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ISRAEL AT WAR

by Shalom Carmy

February 2024

Ethics of Our Fighters:

A Jewish View on War and Morality

BY SHLOMO M. BRODY

MAGGID BOOKS, 412 PAGES, \$32.95

In reading this intelligent, useful, and timely book, I was reminded of the challenges I and some of my fellow students encountered back in the Vietnam era. Our intention was to get invited to various synagogues where we could present Jewish law perspectives on the morality and practice of war. The readings I prepared attempted to treat war like other areas of halakhic analysis, working from Bible to Talmud and to the salient medieval interpretations, arriving finally at current rabbinic debates. This task entailed painstaking textual and conceptual work on a limited corpus of material. One problem was a paucity of case studies: Jews had not had the dubious opportunity of applying these principles in real time for two thousand years. During that period, the reality of war had changed substantially, thus transforming the essential issues relating to war and peace, and so had Western reflection on the morality of war. If I accomplished anything then, it was more to assert that conscientious religious people ought not abandon decisions about war and peace to the politicians and the military, than to demonstrate specific conclusions.

Shlomo M. Brody has found a way to overcome at least some of these expository challenges. Instead of getting bogged down in debates about the classic sources, he focuses, in roughly chronological order, on Jewish writings and policy of the past hundred years. Whenever possible, he seeks to present Jewish law in terminology familiar to students of Western theory. Despite the increased volume of halakhic responsa and scholarship over the past

sixty years, Brody has chosen well, selecting only the most salient and influential contributions. He includes not only rabbinical authorities but also thoughtful secular leaders (Ben-Gurion, Begin, and several military men). He discusses dilemmas that have resonated in the public sphere, like those concerning the Sinai War (1956), the Six-Day War (1967), the Yom Kippur War (1973), the first Lebanon War (Operation Peace for Galilee, 1982), and several subsequent crises—in some of which he approves of Israeli policy and in some of which he does not, either because it was too adventurous or because it was too quiescent. Where he deems it appropriate, especially regarding civilian casualties, he offers comparison to non-Israeli military action (the World War II bombing of Dresden by the United States and United Kingdom, the Balkan interventions of the 1990s, and the Iraq wars).

This review will focus on the Jewish ethic of war in relation to the sovereign Jewish state. I will not address the fascinating but little analyzed questions about Jewish military action in the pre-State period. I will also omit halakhic objections to destruction of natural resources, expropriation of enemy property, and certain kinds of siege (under some circumstances, halakhah that the adversary be given an opportunity to flee a besieged town).

Brody's first five chapters cover the decades from the beginning of Zionist immigration to 1938. The rabbinic works discussed are mainly of a programmatic and theoretical nature. Brody reminds us that the Jewish return to political engagement coincided with widespread hopes for the elimination of war, hopes that seem painfully naive in retrospect. Among those who held such hopes, the Talmudist and mystic R. Abraham Isaac Kook (d. 1935; Ashkenazic chief rabbi of Palestine), with his passionate blending of Jewish eschatological maximalism and universal values, continues to have a major impact on Israeli religious Zionism; the ideology of his son, R. Zvi Yehuda Kook, became influential in the years following the Six-Day War.

The other focus of Brody's opening chapters is not war but civil violence. The British Mandate in 1920s and 1930s Palestine was marked by periodic Arab rioting. The 1929 riots, including the massacre at the Hebron yeshiva, are viewed as a watershed; from then on it was evident that Arabs and Jews would not coexist peacefully.

(Anglophone readers will benefit from Anita Shapira's broad survey *Land and Power: The Zionist Resort to Force, 1881–1948*, which deals mainly with the socialist Zionist mainstream.)

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This situation, and especially the prolonged troubles from 1936 on, raised the question of Jewish self-defense and reprisals, including the indiscriminate targeting of civilians. The official Zionist establishment favored “restraint,” while one element in right-wing “Revisionist” Zionism advocated or tolerated extreme measures. Though the debate raised many moral and practical considerations regarding the urgency of the situation in Palestine on the eve of the Holocaust and the effectiveness of force, it is doubtful that rabbinic voices carried much weight with activists at this time.

Brody then skips ahead, past World War II and the establishment of the State of Israel, to the 1950s. In the early years of the State, rabbis and religious intellectuals attempted to fill the gaps resulting from the long period of statelessness. Some of this halakhic and philosophical work, grounded in Jewish sources, is essential reading to this day.

