

HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

SERIES 2: 84 - ARMY EXEMPTIONS FOR YESHIVA STUDENTS: PART 1 OU ISRAEL CENTER - WINTER 2024

- 1948 From the foundation of the State of Israel until 2002 the deferment of draft into the IDF for Charedim was based on an ad hoc arrangement which evolved over time as a result of political considerations. During the 1948 War of Independence, Prime Minister David Ben-Gurion agreed a deal with leaders of the Charedi community to exempt those whose full-time occupation was Torah study from mandatory military service. This arrangement - '*torato umanuto*' (Torah is his occupation) - was implemented informally through a Defense Ministry regulation which allowed Charedi men to 'defer' their army service by learning in yeshiva from age 18 until the age at which the draft no longer applied. Officially this was age 40, but in practice Charedi men could usually leave yeshiva at age 30 and join the workforce. In the 1940s the total number of full time yeshiva students receiving an army exemption was very small (around 400 senior scholars) and Ben Gurion assumed that the issue would resolve as the yeshivot gradually died out.
- 1977 Menachem Begin removed the cap on the number of exemptions under *torato umanuto* and the number increased: 1987 - 17,017; 1995 - 26,262; 1997 - 28,772; 2010 - 61,000; 2015 - 64,605; 2023 - 66,784.
- 1998 The Supreme Court¹ ruled that the defense minister had no legal authority to exempt Charedi men from conscription and called on the Knesset to find a solution through legislation. Supreme Court President Aharon Barak argued that *torato umanuto* violated the principle of equality, and that "the current situation, in which a significant portion of these individuals of service age do not risk their lives for the security of the State is very discriminatory."
- 2002 Legislation regulating the draft deferment was adopted by the Knesset. The "Deferment of Military Draft for Yeshiva Students whose Occupation Is the Study of Torah Law, 5762-2002"² became known as the "Tal Law"³. It allowed full-time yeshiva students to postpone their conscription until age 23, after which they could choose between (i) a shortened, 16-month IDF service; (ii) a year of civilian *sherut leumi*; or (iii) continue full-time yeshiva study. The law created a statutory authorization to the Minister of Defense to approve yeshiva students' draft deferments and also 'hesder' arrangements of active military service combined with yeshiva study. The Tal Law was initially drafted to require renewal every 5 years and the Knesset extended its implementation in 2007.
- 2012 In February 2012 the Supreme Court⁴, by six justices to three, ruled that the Tal Law was unconstitutional and could no longer be extended. The Court found that the number of deferrals for charedim had in fact increased since the Tal Law and that further delay in implementation of the general draft would constitute a violation of the constitutional right to equality, which derives from the right to human dignity under Basic Law: Human Dignity and Liberty.
- 2014 A government coalition (which excluded the Charedi parties) passed legislation requiring the IDF to draft a percentage of Charedi men that was to increase each year. If the quota of 60% was not met by 2017, all eligible Charedi men would be required to enlist and would face criminal penalties for not doing so.
- 2015 A new coalition (which included the Charedi parties) passed legislation amending the 2014 law by removing criminal penalties entirely and slowing the imposition of the quotas until 2020.
- 2017 The Supreme Court struck down the 2014 law for perpetuating inequality. The court granted the government one year to pass a new law addressing the Charedi draft, during which the defense minister could continue issuing deferrals to Charedi men.

1. Rubinstein v. The Minister of Defense. HCJ 3267/97, HCJ 715/98, HCJ 715/98. There are many websites summarizing the historical and legal background to the Charedi draft exemption. See for instance <https://israelpolicyforum.org/2023/07/11/the-charedi-exemption/>

2. Sefer Hahukim No. 5762 p. 521,

3. After Justice Tzvi Tal, who chaired a governmental committee on the subject.

4. HCJ 6298/07 Resler v. Knesset.

- 2018 The fall of the government began a series of five Knesset elections in less than four years, during which the court repeatedly issued extensions to allow the status quo to continue amid the political instability. Under this temporary system, Charedi men were required to stay in yeshiva until age 26, after which they are permanently exempt from service.
- 2023 The 15th set of such draft deferral extensions expired on July 31 2023. The cabinet then ordered Defense Minister Galant not to conscript Charedim until March 31 2024. The government committed to legislating a draft law in the Knesset's winter session before the March 31 deadline.

Oct 7 2023 Everything changed! But how? Military requirements? Public opinion? Political alignments? Charedi attitudes?

- In 2020 around 33% of men and 44% of women received exemptions from IDF service. Of those who received exemptions, roughly 45% were Charedim, 47% were secular, and 8% were religious Zionist.⁵
- Between 2009 and 2022, the number of students in Israel grew by 19%. By comparison, the number of Charedi men learning in yeshivot and kollel grew by 235% and is now around⁶ 156,000⁷.

A] EARLY RABBINIC POSITIONS ON RECRUITMENT OF TORAH SCHOLARS

- Many senior poskim, even from Mercaz HaRav, issued rulings in the early days of the State prohibiting yeshiva students from enlisting:

1. ולזאות דעתנו דעת תורה, שכל בן ישיבה ידע את תפקידו הנאמן להיות בחיל ה'. ואין עליו שום חובה להתייצב, להפקיד ולהרשם לשום עבודה של פלוגה אחרת.

רב משה חרל"פ

Rav Moshe Charlap opposed the draft of yeshiva students in 1948. This was also the position of R. Tzvi Pesach Frank.

2. מודיע אני בזה גלוי לכל אלה התלמידי חכמים חובשי ותופשי ביהמ"ד בחורים ואברכים בני הישיבות, שעפ"י תוה"ק הצלתנו מהמצב הנורא אשר אנו נמצאים בו, השם ירחם, היא רק בזכות התוה"ק. וכל זמן שקולו של יעקב מצפצף בבתי כנסיות ובתי מדרשות אין ידי עשו שולטות בו לזאת יצא מאתנו דעתנו דעת תורה בתור הלכה פסוקה שכל בן ישיבה חובש ותופס בית המדרש, אל יתיצב וירשם לכל דבר הקשור לשמירה, ועזר לשמירה, גיוס וכדו'. וחלילה לפקפק בזה כלל וכלל. וכ"ש להיכנס בזה בדיונים ... ולחפש היתירים בזה. וחובה כפולה ומכופלת מוטלת על כל בן ישיבה כעת להתגבר ולהתאמץ בכל היכולת בשקידת והתמדת לימוד התורה ביתר שאת ויתר עז. ובזכות תוה"ק אשר היא מגינה ומצלי ניצל עם כל אחב"י מכל אויב ויוציאו השם מהרה לרוחה ויושיעו תשועת עולמים בביאת גואל צדק ...

הרב איסר זמן מלצר – כרוז מכ"ד ניסן תש"ח

Rav Isser Zalman Meltzer unconditionally prohibited yeshiva bachurim in 1948 from taking part in ANY military activities, even local guard duties which did not require enlisting into the army⁸.

- However, Rav Shlomo Yosef Zevin strongly opposed this psak and insisted that the yeshiva students must be drafted. His essay on was initially published in 1948 anonymously under the name of 'one of the rabbis'. See the full essay in the Appendix below.⁹
- Rav Yitzchak Herzog, Chief Rabbi of the time, was in favor of recruiting Yeshiva students, but strongly opposed the government plan to withhold food supplies to yeshiva students in Jerusalem during the siege of 1948.

