

Drafting Women for the Army

Rabbi Alfred S. Cohen

Some thirty-five years ago, a great controversy roiled the Jewish community, starting in Israel but spreading through the world — the attempt on the part of the Israeli government to draft girls into the army and the outrage of the Orthodox Jewish community at what it considered an absolutely wicked decree which must be resisted at all costs.

In rabbinic circles there was remarkable unanimity in the resistance, and a broad spectrum of rabbinic leaders — Chassidic, “Yeshivish”, Sephardic — stood side by side to repel what they evaluated as a potential death threat to the Orthodox camp and, by extension, to the Jewish people.¹ The Agudah agreed to join the Labor coalition government only on the express understanding that if the suggestion to draft girls were even whispered about again, they would immediately withdraw and thereby topple the government.² At the head of the opposition to the government

stood the Chazon Ish, unchallenged as the greatest Torah leader of his time. Almost an entire volume of his five-volume biography is dedicated to his involvement in this issue, which he considered a veritable death threat for Judaism.³

Albeit time has passed and the proposal laid to rest (if not buried altogether), it might be of value to consider the response of the rabbis and try to appreciate why they took the attitudes which they did. It is important to understand why they choose not to debate the issue at all on its merits — rather than discussing the proposal in a scholarly, objective fashion, rather than citing chapter and verse to prove that according to Jewish law women are not permitted to bear arms, the Chazon Ish and all who backed him reacted with vehement opposition — NO! — And if you try to force us — we are ready to desecrate the Sabbath,⁴ to die for the principle, even to flee the land en masse rather than comply!! Why such a violent, emotional reaction?

Although we usually think of halacha — the study of Jewish law — as a dry, academic discipline, it is really a mistake to think of it in those terms. Halacha has a dynamic all its own; it is impossible to rule on a halachic matter from a distance, on a theoretical plane. The halacha reflects much more than a choice between two intellectual alternatives; at certain times, it demands that the *posek*, the rabbinic authority, consider the proposed action in the context of the times and the implications it might have for society. The Chazon Ish chose not to approach the question of a woman's going to war in the academic fashion that the topic had been discussed by scholars for some two thousand years. Nor did he dissect the problem into specific legal questions — may a woman bear arms, is it a mitzvah for a woman to fight for the Land of Israel, are there wars where she should be included, etc. On the contrary, the Chazon Ish saw the matter entirely as an issue of morality going to the very heart of Judaism. In a letter to a colleague, his brother-in-

1. In the Introduction to Rav Eliezer Waldenberg's *Hilchot Medinah*, Rabbi Tzvi Pesach Frank, writing about the threat to draft women, exhorts all rabbinic leaders to be conscious that the greatest danger would arise from the Rabbinat being fragmented on the issue; he saw it as equivalent to a *gezerat sh'mad* (forced conversion) and the very existence of the Jewish community depended on their united resolve to oppose the plan.

2. פאר הדור volume V, p. 13.

3. Yet in the biography of his major protagonist, David Ben Gurion, the entire issue is not even mentioned!

4. פאר הדור vol. V, p. 12, note 12.

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law Rav Yaakov Koniefsky reported that the Chazon Ish had declared that if the law were indeed passed, it was the duty of every Jew to resist unto death – literally.⁵ For him it represented an encroachment upon the prohibition of “*Arayot*” – immorality and licentiousness – which is one of the three mitzvot for which a Jew must choose death rather than transgress. Rav Koniefsky also writes that the Chazon Ish, the Brisker Rav, and the Tchebner Rav all concurred that if the measure became law, every family with a draft-age daughter would have to leave the country! So strong were they in opposing the danger that they equally opposed a similar plan to draft girls not for the army but for some alternate National Service.

They left no doubt as to the cause for their opposition – the army in any country, and Israel is no different, is a place where moral standards are relaxed, to say the least, and it was just not the proper environment for a Jewish daughter. Against their will, the girls would be affected by the atmosphere and the environment to which they would be exposed, a milieu which would replace the positive reinforcement they would have gotten at home from parents and family.

