

In today's world, with tensions and wars being fought all over the globe, Hilchos Milchamos is more pertinent than ever. It is especially important that as the Jewish nation, we should be knowledgeable in the intricate Halachos of how a Jewish war is fought. The Torah gives us brilliantly clear guidance on how to fight our enemies, in ways that can be applied nowadays after October 7th. The world has changed, but the Torah is eternal. The guidance Hashem gives us in the Torah is still applicable today.

Despite external pressures, when we, as the Jewish nation, stand up and act in the path that Hashem set for us, we not only act as a light for the nations, but we prepare the world for the final Geula. Hashem promises Bnei Yisrael that if we follow in His way, then we will be victorious. May we merit to greet the coming of Mashiach, a time when there will be no more wars.

This essay is split into three parts. First the Halachos from the source of the Passukim will be discussed. Next, details of the Halachos will be explained from the perspective of the Rambam. Lastly, the halachos will be applied to nowadays, in the context of the wars that Israel now faces.

The source of the laws of a Jewish war in the Torah are found in Sefer Devarim, Perek 20. The Pshat of the halachos are understood together with Rashi.

There are a few general halachos that must be observed during any war. Individually, and collectively as a nation, we must not be fearful of the enemy¹. Additionally we should not have any feelings of pity or mercy for the enemy² since the feelings would not be reciprocated. The passukim move on to list four categories of people who are exempt from the war and sent home;

¹ Sefer Devarim, Perek 20, Passuk 1 and Passuk 3

² Sefer Devarim, Perek 20, Passuk 1 Rashi "Al Oyvecha"

someone who just finished building a home but hasn't lived in it³, someone who planted a vineyard but has not yet eaten the fruits of the fourth year in Yerushalayim⁴, someone who is engaged to be married⁵, and someone who is either afraid of the battle or of the lack of merit because of their sins⁶.

We are forbidden from cutting down any fruit bearing tree, however barren trees are permitted to be cut down⁷. Additionally, there are officers appointed to stand at the front and back of the battle to prevent Jews from retreating, since retreating is the beginning of defeat⁸.

There are two types of wars. There is a Milchemes Mitzvah, which is a war that is a mitzvah to fight from the Torah. This would include fighting Amalek, the 7 nations of Cnaan, and a war in self defense. There is also a Milchemes Hareshus. These are wars that are not commanded in the Torah, but are fought to expand the borders of Eretz Yisroel, or if the King deems it necessary. The halachos vary depending on which war is being fought.

In the case of a Milchemes Hareshus peace⁹ must be offered two or three days¹⁰ prior. If the enemy accepts the peace offer, then their lives are spared but they must subjugate themselves to Bnei Yisrael¹¹.

If the enemy refuses to accept peace, then Bnei Yisrael should lay siege upon the city, even if it causes the enemy to die of hunger and diseases¹². The siege must begin at least three

³ Sefer Devarim, Perek 20, Passuk 5

⁴ Sefer Devarim, Perek 20, Passuk 6 and Rashi

⁵ Sefer Devarim, Perek 20, Passuk 7

⁶ Sefer Devarim, Perek 20, Passuk 8 and Rashi "Hayarei Verach Haleivav"

⁷ Sefer Devarim, Perek 20, Passuk 19 and 20

⁸ Sefer Devarim, Perek 20, Passuk 9 Rashi "Sarei Tzevaos"

⁹ Sefer Devarim, Perek 20, Passuk 10

¹⁰ Sefer Devarim, Perek 20, Passuk 19 Rashi "Rabim"

¹¹ Sefer Devarim, Perek 20, Passuk 11

¹² Sefer Devarim, Perek 20, Passuk 12 and Rashi "Vetzarta Aleha"

days before Shabbos¹³. When the battle begins, only the males are killed. The women and children come under the jurisdiction of Bnei Yisrael, along with their possessions¹⁴.

If the war is a Milchemes Mitzvah then not a single person is spared¹⁵. There is a concern that these people, if spared, will intersperse amongst Bnei Yisrael and teach them their ways¹⁶. If they desire to convert then they are permitted to be saved¹⁷.

