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Divine Spirit and Physical Power: Rabbi

Shlomo Goren and the Military Ethic of the Israel Defense Forces

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Divine Spirit and Physical Power: Rabbi Shlomo Goren and the Military Ethic of the Israel Defense Forces

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The renewal of Jewish sovereignty in 1948 created a grave challenge to Jewish tradition. As a system that was constructed in exile for a non-sovereign society, Jewish law was lacking "laws of state." The legitimacy of military action and the distinction between just and unjust wars are prime examples of fundamental issues that Jews did not have to confront for a very long period of time. This article examines contemporary Jewish legal responses to the challenges posed by the creation of the Israeli military. It focuses on the efforts of Rabbi Shlomo Goren, the first Chief Rabbi of the Israel Defense Forces, to create a modern corpus of Jewish law and ethics relating to war and the military. The Diaspora-based rabbinic literature seemed to oppose the use of force, reinterpreting Biblical references to military heroism as allegorical expressions of valor in the study of Torah. In an attempt to create an approach that legitimized the use of force while, at the same time, maintaining the rabbinic moral compunction regarding reliance on force, Rabbi Goren's innovative corpus integrated Biblical and rabbinic sources, as well as pre-rabbinic apocryphal and historical sources. His writings on the subject are studied on a historical level, trying to uncover the various personalities and ideological positions to which he reacted. Rabbi Goren's approach is examined through an

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analysis of his views on the proper treatment of the enemy and on the Peace for Galilee War in Lebanon. He advocated a balance between power and spirit, a balance that is also reflected in the personal internal harmony of Rabbi Goren himself: a merger of two worlds — the traditional student of the rabbinic study hall and the modern Jewish military officer — worlds by which he was influenced, between which he was torn, and that he tried to synthesize.

INTRODUCTION

Rabbi Shlomo Goren (1917-1994) served as the first Chief Rabbi of the Israel Defense Forces from the time that it was founded in 1948 for approximately two decades. Both in his capacity as Chief Rabbi of the Israel Defense Forces and in his subsequent position as Chief Rabbi of the State of Israel, Rabbi Goren fashioned the role and mission of the military Rabbinate and issued a number of Jewish legal rulings ("*halakhic*" rulings) related to military life. Jewish law's approach to war engaged his interest significantly, and he wrote on the subject extensively. The justification for war and the ethics of war, topics that he dealt with in-depth, had not been addressed by Jewish legal experts for many generations. His desire to revive this area of Jewish law reveals an underlying statement of principle regarding the centrality of the role of Jewish law in the development of the modern Jewish army. This article examines the innovative nature of Rabbi Goren's approach and describes the ethical code that he sought to create, analyzing the external forces that shaped his thinking.

Jewish history has been characterized by the inability of the Jews to defend themselves against the violence directed at them by non-Jews in whose midst they live. For centuries, Jews were at the mercy of local rulers in contending with the hatred and discrimination of the surrounding Christian and Muslim worlds.¹ This was particularly true in the second millennium of the Common Era and reached its height with the Second World War. The contemporary reality, in which the Jews in the State of Israel rely on military power to defend themselves and promote their interests, is without a doubt radically different from the reality of the Jewish communities in previous centuries. This new reality can be regarded as one of the major accomplishments of the Zionist revolution. Indeed, only a few years transpired between the Holocaust

¹ There is a great deal of literature on this topic. See, e.g., Mark R. Cohen, *Under Crescent and Cross* (1994).

and Israel's War of Independence in 1948 and only two decades between the Holocaust and the Six-Day War with Syria, Egypt, and Jordan in 1967. In both instances, the armed forces of the Jewish state succeeded in simultaneously overpowering the armies of a number of Arab nations that had denounced the Zionist enterprise and the right of the Jews to establish a sovereign state for themselves in the historical Land of Israel.²

One of the consequences of the fact that the Jews were not permitted to defend themselves and did not use force for centuries was their lack of a normative legal or ethical tradition concerning the conduct of war. As will be shown further on, discussions of permitted or forbidden wars or of permitted or forbidden actions in war are practically non-existent in the corpus of Jewish law, and in the rare instances that they do exist, they are undeveloped and theoretical, detached from the reality of military engagement. Moreover, not only did Jewish tradition lack a normative tradition in this area, but in fact, an ideology in complete opposition to war and the use of force evolved.³ Their historical reality led the Jews to believe that force is an instrument utilized by violent and wicked people and that just causes cannot be achieved by means of force. Even Zionism, in its initial stages, sought to realize its goals without the use of force and instead through political and diplomatic means and philanthropy that would enable peaceful settlement of the land. Nevertheless, beginning in 1921, the Zionist leaders recognized that there could be no way to avoid the use of force. The policy originally adopted by the leaders of the Jewish settlement in Palestine, which was widely accepted (albeit not unanimously) among the pioneers, was called "the policy of restraint" — a defensive ethos that was maintained for a long period of time. But the simultaneous occurrence of deadly Arab riots against

2 See generally J.L. Talmon, *The Six Day War in Historical Perspective: Reflections on Jewish Statehood* (1971).

3 See, e.g., Reuven Kimelman, *Non-Violence in the Talmud*, 17 *Judaism* 316 (1968). Yeshayahu Leibowitz (1903-1994), an important thinker of the Religious Zionist movement in the pre-State period and who became one of the most influential thinkers in Israel in the second half of the twentieth century, declared that there is a need to develop laws of war:

Our morality and conscience were conditioned by an insulted existence in which we could cultivate values and sensibilities that did not have to be tested in the crucible of reality. In our own eyes, and, to some extent in those of others as well, we appeared to have gained control over one of the terrible drives to which human nature is subject, and to abhor the atrocities to which it impels all human societies — the impulse to communal murder.

Yeshayahu Leibowitz, *After Kibiyeh*, in *Judaism, Human Values, and the Jewish State* 185 (Eliezer Goldman ed., Eliezer Goldman et al. trans., 1992) (1953).

the Jewish population, the closing of the gates to Jewish immigration into Palestine by the British Mandate authorities, and the annihilation of European Jewry by the Nazis ultimately shattered this defensive approach, and Zionism was forced to realize its mission through the use of force. As a consequence, the issue of the use of force — both in terms of its very legitimacy and in terms of determining appropriate methods and limitations — lay at the heart of Zionist ideological deliberations.⁴ Some Zionist leaders wished to maximize the change in the Jewish reality — that the Jews should be "a nation like all other nations" — and to grant broad legitimacy to the use of force. Others, seeking to maintain the spirit of the Jewish tradition, wished to minimize the use of force as much as possible.⁵

The rabbis who identified with the Zionist enterprise were challenged by this issue as well. Could the new Jewish ethos, in the process of development, rely in any way on Jewish tradition? Could Jewish law in any way contribute to the debate on this topic? Indeed, the classic codices of Jewish law — the *Talmud* and Maimonides' legal code *Mishneh Torah* — do include some laws that relate to war. But the vitality of a corpus of law depends upon its regular implementation and being subject to ongoing deliberation. In the case of these particular laws, the deliberations had ended centuries before

4 See the paper delivered by Berl Katznelson, one of the most important and influential leaders of the Socialist Zionist movement, at the Twenty-First Zionist Congress in Geneva, 1939, Berl Katznelson, *Vehaya Nishkekha Tahor* [And Your Weapons Shall Be Pure], in 9 Kitvei Berl Katznelson [The Writings of Berl Katznelson] 65 (1948) (Hebrew). See also Anita Shapira, *Berl: The Biography of a Socialist Zionist*, Berl Katznelson, 1887-1944, at 280-83 (Haya Galai trans., 1984) (1980). For a comprehensive and engaging historical study of the debate regarding the transition to the use of force in the Zionist movement, see Anita Shapira, *Land and Power: The Zionist Resort to Force, 1881-1948* (William Templer trans., 1992) (1992) [hereinafter Shapira, *Land and Power*]. For typological research on this topic, see Ehud Luz, *Wrestling with an Angel: Power, Morality, and Jewish Identity* (Michael Swirsky trans., 2003) (1989).

5 The following are a few of the more well-known personalities on both sides of this debate: Opposing the use of force were Asher Ginzberg (1856-1927, known as *Ahad Ha'am*), the father of the Cultural Zionist movement, which opposed Political Zionism, and the intellectuals of the *Brit Shalom* movement, an intellectual movement that advocated peaceful co-existence with the Arabs at the expense of Jewish sovereignty, and which included Arthur Ruppin, Gershom Sholem, Martin Buber, and Hugo Bergman. Proponents of the legitimacy of the use of force for national liberation included Michah Yosef Ben-Gurion (Berdechevski, 1865-1921), an extremely influential personality in the development of Hebrew literature, Uri Zvi Greenberg (1896-1981), poet laureate of the Zionist movement, and Zeev Jabotinsky (1880-1940), the political and spiritual leader of the Revisionist Zionist movement.

and their implementation had not been relevant for almost two millenia. The Zionist rabbis confronted the question of whether it would be possible to revitalize these laws, and if so, how this could be achieved. Can a normative system that is based on traditional values and a sanctified canon generate solutions to radically new situations? A number of rabbis and thinkers expressed their opinions on these questions in the early years following the establishment of the State of Israel. The essential question was whether it is possible, and correct, to recreate a code of Jewish laws of war based on Jewish tradition. What sources could legitimately be used in this process, and what degree of imagination and creativity would be required as well as permissible?

One of the foremost rabbis to direct his attention to these questions was Rabbi Shlomo Goren. As noted, Rabbi Goren founded the Israel Defense Forces Rabbinate and served as its first Chief Rabbi for about two decades. He subsequently served as Chief Rabbi of Tel Aviv and then as Chief Rabbi of Israel. The scope of his scholarly work is very broad, encompassing numerous books and hundreds of articles, many dealing with military conduct according to *halakhah* (Jewish law). In his writings, he dealt with the many aspects of laws relating to the military, from technical aspects such as the operation of a military camp according to Jewish law to the broader legal and ethical aspects of war, which are the focus of this article.⁶ Goren's

6 During the years of his military service, Rabbi Goren published most of his articles in *Mahanayim*, the military Rabbinate journal. Later on, his articles were republished in the following books (some of which were published posthumously): Shlomo Goren, *Meshiv Milhama: She'elot U-teshuvot Be-inyene Tsava Milhamah U-vitahon* [Response to War: Responsa on Matters of the Military, War, and Security] (1983-1992) (four volumes) (Hebrew) [hereinafter Goren, Response to War] (some of the rulings in this compilation had been published previously in compilations of legal rulings relating to the army that Rabbi Goren published between 1959-1961); Shlomo Goren, *Sefer Torat Hamedinah: Mehkar Hilkhati Histori B'nos'im Ha'omdim B'ruma Shel Medinat Yisrael Me'az Tekumatah* [The Law of the State: Jewish Legal and Historical Research on High Priority Issues for the State of Israel] (1996) (Hebrew) [hereinafter Goren, The Law of the State]; Shlomo Goren, *Mishnat Hamedinah: Mehkar Hilkhati Histori B'nos'im Ha'omdim B'ruma Shel Medinat Yisrael Me'az Tekumatah* [The Law of the State: Jewish Legal and Historical Research on High Priority Issues for the State of Israel from the Time of its Establishment] (1999) (Hebrew). His book *Torat Hamo'adim: Mehkarim Uma'amarim Al Mo'adei Yisrael Le'or Hahalakhah* [Jewish Festivals: Research and Articles in Light of Jewish Law] was published initially in 1964 and then republished in a more expansive edition in 1996. In addition, Rabbi Goren published a number of books on different themes such as the Sabbath, Biblical exegesis, and legal rulings in a variety of areas. Only one of Rabbi Goren's articles relating to war has been published in English: Shlomo Goren, *Combat Morality and the Halacha*, in

claim was that the Jewish army must conduct itself according to traditional Jewish values that permit the use of force subject to significant limitations.

This article is devoted to Rabbi Goren's attempt to establish a legal and ethical code of military conduct based on the values of Jewish tradition. Despite his prolific writing, scholars have practically ignored him and his publications. In this article, I seek to present initial research on the military ethic that Rabbi Goren sought to infuse into the Israel Defense Forces. I will describe the ethical code that he wished to shape, focusing on the innovative nature of the idea of a Jewish military ethical code itself and analyzing the exegesis and ideology that guided him in this effort. In my discussion, I will present the development of Rabbi Goren's thinking on this subject and will attempt to analyze the opposing positions he argued against, explicitly and implicitly — both the secular Zionists who opposed relying on Jewish tradition and the Orthodox rabbinate, which opposed Zionism. Thereafter, I will briefly survey his innovations and methodology and will demonstrate how they translated into *halakhic* rulings and an organized codex of the laws of war that, according to Rabbi Goren, were consistent with Jewish tradition. Rabbi Goren viewed the adoption of such a code as the actualization of the essence of Zionism and of the State of Israel as the state of the Jewish People.

