

Yeshiva Students and the Draft

Alex Hecht ahlecht@torontotorah.com

1. Rambam, Hilchot Melachim 5:1 (translated by Eliyahu Touger)

אין המלח נלקחם תחלה אלא מלחמת מצוה. ואי זו היא מלחמת מצוה זו מלחמת שבועה עממים. ומלחמת עמלק. ונצרת ישראל מיד צר שפא עליהם. ואחר כך נלקחם במלחמת הרשות והיא המלחמה שנלקחם עם שאר העמים כדי להרחיב גבול ישראל ולהרבות בגדלותו ושמעו.
A king should not wage other wars before a *milchemet mitzvah*. What is considered as *milchemet mitzvah*? The war against the seven nations who occupied *Eretz Yisrael*, the war against Amalek, and a war fought to assist Israel from an enemy which attacks them.

Afterwards, he may wage a *milchemet hareshut*, i.e. a war fought with other nations in order to expand the borders of Israel or magnify its greatness and reputation.

2. Rashi, Sanhedrin 2a

במלחמת הרשות - כל מלחמה קרי רשות לבד ממלחמת יהושע, שהיתה לכבוש את ארץ ישראל.
Every war is considered an optional war, except the war [waged by] Yehoshua, which was for the purpose of conquering the Land of Israel.

3. Talmud, Sotah 44b (Davidson Edition translation)

אמר רבא: מלחמות יהושע לכבש - דברי הכל חובה, מלחמות בית דוד לרווחה - דברי הכל רשות, כי פליגי - למעוטי עובדי כוכבים דלא לייתי עלייהו, מר קרי לה מצוה, ומר קרי רשות; נפקא מינה? לעוסק במצוה שפטור מן המצוה. הדרן עלך משוה מלחמה.
Rava said: With respect to **the wars** that **Joshua** waged **to conquer** Eretz Yisrael, **all agree** that they were **obligatory**. With respect to **the wars** waged by **the House of David** for the sake of **territorial expansion**, **all agree** that they were **elective** wars. **When they disagree**, it is with regard to preventative wars that are waged **to reduce the gentiles** so that they will **not come** and wage war **against them**. One Sage [Rabbi Yehudah] **called this** type of war **a mitzvah**, and one Sage [the Rabbis] **called it an elective** war. There is a **practical difference** between these opinions with respect to the principle: **One who is engaged in a mitzvah is exempt from performing another mitzvah**. [According to Rabbi Yehudah, one fighting in this kind of war is exempt from performing another mitzvah].

4. Keren Orah, Sotah 44b

הכא דבמלחמת מצוה הכל יוצאין, אפילו תלמידי חכמים צריכין ליבטל מלימודן
In an obligatory war, all go out - even Torah scholars are required to stop their learning.

5. Bach, Orach Chaim 249 (translated by Dovid Lichtenstein, *Headlines*, p. 305)

דאף על גב דאין ישראל הולכים האידנא להלחם על העיירות היינו ישראל לבדם אבל שכיח דישאלים מתי מספר נמצאים בין אנשי המלחמה שהולכים על העיירות וגם אלו הם בכלל זה דאין צרין וכו' וכן למלחמת מצוה כגון שנשבו גוים וישאלים מותר לילך עליהם עם הגוים אפילו בשבת דמלחמת מצוה היא להציל אחיהם:
[Even though, according to the Rambam, there are no obligatory wars relating to land without the *Beit haMikdash*, there are still battles that are considered obligatory] For example, if gentiles and Jews were taken captive, it is permissible to descend upon them together with the gentiles, because this is an obligatory war - rescuing their brethren.

6. Rambam, Hilchot Shemitah 13:12-13 (translated by Eliyahu Touger)

ולמה לא זכה לוי בנחלת ארץ ישראל ובבנותה עם אחיו מפני שהבדל לעבד את ה' לשרתו ולהורות דרכיו הנשרים ומשפטי הצדיקים לרבים שנאמר (דברים לג י) "יורו משפטיה לעקב ותורתה לישראל". לפיכך הבדלו מדרכי העולם לא עורכין מלחמה כשאר ישראל ולא נוטלין ולא זוכין לעצמן בכח גופן. אלא הם חיל השם שנאמר (דברים לג יא) "פרוה ה' חילו". והוא פרוה הוא זוכה להם שנאמר (במדבר יח ב) "אני חלקה ונתתה".

