflict by calling individuals and peoples to convert from recourse to barbarism in settling their differences (p. 209).
- ii. *Christian conscience facing contemporary violence.* The situation is radically different from past centuries because the world is secularized. In modern societies war has demanded total mobilization of resources and is pitiless, without humanitarian concerns, out of control (p. 210). But the global spread of Christianity has contributed to the modern perception that war is evil and that force should not be the normal way of resolving differences between peoples. However, theories of peace in treatises on international law suggest that peace will be achieved by law, development, international organizations, but without reference to God (p. 211-12). Catholics will include these approaches in their strategy for peace but their conscience leads them to proclaim the sanctity of life and the need to activate the brotherhood of people in God.  
What attitude should a person of faith take in the atmosphere of violence imposed by the modern world? Even without a declaration of war a country may mobilize all its resources to make power to annihilate the enemy its greatest priority. Does this lead to a witness of peace on the part of many? Certainly the current development of armaments and escalation of threats

brings condemnation by some. But is this sometimes selective? Believers do not have access to the circles of decision and power in many societies wherein religious values are minimized.

- iii. *Church teaching on peace and war.* From 1863, when Pius IX wrote to Napoleon III on the excesses of nationalism, popes began to intervene in the face of modern violence; during World War I Benedict XV suggested arbitration and international organizations as ways to avoid excuses for war. In *Gaudium et Spes* (G.S.) Vatican II offered the most systematic presentation of the Church's teaching on violence and war, taking up the work of Popes Pius XII and John XXIII (*Pacem in Terris*). The Council encouraged the episcopacy in various countries to propose principles for the faithful regarding armaments (French 1964), arms trading (French 1973), unilateral disarmament and neutron bomb (Dutch 1981), nuclear war (Japan 1981) and especially the United States.

As long as the risk of war exists, and after all possibilities of peacemaking have been exhausted, a nation has the right of legitimate defense (G.S. 79-84). However, proportion between the foreseeable damage and the good to defense must be considered, with protection of non-combatants.

In 1979 the Bishops of the United States presented three general principles:

- a. Military service can be regarded as a service to the community.
- b. Conscientious objection is a right whose exercise must be defined
- c. Nuclear arms may be kept but there should not be a threat to use them against civilian centers. Politics of deterrence can be tolerated only as part of a disarmament negotiation; the superpowers must develop a policy of limiting armaments (p. 215).

A certain discouragement or skepticism can result from an awareness of all the incertitude surrounding the problem of legitimacy of the use of the means of modern warfare. The diversity of opinion can be integrated into the traditional Church doctrine: recourse to violence is justified only within a religious vision of reality which must reflect the holiness of God (G.S. 77-78).

The Council stressed that the believer's conscience is the ultimate judge on the issue of war (G.S. 79.3; 80.2 and 5; 81:4). "There is no law, no obligation, no permission to commit an act in itself immoral, even it is commanded, even if refusal to act results in the worst personal damages" (Pius XII, Allocution to the World Congress of Jurists in Penal Law, October 3, 1953). Acts in this category include genocide, reprisals, non-respect for conventions concerning prisoners of war, use of murderous weapons against civilians, massive destruction.

Conscience is not freed of responsibility by simply conforming to rules presented by jurist or theologians. The believer must take an active stance to evaluate in an actual discussion the meaning of life that he holds in faith (p 217)

Three principles bind the believer's conscience:

- a. Certain actions may never be committed even to assure survival;
- b. Just because an adversary takes a certain approach does not justify imitation;
- c. The person of faith lives according to his principles according to a logic different from the world and he must be ready to take the consequences.

This insistence on the role of the individual conscience led the Council to consider conscientious objection in its social role (G.S. 89.3). There is an obligation to refuse obedience to an unjust order, not to do evil or cooperate in an evil action. The State should provide contexts for conscientious objectors to contribute to society in peaceful ways. "[I]nsofar as they can vanquish sin by coming together in charity, violence itself will be vanquished and they will make these words come true: 'They shall beat... neither shall they learn war anymore' (Is 2:4)." (G.S. 78.6) (p. 219).

### Current Questions

- a. *Possession of nuclear arms.* Theologians agree that first use is never legitimate. However, unilateral disarmament might give evildoers a way of establishing an unjust domination (Pius XII, March 10, 1953). Any response to violence must not constitute a reprisal or harm non-combatants (Pius XII, February 6, 1943). The risk of escalation in possession of and the limited use of nuclear arms demands that governments remain within morally acceptable limits (p. 220).<sup>193</sup>
- b. *The guerilla and terrorism.* Resistance to a foreign invader has a long history: one hopes that the laws of a just war would be followed. Modern guerilla warfare involves each of two factions striving to gain adherence of the general population. An essential condition of victory is the unconditional support of the population. If this does not exist the revolutionary use any means, the most efficacious being terrorism. This goes contrary to the entire Christian tradition, whose objective is to humanize war. It rests on a false concept of the human person, his dignity and true interests. Even if a revolutionary war is a response to violations of human rights, it risks involving even worse violations of these (John Paul II, Encyclical *Redemptor Hominis* 1979, 17).

No Christian with a right conscience can use such methods: Terrorism attacks non-combatants in a blind fashion to manipulate people by fear, contradicting the dignity of each person. "Terrorism is never justified in a civilized society. It is a falling back into barbarism and anarchy. It is always a form of hatred, of ideological confusion" (John Paul II To the Roman Curia on December 22, 1981) (p. 221).<sup>194</sup>

<sup>193</sup> See Cardinal Casaroli's intervention before the Second Special Session of the United Nations on disarmament (June 1982).

<sup>194</sup> Christian moral theology on war can be useful to scholars in Israel, where the political community faces many challenges similar to those addressed here. See Aviezer Ravitsky, "'Prohibited Wars' in Jewish Religious Law" *Meorot* 6 (5767) p. 2-17 and Moshe Halbertal, "The Goldstone Illusion," *The New Republic* (November 6, 2009) p. 1-9.

- c. *Torture*, one of the plagues of modern society, is an intolerable constraint to force the will toward an act that, as a free person, he would refuse. Pope Pius XII instructed judges to exclude physical or psychological torture because it violates the natural law, even if the victim is truly guilty, because it attacks human rights. The United Nations produced a declaration on the protection of persons from torture and other cruel penalties... (December 9, 1975).

*Conclusion:* History shows that progress toward safeguarding and broadening the place of freedom is achieved at the occasion of crises of civilization, that is when values of the past do not seem capable of guiding people to solve their problems. The effort by the present generation to control violence is characterized by rejection of God and contempt of life. The task of the believer is to re-introduce the logic of reconciliation in social relationships and to strive actively to eliminate the causes of violence. Ultimately God must be recognized as the foundation and source of true life.

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