I. CLASSIC JEWISH LAW

In order to understand Rabbi Goren's ideas and the process by which he developed them, it is necessary to first understand the Jewish legal precedents that he had before him: what had already been stated on the issue in the canon of Jewish law and the relevant rulings that had crystallized prior to the emergence of Zionism.

The Bible's approach to war is complex.⁷ The Biblical utopian ideal is the vision of peace expressed by the Prophets, who were certainly the first thinkers to advance the vision of world peace.⁸

Crossroads: Halacha and the Modern World (Ezra Rosenfeld ed., 1987). In addition, his speech quoted below, *infra* note 46, has been translated into English.

7 See Moshe Greenberg, *Biblical Attitudes toward Power; Ideal and Reality in Law and Prophets*, in *Religion and Law; Biblical-Judaic and Islamic Perspectives* 101 (Edwin B. Firmage et al. eds., 1990).

8 See Yehezkel Kaufmann, *The Religion of Israel, From Its Beginnings to the Babylonian Exile 375-76* (Moshe Greenberg trans., 1960) (1954).

And it shall come to pass in the end of days, that the mountain of the Lord's house shall be established as the top of the mountains, ... and they shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more.⁹

And I will break the bow and the sword and the battle out of the land, and will make them to lie down safely.¹⁰

But despite the centrality of this vision in the prophetic literature, there is a clear understanding in the Bible that war is an unavoidable necessity and that sometimes people are forced to advance their goals through the use of force. Therefore, the use of force is permitted for the purposes of self-defense, as well as a means of realizing legitimate human aspirations, particularly those of the Jewish People. Thus, for example, Biblical law establishes that

when you go forth to battle against your enemies, do not be afraid of them; for the Lord your God is with you, who brought thee up out of the land of Egypt Let not your heart faint; fear not, nor be alarmed, nor be afraid of them.¹¹

King David saw God as being the one who prepared him for war and who accompanied him in battle:

[A Psalm] of David. Blessed be the Lord my Rock, who trains my hands for war, and my fingers for battle.¹²

This theme is woven throughout the Bible. Yet, the Biblical permit to utilize force stands in ongoing tension not only with the vision of universal peace, but also with the frequently expressed fear of the unbridled use of force and of the development of a belief in the use of force as the means for solving any problem:

And you will say in your heart: "My power and the might of my hand has gotten me this wealth." But you shall remember the Lord your God, for it is He that gives you power to get wealth, that He may establish His covenant which He swore unto your fathers, as it is this day.¹³

9 *Isaiah* 2:2-2:4.

10 *Hosea* 2:20.

11 *Deuteronomy* 20:1-20:3.

12 *Psalms* 144:1.

13 *Deuteronomy* 8:17-8:18.

Physical power was granted to man, but it is incumbent upon him to utilize it justly and, most importantly, with humility. The Prophets frequently warned that the state would become corrupt through unbridled use and exaggerated reliance on force. They were cognizant of the fact that excessive physical power leads to the moral corruption of human beings:

Return, O Israel We will not ride upon horses; nor will we call any more the work of our hands our gods¹⁴

Similarly, the laws relating to the monarch,¹⁵ which place limitations upon him, require that he always carry a *Torah* (Pentateuch) with him, undoubtedly a reflection of this fear. This can also explain the prohibition on King David to build the Temple. Although David was one of the greatest Biblical heroes by virtue of his conquest and settlement of the Land of Israel, he was not allowed to build the Temple because of the battles that he had waged:

But the word of the Lord came to me, saying: "You have shed blood abundantly, and have made great wars; you shall not build a house unto My name, because you have shed much blood upon the earth in My sight."¹⁶

The decree that prevented David from fulfilling his desire to build the Temple is consistent with a Biblical prohibition relating to the building of an altar:

¹⁴ *Hosea* 14:2-14:3.

¹⁵ *Deuteronomy* 17:14-17:20.

¹⁶ 1 *Chronicles* 22:8. As a warrior, King David was responsible for much bloodshed. Maimonides explained that despite the fact that the wars David conducted were justified and categorized as obligatory wars, he was not considered suitable for building the Temple:

We find him to be a man of brutality, and although he only used it against idolators and heretics, but was merciful toward Israel, *Chronicles* states specifically that God found him unsuitable to build the Temple because of the large numbers that he had killed, and said to him: "You shall not build a house unto My name, because you have shed much blood upon the earth in My sight."

Maimonides, *Eight Chapters*, translated in Raymond L. Weiss & Charles E. Butterworth, *The Ethical Writings of Maimonides* 82 (1975). Rabbi Goren did not agree with Maimonides' explanation, claiming that the accusation lodged against King David referred to Israelites who had died in a prohibited war — the war to conquer lands that were not part of the Promised Land of Israel as opposed to the liberation of the Land of Israel itself. He discussed this topic at length in his article *Mussar Ha-lehimah Be'or Ha-halakhah* [*Military Ethics in Light of Jewish Law*], in 1 Goren, *Response to War*, *supra* note 6, at 16-25.

And if you make Me an altar of stone, you shall not build it of hewn stones; for if you lift up your sword upon it, you have profaned it.¹⁷

Some scholars would claim that there is an internal contradiction in the Bible in that it seems to encompass several conflicting approaches to war and the use of force. However, I contend that the Bible in fact reflects the tension between the ideal vision of the "End of Days" and a recognition of the reality of human nature. This is consistent with the view inherent in classic works of Jewish law and ethics, which most decidedly regard the Bible to be the expression of a coherent and clear worldview.

The approach to war in Jewish law underwent significant changes in the later stages of Jewish legal development. In general, the most significant changes took place between the Biblical period and the rabbinic period, which began with the *Mishnah* and the *Talmud*.¹⁸ As opposed to what one might intuitively expect, the normative status of rabbinic literature is exponentially greater in Jewish law than is the Bible itself. Reference to the Bible in later Jewish legal literature is always made through the prism of authoritative exegesis as derived in the rabbinic literature. When we examine the attitude to war in *Talmudic* literature, we find a very different approach to that expressed in the Bible. There is practically no tension in the rabbinic literature between the need to utilize force and the danger inherent in relying on force, as the reality of the use of force and the legitimization of the use of force are essentially absent.¹⁹ War referred to in the Bible is generally viewed by the Rabbinical Sages in an allegorical fashion as "the war of *Torah*." For example, at the climax of Joshua's conquest of the city of Ai, the Bible states, "But Joshua lodged that night among the people."²⁰

17 *Exodus* 20:21.

18 A distinction is traditionally drawn between the Biblical Written Law (*Torah Shebichtav*) and the rabbinical Oral Law (*Torah Sheba'al Peh*). The rabbinic period began during the Second Temple. The first collection of rabbinic writing is the *Mishnah*, which was redacted in approximately 220 AD. Later rabbinic discussion on the *Mishnah* was redacted in the Babylonian Talmud in approximately 500 AD. The rabbis of the *Mishnah* and *Talmud* are often referred to as the "Rabbis" or the "Sages."

19 See Aviezer Ravitzky, *Peace. Shalom*, in *Contemporary Jewish Religious Thought: Original Essays on Critical Concepts, Movements, and Beliefs* 685 (Arthur A. Cohen & Paul Mendes-Flor eds., 1987); see also Luz, *supra* note 4, at 19-27. An additional source on the spiritualization of Biblical war in rabbinic literature is 3 Hanina Ben-Menachem et al., *Controversy and Dialogue in the Halakhic Sources* 28-33 (2003) (Hebrew).

20 *Joshua* 8:9.

Talmudic exegesis, however, portrays Joshua not as a military commander but as a *Torah* scholar: "Rabbi Yochanan said: It teaches that he lodged in the depths of Jewish law."²¹ Similarly, David is described in the Bible as "a mighty man of valor, and a man of war,"²² whereas in the *Talmud* his might is interpreted as the strength of the scholar:

"Brave Fighter": — that he knows what to respond; "Man of War": — that he knows how to give and take in the war of *Torah*.²³

The hero of the battlefield becomes in the *Talmudic* tradition the hero of the study hall. In the confrontation that takes place in the study hall, the hero is the scholar who is sharp-witted and has intellectual depth, the battle is the attempt of the scholars to convince one another of the correct interpretation of the *Torah*, and might is the ability of the scholars to distinguish, refute, and make legal determinations. Another image of the hero in the *Talmud* is the person who is victorious in his inner struggles:

Ben Zoma stated: ... Who is strong? One who conquers his inclination, as it says: "He who is slow to anger is better than a strong man, and a master of his passions is better than the conqueror of a city."²⁴

It stands to reason therefore that the hero in the eyes of the *Talmud* was not the fighter besieged in Jerusalem who rose up in revolt against the Roman Empire, but, rather, Rabban Yochanan ben Zakkai, the scholar who abandoned Jerusalem for Yavneh in order to preserve the *Torah* and the study hall.²⁵

21 Babylonian Talmud, *Megillah* 3a-3b.

22 1 *Samuel* 16:18.

23 Babylonian Talmud, *Sanhedrin* 93b.

24 Mishnah, *Avot* 4:1.

25 Jewish uprisings against foreign occupiers (such as the Maccabean Wars against the Hellenist regime in second century BC, the "Great Rebellion" against Rome and the subsequent defiance by the besieged fighters at Masada in first century AD, and the Bar Kochba Uprising against Rome in second century AD) are all part of Jewish history that was reemphasized in the Zionist era. In rabbinic literature, the military aspect of these events is minimized, whereas the religious-spiritual side is emphasized. The focus on the military aspects in the Zionist era was part of the quest to replace the Diaspora spiritual values with nationalistic values. See, e.g., Luz, *supra* note 4, at 52-63; Yael Zerubavel, *Recovered Roots: Collective Memory and the Making of Israeli National Tradition* (1995). The tradition based on the rabbinic approach, which developed over many years, might offer an additional explanation as to why the majority of the Jewish pioneers in pre-State Israel supported a policy of military restraint for such a long period of time. See Shapira, *Land and Power*, *supra* note 4, at 235.

The *Mishnah* and, subsequently, the *Talmud* and the codes of Jewish law recognize two categories of permissible war: obligatory war and optional war.²⁶ It is clear that the basic assumption of the fundamental premise underlying these laws is that any war, given the associated bloodshed, is prohibited by its very nature unless it fits into one of these categories.²⁷ Maimonides (Spain, North Africa, 1138-1204) summarized these principles

26 See *Mishnah*, *Sanhedrin* 1:5; *Mishnah*, *Sotah* 5:7; Maimonides, *Mishneh Torah* (Maimonides' Codex), Book of Judges, Laws of Kings and Wars, ch. 5 (Abraham Hershman trans., Yale University 1949) [hereinafter Maimonides, *Laws of Kings and Wars*]. This subject attracted much rabbinic attention in the early years of the State of Israel, with Rabbi Goren himself addressing the issue. See, e.g., 2 Eliezer Yehuda Waldenberg, *Mehkarei Halakhot Ubirurei Shitot Bedinei Hukei Hamilhamah Vehatzava Hayisraeli* [*Jewish Legal Research in the Laws of War and the Israeli Military*], in *Hilkhot Medinah* [Laws of State] (1953) (Hebrew) [hereinafter Waldenberg, *Laws of State*].

27 See Michael Waltzer, *War and Peace in the Jewish Tradition*, in *The Ethics of War and Peace: Religious and Secular Perspectives* 95 (Terry Nardin ed., 1996), where Waltzer claims that Jewish law did not develop a category of forbidden war, and Aviezer Ravitzky's response in Aviezer Ravitzky, *Prohibited Wars in the Jewish Tradition*, in *The Ethics of War and Peace: Religious and Secular Perspectives*, *supra*, at 115. As noted above, in *supra* note 16, it is stated in *Chronicles* that David was disqualified from building the Temple because of the bloodshed that he had perpetrated. Rabbi Goren asserted that David's sin had been to wage a forbidden war and that he was responsible for the resulting deaths of Jewish soldiers. Ultra-orthodox (*haredi*) Judaism, which strongly opposed Zionism, put this issue high on its agenda, claiming that the absence of authorized institutions empowered to declare a war permissible makes all wars forbidden. The ultra-orthodox opposition to Zionism stemmed from theological principles (*see infra* Part VIII) and preceded the Zionist use of force. But when the Zionists began to use force, the ultra-orthodox used the prohibition of waging war as a central point of attack against Zionism. Thus, for example, Yoel Teitelbaum (1888-1979), the Satmar Rabbi and a virulent anti-Zionist *hassidic* leader, wrote in his anti-Zionist manifesto, "Anyone who brings about a war that endangers life without rabbinic consent is a murderer." Yoel Teitelbaum, *Vayoel Moshe* 212 (1960) (Hebrew) (author's translation). Following the 1967 Six-Day War, he wrote the following in Yoel Teitelbaum, *Al Hageulah ve'al Hatemurah* 88 (1967) (Hebrew) (author's translation):

And behold it is clear that the very entry into this war was forbidden. It is against our holy *Torah* to force the community of Israel to go out to war against the nations of the world, and to thus endanger the Jewish People. Anyone who transgresses this prohibition, and forces them to go to war, wantonly placing thousands and tens of thousands of Jews in danger of death and bloodshed in opposition to the opinion of the *Torah*, is a murderer in the full sense of the word. The responsibility for Jewish blood is on his head ...