Why did the Levites not receive a portion in the inheritance of *Eretz Yisrael* and in the spoils of war like their brethren? Because they were set aside to serve G-d and minister unto Him and to instruct people at large in His just paths and righteous judgments, as [Deuteronomy 33:10] states: "They will teach Your judgments to Jacob and Your Torah to Israel." Therefore they were set apart from the ways of the world. They do not wage war like the remainder of the Jewish people, nor do they receive an inheritance, nor do they acquire for themselves through their physical power. Instead, they are G-d's legion, as [*ibid.*:11]: states: "G-d has blessed His legion" and He provides for them, as [Numbers 18:20] states: "I am your portion and your inheritance

לֹא נִשְׁבֵּט לְוִי בַלְבָּד אֶלָּא כָּל אִישׁ וְאִישׁ...

Not only the tribe of Levi, but anyone...

7. Rambam, Hilchot Shecheinim 6:6

כָּל הַדְּבָרִים שֶׁצָּרִיכִין לְשִׁמִּירַת הָעִיר לְוָקָחִין מִכָּל אָנָּשׁ הָעִיר וְאֶפְלוּ מִן הַתּוֹמִים חוּץ מִתְלָמִידֵי חֲכָמִים. שָׂאִין תְּלָמִידֵי חֲכָמִים צָרִיכִין שְׁמִירָה שֶׁהַתּוֹרָה שׁוֹמְרָתָן.

Payment for all the things necessary for the protection of a city is collected from all of its inhabitants, even from orphans, with the exception of Torah scholars. For Torah scholars do not require protection; their Torah study protects them.

8. Talmud, Nedarim 32a (Davidson Edition translation)

מִפְּנֵי מָה נֶעֱנַשׁ אַבְרָהָם אֲבִינוּ וְנִשְׁתַּעַבְדּוּ בָנָיו לַמִּצְרִים מֵאַתִּים וְעֶשֶׂר שָׁנִים? מִפְּנֵי שֶׁעָשָׂה אֲנִגְרִיָּא בַּתְּלָמִידֵי חֲכָמִים, שְׁנֵאמַר: וַיִּרְקֹא אֶת־תְּנִיכָיו וְלִידֵי בֵיתוֹ.

For what reason was Abraham our Patriarch punished and his children enslaved to Egypt for 210 years? Because he made a draft [*angarya*] of Torah scholars, as it is stated: "He led forth his trained men, born in his house" (Genesis 14:14). [These trained men that he took to war were actually his disciples, who were Torah scholars]

9. Rabbi Alfred S. Cohen, "On Yeshiva Men Serving in the Army," *Journal of Halacha and Contemporary Society* - No. XXIII, Spring 1992

Rav Avraham Yitzchak Kook: The first Chief Rabbi of Israel, felt strongly that students in the yeshiva should not be called to the front, for in their *batei midrash*, through learning Torah, they were assuring the spiritual welfare of the nation, and ultimately, we rely on our spiritual superiority to save us, not on our military might. Others have also strongly maintained that the *z'chut* of learning Torah is a more effective and more important shield for the Jewish community than military service.

Others, however, scoff at such an argument. "Will you send your brother to war, and yourselves sit at home?" rails **Rav Shlomo Yosef Zevin**. In his call to yeshiva students to take up arms equally with their secular brothers. "Is your blood redder than theirs?" he wants to know. Yeshiva lives and families are being threatened the same as everyone else's, and he feels no person can excuse himself from the fray. He cites rabbinic dicta that in times of war, "all go out to fight, even the bridegroom from his chamber and the bride from her chuppah."