These are the Pshat of the Halachos in fighting a Jewish war, and with this foundation, we can expound on these halachos from the view of the Rambam. The Rambam was a brilliant Talmid Chochom who wrote a sefer called the Mishneh Torah. In this sefer he took Halacha and organized it into topics. In his last section, Sefer Shoftim, Melachim uMilchamos, he explains the various Halachos on a Jewish war. The following are Halachos that either clarify the above halachos, or are in addition to the above.

Before the Rambam discusses the Halachos that are relevant to this topic, he discusses the holiness of the land of Eretz Yisroel. The Rambam states a halacha that when Bnei Yisrael conquers the land of a different nation, it becomes equivalent to the status of the Biblical borders of Eretz Yisroel¹⁸.

When fighting a Milchemes Mitzvah, which as stated before, is a war in self defense or against Amalek and the 7 nations, the King (government) does not need to receive permission from the Beis Din. However, if it were an optional war to expand the borders of Eretz Yisroel it is required to receive permission from the Beis Din to begin the war¹⁹.

¹³ Sefer Devarim, Perek 20, Passuk 19 Rashi "Rabim"

¹⁴ Sefer Devarim, Perek 20, Passuk 14

¹⁵ Sefer Devarim, Perek 20, Passuk 17

¹⁶ Sefer Devarim, Perek 20, Passuk 18

¹⁷ Sefer Devarim, Perek 20, Passuk 18 Rashi

¹⁸ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 5 Seif 6

¹⁹ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 5 Seif 2

When Bnei Yisrael are fighting any war, regardless of whether it is a Milchemes Mitzvah or Milchemes Hareshus, it is forbidden to fight unless they offer peace beforehand. There are two conditions for the peace offer: They need to be willing to accept peace, and they need to accept upon themselves the 7 Mitzvos Bnei Noach. If they accept one and not the other it is not accepted and the war can be fought²⁰.

If they desire to accept peace, they need to acknowledge that they will be subjugated to the Jewish nation²¹ and that they will need to carry themselves in a humble manner. They are forbidden from having a position in the government, even if they convert²².

If Bnei Yisrael offers peace to an enemy nation in order to create a trap, this is forbidden. The offer of peace must be sincere²³.

There is an exception to the obligation to offer peace. It is forbidden to offer peace to the nations of Amon and Moav. The only condition is if they propose peace first then we are allowed to accept²⁴.

During the battle itself we have additional guidelines. In regards to a siege it is forbidden to close off the city from all sides. One side needs to be kept open for the inhabitants to flee²⁵. It is also forbidden to cause fruit trees to die by drying up water ditches²⁶. Even though it is indirectly destroying the fruit trees it still falls under the category of cutting down a fruit tree. This applies to objects too; not a single object is allowed to be damaged without any purpose²⁷.

When the army is camped, there are certain Mitzvos that there is no obligation to observe. War can be waged on Shabbos and the soldiers are permitted to eat food from which

²⁰ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seif 1

²¹ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seif 1

²² Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 1 Seif 4

²³ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seif 3

²⁴ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seif 6

²⁵ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seif 7

²⁶ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seif 8

²⁷ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seif 10

maasar was not taken. The soldiers do not need to wash before eating bread and they do not need to use an Eiruv when carrying from one tent to the next if there is a boundary around the camp. These exceptions apply even when returning from battle.

The army should designate a private area for soldiers to relieve themselves, and the soldiers are commanded to carry around shovels with them so they can cover it afterwards.

Unfortunately, as it happens in war, soldiers die. The Rambam says that the Halachic status of fallen soldiers is the same as a Meis Mitzvah. This means that wherever a soldier falls, he should be buried²⁸.

Another interesting Halacha that the Rambam teaches, is that the four types of people whom the passukim forbid from waging war are actually obligated for a Milchemes Mitzvah, but are exempt from fighting by a Milchemes Hareshus²⁹.

From these Halachos we can learn how we should be conducting our war against our enemies, whether it is Hamas, Hezbollah, or any other nation. In the Gemara³⁰ we are taught the following principle: If someone comes to kill you, kill them first. We cannot wait for people to be harmed to take action. We cannot wait for there to be a massacre like October 7th to realize that we need to get rid of our enemies that seek to destroy us. Fighting in self defense is also a Milchemes Mitzvah; a war which we are obligated to wage. This means that we have two reasons from the Torah for preemptive strikes against our enemies to prevent casualties.