See also Rabbi Yitzchak Yaacov Weiss, *Responsa Minhat Yitzhak* 10:1 (1990) (Hebrew).

of permissible wars in his legal code, the *Mishneh Torah*, as follows: In an optional war, the King of Israel "cannot involve the people in it without the consent of the High Court of Seventy-One."²⁸ Accordingly, this category was designed *a priori* for the utopian era of the institutional existence of the King of Israel and the High Court in Jerusalem, not for contemporary times. Maimonides indicated that an obligatory war can fall into one of three categories: "What is an obligatory war? It is a war against the seven nations [that occupied the Land of Canaan at the time of the Israelite conquest], the war against Amalek, and a war to save the Jewish people from oppression that they encounter."²⁹ Of the three categories of obligatory wars, the only category relevant to the modern period is the war of self-defense: "a war to save the Jewish people from oppression that they encounter."³⁰ Indeed, in the Zionist period, this category stood at the heart of rabbinic deliberations regarding the permissibility of war.³¹ Nevertheless, even the existence of the category of obligatory war, which permits war, clearly does not establish sufficient principles to serve as guidelines for the proper conduct of war, particularly in the modern era.

With the rabbinic literature and the Jewish codes of law as background, it is clear that recreating a code of military law based on Jewish tradition is a significant and daunting challenge.

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- 28 Maimonides, *Laws of Kings and Wars*, *supra* note 26, at 5:2; *see also* Mishnah, *Sanhedrin* 1:5. Rabbi Kook, the spiritual leader of the Religious Zionist stream, claimed that in a democratic era, the government, which expresses the will of the people, replaces the need for a High Court (*Sanhedrin*), Abraham Yitzhak Kook, *Responsa Mishpat Cohen* 144 (3d ed. 1993) (Hebrew). *See also* the excellent critique of Noam Zohar, *Morality and War: A Critique of Bleich's Oracular Halakha*, in *Commandment and Community: New Essays in Jewish Legal and Political Philosophy* 245 (Daniel H. Frank ed., 1995).
- 29 Maimonides, *Laws of Kings and Wars*, *supra* note 26, at 5:1; *see also* Gerald J. Blidstein, *Political Concepts in Maimonidean Halakha* 214-27 (1983).
- 30 With regard to the seven nations, Maimonides himself explained that "they have already perished and their memory has perished." Maimonides, *Laws of Kings and Wars*, *supra* note 26, at 5:4. *See also* Maimonides, *The Commandments: Sefer Ha-Mitzvoth* of Maimonides 187 (Charles B. Chavel trans., 1967); Avi Sagi, *The Punishment of Amalek in Jewish Tradition: Coping with the Moral Problem*, 87 *Harv. Theological Rev.* 323 (1994).
- 31 Preemptive war was a focal point of rabbinic writings in the Zionist era. The question was whether such a war can be considered a war of self-defense. *See, for example*, the debate between Bleich and Zohar in J. David Bleich, *Preemptive War in Jewish Law*, 21 *Tradition* 1 (1983), and Zohar, *supra* note 28.

II. THE ELEMENTS OF RABBI GOREN'S DISCOURSE

Many in the Zionist leadership claimed that the reestablishment of Jewish sovereignty and the development of a majority Jewish society revealed Jewish law to be a product of the Diaspora and a normative system unable to function within the context of Jewish sovereignty in the modern age. This charge was leveled against Jewish law with regard to all aspects of sovereignty and the management of a state, but was particularly persuasive with regard to issues relating to the military and the use of force. The wandering Jew, lacking the ability and courage to defend himself, was now revealed to be a product of Diaspora Jewish values, values from which the Zionist revolutionaries wished to be liberated. In the early days of Zionist settlement activity, the plow was the symbol of the anti-Diaspora revolution, a symbol of the newly adopted values: work and a bond with the land. However, as the need for the use of force increased, the brave Jew, bearing arms and defending himself, became the admired image that reflected more than anything else the success of the Zionist revolution.

One of the dominant advocates of disassociating from the culture of Jewish law was David Ben-Gurion, who declared the independence of the State and was the first Prime Minister and Defense Minister of Israel. Ben-Gurion, who was without a doubt one of the most influential and admired figures in Israel during the settlement period and the early years of the State, and was highly respected also by Rabbi Goren, called for a detachment from the values of the *Mishnah* and the *Talmud*, which, in his view, symbolized the culture and world of the Diaspora. The prologue to the Israeli Declaration of Independence clearly reflects Ben-Gurion's worldview:

The Land of Israel was the birthplace of the Jewish people. Here their spiritual, religious and political identity was shaped. Here they first attained statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books.³²

The prologue thus contends that the Bible, which was created in the Land of Israel, is in itself the source and foundation of the reborn sovereign Jewish Nation, without any need for the culture that developed later on in the absence of Jewish sovereignty or in the Diaspora (the *Mishnah* and *Talmudic* periods). This claim is consistent with Ben-Gurion's perspective,

32 The translation of the Declaration of Independence is taken from the website of the Israeli Parliament at http://www.knesset.gov.il/docs/eng/megilat_eng.htm.

as reflected in the following quote: "The Bible was great before there was *Midrash* [rabbinic homiletical and exegetical literature] — it does not depend on *Midrash*, and it should be understood on its own without the help of *Midrash*."³³ On the matter of war and the use of force, Ben-Gurion's argument is compelling and extremely significant. As we have seen, the earlier sources that deal with war and the use of force were reinterpreted in the *Talmud* in an innovative and transformational manner, changing the focus from physical power to spiritual power, an interpretation from which Ben-Gurion wished to be freed.

Ben-Gurion's claim certainly had an important impact on the thinking of Rabbi Goren, and Goren seems to have responded to it. Indeed, there is value in returning to the Bible, Rabbi Goren argued, but it is impossible to ignore the *Mishnah* and *Talmud* and the spiritual world of the Rabbinical Sages. Ben-Gurion viewed the establishment of the Jewish state "not as the continuation of life in Warsaw, Odessa, and Crakow, but as an essentially new beginning, although a beginning intertwined with a distant past, the past of Joshua ben Nun, David, Uzziah, and the early Hasmoneans."³⁴ Rabbi Goren's

33 David Ben-Gurion, *Hatanakh Zoreah Be'or Atzmo* [*The Bible Shines by its Own Light*], in *Iyunim Betanakh* [Studies in the Bible] 46 (1970) (Hebrew) (author's translation) [hereinafter Ben-Gurion, *The Bible Shines*]. See also David Ben-Gurion, Ben-Gurion Looks at the Bible, Collection of Addresses in Essay Form, First Presented before the Prime Minister's Bible Study Circle (Jonathan Kolatch trans., 1972); David Ben-Gurion, *The Forefathers of the Jewish Nation*, in Shorthand Report of the Lecture Held at the Tenth Annual Convention of the Israel Society for Biblical Research, Jerusalem (Apr. 9, 1962) (Hebrew). Based on this idea, Ben-Gurion justified the policy of restraint, emphasizing the Biblical injunction "Thou shall not murder." There is much research on Ben-Gurion's attitude towards the Bible, see, e.g., Ben-Gurion and the Bible — The People and Its Land (Mordechai Cogan ed., 1989) (Hebrew with English summaries) [hereinafter Ben-Gurion and the Bible]. Ben-Gurion's commentary on *The Book of Joshua* is also important in this context. Ben-Gurion viewed Joshua Bin-Nun, the conqueror of the Biblical Land of Israel, as the most important hero of the Bible and was willing to debate the point with the distinguished Biblical scholar Yehezkel Kaufmann, whom he admired. See David Ben-Gurion, *The Book of Joshua — Chapters 23-24*, 3 Dor le Dor 2 (1974-1975) (Hebrew). See also in this context S. Yavetz, *Pirkei Mikra: Zmano Shel Sefer Yehoshua Vekibush Ha'aretz*, 60 Beth Mikra, Bulletin of the Israel Society for Biblical Research 13 (1974) (Hebrew); Haim Moshe Yitzhak Gevaryahu, *Recollections from the Bible Study Circle at D. Ben-Gurion's Home*, in Ben-Gurion and the Bible, *supra*, at 70 (claiming that Ben-Gurion regarded himself as a second Joshua Bin-Nun).

34 Cited in Anita Shapiro, *Ben Gurion Vehatanakh: Yetzirato Shel Narativ Histori* [*Ben Gurion and the Bible, A Creation of Historical Narrative*], in 14 *Alpayim* 207, 223 (1997) (Hebrew).

work should be viewed as a response to Ben-Gurion's call to disengage from rabbinic thought. His response was not on the ideological-theoretical level,³⁵ but rather, on the practical level. Ben-Gurion claimed that "the greatness of the Bible is the greatness of the spirit of the Jewish people, the fruit of its spirit, the fruit of the spirit of the greatest of our people."³⁶ Yet, he believed that "in the Diaspora, the image of our people was perverted, so too the image of the Bible was distorted."³⁷ Ben-Gurion viewed the right of the Jewish People to fight for their freedom as the pinnacle of the return to the Bible. Rabbi Goren argued to the contrary, that a return to the Bible through the ethical world of the Rabbinical Sages was possible and would effectively confer to the State and the armed forces a more valuable ethical code by which to conduct wars.

This claim explains why, in order to create the aforementioned corpus of military ethics, Rabbi Goren utilized a broader and significantly different variety of sources than generally used in Jewish legal literature. He turned directly to the narrative portions of the Bible, an approach that is not accepted in rabbinic literature, which views the *Mishnah* and *Talmud* as the essence of the canon. Similarly, Goren was wont to quote and rely on apocryphal pre-rabbinic literature from the Second Temple period, such as *The Books of the Maccabees* and *Megillat Ta'anit*, works that are not recognized as normative sources by the Rabbinical Sages and are perhaps even considered illegitimate as sources for rabbinic decisions. He also referred to the works of the Jewish-Roman historian Josephus Flavius to derive information on the conduct of war during the Second Temple period. There is a logic behind Goren's use of these sources. First of all, as mentioned, the legitimization of the use of force, its purposes, and its limitations lies at the heart of the Biblical experience. In addition, these are sources from politically active periods in Jewish history — the First Temple and Second Temple periods — and therefore relate to the issues that arose with the renewal of Jewish sovereignty, discussions of which are lacking from the *Mishnaic* and *Talmudic* periods and certainly from the later rabbinic period.³⁸ It seems,

35 For theoretical responses, see the correspondence between N. Rotenstreich, a distinguished philosopher of the time, and Ben-Gurion, cited in Shapiro, *id.* at 223-24.

36 Ben-Gurion, *The Bible Shines*, *supra* note 33, at 44.

37 *Id.* at 48.

38 Indeed, when Rabbi Goren collected and organized his legal writings in his book *Response to War* in 1983, he wrote the following in the *Introduction*:

This book of rulings is different than regular rulings in civil law and than all other books of responsa. The topics in this book do not have an ongoing tradition of rulings from generation to generation. There is nothing parallel in the *Shulhan Arukh*, or in other codes of Jewish law In order to find authoritative Jewish

however, that the main reason for Goren's choice of varied sources was his desire to be part of the internal Zionist discourse by declaring the value of relying on sources developed in the Land of Israel (in the Bible and in Second Temple period literature such as *The Books of the Maccabees*), but not at the price of ignoring rabbinic literature.

Beyond Rabbi Goren's debate with the secular Zionists, the Orthodox rabbinate also took a central role in the development of his thinking. Goren had to contend with three rabbinic stances with which he disagreed. The first approach inherently opposed the use of force, claiming that it is forbidden for Jews to utilize power in our times, in the absence of the institutions of Jewish sovereignty such as the monarchy, the Temple, and the *Sanhedrin*.³⁹ The essence of this debate hinges on the legitimacy of the basic claim of Zionism, the right of the Jewish people to take an active role in history prior to the final messianic redemption. The second approach approved of the use of force, but claimed that the standards for the proper conduct of war are to be found in military doctrine and in international law, not in *halakhah*.⁴⁰ Rabbi

legal and historical sources to solve the thousands of Jewish legal problems facing the Israel Defense Forces, it was necessary to gather, select and organize, like the sheaves of wheat brought to the threshing floor, the shards of laws, customs, and practices that existed in the ancient armies of Israel — to resurrect them from the recesses of distant memory, from beneath the ruins of the Kings of Israel, and to collect them from the holy books As such, we have utilized the Books of the Maccabees and other apocryphal works, acceptable books of history such as the works of Josephus Flavius and his colleagues, and any other accessible works. We built practices brick by brick, establishing a firm foundation for a system of authoritative Jewish legal rulings based on the Torah of Israel.