10. Rabbi Moshe Feinstein (1895-1986), *Igrot Moshe*, Y.D. 4:33 (translated by Dovid Lichteinstein, *Headlines* p. 312)

Although the defense force is a significant matter, for Torah students learning Torah is an even more significant matter, even more so than protecting the state, as stated explicitly in the first chapter of *Bava Batra*. And it seems that the state also recognizes this, and one who studies in a yeshivah gedolah and involves himself in Torah is exempt from the obligations of the army. Certainly, then, one who desires to study Torah and become a giant in Torah, in halachic instruction, and in *yir'at Shamayim* should go to the *yeshivot gedolot*, and this will be a source of blessing for *Klal Yisrael* and a source of protection for all Israel.

11. Rabbi Aharon Lichtenstein (1933-2015), Tradition, Fall 1985, p. 212.

Finally, even if we grant that the Rambam's statement does imply a categorical dispensation in purely halachic terms, it remains of little practical significance. We have yet to examine just to whom it applies. A levi (sic) is defined genealogically. Those who are equated with him, however, literally or symbolically, are defined by spiritual qualities; and for these the Rambam sets a very high standard indeed. He presents an idealized portrait of a selfless, atemporal, almost ethereal person - one whose spirit and intelligence have led him to divest himself of all worldly concerns and who has devoted himself "to stand before G-d, to serve Him, to worship Him, to know G-d; and he walks aright as the L-rd has made him and he has cast off from his neck the yoke of the many considerations which men have sought." To how large a segment of the Torah community - or, a fortiori, of any community - does this lofty typology apply? To two percent? Five percent? Can anyone... confront a mirror and tell himself that he ought not to go to the army because he is kodesh kodashim, sanctum sanctorum, in the Rambam's terms? Can anyone with even a touch of vanity or a concern for kavod contend this? Lest I be misunderstood, let me state clearly that I have no quarrel with economic aspiration or with normal human foibles per se. Again, least of all do I wish to single out b'nei yeshivot for undeserved moral censure. I do feel, however, that those who would single themselves out for saintliness should examine their credentials by the proper standard.

12. Rabbi Ari Kahn, "The Rabbi and the Professor" (<https://www.aish.com/h/imd/48961346.html>)

Rav Gustman entered and asked to sit next to Professor Aumann, who said: "Rabbi, I so appreciate your coming to the cemetery, but now is time for you to return to your Yeshiva." Rav Gustman spoke, first in Yiddish and then in Hebrew, so that all those assembled would understand:

"I am sure that you don't know this, but I had a son named Meir. He was a beautiful child. He was taken from my arms and executed. I escaped. I later bartered my child's shoes so that we would have food, but I was never able to eat the food -- I gave it away to others. My Meir is a kadosh -- he is holy -- he and all the six million who perished are holy."

Rav Gustman then added: "I will tell you what is transpiring now in the World of Truth in Gan Eden -- in Heaven. My Meir is welcoming your Shlomo into the minyan and is saying to him 'I died because I am a Jew -- but I wasn't able to save anyone else. But you -- Shlomo, you died defending the Jewish People and the Land of Israel.' My Meir is a kadosh, he is holy -- but your Shlomo is a Shaliach Tzibbur -- a Cantor in that holy, heavenly minyan."

Rav Gustman continued: "I never had the opportunity to sit shiva for my Meir; let me sit here with you just a little longer."

Professor Aumann replied, "I thought I could never be comforted, but Rabbi, you have comforted me."

13. Rabbi Yisrael Meir Lau, Light of the World (Oro shel Olam), p. 380

A student in the Kol Torah Yeshiva in Jerusalem, approached his Rosh Yeshiva, **Rav Shlomo Zalman Auerbach zt"l** and asked him the question: May I leave my Torah studies in the yeshiva to go [for a short visit] and pray at the graves of tzadikim (righteous people,) in the Galil (Northern Israel?)

Rav Auerbach answered, "It is better to say in yeshiva, and study Torah"

The student replied, "Isn't there a time I could go to visit the graves of tzadikim? Doesn't Rav Auerbach go and pray by the graves of tzadikim?"

Rav Auerbach answered, "In order to pray at the graves of tzadikim, one doesn't have to travel up to the Galil. Whenever I feel the need to pray at the graves of tzadikim, I go to Mount Herzl, [the national cemetery for fallen IDF soldiers in Jerusalem], to the graves of the soldiers...who fell "Al Kiddush Hashem" for the sanctification of G-d.