5. <https://www.jpost.com/israel-news/half-of-israeli-youth-do-not-enlist-in-idf-614604>

6. This is a total figure. 66,784 men are currently draft age (18-26) and exempted. 89,685 further men are avreichim in kollel aged 26+. The incoming group of Charedi young men in their last year of high school/yeshiva katana and eligible for the coming draft in 2024 is around 13,000. For any religiously motivated person the reality of so many *b'nei Torah* learning Torah in Eretz Yisrael is not only wonderful but almost miraculous and we daven that this number should only rise be'H. The question at hand is whether a subgroup within this community should ALSO be called to some type of army service or sherut leumi.

7. Excellent resources on this topic for deeper learning include:

1. A 110 page booklet by Rabbi Efreim Goldberg, which includes not only sources but also copies of many of the historical letters and articles on this topic. Available at:

https://s3.us-east-2.amazonaws.com/studybooklets.rabbiefremgoldberg.org/Israel/Yeshiva_Draft_Army_Sources.pdf

2. Rav Aharon Lichtenstein's article - *The Ideology of Hesder*, Tradition 19(3) Fall 1981.

3. *On Yeshiva Men Serving in the Army*, Rabbi Alfred Cohen, Journal of Halacha and Contemporary Society 23 (1992) 5-31. Available at:

https://www.daat.ac.il/daat/english/halacha/cohen_1.htm

8. I heard the following story from Rav Zev Weitman. Rav Yehuda Amital (founding Rosh Yeshiva of Yeshivat Har Etzion), who was a talmid of Rav Meltzer, received semicha from him and married his granddaughter, was also a fighter in the Hagana during the 1948 war. He once visited Rav Meltzer's house wearing his army uniform while Rav Meltzer was giving a shiur. Rav Meltzer said to his talmidim there - 'We learn the Rambam's laws of war - but Yehuda actually lives them!'

9. The essay was translated by Rabbi Dovid Wachsman and published in Tradition 21(4) Fall 1985, pp. 52-55.

3. Rabbi She'ar Yashuv Cohen, chief rabbi of Haifa and the son of the Rav HaNazir, related the following story:

During the winter of 5708 [1947-1948], I was one of the younger students at the Mercaz HaRav yeshiva, as well as a member of the Haganah, the pre-state Jewish defense organization. This was during the tense period of rioting and attacks that began after the 29th of November UN vote to establish a Jewish state, before the State of Israel was declared on the 5th of Iyar.

In those days, there was much turmoil in the yeshiva whether the students should enlist to fight and defend. Both my father, the Rav HaNazir, and Rabbi Tzvi Yehudah Kook felt that it was incumbent upon all to go out and fight this *milchemet mitzvah*, a compulsory war in which all are obligated to participate. However, those close to the rosh yeshiva, Rabbi Yaakov Moshe Charlap, held that yeshiva students should continue their Torah studies in the yeshiva, and the merit of their Torah learning would bring victory in battle. "On your walls, Jerusalem, I have posted watchmen" (Isaiah 62:6) – those watchmen are scholars, diligently studying Torah.

At that time, the situation in the Jewish Quarter in Jerusalem's Old City was desperate. I came up with the idea of organizing a group of yeshiva students and establishing in the Quarter a 'Fighting-Defense Yeshiva.' The yeshiva's daily schedule would be comprised of eight hours for defense and guard duty, eight hours for Torah study, and eight hours for rest and sleep. The proposal was brought before the Haganah command and was approved. But those close to Rabbi Charlap were vehemently opposed to the idea. The controversy within Mercaz HaRav disturbed me deeply, and caused me great anguish.

Later, as I exited the yeshiva, I saw huge notices pasted on the entrance to the yeshiva. It was a broadside quoting Rav Avraham Isaac Kook in order to prove that yeshiva students should not be drafted into the army. When I read the notices, I was in shock. Was I acting against the teachings of Maran HaRav Kook? Agitated and upset, I made my way down the road toward Zion Square. There I saw a figure walking toward me, slightly limping. As he came closer, I saw that it was Rabbi Tzvi Yehudah. I felt very close to Rabbi Tzvi Yehudah; he was like an uncle to me. When he saw my shocked look, Rabbi Tzvi Yehudah became concerned. 'What happened, She'ar Yashuv? Why do you look like that? Don't be afraid, tell me!'

Under the pressure of his questioning, I told him about organizing a fighting yeshiva in the Jewish Quarter, and my distress when I saw the announcements which indicated that we were acting against the guidance of Rav Kook. When he heard my words, Rabbi Tzvi Yehudah was horrified. He grabbed me by my shoulders and began to roar, "This is a complete forgery! A distortion and utter falsehood!" He was so upset, his shouts echoed down the street.

After calming down, he explained that his father had written this letter during the First World War, regarding the draft of yeshiva students who had escaped from Russia to England. Rav Kook felt that these students should be exempt from the draft, just as the British exempted other clergy students. But *here* - Rabbi Tzvi Yehudah continued with emotion – *herewe* are fighting for our hold on the land of Israel and the holy city of Jerusalem. This is undoubtedly a *milchemet mitzvah*, whereas in England, the demand was that the yeshiva students fight for a foreign army.

4. הממשלה הרוממה שהיא מתחשבת, כראוי לממלכה נאורה, עם הרגשות העדינים של תושביה וזהירה ביותר מלפגוע בתוכן הקדוש הנעלה של הדת והאמונה, צריכה לדעת שע"פ תורת ישראל תלמידי חכמים אסור ללחצם ללכת למלחמה. וכל כך גדול הוא החטא של לחיצת תלמידי חכמים למלחמה, עד שלא הניחו חז"ל מלבקר את מעשה מלך צדיק כאסא מלך יהודה ואמרו שנענש, שחלה את רגליו מפני שעשה אנגריא בתלמידי חכמים ... ויותר מזה ראינו את גדולת האיסור לעשות אנגריא בתלמידי חכמים לכופם על יציאה למלחמה, אפילו על מלחמת מצוה גדולה מאד, שהרי אין לך מלחמת מצוה יותר גדולה מהמלחמה שערך אברהם אבינו נגד המלכים ... ומכל מקום אמרו מפני מה נענש אברהם ונשתעבדו בניו במצרים ארבע מאות שנה, מפני שעשה אנגריא בתלמידי חכמים, שנאמר וירק את חניכיו ילידי ביתו, והם היו תלמידי חכמים העוסקים בתורה.

מכתב הראי"ה קוק לרב הראשי לאנגליה (אגרות ראייה תת"י – שנת תרע"ז 1917)

Rav Kook wrote to Rabbi Hertz during WWI to impose on him to prevent the draft of yeshiva bachurim in England (many of whom had recently arrived from Eastern Europe)¹⁰. In that letter he states that Torah should not be conscripted, even to fight in a *milchemet mitzva*! Nevertheless, in Part 2 we will see a different perspective from Rav Kook.

B] IS THE ARMY A GOOD PLACE FOR A YESHIVA BACHUR?