1 Goren, *Response to War*, *supra* note 6, at 10 (author's translation).

39 See *supra* note 28. This position is the farthest away from Rabbi Goren's stance. While he does not dispute it explicitly, the existence of the approach is alluded to subtly in his book, and it is clear that he opposes it. It is also clear from the very fact that he deals so extensively with the laws of war that he opposes an approach negating the use of force.

40 This position was adopted by Rabbi Shaul Yisraeli (1909-1995), one of the most important rabbis of the Religious Zionist school of thought. In *infra* Part VI, I examine the debate between Rabbi Yisraeli and Rabbi Goren relating to the siege of Beirut in 1982. Already in 1954, Rabbi Yisraeli published an article in the wake of the Kibiyah Action, a retaliatory action against Jordanian-based terrorists that claimed civilian lives, in which he claimed that the wars of Israel must be conducted according to international law based on the Jewish legal principle of "the law of the land is the law" ("*dina demalkhutah dina*"). This principle was established already in *Talmudic* times and has been applied broadly in Diaspora Jewish life. Under this principle, Jewish law requires a Jew who lives in a non-Jewish country to abide by the laws of the state in which he lives with regard to certain matters. Rabbi Yisraeli

Goren vociferously opposed both of these positions. As a passionate Zionist, he understandably supported the use of force. In addition, his Religious Zionist perspective upheld that the right of the Jewish People to take an active role in history includes also an obligation to take an activist stance in the development of Jewish law. Thus, he held that Jewish law, not international law, must serve as the source for a code of military conduct for the Israel Defense Forces. The third position to which Rabbi Goren responded in his deliberations was that taken by rabbis who derived military standards of conduct from the Jewish laws that relate to the saving of life and the right to self-defense. A source often cited in this approach is a law commonly referred to as "the pursuer" law ("*din rodef*"), which prescribes the right to use lethal force in self-defense or in defense of a third party. The significance of turning to this law is that it applies criminal law to establish military norms of behavior, presumably based on the assumption that war does not constitute an independent normative category. Many *halakhic* experts took this approach, and from the perspective of internal Jewish legal thought, this position is less radical than relating to war as a normative category unto itself in that it simply extends a legal deliberation that has been conducted for generations. Rabbi Goren, however, strongly opposed this approach. As a military man, he vehemently objected to filling the void based on principles of criminal law. Goren believed that war is a normative category unto itself and must be dealt with as such within the Jewish legal context.

I will now turn to Rabbi Goren and his *halakhic* rulings. Through an analysis of these rulings, I will identify his methodological and normative innovations, the ideology that guided him in developing an ethical code for the Israel Defense Forces, and the individuals and ideologies with which he argued.

claimed that the same is true of the Jewish state, which is obligated to conduct itself according to the laws of states in its relations with other states, i.e., according to accepted international law. See Shaul Yisraeli, *Amud Hayemini: Birurei Halakhah Be'inyanei Medinah* [The Right Pillar: Halakhic Insights on Matters of State], sec. 15, at 168 (1966) (Hebrew). This position is consistent with a worldview that evolved among Religious Zionist thinkers, that Jewish law should not be involved in affairs of state, primarily because the government leaders were not interested in Jewish law. This, for example, was the position of Rabbi Moshe Tzvi Neriyah (1913-1995), also one of the most important rabbis of the Religious Zionist community and who was the founder of the network of Religious Zionist *Talmudic* academies (*Yeshivot B'nai Akivah*). Rabbi Goren did not argue directly against these rabbis, but it was clear that his position was unequivocally in favor of developing Jewish laws of war for the Jewish state. The extensive writings he devoted to this subject were, from his perspective, a clear enough response to these positions.

III. THE RELIGIOUS OBLIGATION TO CREATE LAWS OF WAR

A soldier who wishes to observe religious obligations and maintain a level of spirituality encounters many difficulties under the living conditions of a military camp, even not during times of war. Many military rabbis see it as their role to fill the needs of such a soldier and help him overcome these difficulties, both by providing spiritual support and by answering questions regarding the performance of religious obligations under conditions of pressure. This mode of operation mirrors the traditional function of rabbis to attempt to solve individual problems in specific circumstances. It is an approach that found expression in a few rabbinical publications relating to army service. One early example is the book *The Camp of Israel* ("Machaneh Yisrael") written in 1881 by Rabbi Israel Meir Hacoen of Radin (1839-1933, commonly known as the "Chafetz Chaim") for Jewish soldiers serving in the Russian Czar's army. This book served as a guide for religiously observant soldiers in the special circumstances of the Russian military camp and the battlefield, environments in which it is usually very difficult to maintain a fully observant lifestyle. *The Camp of Israel* is a classic Diaspora book in the sense that it was directed to the individual, to the lone Jewish soldier, and not at the military authorities. The book refrains from ideological statements regarding the general issue of warfare, as well as from expressing any identification with the values of the army or of warfare. The book also refrains from addressing issues of military ethics, since those issues were under the authority of non-Jewish military commanders. Its goal was to guide the individual Jewish soldier on how to remain a "good Jew," how to best contend with the challenges of maintaining his religious observance. Even in the State of Israel, a significant number of books have been written in this style.⁴¹ Rabbi Goren himself wrote expansively in this style, but went well beyond it as well. He viewed his role as a military rabbi in a much broader sense, as including the obligation to establish laws and ethics of the military and of warfare.

As a positive reaction to the establishment of the State of Israel and in the spirit of identifying with it, another genre of rabbinic writing relating to the laws of war developed. These works, however, did not suffice from the perspective of content and methodology.⁴² They returned to a study of

41 See, e.g., Shlomo Min-Hahar et al., *Dinei Tzava Umilhamah* [The Laws of the Military and of War] (2d ed. 1987) (Hebrew).

42 Yosef Ahituv, *Min Hasefer El Hasa'if: Al Demuto Hahazuyah Shel Hatzava HaYisraeli Al Pi HaTorah Beshanim Harishonot Lekom Hamedinah* [From Bible to

Jewish texts relating to war, primarily Maimonides' *Laws of Kings and Wars*, but in a rather naive manner. The treatment of the texts was that of the classic *yeshivah* (traditional *Talmudic* academy) approach, focusing on the text rather than on the reality. These works were based on the underlying assumption that it was not only possible to maintain an army according to Maimonides' *Laws of Kings and Wars*, but also to build a new army through the analysis of these laws. Although they return to the topic of the military in the classic Jewish law texts, their treatment is devoid of any relationship to the very different contemporary reality.⁴³ Rabbi Goren alluded to this as well in the *Introduction* to his book *Response to War: Responsa on Matters of the Military, War, and Security*, which deals with the laws of the military and of war. There he defined how his approach would differ:

From the time of Bar Kochba ... there were no laws of the military, of war, and of national security that had a real connection to the lives of the people. For nearly 2000 years, these issues appeared as "laws for the messiah." Even Maimonides' *Laws of [Kings and] War[s]* are not capable of guiding the establishment of military procedure for the modern day State of Israel, since they are also directed to messianic times.⁴⁴

In my opinion, it is astounding that these works for the most part refrained completely, or at least in an organized and serious manner, from discussing military ethics. "Purity of arms," which was such a central topic in Zionist deliberations regarding the return to the use of military force, is practically absent from the rabbinic literature of this period.⁴⁵ In contrast, Rabbi Goren sought to create laws of war that would be relevant to the reality that he knew intimately and in which he wished to integrate as a military rabbi. He sought

Sword: The Torah Image of the Israel Defense Forces during Israel's Early Years], in *Shnei Evrei Hagesher [On Both Sides of the Bridge]* 414 (Mordechai Bar-On & Zvi Zameret eds., 2002) (Hebrew), discusses two books written in this spirit: Rabbi Alter David Regensberg, *Mishpat Hatzava BeYisrael [The Law of the Military in Israel]* (1949) (Hebrew), and Waldenberg, *Laws of State*, *supra* note 26.

43 See Ahituv, *supra* note 42.

44 I Goren, *Response to War*, *supra* note 6, at 10 (Introduction) (author's translation).

45 It is possible that this *lacuna* reflects an internalization of the secular Zionist arguments against Jewish tradition. As shown, the claim was that Jewish tradition reflects a Diaspora mentality that forbids war and the use of force. Perhaps the rabbinic reluctance to deal with military ethics during the Zionist era reflected a fear of confronting the sources that served as the basis for this claim. Yet the return to Maimonides' *Laws of Kings and Wars* seemingly negates the secular Zionist argument by demonstrating the existence of such texts and by analyzing them.

to provide laws for the Jewish army and not just for the individual Jewish soldier. Such a code of law could not ignore the essential question of military ethics, an issue that Rabbi Goren sought to confront in a serious manner. His aim was to create a legal and ethical code of Jewish laws of war based on Jewish values, but relevant to the contemporary reality.

Goren viewed military service as part of the relationship between an individual and his state, a category that he believed was complementary to the two traditional categories of Jewish law: the laws between man and God and the laws between man and his fellow man. In one of his articles, he wrote:

There are three contexts of human relationships: A person's relationship with himself, his relationship with his creator, and his relationship to his state. Judaism established a variety of commandments and values to govern the life cycle [in all three areas].⁴⁶

Military laws are part of the relationship between a person and his state, and in the fledgling Jewish state it was therefore necessary to restructure a normative system in this area. Previous *halakhic* works, such as Rabbi Israel Meir Hacohen's *The Camp of Israel*, had been written at the level of "a person's relationship with himself," in Rabbi Goren's words. In contrast, Goren sought to create laws of war at the level of a person's relationship to his state, to guide the Jewish state, not just the Jewish soldier. In the *Introduction* to his book *Response to War*, Rabbi Goren discussed his approach and his goals:

This book of rulings is different ... from all other books of responsa in that the topics in this book do not have an ongoing tradition of rulings from generation to generation. There is nothing parallel in the *Shulhan Arukh* (the most important code of Jewish law, written in the 16th century), or in other codes of law. ... I am happy to point out that these rulings ... have become established standards not only for the religious soldier, but for the Israel Defense Forces in total. Orders given by the upper command and the Chief of Staff in matters of religion that have been publicized in our time have been based on *halakhic* foundations

46 Shlomo Goren, Speech Delivered in the Context of a Public Debate, September 5, 1969, published in a booklet of speeches released by the Forum for Jewish Thought, Jewry and Judaism in the Modern World ... The Jewish People, The Jewish State, The Jewish Law ... and Their Inter-relationship, Third Annual Symposium 16, 18 (1966). See *infra* text accompanying note 49.

that are established in this book, which is destined to be the military *Shulhan Arukh*.⁴⁷

Rabbi Goren's boldness regarding the innovative nature of his work derived from his Religious Zionist worldview, which viewed Zionism as a direct continuation of the Jewish experience, although with some important and positive developments. Religious Zionism disagreed with the worldview of Ultra-Orthodox (*haredi*) Judaism, which opposed the Zionist enterprise for theological reasons, claiming that Jews must remain passive until the anticipated messianic redemption. However, Religious Zionism did oppose Zionist activity that was divorced from Jewish tradition. In this sense, Rabbi Goren was a loyal representative of his movement. But he also argued against Religious Zionists who advocated a separation of religion and state, disputing their claim that there are certain areas of life that fall beyond the parameters of normative Judaism.⁴⁸ He maintained that Jewish law as a normative system is able and required to relate to all areas of life. Furthermore, he believed that the focal point of the Jewish experience is *halakhah* and the commandments. As such, Judaism is a religion that can exist without territory or state, but cannot exist without the *Torah*. Unlike other nations and cultures that exist as an entity before legislating their own laws, the *Torah* defines the Jewish people as a nation. Goren's motivation to write a code of military law and ethics for the Jewish army, and not just for the individual Jewish soldier, was thus based on his Zionist perspective that there is no significance to a Jewish state unless it is guided by Jewish tradition.