Rabbi Isser Zalman Meltzer and Tzvi Pesach Frank also issued pronouncements that a person must choose death rather than accede to the government decree, as did the Steipler Rav and Rav Shach.^{6,7} When another rabbi suggested that perhaps it would not be so terrible if the girls served under carefully supervised conditions, the Chazon Ish retorted that the rabbi’s opinion was totally worthless and, had he had any children, he would not have been able to say something like that. The Chazon Ish actually ruled⁸ that the Sabbath should be desecrated to avoid compliance with a draft order and urged parents and teachers to inculcate young

women with the laws of dying “*al kiddush Hashem*,” in sanctification of the Name.⁹

That historic confrontation between religious leadership and secular political authority resulted in an “accommodation” which permitted exemptions from army service for women who wanted to be excused on religious grounds. Although the compromise was essentially unsatisfactory, eventually the issue of drafting women did recede from centerstage and ceased to arouse much controversy. Nevertheless, the implications of that encounter are profound: they underline for us the realization that halachic decision cannot be based solely on abstract legal considerations but must take into account the practical impact of a proposal. Regardless of the halachic precedents on any specific question involved in having women serve in the army, the Chazon Ish saw that the ultimate reality of putting young women in such a position would be to strike a mortal blow against the purity and status of Jewish womanhood. His heroic efforts are the expression of his understanding of the true role which halacha must assume in Jewish society. Halacha is not a passive intellectual research but

5. קריינא דיאגרא רבג.

6. Also in פאר דערור, vol. 5, p. 21 and p. 41.

7. For a discussion of the topic of male yeshiva students being drafted into the Israeli army, see א. ס׳ט, ג. צ׳ץ אילעזר, ג. ס׳ט, ד. התורה והמדינה חלק ה. עי כ׳ד. צ׳ץ אילעזר, ג. ס׳ט, ד. הלכות מדינה, שער ג. פרק ד.

8. פאר דערור, V, p. 26.

9. It was not the proposed law alone which provoked the Chazon Ish to such extreme reaction, but also a deeper understanding that the measure would be the first time that the State of Israel proposed to force someone to violate their religious beliefs. Up until then, it is true, the government’s policy was definitely secular and at times even anti-religious. But every individual always had the option not to participate in the government-sponsored program; children did not have to attend the government schools, people did not have to work on the Sabbath nor to buy non-kosher food. Here, for the first time, there was an element of coercion, and he saw it as the first link in the armor, the first step in what could become an enforced program of secularization. Therefore, he addressed the whole issue as the frontal attack in a war on religion. His violent rejection, his exhortations to all Orthodox Jews to hold firm, the united response of the international Orthodox Jewish community, all helped to overcome the threat. The measure was withdrawn and debate ceased.

התורה והמדינה כרכים ה' ו'י. Shaul Yisraeli writes that from the point of view of “non-combatants” (i.e., the secular Jews) the whole episode was often perceived as an attempt by the Orthodox Establishment to topple the government of Israel. (Editor’s Editorial).

rather the vital, essential component in forming an authentic Jewish lifestyle. Halacha requires unequivocal refusal to allow the slightest relaxation of morality standards.

But a generation has now passed, and *giyus banot* (drafting women) no longer looms as an imminent threat. Perhaps at this time we may study the issue from a somewhat more dispassionate perspective. Under circumstances other than those which prevailed in Israel some thirty-five years ago, in a situation where it would *not* be a ploy to weaken religious observance among the Orthodox, could Jewish law countenance women's participating in the national defense? What halachic criteria would have to be considered? Or is the subject of women's military service totally beyond the pale of consideration at any time?

Before we proceed, we must note that any discussion of women's bearing arms, as far as Jewish law is concerned, can only be considered as a possibility in a situation of great danger and need, for rabbinic thought is very negative about army life in general even for men, let alone for women.¹⁰ In his commentary to Torah, Ramban writes on the verse "and when you go out to war, be careful of all evil things. . . ." (*Devarim* 23:10),

It is well known that it is the custom of the troops who go out to battle that they eat all kinds of despicable things and steal and rob, and are not ashamed even of adultery and every disgusting thing. Even an upright human being cloaks himself in

10. Even in the best of times, there are moral and religious dangers attendant upon participation in army activities. The Gemara (*Shabbat* 64a) records an exchange between Moshe Rabbenu and Jewish soldiers who had fought successfully in a war. The soldiers, all learned in the Torah, asked Moshe to arrange *kappara* (atonement) for them. Expressing surprise, Moshe retorted "But not even one of you fell in battle!" (i.e., you were all virtuous men and therefore G-d protected you). Yes, they responded, it is true that none of us sinned, "but perhaps some of us did entertain sinful thoughts." We are very far removed from that kind of saintly and ascetic attitude among soldiers. And if even then, they were afraid of the negative impact army life might have had on them, how much more so do we have to be concerned! (Introduction by Rabbi Tzvi Pesach Frank to *Hilchet Meadinah*).

cruelty and wickedness when he prepares to fight the enemy.