5. (ח) אֵלֶּה שְׁמוֹת הַגִּבּוֹרִים אֲשֶׁר לָדָד יֵשֵׁב בְּשִׁבְתְּ תַחְכְּמוֹנֵי רֹאשׁ הַשְּׁלֵשִׁי הוּא עֲדִינוּ הַעֲצֵנִי עַל־שְׁמֹנֶה מֵאוֹת חֲלָל בְּפַעַם אֶחָת:

שמואל ב' כ"ג

The Tanach describes the great warriors of David Hamelech's army.

10. Exemption of clergy and often theology seminary students was standard in conscription in the US and UK in the 20th century.

6. אֵלֶּה שְׁמוֹת הַגִּבּוֹרִים אֲשֶׁר לְדָוִד יָשָׁב בְּשֵׁבֶת וְגו', מאי קאמר? אמר רבי אבהו, הכי קאמר - ואלה שמות גבורותיו של דוד הוא עדינו העצמי - כשהיה יושב ועוסק בתורה היה מעדן עצמו כתולעת. ובשעה שיוצא למלחמה היה מקשה עצמו כעץ. על-שמונה מאות חלל בפעם אחת - שהיה זורק חץ ומפיל שמונה מאות חלל בפעם אחת, והיה מתאנח על מאתים.

מסכת מועד קטן טו:

Chazal understood this as an account of the greatness of David himself. They stress that, when he was learning Torah he was as delicate as a worm. But when he went out to fight the enemies of Klal Yisrael he was as hard as wood!¹¹

7. ואם יעמוד מלך מבית דוד - הוגה בתורה ועוסק במצוות כדוד אביו, כפי תורה שבכתב ושבעל פה וילחם מלחמות ה'

רמב"ם הלכות מלכים פרק יא הלכה ד

The Rambam rules that Mashiach must be both a great Torah scholar and also a great warrior.¹²

8. ויתכן שהיה הצרעה גדול מאד ורצ כה, שהיו צביתו שלש מאות איש שולף חרצ ולו צעלי צרית רבים. והוא גם בן חיל אשר לבו כלב האריה ורדף חרצעה מלכים גבורים מאד ונלחם. וכאשר ראו הללחתו כי היא מאת האלהים פחד ממנו מלך פלשתיים פן יכבוש ממנו מלכותו, ונקל זאת ממלחמת חרצעת המלכים. וכמעט אצות עשו בניו כי היה ילחם גדול כאצו ופחד המלך פן ילחם בו בגרשו אותו מארלו.

רמב"ן בראשית כו:כט

In explaining Avimelech's peace treaty with both Avraham and Yitzchak, the Ramban understands that Avraham had proved himself in the battle against the 4 Kings, and Avimelech considered both to be military figures.

9. although stateless centuries have tended to obscure this fact - hesder has been the traditional Jewish way. what were the milieux of Moshe Rabbenu, of Yehoshua, of David, of Rabbi Akiva, as Hazal conceived and described them, but yeshivot hesder?

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p.206

B1] THE RELIGIOUS UNDERPINNINGS OF 'HESDER' ARMY SERVICE

10. Optimality, hesder does not merely provide a religious cocoon for young men fearful of being contaminated by the potentially secularizing influences of general army life - although it incidentally serves this need as well. Hesder at its finest seeks to attract and develop *bonei torah* who are profoundly motivated by the desire to become serious *talmidei hachamim* but who concurrently feel morally and religiously bound to help defend their people and their country; who, given the historical exigencies of their time and place, regard this dual commitment as both a privilege and a duty; who, in comparison with their non-hesder *confrères* love not (to paraphrase Byron's Childe Harold) Torah less but Israel more. It provides a context within which students can focus upon enhancing their personal spiritual and intellectual growth while yet heeding the call to public service, and it thus enables them to maintain an integrated Jewish existence.

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p200

11. When the mishnah states, "If there is no flour, there is no Torah; if there is no Torah, there is no flour," it hardly means that both are equally important. What it does mean is that both are, in fact, equally necessary, although, axiologically and teleologically, flour exists for the sake of Torah and not vice versa. "Il faut manger pour vivre, il ne faut pas vivre pour manger," (One should eat in order to live, not live in order to eat), declaims one of Moliere's characters; and so it is with hesder. The yeshiva prescribes military service as a means to an end. That end is the enrichment of personal and communal spiritual life, the realization of that great moral and religious version whose fulfillment is our national destiny; and everything else is wholly subservient. No one responsibly connected with any yeshivat hesder advocates military service per se. We avoid even the slightest tinge of militarism No less than every Jew, the typical hesdernik yearns for peace, longs for the day on which he can divest himself of uniform and uzzi and devote his energies to Torah. In the interim, however, he harbors no illusions and he keeps his powder dry and his musket ready.

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p.201

11. Rabbi Chaim Jachter - <https://www.koltorah.org/halachah/should-yeshiva-students-serve-in-the-israeli-army-by-rabbi-howard-jachter> writes that Rav Amital would quote this Chazal as a paradigm for hesder students.

12. Alternatively, 'milchamot Hashem' could be taken metaphorically to mean the spiritual wars of God in the world. This is the approach of Chabad who also call their youth wing 'Tzivos Hashem' - the army of God.

12. In one sense, therefore, insofar as army service is alien to the ideal Jewish vision, hesder is grounded in necessity rather than choice. It is, if you will, b'diavad, a post facto response to a political reality imposed upon us by our enemies. In another sense, however, it is very much l'chathillah, a freely willed option grounded in moral and halakhic decision. We - at Yeshivat Har Etzion, at any rate - do not advocate hesder as a second-best alternative for those unable or unwilling to accept the rigors of single-minded Torah study. We advocate it because we are convinced that, given our circumstances - would that they were better - military service is a mitzvah, and a most important one at that. Without impugning the patriotism or ethical posture of those who think otherwise, we feel that for the overwhelming majority of bnei torah defense is a moral imperative.
- Of course, that concern must be balanced against others. Knesset Israel needs not only security but spirituality - and ultimately, the former for the sake of the latter. Those who, by dint of knowledge and inspiration, are able to preserve and enrich our moral vision and spiritual heritage, contribute incalculably to the quality of our national life; and this must be considered in determining personal and collective priorities. Hence, while we of yeshivot hesder, feel that training and subsequent reserve status for men should be virtually universal - spiritual specialization being reserved at most for a truly elite cadre - the length of post-training service should be justifiably briefer than that of those unable or unwilling to make a comparable spiritual contribution.
- It should be emphasized, however, that from a Torah perspective, the justification for abbreviated service does not rest solely or even primarily upon the yeshiva's stimulus to bravery. It is grounded, rather, in the intrinsic and immeasurable value of Torah *per se* - indeed, in the faith and hope that it moves us towards the realization of the prophetic vision, "neither by force nor by might but by my spirit, saith the Lord of hosts".

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p. 202

- Rav Lichtenstein's points in this source are key. *Shivyon Banetel* - 'Equality in the Burden' - is NOT an acceptable term for the issue at hand, for two reasons. Primarily, no religiously sensitive person should see fighting in the IDF as a burden. Duty, responsibility, obligation, challenge, even opportunity - yes. But not burden. Secondly, fairness, rather than, equality should not be the objection. There is no 'equality' in requirements for military service between men and women. What about the broad exemption for religious women? Mechina programs which delay draft for some students? Hesder arrangements which delay military service and shorten it? Equality is too simplistic and the contribution of Israeli citizens in other fields than military must continue an important consideration.

