



Ziegler School of Rabbinic Studies

OF AMERICAN JEWISH UNIVERSITY

JUDAISM, WAR, & JUSTICE

During the last forty years, the cost of humanity's passion for killing has escalated dramatically. With the invention and proliferation of atomic and nuclear weapons, we have brought ourselves to the real possibility that our pathological habit might destroy the entire planet, with all of the life that it sustains. Whereas previous wars, at their worst, inflicted temporary devastation on particular regions, nuclear war promises to destroy the support systems which sustain all life; the atmosphere, the seas, the land are all held hostage to our yearning to kill each other.

While questions of the morality of war and the feasibility of peace have always been important, the nuclear dimension imposes a heightened urgency on the issue. The potential for a nuclear holocaust makes the issue one for the most pressing of our time. All people have an obligation to confront this question and to seek its solution. In this search, Judaism has a specific and important role to play. Judaism can delineate the moral standards by which policy should be judged. Its traditions can offer guidelines for determining whether a particular war is just. These general guidelines for all wars may then be applied to the specific facts of each war, understood differently by different people. At that point the focus of the discussion will extend beyond the expertise of an ethical Heritage to include an assessment of the facts of the case. Nevertheless, the framework into which those facts should fit is the proper concern of the Jewish thinker, certainly for issues as vital as war and nuclear destruction. In the words of Abba Eban^[1]:

It is not inevitable that we march in hostile and separated hosts into the common abyss. There is another possibility of an ordered world illuminated by reason and governed by law. If we cannot yet touch it with our hands, let us at least grasp it in our vision.

War: The Categories as Concepts

The three categories of war—*hovah* (obligatory), *reshut* (optional), and *mitzvah* (commanded) — were traditionally understood to reflect conceptual distinctions, differences in the situations which provoked the warfare, differences in the options available for response and the degree of public involvement and responsibility. I would like to propose another, complementary approach to the classification of wars. One can also understand these three categories as reflecting discrete chronological periods in the history of the Jewish people.

In this understanding, *milhemet hovah* is a defining characteristic of the first period of Israel's history. Prior to the Conquest, the Patriarchs had fought in battles, and there were individual skirmishes during the wandering in Sinai. However, the Conquest of the Land of Israel marks the first sustained war conducted by the entire Jewish people. As such, the people entered a new historic era. The Conquest, from the opening battle of Jericho to the final defeat of the Philistines, lasted for several hundred years: from the period of Joshua (approximately 1200 B.C.E.) until the establishment of the monarchy and the rule of King David (1000 B.C.E.). Once David was able to establish his nation's borders on a firm basis and had forced enemy armies to retreat beyond the limit of his kingdom, the period of the Conquest ended. God's mandate had been fulfilled, and the Jewish people no longer needed, nor did they retain, a *carte blanche* to wage war. This change in their historical circumstances necessitated a similar change in the law of warfare. The option of *milhemet hovah* was no longer permissible. A second category was needed as a standard for evaluating the later wars of King David and those of his descendants.

That category, *milhemet reshut*, described the wars (those which weren't defensive) that the kings of the united Jewish kingdom, and later of the kingdoms of Israel or Judah entered into. That category retained its relevance until the destruction of the Second Temple, in 70 C.E. *Milhemet reshut* required the existence of the Temple, the anointed king (a descendant of David), and of the Great Sanhedrin in order to claim legality. With the destruction of the Temple, the end of the monarchy, and the suspension of the Great Sanhedrin, there was no longer any institution with sufficient legal authority to initiate a *milhemet reshut*. Thus, again, with the onset of a new historical situation a category of war terminated and another was required.

The final category of war, *milhemet mitzvah*, is the only category which has retained its halakhic validity. A defensive response is not only permissible, it is mandatory—citizens are required to defend their nations and families from immediate attack. While this category was certainly applicable during the period of the Conquest and during the monarchy, it was secondary, never one which dominated the age (in retrospect, to be sure). We are still, in the light of this tradition, in the third phase of history—still lacking a Temple ordained by God, still dispersed throughout the world, still without a divinely-sanctioned Davidic monarch. Not coincidentally, it is the third category of warfare, and that category alone, which is the sole permissible option today.