It is little wonder that Rabbenu Bachya, writing on the verse "a man's garment should not be upon a woman" (*Devarim* 22:5) comments, "Scripture withheld weapons [i.e. 'men's garments'] from women so that they should not go out to war and thereby cause licentiousness (*z'nut*)."¹¹

Although the Torah does not explicitly mention whether or not women are to serve in the army, our scholars look to the Torah for implicit guidance. There are some who would like to draw a precedent from the account in the Torah of the agreement which the tribes of Reuven, Gad, and half of Menashe made with Moshe Rabbenu shortly before the Children of Israel were to enter the Land.¹² These tribes had a plan and an offer — they wanted to settle on the eastern bank of the Jordan River (now the country of Jordan) which was particularly well-suited to their lifestyle, being rich in pasture and ideal for their numerous flocks. In return, they promised to go along with the other tribes and fight with them as the vanguard in the wars to conquer the Promised Land.

In the wording of their proposal, some rabbis would like to find a halachic clue to the question of women's serving in the armed forces. Offering to serve in the forefront of the invading army, the tribesmen pledged their assistance while "our children and our wives. . . . will remain in the cities of Gilead [Jordan]." Possibly this may be taken as proof that women did not join in war. However, this conclusion does not automatically arise from the text. First of all, if the children were to be left behind, naturally the women would have to stay behind also to take care of them. Furthermore, not every single man went to fight in the Jewish army; and if someone were to be left behind, certainly the women would have preference. Thus, if the entire population were not needed for defense, it only stands to reason that the women would be among

11. See also המצוות ס' רמב"ם.

12. Vilner התורה והמדינה ה'כ"ד note 4; *Techumin* 4, p. 89, note 27.

It is reported that Rav Kook¹⁹ in this century rejected the interpretation of Radvaz, pointing out that the interpolation of women as only “cooking and providing supplies” appears neither in the Mishnah nor in the Rambam, and is an unwarranted circumscription of the woman’s duty to defend the land when there exists a state of “obligatory warfare.”

The ruling of the Rambam, with some suggested emendations as we have noted, is generally not disputed by other *Rishonim*, with the possible exception of the *Sefer Hachinuch*, whose position is problematic. In this book which analyzes all 613 mitzvot of the Torah, there are a number of times when the author discusses the exigencies of battle:

Mitzvah 525: It is a mitzvah “not to fear the enemy” but rather to have trust in G-d. According to *Sefer Hachinuch*, this mitzvah applies “only to men, for they are the ones who go out to fight.” (italics added)

Mitzvah 527: Before attacking the enemy, the Jewish army must sue for peace. “And this mitzvah applies at a time when the Jews are in their land, [and it applies] to men, “since they are the ones who are fit for battle.”

Mitzvah 603: The commandment to wipe out Amalek, the ancestral enemy of the Jewish people. Here the *Sefer Hachinuch* concludes that it is an obligation only for men, “for they are the ones who have to go and fight.”

These are clear indications that Jewish law did not consider women as suitable candidates for actual battle, whatever other obligations they may have undertaken during times of war. However, there is a deviation from this impression in the *Sefer Hachinuch*’s own explanation of Mitzvah 245: the mitzvah to wipe

out the seven Canaanite nations who inhabited Israel before the Jews entered it:

And this mitzvah applies to men and women in all places and at all times that we have the power to kill them.

In fact, the *Minchat Chinuch* (a commentary on *Sefer Hachinuch*) cites this as the rationale for the Mishnah’s teaching that “even a bride goes out from under the canopy.”

We are left with an apparent contradiction — in one place the author of the *Chinuch* instructs us that women must give battle, but elsewhere he seems to take for granted that the army is composed solely of men.

A number of eminent halachic scholars have addressed this inconsistency: why would *Sefer Hachinuch* rule that women do have a mitzvah against the seven Canaanite nations but don’t fight Amalek, when both are in the category of “*milchemet mitzvah*,” obligatory war, about which the Torah expressly instructs the Jewish people?