13. The case for hesder rests, then, upon several simple assumptions. First, during the formative post-secondary years, a *ben torah* should be firmly rooted in a preeminently Torah climate, this being crucially important both for his personal spiritual development and for the future of a nation in critical need of broadly based spiritual commitment and moral leadership. Second, the defense of Israel is an ethical and halakhic imperative - be it because, as we believe, the birth of the state was a momentous historical event and its preservation of great spiritual significance or because, even failing that, the physical survival of its three *[ba'h now over seven - AM]* million plus Jewish inhabitants is at stake. Third, in light of the country's current military needs - and these should admittedly be reassessed periodically - yeshiva students should participate in its defense, both by undergoing basic and specialized training, thus becoming part of the reserves against the possibility, God forbid, of war, and by performing some actual service even during some period of uneasy peace.

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p.202

- This raises the importance of recruiting soldiers in advance of their possible need. When war breaks out, as now, thousands of untrained volunteers are useless. Nevertheless, in times of crisis - as in 1948, 1973 and 2024 - where there is perceived to be a real need for a larger military for avoid a direct risk of pikuach nefesh, the IDF must plan ahead.

14. Service enables the religious community as a whole to avoid both the reality and the stigma of parasitism. It helps build personal character, on the one hand, and open channels of public impact on the other, by producing potential leaders attuned to the pulse and the experience of their countrymen. To be sure, the prospect of secular criticism should not routinely be the decisive factor in determining religious policy. Nevertheless, it cannot be totally ignored. Hazal, at any rate, did not regard hillul Hashem and kiddush Hashem lightly.

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p.203

- Rav Herzog also discusses the issue of kiddush and chilul Hashem in a long essay on the topic¹³. He raises the serious concern that, if the Charedi community is perceived by the secular community to be blind to the very real security concerns of the country, this will breed further hatred of Torah and Torah scholars.

13. *Bnei HaYeshivot Erev Milchemet HaShichrur* - Masuot Yitzchak 1.

B2] THE DANGERS OF ARMY SERVICE ERODING RELIGIOUS COMMITMENT

- One of the most commonly stated arguments by the Charedi community against drafting Yeshiva students is the negative effect that this would be likely to have on the religious commitment of the young men.
- Ben Gurion and other early Zionist leaders expressed their hope that compulsory army service would be one of the methods employed to try and homogenize the Israeli people and enable them to unite as one nation with shared values. This is precisely the point that the Charedi community opposes on principle. In this sense the issue of the IDF draft was, and in the minds of many remains, a key battle-ground in the fight against secular Zionism.
- Nevertheless, although it is tempting (and often easier) to fight the battles of 100 years ago, today's Charedi community is incomparable in size and influence.

15. With reference to hesder, specifically, there is, however, an additional problem: the conflict of values, life style, and sensibility between bet midrash and boot camp, especially in a predominantly secular army. The danger is not so much that students will lose their faith and become non-observant. On this score, yeshivot hesder have a track record as least as good as their immediate Eastern European predecessors. It is, rather, a problem of possible attrition - the loss of refinement and the dulling of moral and religious sensitivity which may result from exposure to the rougher aspects of a possibly dehumanizing and despiritualizing existence. As the Ramban (Devarim, 23:10) noted, the qualities of aggressiveness and machismo which are so central to military life naturally run counter to the Torah's spiritual discipline, and a genuine and conscious effort is needed in order to avoid moral corruption and spiritual corrosion. Probably the greatest difficulty, however, concerns neither the practical ramification of the diffusion of effort nor the grappling with potentially inimical influences. It concerns the very essence of hesder: the maintenance of a tenuous moral and ideological balance between its two components. At issue is a conflict of loves, not just of labors. At one level, this is simply the problem of religious Zionism writ large.

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p.205

- This point is hashkafically important. Hesder, as a microcosm of the Dati-Leumi world, represents the engagement of the religious community with the broader needs of the country. Given the very real and genuine concern of religious attrition in the army, how can the Charedi community be enabled and encouraged to accept that engagement?

16. Like all yeshivot, a yeshivat hesder seeks to instill a love for torah so profound and so pervasive as to render protracted detachment from it painful - and yet it demands precisely such an absence. It advocates patriotic national service even at some cost to personal development, and yet prescribes that students serve considerably less than their non-yeshiva peers. These apparent antinomies are the result of the basic attempt to reconcile conflicting claims and duties by striking a particular balance: one which should produce an aspiring *talmid hacham* who also serves rather than a soldier who also learns; one which perceives military service as a spiritual sacrifice - we don't want students to be indifferent to their loss - but which proceeds to demand that sacrifice; one which encourages a Hesdernik to excel as a soldier while in the army but prescribes his return to the bet hamidrash before that excellence is fully applied or perhaps even fully attained. From the yeshiva's perspectives, these antitheses are fully justified. Indeed, they constitute the very essence of hesder as a complex and sensitive balance. However, preserving that balance, with its multiple subtle nuances, entails traversing a narrow ridge - and here lies the primary difficulty, existential and not just practical, of hesder. Small wonder that many only achieve the balance imperfectly. It is, however, in those who do succeed in attaining the balance and who, despite the difficulty, are genuinely at peace with themselves, that hesder at its finest can be seen. And it is inspiring to behold.

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C] MILCHEMET MITZVA AND THE UNIVERSAL DRAFT

C1] THE TALMUDIC DISCUSSION

17. וְיִסְפוּ הַשְּׂטָרִים לְדַבֵּר אֶל-הָעָם וְאָמְרוּ מִי-הָאִישׁ הִרְאָה וְרָךְ הַלֵּב יֵלֵךְ וְיָשֹׁב לְבֵיתוֹ וְלֹא יִמַּס אֶת-לֵבָב אֲחֵיו כְּלָבָד׃

דברים כ"ח

The Chumash rules that, when recruiting troops for war, there is an exemption for those who are too afraid and who may weaken the resolve of others in the army.

18. **משנה ה': וְיִסְפוּ הַשְּׂטָרִים לְדַבֵּר אֶל-הָעָם וְגו' - רבי עקיבא אומר הירא ורך הלבב כמשמעו שאינו יכול לעמוד בקשרי המלחמה ולראות חרב שלופה. ר' יוסי הגלילי אומר הירא ורך הלבב זהו המתירא מן העבירות שבידו רבי יוסי אומר אלמנה לכהן גדול גרושה וחלוצה לכהן הדיוט ... הרי הוא הירא ורך הלבב.**
משנה ז': במה דברים אמורים? במלחמת הרשות אבל במלחמת מצוה הכל יוצאין. אפילו (ויאל ב:טז) חתן מְחַדְרוֹ וְכֵלָה מְחַפְתָּהּ.

משנה מסכת סוטה פרק ח

The Mishna makes it clear that, in fact, the exemptions from the draft only apply in a 'Milchemet Reshut'¹⁴. In a Milchemet Mitzva¹⁵ (defined below) ALL men and women are drafted - even the chatan from his 'room' and the kallah¹⁶ from her 'chupa'.¹⁷ Does this also include Torah scholars?