In September 1969, a public conference was held in Tel Aviv on the topic "Judaism in the Modern World: Dangers and Potential — The Symbiotic Relationship between the People of Israel, the *Torah* of Israel, and the State of Israel." There were three discussants: David Ben-Gurion, former Prime Minister of Israel; Nachum Goldman, President of the World Zionist Organization; and Rabbi Shlomo Goren. Each expounded his fundamental position on the essence of Zionism and the State of Israel as the state of

47 I Goren, Response to War, *supra* note 6, at 10-12 (author's translation).

48 See Asher Cohen, *The Talit and the Flag: Religious Zionism and the Concept of a Torah State 1947-1953* (1998) (Hebrew). An important essay on this matter is Akiva Ernst Simon, *Ha'im Od Yehudim Anahnu [Are We Still Jews]* (1951) (Hebrew), reprinted in Akiva Ernst Simon, *Ha'im Od Yehudim Anahnu: Massot 1* (1983), in which Simon calls to Orthodox Judaism to shift from the traditional Jewish approach that Jewish law addresses all areas of life and, in light of the reality of a secular state, to adopt a "Protestant" approach to Judaism, which recognizes the separation of religion and state. See Yedidia Z. Stern, *Living with Normative Duality: The Values at the End of the Tunnel*, 12 *Jewish Pol. Stud. Rev.* 95 (2000).

the Jewish People. There is no doubt that the distinguished nature of the conference and of the discussants motivated Rabbi Goren to articulate and refine the fundamentals of his worldview. Among other things, he expressed the following:

And behold, Rav Saadya Gaon ... said "Our nation is not a nation without *Torah*." That is to say, the Jewish People is a nation to the extent that it is dedicated to its *Torah* The Jewish People did not create the *Torah* of Israel, but is rather the product of the fulfillment of the *Torah*, of the metaphysical imperative to realize the values that are embodied in the ethical pronouncements of the Prophets, in the vision of the *Torah* and in the vision of mankind. For me, Jewish education is education for practice, for Judaism manifested in the fulfillment of commandments. There is no Judaism that is just embedded in the heart. I don't believe in Judaism that is felt in the heart.⁴⁹

Thus, in Goren's view, the state must function according to the basic principles that constitute the essence of the Jewish People: the *Torah*. To this end, Rabbi Goren channeled his energies to create a Jewish legal corpus relating to the military and security. He saw this as his great mission and destiny, for, as we saw above, he believed that the State of Israel can only exist, both morally and practically, if it fulfills the destiny of the Jewish People, that is, conducting life in accordance with the *Torah*. The innovative nature of the very creation of a corpus relating to affairs of state required courage and creativity in issuing rulings. This is how Rabbi Goren functioned, and this is what he expressed explicitly in that important speech in 1969:

49 Shlomo Goren, *supra* note 46, at 17, 23 (author's translation). In Rabbi Goren's comments, the impact of the thinking of Rabbi Isaac Breuer (d. 1946), one of the leaders of *Agudat Yisrael*, the ultra-Orthodox non-Zionist political party, is evident. Breuer, a product of the Rabbi Samson Rafael Hirsch's German school of thought, *see* text following *infra* note 79, was one of the leaders of *Agudat Yisrael* prior to World War II. In that framework, he tried to advance the idea of the "*Torah* state." Breuer claimed enthusiastically that he was a Jewish nationalist and that there is only significance to a Jewish nation and Jewish identity if they exist within the normative context of the laws of the *Torah*. Thus, Breuer claimed, in light of their rejection of the Jewish normative system, the Zionists must be seen as a "new people" and not the historic People of Israel. It would therefore be inappropriate to give them the Jewish state that is destined for the historic People of Israel. Breuer envisioned the establishment of a Jewish state in Israel in the spirit of "the old People," the historic People of Israel, i.e., those faithful to the laws of the *Torah* that constitute the only fundamental component of Jewish identity. *See* Isaac Breuer, *Concepts of Judaism* (Jacob S. Levinger ed., 1974).

In the laws of the *Torah* it states: "And you shall live by them." The *Torah* was given for life. There is a place for research, for revealing creative ideas, and for innovative interpretation. I believe and am convinced that it is possible to solve the problems of the generations according to the *Torah*. For our *Torah* is not frozen in its context. The Written *Torah* and the Oral *Torah* are eternal, and have the strength to stand up to the difficulties of the generations There is a saying in the Jerusalem *Talmud* (*Sanhedrin* 4:2): "If the *Torah* had been given in a clear and explicit fashion, we could not live by it. Why was it not? So that it could be interpreted either as the forty-nine aspects of impurity or the forty-nine aspects of purity." In other words, if the *Torah* had been given as a set code — this you can do and this you can't do — we would not be able to live by it. But it was given in a flexible fashion In this generation, we need the great scholars of *Torah* and Jewish law to take a "state approach" to issues and a positive relationship to the historical turning point for the Jewish People represented by the establishment of the state.⁵⁰

In Rabbi Goren's words, the great scholars who could meet this challenge must possess three qualities: 1) *Torah* scholarship; 2) dedication to Zionism; and 3) a "state approach." In other words, they must understand that in this legal corpus, they are addressing not only the individual as was accepted until then in traditional Jewish writings, but also the Jewish state. In contrast to books that were designed to give guidance to the individual Jewish soldier, Rabbi Goren took it upon himself to write a guide for the Jewish army as an entity. The main element characterizing Jewish law as a product of the Diaspora was its lack of laws of state. It was a normative system that recognized its limitations and did not take responsibility for the functioning of society. It was in this broad context that Rabbi Goren wanted to revolutionize Jewish law, focusing on laws relating to the use of force and laws of war. He therefore took upon himself the double challenge of developing a normative corpus of both law and ethics for the Jewish army. In the context of shaping the ethical corpus, he sought to redefine the relationship between power and spirit in Jewish tradition.

50 Goren, *supra* note 49, at 23 (author's translation).

IV. PHYSICAL POWER AND DIVINE SPIRIT

I discussed above in Part I the internal complexities and the tension reflected in the Bible with regard to the issues of war and the use of force and the clear tension between the Bible and the spiritual interpretations of the Bible by the Rabbinic Sages. Rabbi Goren tried to create a sense of order among the varied and often conflicting sources and claims cited above by creating a harmonious perspective that, in his opinion, correctly reflects the traditional Jewish position.

The festival of Hanukkah, the only Jewish holiday from the post-Biblical period, served as an important symbol in the Zionist polemic that legitimized the use of force. With the strengthening of the Zionist ethos, this holiday acquired a more central position than it had occupied in previous centuries. The wars of the Maccabees and their military victory were emphasized by the Zionists as the central motif of the holiday and as proof that the rabbinic spirituality was actually in opposition to the true Jewish tradition.⁵¹ In contrast, the anti-Zionist religious factions that opposed the use of force emphasized that the Maccabean Wars are not mentioned in rabbinic literature and that the Rabbinic Sages based the holiday on the divine miracle, "the miracle of the oil," rather than on the military victory. Furthermore, the Sages identified the Temple, the spiritual center, as the primary arena of the conflict. Rabbi Goren, in his unique fashion, tried to harmonize between these competing claims. In his opinion, this harmony reflected traditional Judaism in its ideal state:

The holiday of Hanukkah is also a symbol and a model of the victory of the few over the many, in light the war's uneven nature and the specifically religious goals of the Greeks, for whom it was a war of religious persecution to make them [the Jewish People] forget their *Torah*. Nevertheless, the Rabbis of the *Talmud* did not find it appropriate to emphasize the military victories, but rather the miracle of the oil and the *menorah* This comes to teach us to what degree the Sages opposed war and the people refrained from crowning the military heroes and the victors in battle. This was done in order to negate this type of heroism which relates to a particular individual. This is the greatest danger to the principles of faith and to the *Torah* of Israel — to connect heroism and physical victory on the battlefield

51 See *supra* note 25.

to man The worship of the development of physical power is hidden within idolatrous rituals and is in opposition to the principles of religion and faith.⁵²

In the worship of physical power and the hero of the battlefield lies the danger of the mistaken belief expressed in the phrase "my power and the strength of my hand" (*Deuteronomy* 8:17), which Judaism seeks to prevent. Under Goren's interpretation, the rabbinic spiritualization of Hanukkah was not designed to express opposition to the use of force itself, but, rather, to deal with the danger of the veneration of might and the man of strength. However, this claim was not sufficient for Rabbi Goren's purposes, and he sought to take the matter one step further: his essential objective was to advance the place of spirit in war itself.

In his writings, Rabbi Goren tried to create a synthesized approach incorporating the need for the use of force and its limitations, which he viewed as reflecting the harmony between the Bible and rabbinic literature. He sought to create congruence between Joshua, the conqueror and leader, and the words of the Prophet Zechariah: "Not by war nor by power, but by My spirit says the Lord of Hosts" (*Zechariah* 4:6), between the military heroism of the Bible and the ethical heroism of the Rabbinical Sages. The balance between power and spirit in Jewish thought is a constant and pervasive theme in Rabbi Goren's writings. On the one hand, we cannot fault Jewish tradition for praising spirit at the expense of power; on the other hand, we cannot conclude that it was opposed to the use of force. Physical power is a necessary element of survival, but it must be controlled and harnessed by the spirit. The very spirit that was the focus of the attack against Jewish tradition as irrelevant at the time of the renewal of Jewish sovereignty became, in Rabbi Goren's hands, a reason to praise the tradition that sought to deeply implant an ethic to guide the use of force.

Both physical power and spirit are manifestations of heroism — spiritual and physical — and it is therefore impossible to renounce either one. This entails that we recognize independent value to the military and heroism. In his article *Might in the Teachings of Judaism*, Goren wrote,

The importance that the Bible and Judaism attribute to might in its accepted sense, that is, military heroism, can be derived from numerous texts and sections that are spread throughout *Prophets* [*Nevi'im*] and

⁵² Shlomo Goren, *Haruah Vehakoah Bemishnat Hayahadut* [*Spirit and Power in the Teachings of Judaism*], Pt. I, 100 Mahanayim 5, 15 (1966) (Hebrew) (author's translation).

Writings [*Ketuvim*] which are not open to allegorical interpretation without deviating from their simple meaning. A good example is the verse "Gird your sword on your side, hero, for it is your glory and your splendor", which praises military heroism as the glory and splendor of man, but is interpreted by the *midrash* allegorically as follows: "Gird your sword on your side, hero — this is Moses who merited to receive the *Torah* which is compared to a sword."

It is true that we find in *Prophets* and *Writings* reservations about man's military power, as in *Jeremiah* (9:22-23): "Thus says the Lord: Let not the wise man glory in his wisdom, nor the mighty man glory in his might, ... but let him that glories glory in this — that he understands and knows me." ... We find a similar sentiment in *Writings* (*Psalms* 33:16): "There is no King saved by the multitude of his hosts, a mighty man is not delivered by great strength." Nevertheless, these verses cannot cloud the glorification of the attribute of heroism which the *Prophets* themselves and Jewish history connect to the heroes of Israel who learned the art of war.⁵³

Rabbi Goren admits in this passage that the Sages clearly preferred the concept of spiritual and moral heroism and that they often interpreted Biblical heroism in an allegorical fashion. Nevertheless, in his opinion, the rabbinic interpretation was the result of historical circumstances: the transition from Biblical military heroism to rabbinic spiritual heroism was the result of the loss of power and political autonomy in the post-Biblical period. Therefore, the rabbinic interpretation cannot suffice and cannot be adopted categorically. From a historic perspective, there is no doubt that Rabbi Goren's claim makes sense. However, his readiness to use historical categories in speaking about Jewish law, in itself a bold move, was brazen from the perspective of *halakhic* thought primarily in that, based on this interpretation, he advocated a return to the original approach that assigned prominence to physical strength in Jewish tradition.⁵⁴

53 Shlomo Goren, *Hagevurah Bemishnat Hayahadut* [*Heroism in the Teachings of Judaism*], 120 *Mahanayim* 7, 9, 11 (1969) (Hebrew) (author's translation).

54 In the continuation of the article, Rabbi Goren moderated his historical claim somewhat, arguing that the aforementioned development only impacted on *aggadic* thought (lore), whereas *halakhic* (legal) thought remained consistent in its positive view of physical military heroism. Thus, for example, from the verse cited above, "Gird your sword on your side, hero, for it is your glory and your splendor," Rabbi Eliezer Hagadol, a second-century *Mishnaic* scholar, derived that weapons are like jewelry for a man and may therefore be worn on the Sabbath. When, in the *Talmud*, this ruling was questioned because the verse was allegorically interpreted to refer to

The fundamental and most important conclusion that can be drawn from Goren's approach is that the establishment of the Israel Defense Forces represents a return to original Jewish values. Nevertheless, can we ignore moral heroism, the spiritual heroism discussed by the Prophets and developed and emphasized by the Rabbinical Sages? Rabbi Goren's conclusion on this point is surprising:

Even the humanitarian view of Judaism regarding the essence of heroism does not negate the physical heroism that is accepted as a value in our worldview, but rather establishes an order of priorities As we see in *Avot De-Rabbi Nathan*, "Who is the mightiest of the mighty? — One who controls his inclination, as it says: 'Forbearance is better than might.'" We learn that this definition does not attempt to negate physical heroism, but to define the mightiest of the mighty. From here, we learn that there are two levels of heroism. The lower level is physical heroism, and the higher level is spiritual heroism.⁵⁵

Even though both forms of heroism have clear standing in Jewish thought and one cannot exist without the other, there is a definite hierarchy between them. Rabbi Goren was certainly aware of the change that took place with regard to the view of military power that resulted from the transformation of the Jewish People into a society without power. His claim, however, was that the concept of moral heroism is not just a creation of the Rabbinical Sages, but also an important motif in the Bible itself. In other words, the innovation of the Sages was not in the creation of a category of spiritual heroism, but in establishing this form of heroism as the dominant motif. Thus, Rabbi Goren claimed that the creation of an appropriate balance between the use of force and moral heroism is, in fact, a true return to Biblical Judaism.

