



:Question

We have determined that all the wars Israel has fought, and is fighting, are categorized as a Milchemet Mitzva. I am wondering if, from a halachic perspective, a Milchemet Reshut is relevant today?

Answer:

The answer to your question is complex. It includes both a purely halachic discussion as well as a conceptual moral - ethical discussion.

On the purely halachic plateau, the main obstacle is the requirement to consult with the Sanhedrin. As we have seen, there are three varied understandings of that requirement.

1. A prerequisite to wage a Milchemet Reshut – Since there is no Sanhedrin today a Milchemet Reshut could not be fought. [It may be possible to suggest that the requirement of consulting Sanhedrin applies only if there is a Sanhedrin (something that would need further establishing). In that event, in spite of the absence of Sanhedrin, a Milchemet Reshut may be relevant today]
2. A requirement to enable conscripting people to participate in the war – On the one hand we may suggest that without Sanhedrin it is impossible to recruit the reserves for such a war. On the other hand, the legal structure in the state of Israel may create a situation that all reserves are considered a part of the "kings" army, that does not require the Sanhedrin's consent to recruit.



3. Rashi's opinion that Sanhedrin are consulted to include them in prayers – Accordingly there is no need for the Sanhedrin for the purpose of a modern day Milchemet Reshut.

The Rambam defines Milchemet Reshut as, "a war fought with other nations in order to expand the borders of Israel or magnify its greatness and reputation".

At face value expanding borders where there is no claim of previous rights is something that in the modern world is perceived as fundamentally immoral. Even if expanding borders is understood as conquering to finance the economy (as was the case in the wars of King David according to the Gemara Berachot), today such acts would be perceived as immoral. The same can be said in a war meant to magnify the greatness of a national leadership.

Modern day morals as a consideration in halachic rulings, is an issue debated by Torah scholars, and is part of a greater question of the status of independent values not derived from sources of Torah and Halacha.

In reference to wars fought to "magnify its greatness and reputation", the Lechem Mishna suggests the Rambam was referring to: "that they fear him and will refrain from coming upon us". Suggesting, a war meant to create deterrence, is categorized as a Milchemet Reshut. However, such a Milchemet Reshut is seemingly relevant today.



Sources:

Rambam Hilchot Melachim ch.5 hl.1; Lechem Mishne, specifically the latter part.

Talmud Bavli Berachot 3b, beginning with "Nichnesu chachmei Yisrael"; Rashi on the words "ve'nimlachin be'Sanhedrin".

Articles by Rav Aharon Lichtensein and Rav Zeini , Arachim Be'mivchan Milchama. A sample of the dispute on independent morals.

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