C2] DEFINING MILCHEMET MITZVA

19. אמר רבא: מלחמות יהושע לכבש - דברי הכל חובה. מלחמות בית דוד לרווחה (רש"י) - שנלחם צא"ר לזכר להוסיפה על ארץ ישראל וצא"ר סביבותיה להעלות לו מנחה ומס עיזב) - דברי הכל רשות. כי פליגי - למעוטי עובדי כוכבים דלא ליתי עלייהו. מר קרי לה מצוה, ומר קרי רשות. נפקא מינה? לעוסק במצוה שפטור מן המצוה.

סוטה מד:

The Gemara clarifies that the war of Yehoshua to conquer Eretz Yisrael was a Milchemet Mitzva in which all were required to take part. The wars of David to expand and strengthen the borders and collect tribute from neighboring states were considered to be Milchemet Reshut. What about other wars fought to prevent non-Jewish armies attacking Eretz Yisrael in the future¹⁸? The Gemara records a dispute as to whether these are considered a milchemet mitzva with halachic consequences on the issue of 'osek bamitzva patur min hamitzva'.¹⁹

20. **במלחמת הרשות - כל מלחמה קרי רשות לצד ממלחמת יהושע, שהיתה לכבוש את ארץ ישראל.**

רש"י סנהדרין ב.

Rashi understands that ALL wars are considered a milchemet reshut, other than the original war of conquest by Yehoshua²⁰. On this definition, our current war would not be a milchemet mitzva.

21. אין המלך נלחם תחלה אלא מלחמת מצוה. ואי זו היא מלחמת מצוה? זו מלחמת שבעה עממים, ומלחמת עמלק, ועזרת ישראל מיד צר שבא עליהם.

רמב"ם הלכות מלכים פרק ה הלכה א

However, the Rambam defines milchemet mitzva as (i) the wars against the 7 Nations in the conquest of Eretz Yisrael; (ii) the war against Amalek; and (iii) a defensive war to protect the Jewish people against enemies who rise against it.

- This third definition - a defensive war to protect the Jewish people against enemies - is most applicable today.²¹ According to this, any defensive war fought by the IDF - 1948, 1956, 1967, 1973 and now in 2024 - falls under the rubric of *milchemet mitzva*.
- Wars fought in Lebanon and Gaza to prevent rocket-fire on the Yishuv are included in this too.²²

14. A Milchemet Reshut requires the sanction of the Urim and Tumim and, as such, is inapplicable in our times.

15. The Mishna continues with the opinion of Rabbi Yehuda, who distinguishes between Milchemet Mitzva and Milchemet Chova. In practical terms, there is little difference between the opinions, although some of the mefarshim (eg Rav Goren) analyze how there could be implications to the two approaches.

16. There are manuscripts (eg Munich) of the Bavli which omit the wording וְכֵלָה מְחַפְתָּהּ. Nevertheless almost all include it and the Rambam certainly has that version.

17. A reference to the rooms that the chatan and kallah were in before the wedding with their friends and attendants, meaning that the wedding is postponed for the war. Alternatively, the yichud room where they are together as man and wife, only to be interrupted by the call to war! The incredible story of Second Lt. Aharon Karov is a modern inspirational application of this halacha. Aharon, 22, was married to his wife Tzvia, 19, in December 2008. At 7am on the morning following the wedding, he was drafted as a commander into Operation Cast Lead in Gaza. He was critically wounded in an booby-trap explosion and buried under a building, almost losing his life. One medic actually declared him dead at the scene, but another found a pulse and he was rushed to hospital. After major surgery, and against all odds, he as able to go through rehabilitation. See <https://www.idf.il/en/minisites/our-soldiers/against-all-odds-the-incredible-story-of-aharon-karov/> and <https://www.timesofisrael.com/five-years-after-near-death-israeli-runs-nyc-marathon/>

18. See Lechem Mishna Hilchot Melachim 7:4 who understands that this category is describing a preemptive strike to prevent future attacks. But a response to defend the Jewish Yishuv against an actual attack would certainly be a Milchemet Mitzva according to all opinions. This seems to be the position of Rambam in his Commentary to Mishna Sota 8:6 where he describes the debated war as על ארצם - ie a preventative war. Keren Ora understands that the Rambam's classification of a defensive war as Milchemet Mitzva is based on the Yerushalmi (Sota 8:10) which describes a war in which "they descend on us".

19. We will look at the issue of 'osek bamitzva' in more detail in Part 2.

20. Rashi also takes this position in Erubin 17a where he defines all wars after that of Yehoshua as Milchemet Reshut. However, according to this approach, what would be the practical purpose of the Mishna's later distinction between the two types of war.

21. Rav Goren understands that it is rooted in the mitzva of 'Lo Ta'amod Al Dam Re'echa' - to come to the aid of another Jew. (Tzava veMilchama LeOr HeHalacha 121 p 8)

22. See *Hilchot Milchama VeTzava*, R. Yitzchak Kofman (1994) Chap 1 which analyses in depth the definition of Milchemet Mitzva and its application to our times. He includes in this third category of the Rambam:

(i) Pre-emptive strikes against an enemy to reduce casualties in a coming war. See also *Pre-emptive War in Jewish Law*, R. J. David Bleich - Tradition 21:1 (1983) pp.3-41(<https://traditiononline.org/preemptive-war-in-jewish-law/>) where Rabbi Bleich analyses whether the First Lebanon War in 1982 fell under the justifiable rubric of Milchemet Mitzva or not.

(ii) Action to protect the borders of the Yishuv, even against looting and raiders. (iii) Action against an internal enemy within Israel which is threatening the security of the Yishuv.

- Rav Soloveitchik goes further and sees any war in which the enemy was trying to destroy the Jewish people or the Jewish Yishuv in Eretz Yisrael as a *milchemet mitzva*, like the war on Amalek²³. This would certainly apply to all wars the IDF has fought since 1948.

22. שמלחמת מצווה הינה חובה מקודשת מן התורה. המצוה על העם ללא יוצא מן הכלל למסור את נפשו למען השגת מטרתה של המלחמה, ללא התחשבות עם הקרבנות בנפש האדם שמלחמה זו תביא בעקבותיה. ... אין עוד מצוה אחרת אשר בכוחה לדחות את כל המצוות של התורה כולל מצות פקוח נפש כמו מצות הלחימה במלחמת מצוה ... מצות לחימה במלחמת מצוה ... חובה מקודשת על כל יחיד למסור את נפשו על כך ללא כל אפשרות של התחמקות מאי קיומה ע"י 'שב ואל תעשה'.

הרב שלמה גורן צבא ומלחמה לאור ההלכה, מחניים קכ"א (1969) עמ' ז-ח

Rav Goren is very clear that the mitzva of fighting in a Milchemet Mitzva overrides in principal ALL other mitzvot and devolves upon every Jew to the best of their ability.

23.