This description has important implications for Rabbi Goren's thinking and practical conclusions. The Israel Defense Forces as an instrument of Jewish sovereign power has significance and value from the perspective of Jewish tradition itself. Yet, at the same time, it will lose its value and significance if it does not embrace Jewish ethical values and the concept of spiritual heroism. The balance between these different types of power

spiritual heroism, heroism of *Torah*, he responded as follows: "The verse does not deviate from its simple meaning." The allegorical interpretation is in the realm of lore, but in practice, the rabbinical sages remained true to the Biblical source that glorified military heroism.

⁵⁵ Goren, *supra* note 53, at 9 (author's translation). Goren was quoting from *Avot De-Rabbi Nathan*, a collection of *Mishnaic* literature on philosophical and ethical topics.

reflects also the personal internal harmony of Rabbi Goren himself: a merger of the two worlds, the old and the new, by which he was influenced, between which he was torn, and that he tried to synthesize. Tied to the study hall of old, faithful to the oral tradition, he was concurrently the modern military officer, captured by the enthusiasm of the revolution that had empowered the Jewish People to use force in their own defense and to promote their own interests.

The model that Rabbi Goren built represents a revival of previous models. On the practical level, he returned to the Biblical tension between the legitimization of the use of force and the danger of an exaggerated reliance on force and the unbridled use of physical power about which the Prophets had warned. Rabbi Goren's model certainly defies Ben-Gurion's concept of a return to the Bible discussed above in Part I. Unlike Ben-Gurion, whose conception of the return to the Bible was a rebellion against post-Biblical literature and the post-Biblical spiritual world, Rabbi Goren sought a return to the Bible accompanied by a preservation of the structure of continuity and ongoing development of Jewish law. Goren's path to the Bible was not really a return to the past, but a step forward. Indeed, he admitted that the historical reality of the Diaspora led the Rabbinical Sages to ignore, to some degree, the value of might. Although there was now a need to return to reliance on force, it was necessary that the ethical appurtenances of the rabbinic literature accompany this return and not be discarded. We Zionists, Goren subtly declared, seek — perhaps without a choice — to return to a reliance on might, to the model of the Biblical kingship of Israel that utilized force. Yet, are we prepared to forfeit the glorious rabbinic creativity that strengthened the spirit? Will we remain Jewish if we forfeit the Jewish spiritual perspective? The rabbinic spiritualization of the Biblical wars, which had been portrayed as a product of Diaspora Judaism that must be shed, was now portrayed by Goren as an ethical treasure to be used to build a post-Diaspora Jewish army.

V. THE ETHICS OF WAR AND TREATMENT OF THE ENEMY

As noted, one of Rabbi Goren's important publications was his four-volume work entitled *Response to War: Responsa on Matters of the Military, War, and Security*.⁵⁶ This work is a collection of responsa dealing with different

⁵⁶ The name of the book is indicative of its contents: a legal responsa on issues relating to war. "Responsa" is a literary genre that occupies an important place in Jewish legal literature. Furthermore, the name has an additional meaning, which is quite

aspects of military life, based primarily on rulings that Goren made during his service as Chief Rabbi of the Israel Defense Forces. The first chapter of the book, entitled *The Ethics of Warfare from the Perspective of Jewish Law*, serves as a lengthy and important introduction to the book. In this chapter, Goren described the ethical principles of warfare found in Jewish tradition as he understood them and tried to convince the reader that this tradition is sound and can assist in the building of an ethical army. The central argument in the chapter is that the greatest obligation during battle is to try, to as great an extent possible to prevent loss of life to the enemy, both soldiers and civilians. The value of human life in Jewish tradition relates to all people, whoever they may be, including the enemy. Goren opened this chapter with the well-known quotation from the *Mishnah*:

Therefore man was created singly, to teach you that whoever destroys a single soul of Israel, Scripture considers it as if he had destroyed a full world; and whoever saves one soul of Israel, Scripture consider it as if he had saved a full world.⁵⁷

Rabbi Goren claimed that the proper version of this tractate is a universal message that does not read "soul of Israel" but simply "soul." Ephraim Urbach, one of the most important scholars of rabbinic literature of this generation, discussed the extant nationalistic and particularistic reading of the tractate and demonstrated that the original source of this law was universalistic: "whoever saves one soul."⁵⁸ Goren followed this approach and tried to prove that manuscripts and parallel readings of the tractate all support the reading "one soul" rather than "one soul of Israel." This type of critical interpretation, based on a historical analysis of the text, has been accepted in the academic field of rabbinic literature since the middle of the nineteenth century, but is incompatible with Orthodox Jewish *halakhic* rulings. As stated

interesting and points to the ideology that guided Rabbi Goren and that I have discussed here. In *Isaiah* 28:5, it is stated, "On that day shall the Lord of hosts be for a crown of glory ... and for strength to those that *turn back the battle at the gate*." In the spirit of the rabbinical interpretations that I have discussed, the Sages explained this verse as follows: "'Those who turn back the battle' — who give and take in the war of *Torah*." By choosing this verse as the title of his book, Rabbi Goren wished to point to the double meaning of the verse: a reference both to the war of *Torah* (the legal responsa) and also a treatment of the topic of war itself.

⁵⁷ *Mishnah, Sanhedrin* 4:5.

⁵⁸ Ephraim Elimelech Urbach, "*Kol Hamekayem Nefesh Achat ...*" *Gilgulav Shel Nusach, Tahapuchot Tzenzurah Ve'iskei Madpisim* [*Whoever Saves One Soul ... The Evolution of a Text: Censorship and Printers' Emendations*], 40 Tarbitz 268 (1971) (Hebrew).

earlier, Rabbi Goren was prepared to adopt unconventional methods of interpretation, utilizing historical categories and employing texts that were not usually referred to in issuing legal rulings, in order to support his positions. And indeed, he was willing to take a philological-historical approach in interpreting this tractate as well. But this notwithstanding, in the final analysis, he was an arbiter of Jewish law, not an academic scholar. As a rabbi, he had no pretense of objectivity that mandates non-ideological, spiritual, and emotional distance from the text. Thus, he utilized academic research methods when they could help to support his position and led to his understanding of Jewish ethics, through a reading of the text in a manner that was close to his spiritual and ethical worldview.

One of the more well-known texts that Rabbi Goren used in the first chapter of his book to advance the development of a military ethic is the story of Jacob's sons Shimon and Levi, as recounted in *Genesis* 34. Their sister Dinah had been raped by Shechem, the son of Hamor, the Prince of the land. Her brothers, enraged, came to an agreement with the men of the city according to which Shechem could marry their sister on the condition that all of the men were circumcised. But after the city's men fulfilled the agreement, Shimon and Levi slaughtered them — "and they killed all of the males." (*Genesis* 34, 25). Subsequently, Jacob impassionedly cursed the two brothers, a curse that lasted for generations.⁵⁹ There is dissent among the medieval Biblical commentators as to how this story should be understood. Maimonides held that the men of the city deserved punishment because they had not prevented the rape and had not subsequently seen that justice was done. Therefore, in his opinion, the brothers had been justified in killing all of the men. In contrast, Nachmanides vehemently refuted this opinion, harshly condemning the brothers' action. In his opinion, the action can in no way be justified, which is the reason that Jacob cursed the brothers. The brothers' action had been violent and deserving of Jacob's curse, claimed Nachmanides, because they had killed innocent people. And not only had they been innocent, they had circumcised themselves and, as such, had accepted the laws of God that were in force at the time. Rabbi Goren tried to reconcile the positions of Nachmanides and Maimonides, similarly to how he harmonized between the various Jewish legal sources regarding the use of force. Under Goren's approach, Maimonides was speaking from a legal perspective, whereas Nachmanides was taking an ethical stand, an extra-legal perspective beyond the letter of the law. Moreover, Goren claimed, war must not be conducted only according to the letter of the law. Rather, there is an obligation to conduct war according to standards of

59 See also *Genesis* 49:5-49:7.

morality. In other words, Shimon and Levi could not have been put on trial for what they did, but they *should not* have so acted. Goren sought to impart this ideology to the Israel Defense Forces. The uniqueness of Maimonides' approach is that he ascribed individual guilt to the men of the city because, at least in the theoretical sense, it is the obligation of each individual resident to make sure that there is a proper system of justice in his or her city. According to Maimonides, someone who resides in a city that does not have a proper system of justice is personally responsible for any injustice that occurs in that city. In contrast to Maimonides, there were medieval commentators who tried to justify the action of the brothers based on the concept of collective responsibility, as opposed to individual responsibility. For example, the Maharal of Prague, one of the most important Jewish thinkers at the end of the medieval period, explained the action based on the paradigm of a war between nations in which killing is justified by collective, rather than individual, responsibility. There are no traces of the Maharal's position in Rabbi Goren's writings, for he sought to advance an ethical model for the Israel Defense Forces anchored in Jewish tradition.⁶⁰

In the continuation of the introductory first chapter to his book, Rabbi Goren touched upon one of the most sensitive issues that came to bear in the Israeli army: the level of responsibility of officers for the welfare of the population in territories under the army's control:

[With regard to] the measure of legal or ethical responsibility that falls on officers assigned to take charge of the welfare and security of Jewish or non-Jewish individuals, groups, or squads ... : To what degree does the *Torah* view those appointed to be indirectly responsible for crimes

⁶⁰ For Maimonides' position, see Maimonides, *Laws of Kings and Wars*, *supra* note 26, at 9:14. For Nachmanides' position, see his *Commentary on the Torah, Genesis 34:13, 49:5*, in *Nachmanides: Commentary on the Torah* (Charles Chavel trans., 1971). The Maharal's stance was popular in the thought of militant rabbis in the 1980s. It also found expression in activist Zionist thought in the internal Zionist debate in the 1930s regarding how to react to the Arab riots against the new Jewish settlement in the late 1920s. Thus, for example, in the poem *Parshat Dinah* [The Story of Dinah] (1936) by Shaul Tchernichovsky (1875-1943), the poet laureate of the early settlers, the curse uttered by Jacob, "Let my soul not come into their council, unto their assembly let my glory not be united," (*Genesis 49:5*) is turned into a praise sung by Dinah to her brothers, who avenged her honor: "In their council my soul rejoices, unto their assembly my honor is united." See also Gerald J. Blidstein, *The State and the Legitimate Use of Force and Coercion in Modern Halakhic Thought*, in 18 *Stud. Contemp. Jewry* 3 (2002).

and transgressions committed against the population for which they are accountable?⁶¹

Goren rests his response to this question on two Biblical sources and their rabbinic interpretations. The first is the *Torah* injunction "Do not stand by the blood of your friend."⁶² The Rabbinical Sages derived from this verse a broad responsibility on the part of every individual to help any person whose life is in danger.⁶³ Rabbi Goren further derived from this injunction that military officers are bound to do everything possible to prevent injury to the people in the area under their command and responsibility. The second source that Goren turned to is the fascinating law of the *eglah arufah* ("Rite upon Finding a Corpse outside Town") from *Deuteronomy*.⁶⁴ This law relates to situations in which a corpse is found in a field outside city limits and it is not clear who murdered the person. The law states that the Priests must measure which city is closest to the place where the body was found and that the Elders of that city must slaughter a calf and declare: "Our hands have not shed this blood, neither have our eyes seen it. Forgive, Lord, your people Israel, whom you have redeemed, and suffer not innocent blood to remain in the midst of your people Israel."⁶⁵ The Rabbinical Sages raised the following obvious question:

[Question] And would it enter our minds that the elders of the court are shedders of blood?

[Answer] Rather, [they declare that] he did not come to our area and we allowed him to depart without food, and we did not see him and allow him to go without escort.⁶⁶

This very query, Goren argued, is indicative of the fact that the Sages viewed the City Elders as morally responsible for everything that takes place in their territory, including the welfare and well-being of both the general population and strangers. It is clear that it is not possible to legally charge the Elders with murder, but this ritual is intended to clarify that at the moral level, the spiritual leaders bear responsibility for what transpires in their domain: by

61 Goren, Response to War, *supra* note 6, at 29 (Introduction) (author's translation). There is no question that Rabbi Goren's intent was to address a concrete problem: the responsibility for the welfare of civilians that is borne by the military commanders in territories controlled by the Israel Defense Forces.

62 *Leviticus* 19:16.

63 See Aharon Kirschenbaum, *The Good Samaritan and Jewish Law*, 7 *Dine Israel* [An Annual of Jewish Law] 7 (1976) (Hebrew).

64 *Deuteronomy* 21:1-21:9.

65 *Deuteronomy* 21:7-21:8.

66 Mishnah, *Sotah* 9:6; see also *Sifre Devarim* 210.

the laws of Heaven, they are considered to have shed innocent blood. Rabbi Goren applied this principle to military commanders with regard to areas under their control. According to the military ethic that he sought to foster, it is forbidden to harm even the enemy in an unnecessary manner. Military commanders bear a very strong ethical responsibility for any individual who is unnecessarily harmed, regardless of who harmed them. The very responsibility over the area in which the person was injured makes the commander morally accountable for the welfare of even the enemy in that territory, whether soldier or civilian.

