YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

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**Shiur #14: 6 June 1982**

***Shelom Ha-Galil*, First Lebanon War**

**Part I**

On 6 June 1982, Israel began a military operation in Lebanon to remove the threat of terrorists who were attacking Israel’s northern border. The PLO, stationed in Beirut, under the leadership of [Yasser Arafat](https://en.wikipedia.org/wiki/Yasser_Arafat), was responsible for these attacks, as well as for thousands of rocket attacks on the Galilee. The acts of terror were not only against the State of Israel, but also against Israelis living abroad as well. An attempt to assassinate [Shlomo Argov](https://en.wikipedia.org/wiki/Shlomo_Argov), Israel's ambassador to the United Kingdom, was the impetus for Menachem Begin to officially launch the attack.

The operation, named *Shelom Ha-Galil*, Peace of the Galilee, turned into the (First) Lebanon War. At the time, no one knew that this war would end up keeping Israeli troops in Lebanon for another 18 years.

After attacking the PLO — as well as Syrian and Muslim Lebanese forces — the Israeli military occupied southern Lebanon, eventually surrounding the PLO and parts of the [Syrian Army](https://en.wikipedia.org/wiki/Syrian_Army). Surrounded in west [Beirut](https://en.wikipedia.org/wiki/Beirut) and subjected to heavy bombardment, the PLO forces and their allies negotiated passage from Lebanon to Tripoli.

The war officially ended in September 1982, with 654 soldiers killed and thousands injured.

At the beginning, the country was supportive of the government’s decisions, but certain events that occurred during the war raised many questions regarding the aims and military goals of the Israeli government.

This war was very different from all previous Israeli wars, and from this point onwards, Israelis became more cynical and less trusting about government decisions.

In all previous wars, Israelis felt that there was no other choice but to fight. In the past, there had been no doubt or question as to what the country was fighting for. However, in 1982, the feeling of some was that there was an alternative and that some of the battles could have been avoided.

Two events during the war created major controversies within Israeli society. Firstly, the siege of Beirut and its occupation were not in the original plans of the operation. Secondly, the Sabra and Shatila massacre by Christian militants raised questions about Israel’s role in failing to prevent it.

In our *shiur*, we will discuss the halakhic responses to these controversial events.

**The Siege of Beirut**

As mentioned above, the IDF surrounded Beirut, besieging the PLO, which eventually led to its evacuation and relocation to Tunisia.

The Midrash mentions that during the war with Midian, a siege was laid, surrounding their city. Rav Natan explains that:

They left the fourth side open so that they might escape[[1]](#footnote-1).

The Ramban derives from the Midrash that there is a positive mitzva at times of war to leave open one side for the enemy to escape. He even explains the rationale for this:

We are commanded, when we besiege a city, to leave one direction open so that if [the inhabitants] want to flee, they can do so. From this, we learn to act with compassion even toward our enemies at the time of war. It also has an advantage, as it allows an opening to flee as opposed to strengthening [their efforts] against us…

This is a mitzva for all time **in a non-obligatory war,** and so writes Maimonides in his great code.[[2]](#footnote-2)

The Ramban mentions that the Rambam agrees with him; however, there are two major differences between them. The Rambam writes in his code of law:

When a siege is placed around a city to conquer it, it should not be surrounded on all four sides, but only on three. A place should be left for the inhabitants to flee and for all those who desire to escape with their lives, as it is written ([*Bamidbar* 31:7](http://www.chabad.org/9959#v7)): “And they besieged Midian as God commanded Moses.”[[3]](#footnote-3)

Unlike the Ramban, the Rambam does not mention this mitzva in his *Sefer Ha-mitzvot*; moreover, it is unclear from the Rambam if this law applies in all types of war.

Rav Meir Simcha Ha-Kohen of Dvinsk (1843-1926) explains the meaning behind their disagreement:

The reason for the dispute is that the Ramban posits that just as there is an obligation to seek peace, similarly there is a necessity to minimize losses to life and to allow the inhabitants of the city to escape.

However, the Rambam sees this all as part of the strategy of battle. If they are entirely surrounded, when they are in terror for their lives, fearing that they will fall to the enemy, they will defend themselves and be invigorated, as we have seen in many historical instances that as great as is the despair, so is the ensuing victory. However, this will not happen if they [the enemy] have a way to survive and save their lives; then they will just flee. In my humble opinion, the Rambam is correct.[[4]](#footnote-4)

The *Sefer Ha-chinnukh* agrees with the Ramban, limiting our law to a *milchemet reshut* (discretionary war) only.[[5]](#footnote-5) Rav Yosef Babad comments that according to the Rambam, our law is applicable even in a *milchemet mitzva (*commanded war), the logic being that the source of our law is from the war of Midian, which essentially was a mandatory war.[[6]](#footnote-6)

The *Meshekh Chokhma’*s explanation would explain this opinion of the Rambam as well. If the purpose of our law is only tactical, then it should apply to all wars!

**Rabbinic Debate: Rav Shlomo Goren vs. Rav Shaul Yisraeli**

At the time of the Lebanon War, the Israeli newspaper *HaTzofe* published a letter by Chief Rabbi Goren, arguing that based on Jewish law, a total siege on Beirut would be forbidden.[[7]](#footnote-7) Rav Yisraeli responded that the siege on Beirut must be complete, and there is no place to show mercy towards terrorists who wish to destroy us.[[8]](#footnote-8)

Both rabbis agree that civilians must be allowed to leave the besieged area and that enemies may be prevented from entering the area (or bringing in supplies). The only discussion is regarding militants that are under siege.