ימלחמת מצוה היא אחת מתרי"ג²⁵ המצוות אשר כולם חייבים בה. אפילו חתן מחדרו וכלה מחופתה. כלשון המשנה. גם נשים שייכות למלחמת מצוה כמו שהעיר על כך במנחת... לשון הרמב"ם כלשון המשנה... מצבנו עכשיו מוגדר במלחמת מצוה הן לדעת הרמב"ן בהיותה מלחמת כיבוש הארץ, הן לדעת הרמב"ם בהיותה עזרת ישראל מיד צר, הנמשכת מצוה התורה ללא תעמד על דם רצף, אמנם, איש דרכו לכבוש ואין אשה דרכה לכבוש, לכן הרדב"ן חצה

שיחות הרב צבי יהודה קוק, ערוכות בידי רב שלמה אבינר, חוברת איש ואשה עמ' 25-26

*Rav Tzvi Yehuda Kook was very clear that the wars Israel has fought are to be categorized as Milchemet Mitzva.*²⁴

C3] CAN THERE BE A MILCHEMET MITZVA WITHOUT A BEIT HAMIKDASH?

24. כל מצוה עשה או לא תעשה שתיכח תלויה בקרבנות או בעבודות או צמיחות בית דין או צנסהדרין או צנציה ומלך או מלחמת מצוה או מלחמת רשות לא חלטרך שאומר זה וזאת אין לנו חייבים זה חלל צפני הכית

ספר המצוות לרמב"ם הקדמה למניין המצוות

*In his introduction to the Minyan Hamitzvot the Rambam implies that the laws of Milchemet Mitzva and Reshut only apply when there is a Beit Hamikdash.*²⁵

- Nevertheless, in Rambam²⁶ and the Tur²⁷ DOES use the expression Milchemet Mitzva in the context of hilchot Shabbat.

C4] SHOULD TORAH SCHOLARS BE DRAFTED IN A MILCHEMET MITZVA?

25. ומשמע הכא דבמלחמת מצוה הכל יוצאין, ואפ"ל ת"ח צריכין ליבטל מלימודן.

קרן אורה סוטה מד:

The Keren Ora learns that, for a milchemet mitzva, the universal draft also includes Torah scholars, who are obligated to break from their learning to go out to fight.

26. ... וְהַמְלִיךְ אֶת־הַשְּׂמִיעַ אֶת־כָּל־יְהוּדָה אֲיִן נִלְוִי (מלכים א' טו:כב). מאי אין נקי? אמר רב יהודה אמר רב אפילו חתן מחדרו וכלה מחופתה. פירוש - וכל שכן תלמידי חכמים.

ספר ההערוך, ערך 'אנגריא':

This ruling is learnt by the Aruch as a kal vechomer from the chatan and kallah to the Torah scholars.

(iv) Action against terrorists. (v) Action to prevent kidnappings. (vi) Action to protect Eretz Yisrael, even if conducted beyond its borders.

(vii) According to some poskim, any military action to capture Eretz Yisrael and facilitate the mitzva of Yishuv HaAretz.

23. See Kol Dodi Dofek pp 92-95 note 25 where he brings this definition of Amalek from his father, Rav Moshe Soloveitchik.

24. Some poskim rule that there cannot be a halachic Milchemet Mitzva without a halachic king. Rav Avrohom Gurewitz, Rosh Yeshiva of Yeshivat Ner Moshe, wrote a letter to the Journal of Halacha and Contemporary Society No. 17 (Spring 1989) taking issue with a previous article of Rav Hershel Schachter on Land for Peace. Rav Gurewitz denies that the State of Israel has the halachic status of a king or even a 'Jewish government'. As such, he considers that the regular halachot of pikuach nefesh apply and the issue of Milchemet Mitzva is irrelevant. Rav Schachter responds in that edition. Clearly significant weight is being placed by the writers on broader hashkafic approaches to Medinat Yisrael.

25. Another difficulty in this section is the reference to the laws of the Sanhedrin which certainly apply if there is no Temple. Even bringing korbanot may be permitted in the absence of the Temple building.

26. Hilchot Shabbat 2:25. It is possible that Rambam only intended this halacha to apply in the time of the Temple.

27. OC 249. The Tur only quotes halacha which is practically applicable today. See the Beit Yosef and Bach as to how to explain the Tur's reference to Milchemet Mitzva.

27. מזה שאמרו ז"ל בסוטה שם בלשון: "אבל במלחמת מצוה הכל יוצאין אפילו חתן מחדרו וכלה מחופתה", אין לומר דבא לרבנות דהכל יוצאין אפילו תלמידי חכמים. דזה אינו ובטעות הזאת הוא דטעה אסא המלך!

ש"ת ציץ אליעזר חלק כ סימן לא

However, other poskim learn from the Gemara that Talmidei Chachamim are NOT called to fight, even in a milchemet mitzva and this is exactly the mistake made by Asa²⁸, who incorrectly learned this kal vechomer!

• As such, the issue of defining the current conflict in Israel as a Milchemet Mitzva may be important in addressing the halachic issue of drafting Torah scholars. But it may not

28.

נראה דהא דמתן דמלחמת מצוה אפי' חתן מחדרו לא חיירי
 בזמן שצריכין לעוררם לנחון המלחמה דזה פשיטא
 דבגבול פיקוח נפש והלגת העם כולם חייבין, אלא אפי' בזמן שאין
 צורך אלא למספר מסוים וכן היו רוב מלחמותיהם שלא היה מקום
 לשל הגנה הלוחמים אלא למספר מסוים] היה רשות ליקח חתן
 מחדרו, שאין להחזיר שום זכות במלחמת מצוה, וכן במלחמת רשות.

חזון איש, סוף הל' עירובין, ליקוטים קיב ו:ג (עמ' קסז)

The Chazon Ish rules that the special rules of Milchemet Mitzva which allow the chatan etc to be drafted only apply where a specific number of men required for the army. In such a case, the army is still permitted to call up the chatan. But in an emergency case where everyone is needed to fight off the enemy, the laws of milchemet mitzva are not even applicable. In such a case, it is obvious that EVERY SINGLE PERSON is obligated due to pikuach nefesh to fight and protect the people. Rav Waldenberg, notwithstanding his comments above concerning milchemet mitzva, rules that where there is REAL danger of

29. ובוזה יש לומר שגם הרמב"ם מודה שאם נכנסו ישראל לקרב של מלחמת מצוה ויש סכנה של פקוח נפשות אם לא יקחו גם מרבנן שאזי צריכים ללכת לעזרת אחיהם הנתונים בפקוח נפשות גם הרבנן... שלכן כותב הרמב"ם ... וכן כותב הסמ"ג בלשון ומצוה על ישראל לצאת ממקומם וללכת מזוינים לעזור לאחיהם שבמצור. שכוונתם לרבות בזה אפילו שבט לוי ותלמידי חכמים אשר תורתם אומנתם, שבדרך כלל אין יוצאין בעריכת מלחמות של ישראל עם האומות, אבל מכיון שהשאלה היא להציל נפשות מישראל ויש פקוח נפשות באי הגשת ההצלה, אזי מחויבים כל ישראל לצאת ולעזור, אם רק יכולים להחזיק בנשק ולהלחם. והיינו אפילו אלה שבדרך כלל אינן עורכין מלחמה יחד עם שאר ישראל...

הלכות מדינה הרב אליעזר וולדנברג (חלק ב' שער ג פרק ד)

Rav Waldenberg, notwithstanding his comments above concerning milchemet mitzva, rules that where there is REAL danger of pikuach nefesh, ALL are required to serve provided that they have the training - see above.