Rabbi Goren attributed this lack of distinction between law and morality to the fact that Jewish law rests on a religious foundation. The human court of law cannot impose such broad duties upon individuals, but the religious individual is accountable also to the Heavenly court. Goren's return to Jewish legal sources to set the laws of war for the State of Israel was motivated not only by his belief that this would characterize Israel as a Jewish state, but also, and primarily, by the fact that, as a religious system, Jewish law provides a military ethical standard worthy of adoption. He viewed Jewish law as a moral conscience of the highest degree and felt it appropriate to follow its teachings as a normative source of the highest degree, even when adhering to its standards might entail a heavy cost. One of the forums in which Rabbi Goren gave concrete and insightful expression to this approach was the Jewish legal debate that arose in the wake of the Israeli siege on Beirut.

VI. THE PEACE FOR GALILEE WAR AND THE SIEGE OF BEIRUT

In 1982, during the war known as Operation: Peace for Galilee, the Israel Defense Forces placed the city of Beirut under siege with the purpose of trapping thousands of terrorists who had fled there from Israeli pursuit. During the siege, Rabbi Goren, then Chief Rabbi of Israel, published an article in *Hatzofeh*, a daily newspaper with a Religious Zionist leaning, in which he claimed that the siege was prohibited under Jewish law, which required the army to leave one side of the city open in order to allow an escape route for any terrorist wishing to flee. The article raised a furor in rabbinical circles. Rabbi Shaul Yisraeli, a prominent Religious Zionist leader of the time, published a very sharp response to Goren, claiming that the siege was legal under Jewish law.⁶⁷ This debate, the arguments that were raised, and the sources that were cited reflect an essential discourse on the

⁶⁷ Rabbi Goren's article was published in *Hatzofeh* on August 6, 1982. Rabbi Yisraeli's

relevance of the classic Jewish laws of war to the contemporary wars of the Israel Defense Forces.

The Biblical story of the Israelite war against Midian describes that "they warred against Midian as God had commanded."⁶⁸ The *midrash* (Biblical commentary) on this verse states,

"And they warred against Midian": — They surrounded it on all four sides. Rabbi Nathan said: "They allowed them the fourth side in order to escape."⁶⁹

Based on this *midrash*, Maimonides codified the following law in *Laws of Kings and Wars*:

When besieging a city in order to capture it, you should not surround it on all four sides, but only on three sides, allowing an escape path for anyone who wishes to save his life, as it says: "And they warred against Midian as God had commanded Moshe." — Based on tradition, they learned that thus He had commanded him.⁷⁰

Rabbi Goren claimed that this law is relevant to the contemporary wars of Israel and that it should be implemented in its literal sense. This position has considerable ramifications. Nachmanides clearly established that this law "is a commandment for all generations that applies to all permissible wars."⁷¹ Rabbi Goren stated frequently in his writings that the contemporary wars of Israel meet the criterion of obligatory wars because their goal is to save Israel from the hands of an oppressor, and he categorized the Peace for Galilee War as such a war.⁷² But on what basis did he apply the law to the siege

response was published in the same newspaper on September 17, 1982. Both articles were reprinted in 3 Goren, *Response to War*, *supra* note 6, at 239.

68 *Numbers* 31:7.

69 Sifre Debei Rav, *Numbers* at sec. 157, at 210 (Offset 1992). This is the version of the text that we have today. However, it appears that a different version was available to Maimonides and Nachmanides (based on his comments), which stated "three sides" also in the words of the first Sage.

70 Maimonides, *Laws of Kings and Wars*, *supra* note 26, at 6:7. Although Maimonides includes this commandment in his code, he does not list it as a separate commandment in his Book of Commandments. It is this matter that Nachmanides contested, claiming that it should be listed as a separate commandment.

71 See Nachmanides' comments on *Sefer Hamitzvot*, *Forgotten Positive Commandments: Commandment 5*.

72 Shlomo Goren, *Mithemet Shlom Hagalil Be'or Hahalakhah* [*The Peace for Galilee War in Light of the Jewish Law*], in Goren, *The Law of the State*, *supra* note 6, at 395. In this article, Rabbi Goren argued that the Peace for Galilee Operation, which sparked heated debate in Israeli society, was an obligatory war. Rabbi Goren, Chief

of Beirut? Goren's position is further complicated by Maimonides' stipulation in the law cited above — "When besieging a city in order to capture it" — which seems to imply an offensive war rather than a defensive one. Thus, it stands to reason that Maimonides would have agreed that this law has force only in the context of permissible wars. Rabbi Goren, however, did not follow this line of reasoning and instead claimed that Maimonides disagreed with Nachmanides on this point, ruling that the commandment to leave the fourth side open applied to obligatory wars as well. In the event of an obligatory war, Goren favored the view of the Maimonides to that of Nachmanides. Thus, in his opinion, the law applies to the Israel Defense Forces.

Rabbi Yisraeli opposed Rabbi Goren's reasoning. As noted, there are three categories of obligatory wars: the war against Amalek; the war against the seven Canaanite nations; and any war to save Israel from an oppressor. With regard to the first two categories, it cannot be claimed that they entail an obligation to leave an escape path open, because the very essence of the obligatory war was not to allow the enemy to live. Thus, Rabbi Yisraeli argued, by association, the same would presumably be true of the third category of obligatory war. And in this case, when Maimonides established the obligation to keep the fourth side of a city open during a siege, he was referring only to a permissible war.

Regardless, Rabbi Goren stood firm in his position that this law applies to obligatory wars that are intended to save Israel from the hands of an oppressor. Moreover, he claimed that Nachmanides would actually have agreed with Maimonides on this point. In his opinion, when Nachmanides stated that this law does not apply to obligatory wars, he was referring to the first two categories of obligatory wars (the war against Amalek and the war against the seven Canaanite nations), but not to the third category (to save Israel from an oppressor), which he would have defined as a permissible war and would therefore have applied the duty to leave open an escape path.

Rabbi Goren's claim that the commandment to leave the fourth side open applies to obligatory wars is based on two arguments. One is the fact that

Rabbi of Israel at the time, embarked on an unprecedented step in the context of the public debate over the war: he assembled the Council of the Chief Rabbinate in order to adopt a formal decision declaring the Peace for Galilee War an obligatory and moral war. The decision was of only declarative significance, but it did establish the Rabbinate's stance in the public debate. The Council's decision was published in Goren's *The Law of the State*, *id.* at 400-01. It is important to note that for Rabbi Goren the classification of a war under the category of "obligatory war" was essential, since a permissible war is completely forbidden in our time according to Jewish law.

the law is derived from the Biblical war against the Midianites, which was an obligatory war. His second argument, both interesting and important, is that Maimonides placed the law to leave the fourth side open in the same chapter as the obligation to "call to make peace" to the enemy, which applies to both obligatory and permissible wars:

One may not wage war against anyone in the world before calling on him to make peace, both a permissible war and an obligatory war, as it says: "When you approach a city to make war against it, you shall call out to it for peace" ⁷³

Therefore, according to Rabbi Goren, the two duties should be read in a unified fashion: just as the obligation to call to the enemy to make peace applies to both permissible and obligatory wars, so too does the commandment to leave the fourth side of the besieged city open. Rabbi Yisraeli argued against this point, claiming that the duty to make a call for peace is that an affirmative response to the call constitutes an acceptance of the seven Noachide laws, the seven basic laws incumbent upon all mankind. Rabbi Goren countered that the reason for the duty is not related to the acceptance of the Noachide laws by the Canaanites, but rather, it is based on the essential principle of the fundamental importance of peace in Jewish tradition, as a value that takes precedence over war. Rabbi Goren argued that this rationale should apply as well with regard to the law to leave the fourth side open, which would explain why Maimonides codified the two laws in the same chapter. ⁷⁴

Rabbi Goren also referred to Rabbi Meir Simcha of Dvinsk (1843-1926), the author of the *Meshech Hokhmah Commentary on the Torah*, who discussed the law of leaving the fourth side open and the question of why Maimonides did not list it as a separate commandment. His conclusion was that allowing an escape route during a siege is essentially a matter of strategy, i.e., that leaving an opening for escape reduces the motivation of the enemy to engage in battle. Rabbi Goren strongly rejected this explanation, arguing

⁷³ Maimonides, *Laws of Kings and Wars*, *supra* note 26, 6:1, based on *Deuteronomy* 20:10. See also Nachmanides' commentary on the Torah, *supra* note 60, *Deuteronomy* at 20:10.

⁷⁴ See *Sifre Bamidbar*, sec. 42, at 46 (Offset 1992). Indeed, *Sefer Hahinukh*, one of the classic works dealing with the counting of the commandments, includes the obligation to leave open an escape route in Commandment 527, the commandment to make a call for peace. It is only logical to assume, then, that Maimonides viewed the law to leave the fourth side open similarly and therefore did not list it as a separate commandment.

that we should not even consider the possibility that the commandments of the *Torah* relate to military tactics. It was clear to him that the rationale underlying this law is to foster mercy for the lives of one's enemies. In contrast, Rabbi Yisraeli could not comprehend the logic in allowing someone who is waging war against you to escape, given the probability that he will return to attack again. The message inherent to Rabbi Yisraeli's argument is clear: the law to leave the fourth side open is not applicable today. In messianic days, when wars will be conducted according to the dictates of the *Torah*, it will be possible to engage in a war against those who are not waging a war against us, and in such situations, we will allow them to escape. Rabbi Goren, however, maintained his position that this law is relevant in our times with regard to the wars of the Israel Defense Forces and that the rationale underlying the law is the cultivation of personal morality — the principle of having mercy for one's enemies. This principle is, as we saw in Part V, the central pillar of Rabbi Goren's military ethic. Thus, the obligation to have mercy on one's enemies, which reflects the hierarchical relationship between spirit and power that Rabbi Goren sought to establish, found concrete and practical expression in his stance on the siege of Beirut.

It is difficult to ignore the optimistic, and even unrealistic, nature of this law as Rabbi Goren interpreted and gave expression to it in practice. It would appear that the adoption of this law would contradict military logic, for, as Rabbi Yisraeli argued, the terrorists would return to attack again. Rabbi Goren's response to this argument was, "We do not understand the secrets of God"⁷⁵ — in other words, the God who gave the law will save us.

There is no doubt that Rabbi Goren embarked upon an exegetical process with far-reaching implications and that he gave legal rulings that would not necessarily be popular. Did he do so simply to prove that the Jewish laws of war are ethical? My contention is precisely to the contrary: Rabbi Goren's approach derived from his deep commitment to Jewish law and his worldview regarding the character of the State of Israel. The obligation to leave the fourth side open and the duty to make a call for peace law are two of the most important and unique laws relating to war in classic Jewish sources.⁷⁶ According to Rabbi Goren's Zionist-messianic philosophy, it is incumbent on the State of Israel to give effect to the values and practices rooted in Jewish law.

75 Goren, *The Law of the State*, *supra* note 6, at 419. This is based on a *Talmudic* expression found in the tractate *Brakhot* 10a.

76 See, e.g., Michael Waltzer, *Just and Unjust War* (1977).

CONCLUSION: ZIONISM AND JEWISH LAW

The Zionist movement sought to dramatically transform the nature of Jewish life. It called upon the Jewish People to take responsibility for their fate and, for the first time in Jewish history, initiated the renewal of Jewish sovereignty on a foundation of nationalism. In this respect, Zionism posed a very real challenge to traditional, normative Judaism. The return to Zion was presumably the fulfillment of an ancient dream, a dream that had been etched into the imaginations of the Jews as a redemptive messianic event, not as a natural human process. As such, the traditional Jewish community was faced with two matters: first, whether to cooperate with such an enterprise and, second, if so, how to understand the meaning of this enterprise according to the traditional categories of Jewish religious thought. Traditional Judaism was challenged not only by the very return to the ancient Land of Israel based on nationalist values but, also and, perhaps, more fundamentally, by the national character that the Zionists wished to impart to Judaism.⁷⁷ Indeed, within the Zionist movement itself, there was heated debate as to the appropriate relationship between the new Jewish nationalism and the old world of traditional Jewish values. Some viewed Zionism as a renewal of traditional Jewish values, whereas others saw it as a revolutionary movement — the destruction of an old world and the construction of a new one. Nevertheless, there was general consensus that Zionism clearly was not bound to traditional, normative Judaism and that it sought to replace religious Jewish identity with a new identity: a Jewish national identity.⁷⁸ This fact sharpened the dilemma faced by traditional Judaism as to whether it was permissible to cooperate with the Zionist enterprise.