The main questions for rabbinic judgment concern the justification of war and what is permissible in war, most importantly the acceptable risk of death to soldiers and civilians. It was clear to rabbinic scholars that some biblical and classic rabbinic models of legitimate war are largely irrelevant for us. The mandated wars against Amalek (Exodus 17) and the conquest of the seven Canaanite nations (Deuteronomy 20) do not apply. The category of optional war—war that is allowed but not obligatory—requires declaration by the Sanhedrin and by a prophet, neither of which exists today. That leaves (with one significant exception noted below) only wars of self-defense. The category of self-defense has often been broadened to include preventative and preemptive strikes: A beleaguered nation, defended by a citizen army, cannot always afford to wait to be attacked at a time and place of the enemy's choosing.

The Kibiyeh incident (1953) was a watershed for Israeli soul-searching. Unit 101 in the Israeli Army, acting against infiltrators from Jordanian-occupied territory, killed many Arab noncombatants. Though the details were not immediately public, the attack was the occasion for a famous essay by the maverick Orthodox philosopher Yeshayahu Leibowitz and a foundational halakhic essay by the Zionist authority R. Shaul Yisraeli. Referring to the biblical slaughter of Shechem by Simon and Levi in reprisal for the rape of their sister (Genesis 34), Leibowitz, who later became an icon to leftist Israeli intelligentsia, suggested that such an action was not strictly forbidden but that—given Jacob's sharp rebuke to his sons—it did violate proper moral standards.

R. Yisraeli, meanwhile, was concerned with the collateral killing of enemy civilians: In an age of "total war," are civilians legitimate targets because they support and abet enemy action, or are they presumed to be innocent bystanders? In the Kibiyeh case, based on the information then available, R. Yisraeli inclines toward the former view. Brody ably presents these and other formative responses of the time. It should be remembered, however, that neither rabbis nor professors guided government policy. In later years, to be sure, scholars played a role in preparing the code of military ethics. But one suspects that in the early decades, rabbis were hesitant to second-guess the public policy of the secular state. Brody, however, does not shy away from approving or criticizing some of these government decisions. Whether his judgment is convincing in each case requires detailed military and ethical analysis beyond the scope of this review.

Several Israeli wars were wars of no choice. Such was the war of independence, when the United Nations resolution on partition of the Palestinian Mandate led to immediate hostilities, followed (in May 1948) by invasion on several fronts by Arab states. In 1956, by contrast, Israel participated in the invasion of the Sinai Peninsula as a reaction to continuous infiltration; Brody approves, although there was no immediate danger to the state. The Six-Day War (1967) followed numerous bellicose actions by Egypt (closing off Israeli navigation, removing UN peacekeeping forces, and so on), the unwillingness of the "international community" to stand by the guarantees made in return for Israeli withdrawal after the Sinai campaign, and a long, costly stretch of full mobilization, which could not have been prolonged indefinitely and thus made action necessary.

In 1973 Israel chose to disregard intelligence about a possible Egyptian invasion, partly because the government preferred to absorb the first blow rather than outrage the enlightened world by a preemptive attack. In this

instance, the failure to act exacted a heavy price—almost, perhaps, an irreversible disaster, the destruction of the State. The May 1981 decision to bomb the Iraqi nuclear facility was made, in Brody's widely shared opinion, only after it became evident that the international community was not ready to contain the Iraqi atomic project.

The most debatable decision, for Brody and many others, was the 1982 invasion of Lebanon. This was indeed a “war of choice,” in the words of Prime Minister Menachem Begin. Though it was presented as a reaction to the attempted assassination of an Israeli ambassador, the state was not in immediate danger. Brody argues that some military response was justifiable, but that the scope of this action was ill-defined, disingenuous, and excessive. When Christian militiamen allied with Israel perpetrated a massacre in the Sabra and Shatila Palestinian refugee camps, there was a widespread call for a commission of inquiry into possible Israeli responsibility. In the rabbinic world, this demand was voiced by, among others, my revered teachers, R. Joseph Soloveitchik and his son-in-law, R. Aharon Lichtenstein, head of a major religious Zionist yeshiva in Israel. The commission's report eventuated the removal of Ariel Sharon as defense minister.

As indispensable as this wide-ranging book will be for its target audience, it is not free of minor inaccuracies. Sharon, for example, was not yet defense minister in June 1981, when the Osirak atomic reactor was bombed. And when Begin told his cabinet “I cannot continue anymore,” he could well have been referring to physical exhaustion, rather than (as Brody's translation implies) any qualms about the execution of the Lebanon War.

Earlier I stated that contemporary halakhic military ethics is primarily about defensive war. For some, however, the priority is to maintain Jewish sovereignty in the biblical land of Israel, which includes, for practical purposes, almost all land administered by Israel today. If this obligation overrides other considerations, then it justifies war. Practically, this view would rule out territorial compromise even when compromise is warranted on ethical or prudential grounds. The priority of Jewish sovereignty is often cited by opponents of compromise, quite prominently by those influenced by R. Zvi Yehuda Kook.