D] THE IMPORTANCE OF ARMY SERVICE AS A FUNDAMENTAL DUTY OF CHESED

• The secular narrative on the issue of the Charedi draft often focuses on 'shivyon banetel' - sharing the burden. From a Torah perspective, fighting for the Jewish people in the IDF should not be regarded principally as a burden, but as an obligation, a duty, a responsibility, and an opportunity!

30. וַיֹּאמֶר מֹשֶׁה לְבְנֵי־גַד וְלְבְנֵי רְאוּבֵן הָאֲחֵיכֶם יָבֹאוּ לְמִלְחָמָה וְאַתֶּם תֵּשְׁבוּ בָּהּ:

במדבר לבו'

The tribes of Gad and Reuven asked to remain in Transjordan and not enter Eretz Yisrael with the rest of the people. Moshe's first astonished reaction was to ask, 'Can you really let your brothers go to fight for the Jewish people, when you choose to stay home'?

31. (ו) האחים יבאו למלחמה ואתם תשבו פה. זה עולה נגד ישראל - שיכא לכם ארץ שכבר נכבשת על ידי כולם, והמה יסכנו עתם למלחמה.

העמק דבר שם

The Netziv understands that Moshe was asking Gad and Reuven how they could offend the rest of the nation by choosing to live on land that others had fought and died for, and then asking them alone to face the dangers of fighting to conquer the rest of the country?

28. We will examine the source on Asa in Part 2 be'H.

32. The halakhic rationale for hesder does not, as some mistakenly assume, rest solely upon the mitzvah of waging defensive war. If that were the case, one might conceivably argue that, halakhically, sixteen months of army service was too high a price to pay for the performance of this single commandment. The rationale rather rests upon a) the simple need for physical survival and b) the fact that military service is often the fullest manifestation of a far broader value: *g'milut hasadim*, the empathetic concern for others and action on their behalf. This element defined by Hazal as one of the three cardinal foundations of the world, is the basis of Jewish social ethics, and its realization, even at some cost to single-minded development of torah scholarship, virtually imperative.

The Ideology of Hesder, Rav Aharon Lichtenstein, Tradition, 19(3), Fall 1981 p. 207

33. ת"ר: כשנתפסו רבי אלעזר בן פרטא ורבי חנינא בן תרדיון, א"ל ר' אלעזר בן פרטא לרבי חנינא בן תרדיון: אשריך שנתפסת על דבר אחד, אוי לי שנתפסתי על חמשה דברים. א"ל רבי חנינא: אשריך שנתפסת על חמשה דברים ואתה ניצול, אוי לי שנתפסתי על דבר אחד ואיני ניצול, שאת עסקת בתורה ובגמילות חסדים, ואני לא עסקתי אלא בתורה בלבד. וכדרב הונא, דאמר רב הונא: כל העוסק בתורה בלבד - דומה כמי שאין לו אלוה, שנאמר: (דברי הימים ב' טו:ג) וַיִּמְּסוּ רַבִּים לְיִשְׂרָאֵל לְלֹא אֱלֹהֵי אֲמֹת [וּלְלֹא כִּהֶן מוֹרָה וּלְלֹא תוֹרָה]. מאי ללא אלהי אמת? שכל העוסק בתורה בלבד - דומה כמי שאין לו אלוה.

עבודה זרה יז:

Chazal stress the importance of living a life focused on active gemilut chasadim and see a life of 'Torah only' as tantamount to blasphemy! Clearly, Rabbi Chanina, who critiqued his own life as one of 'Torah only', also performed many acts of chesed. But he felt that a significant opportunity to performed chesed had presented itself and he had ignored it.

- B'H all Jewish communities, and especially the Charedi community, are actively involved in enormous amounts of chesed and we have seen so much evidence of this during the last few months.
- Nevertheless, this does not eclipse the issue of army service and the opportunity to see this as not just an enormous chesed to the Jewish people, but one which many others perceive to be much needed and sorely lacking.

34. What is equally obvious is the fact that not everyone draws [these implications] - and this for one of several reasons. Some (not many, I hope) simply have little if any concern for the state of Israel, even entertain the naive notion that, as one rosh yeshiva put it, their business could continue as usual with Palestinian flags fluttering from the rooftops. Others feel that the spiritual price, personal and communal, is simply too high and that first-rate Torah leadership in particular can only be developed within the monochromatic contexts of "pure" yeshivot. Still others contend that, from the perspective of genuine faith and trust in God, it is the yeshivot which are the true guardians of the polity so that any compromise of their integrity is a blow at national security. These are matters on which honest men of Torah can differ seriously out of mutual respect and I certainly have no desire to denigrate those who do not subscribe to my own positions. What I do wish to stress minimally, however, is the point that, for the aspiring talmid hacham, hesder is at least as legitimate a path as any other. It is, to my mind, a good deal more; but surely not less.

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APPENDIX

R. SHELOMO YOSEF ZEVIN ON THE DRAFTING OF YESHIVA STUDENTS

[Editorial Note: Rabbi Shelomo Yosef Zevin (1890–1979) was universally acknowledged to be one of the great contemporary Talmudic and Halakhic scholars. He served as editor-in-chief of the *Encyclopaedia Talmudica*, which itself reflected the unique style which Rabbi Zevin had created: a clear presentation of complex material in a form meaningful to knowledgeable laymen as well as to accomplished scholars. His more popular works are now being opened to the English-speaking community with the publication of the translations of *Sippurei Hasidim* and *HaMo'adim baHalakha* issued by ArtScroll Judaica Series. The ideas expressed in this article are by now well known in many Israeli circles. What is most significant is that they were written by someone of Rabbi Zevin's stature, and that when he published them as a monograph in 1948, it was under the pseudonym of "One of the Rabbis." It was republished under his name in *Talmud Torah veShema Tzevai* (1980, HaKibbutz haDati-Nehmanes Torah ve'Avodah, POB 14177, Jerusalem). It was translated into English by David Wachsman, then a student at the Yeshiva of Flatbush.---BWW]

The deepest respect and admiration is due the rabbis and learned scholars of our holy city, but the question may nonetheless be asked! Teach us, our masters, how can this be justified?

What is the source for exempting yeshiva students and Torah scholars from an obligatory war fought to defend Israel from those who come to destroy her, God forbid? How can you pass it off as if it were halakhah or *da'at Torah* that yeshiva students need not register or serve? Have we not learned that when it comes to saving a life—no many lives, just one—“these things are done by the leaders of Israel”¹ and by the scholars² “in order to teach the halakhah to the nation”?³ Was any distinction made whether or not it is time of learning Torah that is to be lost? If this is the case in the saving of one life, how much more so in the saving of tens of thousands of Jews?

