

Should we kill our attackers if we will die as well? (from Week 1)

1. Chief Rabbi Lord Immanuel Jakobovits, *Rejoinders*, Tradition 4:2 (1962) pg. 202 (emphasis in the original) [I]n the words of the rabbis, "if a man comes to slay you, forestall by slaying him!" (Rashi; *Sanhedrin* 72a). Now this law confers the right of self-defense only if the victim will thereby *forestall* the anticipated attack and save his own life at the expense of the aggressor's. But the defender would certainly not be entitled to frustrate the attack if this could be done only at the cost of both lives; for instance, by blowing up the house in which he and the robber encounter each other. Presumably the victim would then have to submit to the robbery and even to death by violence at the hands of the attacker rather than take "preventive" action which would be sure to cause two deaths. In view of this vital limitation of the law of self-defense, it would appear that a defensive war likely to endanger the survival of the attacking and the defending nations alike, if not indeed of the entire human race, can never be justified. *On the assumption, then, that the choice posed by a threatened nuclear attack would be either complete mutual destruction or surrender, only the second alternative may be morally vindicated.*

2. Michael Wyschogrod, *Rejoinders*, Tradition 4:2 (1962) pg. 207

Both optional and obligatory wars are predicated on the chance of winning and thereby of achieving the ends sought. Whether the goal is to destroy the Amalekites or to defend the Jewish people against an aggressor, all of this makes sense only if the Jewish people, or at least a segment of it, can be conceived of as surviving the war and enjoying its fruits.

3. Talmud, Berachot 61b

Rabbi Akiva said: I lived my entire life in pain regarding this sentence – "'With all of your life,' even should He take your life." I said, "When will this come to my hands, and I will uphold it!"

4. Talmud, Avodah Zarah 18a

When Rabbi Yosi ben Kisma fell ill, Rabbi Chanina ben Tradyon went to visit him. Rabbi Yosi ben Kisma said: "My brother, Chanina! Don't you know that this nation has been coronated by G-d, for they have destroyed His house and burned His sanctuary and killed His pious ones and destroyed His best, and still they endure – and yet you sit and involve yourself in Torah and gather people in public, and a Torah scroll is in your lap!" Rabbi Chanina ben Tradyon replied: "[G-d] will have mercy from Heaven." He said, "I speak logically, and you say, '[G-d] will have mercy from Heaven'? I would be shocked if they would not burn you and that Torah scroll in flames."

5. Rabbi Moses Maimonides (12<sup>th</sup> century Egypt), *Laws of the Foundations of Torah* 5:1-2

All Israel are instructed in sanctifying this great Name, as [the Torah] says, "And I will be sanctified in the midst of the Children of Israel"... If an idolater arises and compels Israel to violate any of the Torah's mitzvot, on penalty of death for refusal, he should trespass and not be killed... This is true for all but idolatry, sexual immorality and bloodshed, but for these three sins, if he says to him, "Violate one of these or be killed," he must be killed rather than transgress...

6. Talmud, Gittin 56a

Abba Sikra, lead Biryon of Jerusalem, was the nephew of Rabban Yochanan ben Zakkai. Rabban Yochanan ben Zakkai sent to him, "Come to me in secret." He came, and Rabban Yochanan ben Zakkai said to him, "How long will you do this, killing the world with famine?"

What about the inevitable civilian deaths?

7. Rabbi Yehudah Loeb (Maharal), *Gur Aryeh* to Genesis 34:13

Deuteronomy 20:10 says, "you shall call to it for peace", but that is where they have not acted upon Israel. Where they have acted toward Israel, such as here [Shechem] where they had broken forth, doing this repellent thing, then even though only one of them had done it, since they had attacked first, Israel was allowed to respond. So, too, for all wars... since there were those among the nation who had harmed them, they were permitted to go to war against them...

8. Rabbi Avraham Shapira, *War and Ethics*, Techumin 4 (1983), 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...

9. Rabbi Aharon Lichtenstein, *Ethics and War*, Techumin 4 (1983), pg. 185

The price [of war] is also paid by the enemy, who is also graced with the Divine image, and one should grieve whenever Gd'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.

#### The Langer Affair

10. Rabbi Elli Fischer, *Why Rav Goren Matters: The Legacy of the Langers*, MIDA Feb. 6 '15

<https://mida.org.il/2015/02/06/rav-goren-matters-legacy-langers/>

Israeli society ignores his legacy at its own risk. In the unending tug-of-war between religion and state in Israel, he did the most to re-imagine Jewish law (*Halakha*) to be compatible with the governing of a modern democratic state and to implement *halakha* as state law. This project neither started nor ended with Rabbi Goren, though he was its most successful proponent. His legacy therefore pervades some of Israel's most contentious debates today, including the role of religion in the IDF and Jewish control over the Temple Mount.

11. Rabbi Eitam Henkin, *"This is Politics, not Halachah!"*, Asif I (2014), footnote 3

The fact that Chavah's marriage to the man who would father the "Brother and Sister" was arranged by a recognized rabbi should have been meaningful, on the face of it – at least as far as clarifying events once they were no longer able to be clarified later on. Despite this, had Rabbi Levitsky known that Chavah was presumed wedded to Borokovsky, it is hard to believe that he would have decided independently that she did not need a *get*, without turning to a rabbinical court as is accepted practice. Compare this with the claim of an article published after the story exploded, that Chavah testified before a rabbinical court in Petah Tikvah on 11 Tishrei 5727 (1967) that when she came to marry a second time, she did not bother to inform them that she was married. (Hamodia 25 Kislev 5733 (1973)) Although, from the text itself it is not clear whether she testified in general that "I didn't say I had a husband," or she said specifically, "I didn't tell the Rabbi [Levitsky] that I had a husband." (It is sometimes cited one way, and sometimes the other way.)