Another concept that we should take to heart is not to be afraid of the enemy. They may seem like the greatest, largest, and most powerful, but Hashem warns us to not be fearful since He will protect us. Rashi on Sefer Devarim, Perek 20, Passuk 3 states, that even if one's only

²⁸ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 6 Seifim 11-15

²⁹ Mishneh Torah, Sefer Shoftim, Melachim Umilchamos, Perek 7 Seif 4

³⁰ Sanhedrin 72a

merit is saying the Shema, Hashem will protect him and he has no need for fear. After October 7th Hamas has been waging a psychological warfare against the Jewish people. They try to strike fear in the hearts of Jews worldwide by sharing horrific footage of their barbaric actions. We should never let them win that war. We cannot give in to them, and we must hold onto our Emuna and Bitachon in Hashem.

Additionally we should not harbor any feelings of pity or mercy for the enemy. Nowadays, this would play out in the people of Gaza. The people of Gaza are taught vitriolic and burning hatred for Jews. They are not taught to differentiate between Jews living in Israel, or out. They simply hate Jews. The nations of the world are preaching feelings of pity for these same people. They claim they are innocent and mean no harm. This may be true of a minority, but of the vast majority, if a Jew were to step foot in Gaza, they would not live to tell the tale. So why should we harbor pity for these people? They have no pity in their hearts.

The words of the Torah echo powerfully in the wake of the attacks that happened from our enemies. In Rashi of Sefer Devarim, Perek 20, Passuk 12, Hashem warns that if the enemy refuses peace and we don't act proactively, they will come to attack and harm us. Nowadays we see this clearly. Hamas was never interested in peace, and they repeatedly threatened to destroy the Jewish people. Despite all this, they were left on their own, and indeed, they launched a horrific massacre against the Jewish people, murdering over 1,200 and kidnapping around 240 people. If the Torah was correct about this, then how much more so if we listen to the guidelines Hashem set for us, we will be met with success.

After October 7th, the army has been taking numerous pauses in the fighting for cease-fire negotiations. However, according to Halacha this seems to be the wrong approach. Peace is offered in the beginning with two requirements. One is that they are sincerely interested

in peace, and the other is that they accept upon themselves the 7 Mitzvos Bnei Noach. If one of these is not present, then there is no deal. Hamas is neither interested in peace, nor in accepting the 7 Mitzvos Bnei Noach, so therefore Hamas lost their opportunity for peace.

From the Torah perspective, if this war is indeed under the category of a Milchemes Mitzvah, the Jewish army should not be going out of their way and risking soldiers' lives to save civilians. According to the laws of a Milchemes Mitzvah, the enemy must be completely wiped out if they refuse peace. Hamas rejected peace, so the civilians living in Gaza don't have the same protective status as civilians in a Milchemes Hareshus.

The Rambam teaches the Halacha that wherever a soldier dies is where he is buried. It is surprising to note that this is not done in practice. It is possible there are other halachos and perspectives taken into account, but it is nevertheless intriguing.

Another idea that the Torah gives us guidance on is siege. The Torah tells us that we are allowed to lay siege to the enemy if they reject peace, even to the extent that they die of starvation. We are allowed to be harsh and be proactive when fighting the enemy, despite what the world says. The Rambam adds that we must leave a side open for civilians to flee from. This is what Israel was doing recently, until they began letting in humanitarian aid. They were besieging Gaza, and at the same time facilitating relocation of Gazans who wished to live elsewhere.

Even at a time of destruction the Torah holds us accountable for indiscriminate damage. Even though we are waging a war, which is violent and destructive by nature, the Torah nevertheless holds us responsible for unnecessary environmental harm, forbidding us from chopping down fruit bearing trees. This seemingly minor destructive action represents a larger midda which we are trying to avoid.

War is not something we are each individually involved in in a physical sense. Yet spiritually, each and every one of us is at war. The Yetzer Harah and the Yetzer Tov are fighting within us, each desiring to conquer the body. The Zohar states that the time of davening is the time of internal battle in which we subdue our Yetzer Harah. Just like Hashem promises salvation if we follow his guidelines in a physical war, so too may we merit the help of Hashem in our spiritual battles until the ultimate victory over klipah and Tumah, with the coming of Moshiach.