Perhaps a distinction should be made as to whether one must endanger himself in order to save someone else's life. Could we go so far as to say that if one's own life would be threatened, he has no obligation to save other people? If so, where does the Torah differentiate between the self-sacrifice of the highest of the high and that of

the lowest of the low? If a person should not have to be drafted because of the danger involved, all of Israel is exempt! Why have you excused only the yeshiva students? “How do you know that your blood is redder than that of your fellow-man?”⁴ There is no distinction to be made between the blood of a Torah scholar and that of a common man. The rule that “one life is not pushed aside for another”⁵ applies even to a day-old baby! It is clear that up to now there had never been any controversy as to whether the principle that one must put his own life in danger to save another's⁶ applied only to saving an individual's life—or perhaps the lives of many individuals. But there is certainly no disagreement when it comes to saving *kelal Yisra'el*—surely there is no need to review the unanimous opinion that a defensive war fought to save Israel from her enemies is an obligatory one⁷ of which it has been said, “All must go, even a bridegroom from his room and a bride from under her *huppah*.”⁸ How have we arrived at the conclusion that scholars are not included in this obligation? If our generation merited everyone studying Torah, would we allow our enemies to ravage our land and kill our people without taking up arms to defend ourselves? We were not worthy, but thank God that there are people ready to stand firm and fight! What source have we for a hierarchy of obligation regarding participating in a war to save Israel from its enemies?

But we have found sources expressing a totally opposite position. The Captain of *Tzeva HaShem* admonished Joshua before the battle of Jericho, saying “You have not made the afternoon sacrifice, and now you abolish the study of Torah,”⁹ and Rashi explained, “Now that it is night you should be involved in studying Torah because you do not fight at night.” This is very explicit: “You do not fight at night!” In times of war, the Torah is pushed aside if there is a need for it. In the Talmud Yerushalmi¹⁰ it is written, “And Asa the king called all of Judah to his army without exception . . . not even a teacher or his student was exempt.” And while the Talmud Bavli¹¹ says that Asa was punished for this, Maharsha explained that this was a voluntary war, because in an obligatory war certainly even a Torah scholar must fight. The *Arukh* explained how Asa could call the Torah scholars

to war, because when it was said “without exception” it means “even a bridegroom from his room and a bride from under her *huppah*,” so the scholars too must be included. From here we learn that if in an obligatory war a bride and groom must go, so must the rabbis! In the war against Midyan we read that Moses sent a thousand from each tribe to the army along with Pinehas, and the Sanhedrin was included.¹²

Indeed, are we dealing with saving *others*? Every one of us is in mortal danger, as are our families and everyone dear to us. Is it right

for the scholars not to save themselves, but to place the obligation upon others? Is this *da'at Torah*? Where have we seen such a thing?

Doesn't the Torah defend her scholars? On the contrary! Let the *bonei Torah* fight at the front and the merit of their learning Torah will defend them and their comrades! "If you follow in my statutes" —this requires the study of Torah, not simply doing the *mitzvot*.¹⁴ And what is the promised reward for this? "You will chase your enemies and they will fall by the sword before you." Yes, "they will fall," but "you will chase!" The *Tanna Devei Elyahu* says:¹⁵ "God said, I did not write so in my Torah, but even if Israel were not absorbed in the study of Torah and kept only the *mitzvah* of *Derekh Eretz*, the Shekhinah would be with them and the promise of 'five chasing a hundred and a hundred chasing ten thousand' would be fulfilled. If they fulfilled the Torah and *mitzvot* one would chase a thousand and two would put to flight ten thousand."

"Rabbis do not need guarding"¹⁶ God Almighty! When actual lives are at stake may we rely on miracles? In 1929 at Hebron (such a calamity should never occur twice!) didn't young students of the yeshiva, whose holiness shone like stars in the sky, fall before the malicious enemy? Please, did these martyrs need guarding or not? And those same murderous Arabs are still the enemy today! If you understand that the scholars need no guarding in relatively peaceful times and are exempt from building the protective walls,¹⁷ what consequence has this when compared to a life-and-death struggle, a war which is a *mitzvah* and in which all are obligated? The defense authorities ordered everyone to cover all windows as protection against shattering glass in case of an air raid. Would anyone think that some rabbis will not do so, claiming, "Rabbis do not need guarding"? Did anyone absorbed in Torah study exempt himself from this? Why did rabbis leave areas under enemy fire along with the rest of the general population? Why did they not rely on this maxim? Is this *da'at Torah*? They took this Torah concept out of context and used it improperly, while if it were used in its proper context it would be a valuable pearl.

I understand the feelings of *Neturei Karta* who are unalterably opposed to the State of Israel. They oppose the war because they feel that we should surrender. Even according to these ideas, there is no difference between the yeshiva students and the common people. Anyone who subscribes to this philosophy must be against the conscription of anyone in Israel, whoever he may be. Luckily, very few people feel this way. Our entire nation, in Israel and in the Diaspora, eagerly risk their lives in this defensive war which has been thrust upon us. They understand well that there is no future for the *yishuv* here or for the refugees waiting in the Diaspora without our own independent country, one that would be open to accept our bloody

brothers who wander in the burning *Gulat*. God, Israel, and the rest of the world know that we are not the aggressors. We do not want war, and we are not gladdened by the spilling of blood. But if our enemies fall upon us in a mad killing frenzy, we must defend ourselves. And you, our *Geonim*, admit the dire necessity of this obligatory war. Many of you have sent blessings and words of encouragement to our valiant soldiers. It is your obligation to encourage young and healthy scholars to fight. Will you send your brothers to war, and yourselves sit at home?

A practical fear has been expressed that if the students go to war, all the yeshivot will become depleted and who knows what will happen to Torah in Israel. It would be possible to arrange a mutually agreeable accommodation and as far as I know the draft offices are willing to negotiate this. But to decide in the manner of halakhah not to participate at all—how can you possibly justify this?

Many yeshiva students are standing at the front even now, sanctifying God's name. With one hand they are turning the pages of a *Tenakh* or Talmud, and in the other hand they hold their rifles. Their spirit of Torah and belief in the Almighty strengthens their comrades and influences them in the ways of Torah. Most respected rabbis, are you not obligated to encourage others to follow in their footsteps?

The opinion of the Torah? It is clear and explicit: "Those who act quickly when lives are at stake are to be praised and do not require the permission of Bet Din."¹⁸ "For the Lord thy God goes with you to fight against your enemies and save you!"¹⁹

1. T.B. Yoma 24b; *Mishneh Torah, Hilkeit Shabbat*, 2:30.

2. *Mishneh Torah*, *ibid.*

3. *Tac to Shulhan Arukh Druh Hayyim* 328, and *Shulhan Arukh Horav*, 328.

4. T.B. Pesachim 25b.

5. *Ohalot* 7:4b.

6. *Kosef Mishnets, Hilkhot Ratsulot*, 1:14; *Be' Yosef, Hashen Mishpat*, 426 and *Sefer Me'irat Einayim*; Responses of the Radbaz, part three, 152; *Shulhan Arukh haRav*, part five, *Hilkhot Nizkei haGuf veNefesh*, etc.

7. *Mishneh Torah, Hilkhot Melakhim*, 5:1.

8. T.B. Sotah 44b, Rambam, *Me'atam* 6:4.

9. T.B. Megillah 3a.

10. T.B. Sotah 8:5.

11. T.B. Sotah 10a.

12. *Arukh*, s.v. *Angaria*, and at *Sotah* 10a.

13. T.B. Sotah 43a.

14. *Torat Kohanim*, Rashi to Lev. 26:3.

15. Chapter 11.

16. T.B. *Baba Batra* 7b.

17. See Rashi to *Baba Meisla* 108a.

18. T.B. Yoma 84b. See Rambam, *Me'atam* 5:1-2.

19. Deut. 20:4.