12. *It is expected that revelation of new evidence will cancel the "mamzerut", etc.*, Maariv, March 10 1971

In another hearing their request was again rejected, and again the case was passed to Jerusalem, because of the appeal of the lawyer Modai. The verdict again did not change in Jerusalem.

At this stage the two sent a letter to the Minister of Defense, asking him to intervene as this is "a matter of lives." Israeli Chief Rabbi Nissim then became involved as a result of Mr. Dayan's intervention, but even then the matter did not change. Only after the Minister of Defense declared, at a government meeting, that if the problem were not solved then he would put on the government table a proposal for a law of civil marriage, did the wheels start to turn much faster.

13. Rabbi J. David Bleich, *Contemporary Halakhic Problems* Vol. 1, Part 1, Chapter 7: The Langer Case

Upon his election as Chief Rabbi, Rabbi Shlomoh Goren sought to have the case reheard by a panel of the Supreme Rabbinical Court consisting of the two Chief Rabbis and a third member to be selected jointly by both Chief Rabbis. Rabbi Yosef refused to accede to this proposal, noting that he had already sat as a member of a Bet Din which had issued a negative ruling and that Rabbi Goren, while yet Chief Chaplain of the Israeli Armed Forces, had authored and circulated among selected individuals a pamphlet in which he had argued that the Langers were not to be regarded as mamzerim. In view of their prior involvement Rabbi Yosef felt that both Chief Rabbis should disqualify themselves. He instead proposed that an impartial Bet Din be appointed to be composed of dayanim who had not previously ruled on the matter. This suggestion was not acceptable to Rabbi Goren, who subsequently, on November 19, 1972, issued a ruling in his own name and in the name of eight other rabbis, whose names he declined to reveal, permitting the Langers to marry. The reasons for this decision and the documents supporting it were published by Rabbi Goren in a two-hundred-page book bearing the imprimatur of the Chief Rabbinate of Israel.

14. Decree signed by leading rabbis, 13 Av 1972, <http://www.jdn.co.il/breakingnews/107097>

A spirit of madness now passes through our holy land, misleading the masses as though one could change law which has been accepted since Sinai, from generation to generation, and to permit that which is prohibited based on foundations which lack any possibility, and which are lies and deception. We declare that anyone who says thus has no part in Halachah and one cannot rely on his ruling, and anyone who helps spread this view, which endangers the survival of the nation, will face justice.

Rabbi Yechezkel Abramsky, Rabbi Yaakov Kanaievsky, Rabbi Eliezer Menachem Man Shach, Rabbi Chaim Shmuelevitz, Rabbi Moshe Chevroni, Rabbi Yosef Shalom Elyashiv, Rabbi Shlomo Zalman Auerbach

15. Public response of the Lubavitcher Rebbe, reported in HaPardes 47:4 (Jan. 1973)

<http://hebrewbooks.org/pdfpager.aspx?req=12319&pgnum=29>

In the Rebbe's view, this event sets a dangerous precedent for rabbinic authority worldwide, whether because of the conditioning of selection of a rabbi upon granting a particular leniency, or because of the proclamations of the Minister of Defense and the government that the brother and sister may marry, even before the rabbis had ruled on the matter. The government rules, and benignly "permits" the rabbi to support the permission with halachah.

### The Arguments

16. Rabbi J. David Bleich, Contemporary Halakhic Problems Vol. 1, Part 1, Chapter 7: The Langer Case

Rabbi Goren, claiming to have had additional evidence not available to the rabbinical courts which had previously held hearings on the matter, bases his decision on the following considerations:

1. There exists no admissible evidence attesting to Avraham Borokovsky's conversion to Judaism,
2. In the event that a valid conversion ceremony did take place, the conversion was nullified by virtue of the fact that Borokovsky continued to live as a practicing Christian...
3. The original wedding ceremony between Chava Ginsberg and Avraham Borokovsky took place in a church. There is no evidence, argues Rabbi Goren, that they were subsequently married in accordance with the law of Israel.
4. The conversion of Avraham Borokovsky, if it indeed did take place, was the result of coercion on the part of Chava Ginsberg's father and hence is null and void...

17. Rabbi Moses Maimonides, Laws of Forbidden Relationships 13:7, 13:9

13:7 - One who immerses and converts on his own, or even in front of two [judges], is not a convert. One who comes and says, "I converted in X's court, and they immersed me," is not credible to marry a Jew until he brings witnesses.

13:9 - A female convert who is observed to practice Jewish ways at all times, such as immersing when a *niddah* and tithing her dough and the like, and a male convert who acts in Jewish ways, immersing for his impurity and performing all of the mitzvot, these people are presumed to be converts even though they lack witnesses who can testify as to the identity of their converting court. However, if they wish to marry Jews, we will not marry them until they bring witnesses or immerse before us, since they were known to have been non-Jewish.

18. Stances of the Rabbis who heard the Langer case

Rabbi Y. S. Elyashiv	13:9 only requires "acting as a Jew", which depends on community standards
Rabbi Bezalel Zolty	13:9 only requires that they be viewed as a Jew by others
Rabbi Shaul Yisraeli	13:9 requires adherence to Jewish law, and need 13:7's naming of a court
Rabbi Shlomo Goren	13:9 requires adherence to Jewish law

19. Rabbi Shlomo Goren, public address in 1966

It is clear that we need Torah leaders who will have a nationalistic approach to political questions and a positive approach to the historical turn of the Jewish people that happened with the establishment of the State...

The eternity of the Torah lies in the space for maneuvering and the possibilities open to its guardians, scholars, and those who fulfill it... Each generation has its own innovations in Torah, but all this is only within the framework of the Torah, within the framework of the halachah.