Rabbinic reactions to Zionism at the end of the nineteenth century and the beginning of the twentieth century can be understood against the backdrop of previous Orthodox Jewish reactions to the Emancipation. Orthodox Judaism began as an anti-modern movement, expressing already at the beginning of the nineteenth century virulent opposition to modernity, a strategy of

⁷⁷ For the spectrum of Orthodox responses to Zionism, see Aviezer Ravitzky, *Messianism, Zionism, and Jewish Religious Radicalism* (Michael Swirsky & Jonathan Chipman trans., 1997) (1996); Ehud Luz, *Parallels Me'et: Religion and Nationalism in Early Zionist Movement (1882-1904)* 3-26, 29-63 (Lenn J. Schramm trans., 1988) (1985); Yosef Salmon, *Religion and Zionism: First Encounters* (2002); Dov Schwartz, *Faith at the Crossroads: A Theological Profile of Religious Zionism* (Batya Stein trans., 2002) (1996).

⁷⁸ See Luz, *supra* note 77; Gideon Shimoni, *The Zionist Ideology* (1995).

isolation, and rejection of any attempt to integrate modern values into Judaism. This isolationist stance was not only directed at the surrounding non-Jewish society, but also at Jewish groups and individuals who advocated cooperation with the modern world.⁷⁹ A different response to modernity emerged from a new stream of Orthodoxy, called Modern Orthodoxy, which developed in Germany in the mid-nineteenth century and opposed absolute isolation from the modern world. Rabbi Samson Raphael Hirsch developed an Orthodox ideology of openness to modernity — "*Torah and Worldliness*" — which sought to adopt the values of modernity and the surrounding Christian culture as long as they were not in direct conflict with Jewish law and values.

Consistent with the hard-line isolationist approach, strong Orthodox rabbinic opposition to any cooperation with the Zionist enterprise is understandable. Nevertheless, this opposition to Zionism was more complex than a mere expression of isolationism, because, in contrast to other modern Jewish movements, which sought ways to integrate into the surrounding Christian culture, Zionism strove to separate from this culture in order to fulfill a Jewish yearning: the return to the Land of Israel. As a result, a number of pertinent reactions to Zionism, both for and against, developed in the Orthodox Jewish world, not necessarily consistent with the respective reactions to modernity in general. The opponents of Zionism, basing their claims on traditional Jewish sources, asserted that the process was fundamentally prohibited. Some grounded their opposition on the sanctity of Jewish passiveness, maintaining that a move from exile to redemption could only be effected by deterministic messianic intervention. Others, less radical, based their opposition on the prohibition of cooperating with those who sought to repudiate a fundamental Jewish life, the way of the commandments and religion.⁸⁰ Yet, opposition to Zionism did not come just from the Orthodox isolationist camp. Interestingly, Hirsch himself also opposed the idea of Jewish nationalism that had been promulgated by the

⁷⁹ See Jacob Katz, *Orthodoxy in Historical Perspective*, 2 *Stud. Contemp. Jewry* 3 (1986); Benjamin Brown, *Orthodox Judaism*, in *The Blackwell Companion to Judaism* 311 (Jacob Neusner & Alan J. Avery-Peck eds., 2000); Aviezer Ravitzky, *Hadash Min Ha-Torah? Modernist vs. Traditionalist Orientations in Contemporary Orthodoxy*, in *Engaging Modernity, Rabbinic Leaders and the Challenge of the Twentieth Century* 35 (Moshe Z. Sokol ed., 1997); Moshe Samet, *The Beginnings of Orthodoxy*, 8 *Modern Judaism* 249 (1988).

⁸⁰ In addition to the sources cited in *supra* note 76, see Aviezer Ravitzky, *Munkacs and Jerusalem; Ultra-Orthodox Opposition to Zionism and Agudaism*, in *Zionism and Religion* 67 (Shmuel Almog et al. eds., 1998).

precursors of Zionism, perhaps partially because the isolationist tendencies inherent in Jewish nationalism ran counter to his integrationist philosophy.

Some in the Orthodox world (including even certain hard-line isolationists) did, however, try to cooperate with the Zionist enterprise by compartmentalizing their Orthodoxy. They were willing to cooperate with the active nationalistic component of Zionism and to ignore its denial of Jewish values. They wished to be Zionists but, at the same time, remain traditional Jews, fully preserving their religious principles. This stream later came to be known as Religious Zionism. Religious Zionism was comprised of two factions that completely differed in how they sought to integrate into Zionism and the meaning that they ascribed to Zionism. The one faction interpreted Zionism through the prism of the traditional concept of redemption, seeing it as a necessary stage in the redemptive messianic process. The other faction viewed Zionism from a pragmatic perspective, as a necessary process to secure the existence of the Jewish People in the contemporary world, but without any connection to redemption and messianism. The innovation of messianic Religious Zionism was its willingness to grant religious significance to a natural human process. The innovation of pragmatic Religious Zionism was its willingness to discuss and contemplate reality using categories that fall outside the traditional parameters of exile and redemption.⁸¹ From both perspectives, however, the challenge that faced the rabbis and the new ideas that they generated in order to identify with Zionism was essentially theological in nature.

However, it soon became clear that the challenge presented to the Religious Zionist rabbis by Zionism was much more complex and involved, that it was not only ideological-theological, but also normatively *halakhic*. At the foundation of every Modern Orthodox Jewish movement is the acceptance of new, external values that do not conflict in an absolute manner with Jewish law or, in other words, the separation of *halakhah* from specific areas of reality that are not related to it or in conflict with it. However, as the Zionist idea advanced and certainly after the establishment of the State, it became clear that it is not possible to effect a complete separation between Jewish law and the state, that aspects of running a state fall into areas that are of concern to Jewish law. It became clear, as well, that the *halakhic* system had been inactive for some time in areas of governance and was thus not designed to address the new reality. This situation was the result of the Diaspora reality in which the Jewish legal system had for a very long time been disassociated from affairs of state and had not

⁸¹ See Ravitzky, *supra* note 76, *Introduction*.

addressed them. For this reason, all of the streams of Religious Zionism, in their initial stages, supported the idea of revitalizing Jewish law and developing a normative system that could deal with the reality of Jewish sovereignty.⁸² Slowly, however, the Religious Zionist rabbis abandoned this idea, for several reasons. First, it became clear that such a project would entail an extensive process from a legal standpoint. Furthermore, the anti-Zionist rabbis refused to cooperate in the effort, as did the secular political leaders, who had no interest in applying Jewish law to affairs of state.⁸³ Rabbi Goren was one of the few who did not forsake the idea, however. In this article, I have sought to describe his attempt to revitalize the Jewish laws of war, one of the most challenging areas in the normative Jewish legal system.

Rabbi Goren without a doubt belonged to the messianic Religious Zionist stream. The messianic significance of the State of Israel was a subject he addressed at every possible opportunity: in his appearances before Israeli soldiers, in his dispatches in the military Rabbinate newspaper, and in his numerous articles published elsewhere. In his opinion, the State of Israel is an intermediate stage on the path to messianic redemption. This intermediate status is inherently good and desirable — a life of freedom in the Land of

82 On this ideology and the related deliberations and tensions that arose in Religious Zionist circles in the early years of statehood, see Cohen, *supra* note 48; Yosef Salmon, *Religious Zionism between Tradition and Modernity*, 53 *Jerusalem Q.* 127 (1990). In terms of the implementation of the idea, certainly Rabbi I. Herzog, at the time the Ashkenazi Chief Rabbi of Israel, and Rabbi B.Z. Uziel, the Sephardic Chief Rabbi at the same time, were among the most prominent and prolific rabbinical figures in this regard. On Rabbi Herzog, see the collection of articles in 5 *Jewish L. Ass'n Stud.* (1991). On Rabbi Uziel, see Marc Angel, *Loving Truth and Peace: The Grand Religious Worldview of Rabbi Benzion Uziel* (1999). See also Elimelech Wassertich, *Assiyat Mishpat Biyedei Harabanim Harashiyim Betekufat Hamandat [Creating Law by the Chief Rabbis]*, in 3 *A Hundred Years of Religious Zionism* 83 (2003).

83 One of the important Jewish thinkers who called for a revitalization of Jewish law and its adaptation to the period of sovereignty was Yeshayahu Leibowitz, who dedicated a great deal of his writing to this subject over the course of a number of decades. See, for example, the collection of his articles in Yeshayahu Leibowitz, *Torah Umitsvot Bazman Hazeh [Torah and Commandments in Contemporary Times]* (1954). However, he, too, gave up on this idea and stopped writing on the subject. Another important work on this topic is Akiva Ernst Simon, one of the outstanding thinkers of the time, entitled *Ha'im Od Yehudim Anahnu [Are We Still Jews]*, *supra* note 48. Simon posed the idea that Jewish law should abandon an approach to affairs of state as a practical suggestion for change of current conditions and not as an interpretation of Judaism. His claim was that Judaism is actually a catholic religion from an objective standpoint, but in this crisis, there is no alternative to a subjective, protestant, approach.

Israel. Nevertheless, he claimed, we cannot be satisfied with this status. In this spirit, he wrote the following words to the soldiers of the Israel Defense Forces on the first Passover Eve following the 1967 Six-Day War:

Nevertheless, we must know that in spite of the wonderful accomplishments of our people and our armed forces to date, we have not yet reached the destiny to which we aspire. The freedom of a people cannot be accomplished solely by military and diplomatic means. Along with the military and diplomatic efforts, we need a general awakening, readiness, and sacrifice to revitalize and realize the spiritual vision of Israel, to give root to the sanctified way of life that our prophets envisioned — to be a cherished nation to Him and a light unto the nations.⁸⁴

The "destiny to which we aspire" refers to the messianic era in its entirety: "to be a cherished nation to Him and a light unto the nations." The realization of this destiny is not predetermined, but, rather, dependent on us. "The intermediate stage" can evolve into the stage of complete redemption if we fulfill the tasks with which we have been charged. Rabbi Goren summarized this approach in his article *The State of Israel as a Stage in the Prophetic Vision* as follows:

The conclusion is ... that the authority and possibility exist, based on the *Torah* and the Prophets, to create an independent state in the Land of Israel in the intermediate period between the Second Temple and the messianic period, without a direct connection to the fulfillment of the messianic vision. However, this state can be in the final analysis, as a result of excellent planning and advancement based on the *Torah*, a decisive first step in the realization of the messianic vision of the Prophets of Israel in the messianic era. The matter depends upon the behavior and way of life of the state and its leaders, and its success in establishing appropriate national and religious goals ...⁸⁵

This was precisely Rabbi Goren's motivation to develop Jewish law and to struggle for the application of Jewish law and ethics in the administration of the Israel Defense Forces. This worldview did not impact the content of

84 Shlomo Goren, *Birkat Harav Harashi Letzahal Likrat Hag Hapesah* [*The Blessing of the Chief Rabbi of the Israel Defense Forces for the Festival of Passover*], 118 *Mahanayim* 1, 1 (1968) (Hebrew) (author's translation).

85 Shlomo Goren, *Medinat Yisrael Keshlav Behagshamat Hazon Hanevi'im* [*The State of Israel as a Stage in the Prophetic Vision*], in *Torat Hamoadim* 598 (1st ed. 1964) (Hebrew) (author's translation).

his rulings, but, rather, it provided him with the drive to work in this area and to effect practical implementation.

The *halakhic* rulings examined in this article deal with different perspectives on the Jewish attitude towards the enemy in times of war and occupation. Rabbi Goren dealt with this problem from a variety of vantage-points over many years. It is clear that the development of an ethical army was his primary goal and that he understood that the treatment of the enemy is the most critical and significant point in the ethical fiber of any army. The opposition to the use of force in the rabbinic literature was, in the eyes of many Zionist leaders, additional proof that the literature was irrelevant to the new era of Jewish sovereignty. For their part, many rabbis maintained that the need for the use of force was proof of the illegitimacy of the Zionist enterprise. Goren wished to rebuild the Jewish value system in consonance with the reality of Jewish sovereignty. He argued that while Jewish sovereignty and the use of force that it required necessitated a return to earlier Jewish values that validate the use of force, it also demanded giving a more prominent position to rabbinic opposition to the use of force. He sought to build a model that legitimizes the use of force, but within the parameters of the spiritual values of the Rabbinical Sages. Rabbi Goren's *halakhic* rulings on the treatment of the enemy represent the realization of the integration that he strove to create.

There are certainly those who might perceive an apologetic tone in Rabbi Goren's work, an attempt to "prove" that Jewish law is relevant and that it is ethical and enlightened. I have tried to demonstrate, rather, that Rabbi Goren's rulings reflect his commitment to Jewish law and Zionism. Perhaps even more than mirroring his deep commitment to these two worlds, they reflect his dedication to the challenge of bridging between them. He saw himself as a person authorized to perform this function — both as a military man who knew the realities of military life and warfare from the inside as well as a rabbi with a high level of scholarship. The ethical code that he wished to impart to the Israel Defense Forces manifests the integration of physical power and divine spirit, an integration that Goren believed correctly reflect the Jewish position. This is essentially the harmony between power and spirit for which he strove, the harmony between the State of Israel and the *Torah* of Israel, a harmony that, according to his worldview, would lead the State to the realization of its spiritual destiny.