**Rav Goren’s Argument**

Firstly, Rav Goren argues that every war of the State of Israel is considered halakhically a *milchemet mitzva.[[9]](#footnote-9)* This means that all the *halakhot* of war as mentioned in the Rambam’s code of law would apply to wars nowadays.The Lebanon War is a defensive war and thus obligatory. He argues that the Rambam’s limitation that halakhically recognized wars require a king, the *Sanhedrin* and a *Kohen Gadol* applies only to a *milchemet reshut.*

Regarding the specific law of laying siege, Rav Goren bases himself on the Rambam’s rulings mentioned above. Like the *Minchat Chinnukh,* Rav Goren claims that the law applies to all wars, even a *milchemet mitzva*.

**Explaining the Ramban**

He then sets out to prove than even the Ramban would agree that under the circumstances of the Lebanon War, there is an obligation to leave one side open.

The Ramban states that this mitzva only applies to a *milchemet reshut*, such as a war to conquer new land. However, a *milchemet mitzva*, such as a war against Amalek, against the seven nations of Canaan or to defend Jewish lives, does not have such a requirement; thus, a full siege may be put in place. The Lebanon War is a defensive war and thus obligatory. If so, then according to the Ramban, the siege on Beirut must be complete!

Still, Rav Goren argues that the Ramban is only referring to the first two types of mandatory wars (wars against Amalek and the seven nations of Canaan) in which we are obligated to kill every single person. This is why we may not allow people to escape a siege.

However, a defensive war, as in our case, is similar to a discretionary war*,* and the siege must allow people to escape.

The *Minchat Chinnukh* asks how anyone can say that this rule does not apply to a mandatory war when its entire source is from the war against Midian, a mandatory war!

Rav Goren suggests, according to the Ramban, that wars outside the land of Israel automatically gain the status of a discretionary war. Therefore, the war against Midian was technically a discretionary war. If so, the Lebanon War is also a discretionary war, and the rule regarding sieges should still apply.

Lastly, Rav Goren compares our law to the law of the Torah, which requires that before we attack our enemies, we must attempt to establish peace first:

No war, neither a *milchemet reshut* nor a *milchemet mitzva*, should be waged against anyone until they are offered the opportunity of peace, as *[Devarim](https://www.chabad.org/9984%22%20%5Cl%20%22v10)* [20:10](https://www.chabad.org/9984%22%20%5Cl%20%22v10) states: “When you approach a city to wage war against it, you should propose a peaceful settlement.”[[10]](#footnote-10)

Rav Goren’s understanding is that **both** laws apply in all types of war and the reason for both is based on a humanitarian commandment, attempting to avoid unnecessary bloodshed.

**Rav Shaul Yisraeli’s response**

The Rambam, in formulating this rule in *Mishneh Torah*, writes that it applies when one besieges a city in order to conquer it. This implies that it only applies to a discretionary war, when the war is to conquer new territory, not to a defensive/ mandatory war. Thus, both, the Rambam and the Ramban only apply this rule to a discretional war, which the Lebanon War is not.

Regarding the *Minchat Chinnukh*’s claim that the source of our law is from the war of Midian which was **a mandatory war**, Rav Yisraeli explains that this is because this war was historically unique and comparable to a contemporary discretional war in that there was no command to directly kill the enemy. Thus, an escape route was required.

Rav Yisraeli quotes the *Meshekh Chokhma,* which we quoted before. He agrees with this opinion that according to the Rambam, this rule is a military tactic, i.e. the best way to create a siege is to leave a side open so the fighters have an escape route and do not need to fight to the end.

Therefore, according to the Rambam, this rule only applies when the tactic is appropriate; but according to the Ramban, it applies in every discretionary war.

Rav Yisraeli objects to the way in which Rav Goren connects the commandments to request peace (before launching a war) and leaving an escape route in a siege as similar humanitarian laws. He claims that they are entirely unconnected. The former is to afford the enemy the chance to surrender and be subjugated under Jewish rule, while only the latter is a humanitarian law.

Rav Yisraeli argues:

The requirement to leave a fourth side open so that the enemy can flee is not relevant when our aim is to defeat and destroy the enemy. Why let them escape from our grasp …when they are in a beleaguered state? Is it so that they can regroup and remobilize against us?

1. Sifrei, *Bamidbar* 31:**7.** [↑](#footnote-ref-1)
2. Ramban, *Glosses to Sefer Ha-mitzvot,* Positive #5. [↑](#footnote-ref-2)
3. *Hilkhot Melakhim* 6:7. [↑](#footnote-ref-3)
4. *Meshekh Chokhma, Bamidbar* 31:7. [↑](#footnote-ref-4)
5. *Sefer Ha-chinnukh*, Mitzva 527. [↑](#footnote-ref-5)
6. *Minchat Chinnukh* ad loc. [↑](#footnote-ref-6)
7. Published in *Meshiv Milchama,* Vol. 3, Chapter 5 [↑](#footnote-ref-7)
8. His response was published in his book, *Chavat Binyamin*, Vol. 1, pp. 111-119. [↑](#footnote-ref-8)
9. See Rav Zevin in *Le-or Ha-Halakha,* p. 65, who argues similarly, that all modern wars are categorized as mandatory wars. see also Chief Rabbi Herzog, *Heikhal Yitzchak OC* 37:3. [↑](#footnote-ref-9)
10. *Hilkhot Melakhim* 7:1. [↑](#footnote-ref-10)