

1. Payam Akhavan, *Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?*, The American Journal of International Law 95:7

Through systematic indoctrination and misinformation, political leaders created an aberrant context of inverted morality in which dehumanization and violence against members of the "enemy" group were legitimized as purported acts of self-defence.

The conflict

2. Exodus 23:32-33

You shall not make a covenant with them or their gods. They shall not live in your land, lest they incite you to sin against Me, for you will serve their gods, for they will be a stumbling block for you.

3. Genesis 15:16

And the fourth generation shall return here, for the sin of the Amorites is not yet complete.

4. Deuteronomy 9:5

Not due to your righteousness and the straightness of your heart do you come to take their land, but due to the wickedness of these nations does your Gd take them from before you.

5. Exodus 20:22

When you make an altar of stones for Me, do not build it of hewn stone; you have raised your sword upon it, and desecrated it.

6. Chronicles I 22:8

And the word of G-d came to me: You have spilled much blood, and you have made great wars. You shall not build a house in My Name, for you have spilled much blood upon the ground before Me.

7. Genesis 34:7

And the sons of Jacob came from the field when they heard, and the men were upset, and very angry, for a disgusting thing had been done in Israel, to rape the daughter of Jacob. Such a thing could not be done.

8. Genesis 49:5-7

Simon and Levi are brothers; tools of violence are their weapons. In their secret, my spirit will not enter. In their council, my honour will not be degraded. For in their anger they killed a man, and at will they uprooted an ox. Cursed be their rage, for it is strong, and their anger, for it is harsh. I will split them among Jacob, and I will scatter them among Israel.

An attempt to legislate battlefield morality

9. Deuteronomy 20:10

When you draw near to a city, to battle it, you shall call to it for peace.

10. Jerusalem Talmud, Sheviit 6:1

Joshua sent three messages into Israel, before the Jews entered the land: Whoever wants to leave, may do so. Whoever wants to make peace, may do so. Whoever wants to make war, may do so.

11. Deuteronomy 20:12

And if it will not make peace with you, and it will wage war against you, then you shall besiege it.

12. Midrash Tannaim to Deuteronomy 20:12

"Besiege it" – Surround them on all four sides. Rabbi Natan said: Give them one path, through which to flee.

13. Deuteronomy 20:19

When you besiege a city for many days, fighting it to capture it, do not destroy its tree, to raise a hatchet upon it...

14. Commentary of Rabbi Samson Raphael Hirsch to Deuteronomy 20:19

A midrash says: "To capture it" – not to destroy it." Your goal should be only to subdue the city, not to enslave its residents as prisoners of war.

15. Deuteronomy 23:10-15

When you go to war against your enemy, guard yourself against every bad thing. When a man among you is impure... he shall leave the camp, he shall not enter the midst of the camp. Before evening he shall bathe in water, and at sunset he shall enter the midst of the camp. And you shall have a place outside the camp; go there, outside. And you shall have a peg among your weapons; when you sit outside, you will dig with it, sit, and cover your waste. For HaShem your G-d travels in the midst of your camp, to save you and to put your enemy before you, and your camp shall be holy. Nothing which should be covered will be seen, lest He leave you.

16. Commentary of Rabbi Samson Raphael Hirsch to Deuteronomy 23:10

Also, when you leave the normal boundaries of family and civil life, and you are in a military camp arranged against your enemies, then even though you are in a military camp, where the ethical reins are easily loosened and the actual goal of war is an unrestrained coarseness – then, too, "guard yourself against every bad thing." Do not cease examining yourself, with self-control, and be on guard against "every bad thing."

17. Numbers 27:16-17

Let G-d appoint... a man over the assembly, who will go before them and come before them, and bring them out and bring them in, and let the nation of G-d not be like sheep without a shepherd.

Treatment of Captives

18. Deuteronomy 20:11

And if they answer with peace and open to you, the entire nation found in it will be for tribute to you, and will serve you.

19. Deuteronomy 21:11-14

And you will see among the captives a pretty woman, and you will desire her and take her for a wife. And you will bring her into your home, and she will shave her head and cut her nails. And she will remove her garb from captivity and sit in your house and cry for her father and mother for a month of days. Then you shall come to her, and she will be your wife. And if you will not want her, you shall set her free. Do not sell her or treat her as a slave, having oppressed her.

20. Talmud, Kiddushin 21b

The Torah only presented this to combat the evil inclination.

"Collateral Damage"

21. Anne Schwenkenbecher, *Collateral Damage and the Principle of Due Care*, J. of Military Ethics 13:1 (2014)

It is important to mention that the term 'collateral damage' has been justifiably criticised for its euphemism and a certain belittlement (see e.g. Coady 2008:133). Admittedly, it seems to palliate the suffering related to it, and makes one forget that what it actually refers to are humans, mostly innocents, who are being harmed or even killed in an armed conflict.

22. Rabbi Avraham Shapira, *War and Ethics*, Techumin 4, pg. 182

When there is no substantive risk to our soldiers, there is no permission to strike lives or property. However, when there is a discernible risk, one must remember that it is not only a matter of weighing one unit opposite a civilian population on the scale. The loss of one unit, or part of it, can affect the entire battle...

23. Rabbi Aharon Lichtenstein, *Ethics and War*, Techumin 4, pg. 184-5

The beginning of the calculation of a war's justification is the concept of *milchemet mitzvah*. The category of *milchemet mitzvah* includes war for the aid of Israel before an enemy who attacks. (Mishneh Torah, Hilchot Melachim 5:1) But note, "the aid of Israel". We must ask whether a particular war will actually help Israel; not every war aids Israel.

Every war has a price....

- 1) Second, the price [of war] is also paid by the enemy, who is also graced with the Divine image, and one should grieve whenever G-d's creations drown in the sea. On this point, the issue of quantity is meaningful, and one certainly must weigh the justifications for harming many in order to save an individual.
- 2) Third, war harms the nature of the individual and society which battle. As Nachmanides wrote, regarding Deuteronomy 23:10, "And you shall be on guard against every bad thing," "The most naturally righteous of people will be clothed with cruelty and rage when going to war against the enemy, and therefore the verse warned, etc." King David was denied the opportunity to build the Temple because "he spilled much blood upon the earth (Chronicles I 22:8)", even though that was in *milchemet mitzvah*. Even the sword used in a *milchemet mitzvah* is unsuitable to aid in building the altar, as is written in the Mechilta on Exodus 20:22...