There is yet another aspect to this discussion which needs to be considered. The traditional divisions in history—the Conquest, the time of the monarchy, the destruction of the Temple in the year 70, and all subsequent history—mark sharp delineations in the relationship between Jews and God. Up until the Conquest, God appeared publicly and dwelt in the camp of the Jewish tribes. With the completion of the Conquest, God was a less visible presence—the Jews spread throughout the Land of Israel, and not everyone had access to God's Temple in Jerusalem. So subsequent Jewish thinkers perceived a less-immediate divine involvement in their daily history, yet they also believed that God still dwelt in the Temple and that God's will was directly knowable there. With the destruction of the Temple, this direct relationship with God was no longer possible. The

sacrificial worship mandated in the Torah was no longer available, and Jews were exiled from God's holy land. The *hurban* (destruction of the Temple) and the Diaspora were perceived as further withdrawals, a further distancing between God and God's people.

We are now on the border of a new age, one which began in 1945, with the advent of the atomic bomb. Once again, as in the past, defensive war is not the primary category on conflict between nations. In fact, the customs and regulations that evolved to regulate conventional war often appear irrelevant. They seem insignificant, overpowered by the specter of nuclear annihilation. Each previous category of warfare became obsolete at a certain point in history. Is it possible that now even *milhemet mitzvah*, simple defensive war, has been subsumed under the shadow of the nuclear cloud? Does the real possibility of nuclear holocaust require a fourth descriptive category to distinguish this new and awful reality?

We have observed that each new category of war accompanied a shift in humanity's relationship with God. Does the need for a new legal category to embody nuclear destruction signify another shift in our relations with the Divine? Is this the final distancing, in which God surrenders the power of planetary destruction to beings who may lack sufficient restraint, vision, and sense of responsibility?

Rather than push this idea to an extreme, it is important to recall its tentative and speculative nature. Nuclear conflict may indeed threaten to overshadow conventional conflict, but it has not yet done so. All of the many wars fought since World War II have been conventional wars, with soldiers, guns, and bullets. It is probable that this pattern will continue into the future. So the traditional categories will retain what relevance they already have, and will be paralleled by a new, more ominous category—one to accompany the equally permanent reality of nuclear weapons.

Judaism and War: A Wrap-Up

In articulating a Jewish view on war, primarily through the development of legal consensus, the rabbis and commentators were able to bestow a relevance which made concrete their ethical support for peace.

The breadth of the Heritage looms large—both in the details of its examination and in the cogency and force of a moral position within that expanse. At the same time, the bulk of material on war contained within the Heritage has been quarantined—remaining within our intellectual and emotional grasp so we can more thoughtfully delineate the central moral issues involved in assessing the justice of a particular war.

Simultaneously, this material eludes our legal grasp as justification for warlike behavior. We have examined and rejected two types of war: the Conquest and aggressive war. Consequently, the minute laws regulating draft exemptions, empowering kings, or establishing *herem* (genocide) are beyond legal application. The wars they applied to are now considered both illegal and immoral. Only one type of warfare, defensive war, is still permitted. Only combat that is responding to an attack, only defense in order to prevent imminent killing can be vindicated morally. All other

warfare is ethically unjustifiable. And it is that position which most authorities of *halakhah* have asserted for almost two thousand years. Judaism has established an impressive legal edifice to reflect its ethical opposition to state-organized killing. The very simplicity of the usable law asserts the force of the moral statement — to choose to wage war in unethical.

The position does not stop quite there. The ultimate master for the rabbis is God; the ultimate values, *shalom* and a life of community. The issue is not whether to wage war or not, but rather what brings peace, what permits a fully flowering of life. Thus there are limits to what they consider “peace.” A craven peace that prohibits the propagation and continuation of culture, learning, and ethics, which prohibits what Norman Lamm has termed the “basic moral code”, is an intolerable condition, certainly not a peace. Similarly, a life which is without the possibility of family, integrity, love and morality is not a fully human life. Not merely lack of war, but peace—*shalom*—and life are the absolute around which other values revolve. Those absolutes require protection. In an unredeemed world, an unwillingness to defend peace and life result in their loss. As products of the real world, the sages of Judaism not only prohibited aggressive war but insisted on defending *shalom* and life against assault.

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[1]Abba Eban, in *Judaism and World Peace*, ed. Henry Siegman, New York: Synagogue Council of America, 1966.