Other rabbinic authorities share similar hopes for the historical role of the State of Israel but do not make these hopes the major basis for security policy. Instead they emphasize, first and foremost, the ability of Jews to defend themselves and live free of persecution and murder. This view was championed by Soloveitchik, who, shortly after the Six-Day War, declared that the question of what to do with newly conquered areas was for military experts weighing security factors—gauging the chances of achieving reliable peace—and not for rabbis invoking theological ideals. Lichtenstein, another representative of this approach, used the surgical analogy of a limb that must regrettably be amputated in order to prevent something worse. R. Ovadia Yosef, an influential rabbinic scholar who wielded political clout, was likewise inclined, in theory, to place security considerations first.

At first glance, the discussion about justified war is not logically tied to the question about just conduct in war. Nonetheless, I agree with Brody that those who are more flexible on the question of territory are usually also readier to differentiate between combatants and civilians. Witness the responses of Soloveitchik and Lichtenstein to the 1982 massacre.

In the religious Zionist rabbinical world, the more militant position is attractive and probably more popular. But I suspect that among the Jewish citizenry the main preoccupation—even for those who regularly support “hawkish” parties—is security. Retaining land is therefore a subsidiary matter. In Brody's opinion, this more

pragmatic outlook is needed for the halakhic ethic to engage non-Jewish ethics in useful, constructive dialogue.

The need and prospect for such dialogue raises a last urgent point. R. Abraham Isaac Kook wrote that it would have been foolish for ancient Israel, surrounded by predatory neighbors, to practice ideal mercy in war. Brody infers from this that in today's more humane world, higher moral standards may be normative. R. Yisraeli, likewise, asserts that Jewish ethics should conform to the best practices common at the time in the wider world.

But then, what are those practices? In the theoretical sphere, educated Western discourse indeed preaches high standards regarding just war and the treatment of civilians. In practice, these standards are often ignored or mobilized selectively for propaganda purposes. The inflammatory, one-sided, and sometimes hypocritical vocabulary of moral condemnation against Israel, among elite academics and media personalities, has been an open secret for many years. After the shock of the Hamas mass murders and kidnappings on October 7, the alacrity with which many of these parties regrouped for "damage control" on behalf of the Hamas perpetrators and then shifted rapidly to a campaign of blaming Israel undermines whatever remnants of credibility these authorities have for Israelis and for Jews.

This breakdown of dialogue is unfortunate, since dialogue may be a good thing. Even the best of us are not always good judges of our own cases. Even the architects of justified wars are liable to be overconfident in the fate of their best-case scenarios, and righteous passion often translates into a failure to plan realistically for the day after. At a time like the present, when military technology makes possible both greater horrors and the more accurate protection of noncombatants, there is all the more need for careful reflection. When these words see print (I write in November 2023) the war may be over, for the time being, and the newsworthy question may be the future of Gaza. The questions addressed by Brody's work will remain important, and so will his effort to bring Jewish teachings to the attention of a larger audience and familiarize Jewish students with the contemporary Western context. I hope it is successful.

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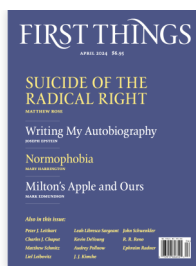
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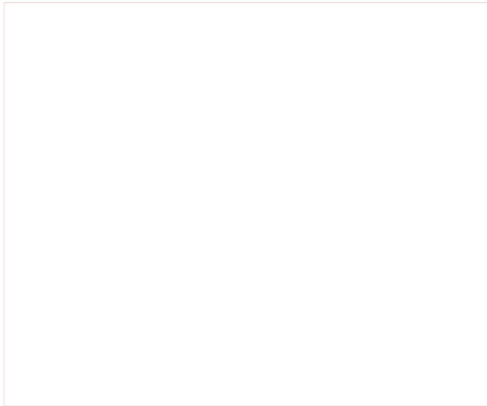
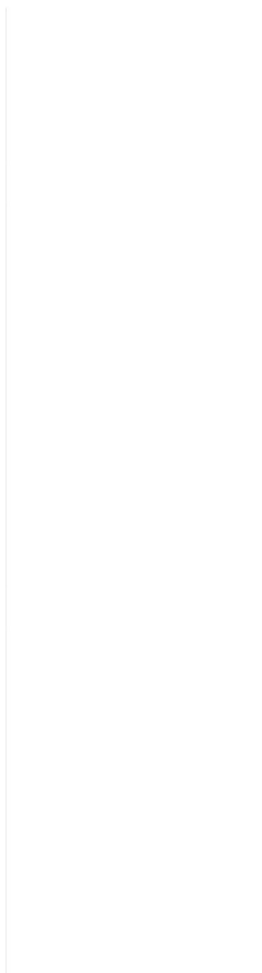
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