We may find an answer in the analysis offered by the *Marcheshet*,²⁰ who distinguishes between mitzvot incumbent upon the group and those which the individual must perform. There are national obligations, such as building the Beit Hamikdash or establishing a monarchy, which devolve only upon the men in the community. Then there are other mitzvot which, although communal obligations, are nevertheless an obligation upon each individual person to perform. An example of the latter is the mitzvah to settle the land, which is a collective mitzvah but which each person fulfills individually.²¹

do we contemplate sending her out to work? Yet, we do see that it was an acceptable option (i.e., it was considered acceptable for women to work outside the house). Rashi explains the apparent inconsistency in that, since she would be living in a strange city, where she was a foreigner, it would be improper for her to go out publicly and seek employment.

19. As related in *Shitah Mekubetzet*, ערוכות ביר הרי"ש איכנר חוברת איש ואשה.

20. *Marcheshet* א"ט כ"ב ח"ל.

21. One can only wonder how *Marcheshet* would categorize the current status in the State of Israel: (A) Is there a mitzvah today to “settle the land?” (B) If the country is invaded by enemies, and the entire population is in a life-and-death situation, would women have to participate in the mitzvah of “saving lives?”

Thus, according to *Marcheshet*, the reason that *Sefer Hachinuch*²² writes that women are to join in the battle to eradicate the seven Canaanite nations is not because he considered women as obligated in the mitzvah to conquer the Land. He obligates them to fight because of their responsibility under *another* mitzvah – that of settling the Land of Israel. Since the land cannot be settled as long as the Canaanite nations dwell therein, it is the duty of women to join in eliminating them. But this is not because they have a mitzvah to go to war.

Rabbi Joseph Ber Soloveichik also finds the key in the distinction between the *kinds* of mitzvah being discussed.²⁴ He holds that women are not included in the commandment to wage war, neither against the seven nations nor against Amalek. However, there are other mitzvot which also concern our relationship with those seven nations, and these certainly do apply to women equally with men. Thus, aside from waging war, there is the directive “*hacharem tacharinem*” to totally destroy their buildings, culture, and belongings. In this instance, the bride leaves her canopy at the same time that the groom must depart, for both have to fulfill this command, by war if necessary. But as for Amalek, which is strictly a mitzvah to wage war and eradicate them, a mitzvah which is incumbent on the group but not on each person individually, women are not included.²⁵

Moreover, the rationale for exterminating Amalek is redress for the dreadful harm they inflicted upon the Jewish people as they wandered through the desert. Not so the imperative to wipe out the

seven nations, who must be removed “lest we learn from their ways.” Women are just as vulnerable as men to adopting wicked moral attitudes from the Canaanites, so it stands to reason that they are equally bidden to protect themselves.²⁶

Let us now examine another proposal: Even assuming that there is no mitzvah or obligation for women to actually fight in a war nowadays, is there any reason why she may not volunteer if she wishes? May she be required by the law of the state to do some servises? Are there any halachic grounds which would prevent her from participating in military maneuvers?

In the *Machzor Vitry*²⁷ we find the ruling that although only men between the ages of 20 and 60 were called up to the army, those who were younger or older could join up if they wished.²⁸ Might this logic not apply similarly to women and permit their enlisting if they wished? (This volunteerism of course can only be discussed if there is no danger of sexual immorality attendant upon their participation. Otherwise, the topic is moot.)

A very serious objection to a woman's carrying weapons does arise from the express dictum of the Torah that “a man's garment should not be upon a woman nor should a man wear the dress of a woman” (*Devarim* 22:5). The Gemara (*Nazir* 59a) specifically

22. According to him, included in the translation of the concept of an obligatory war (מלחמת חובה) is the obligation to acquire the Land of Israel for the Jewish people.

24. אור ההלכה, מלחמה, דף כה"ב ז'.

25. A similar approach is suggested by the אבני נור אר"ח תק"ט but with a slight twist. The mitzvah to eradicate the memory of Amalek means that every single Amalekite is to be put to death. But in this regard, the Amalekite is not different than any other person who is to be executed according to Jewish law; and since we do not execute people on the Sabbath (פסוקי תורה פרק ו') the Amalekite is not to be killed on that day. This makes it a mitzvah dependent

on time (מצות עשה שהזמן גרמא), and any positive mitzvah which can only be observed at some times but not at others is one from which women are exempt. For example, *tfillin*: are supposed to be donned in the morning, therefore women are exempt. (See Zevin's comments on this – *ibid.*, footnote 8A).

26. *Avnei Nezer*, *Ibid.*

27. *Machzor Vitry* commentary to *Pirkei Avot*, *perek* 5, last mishnah.

28. *Siftei Chachamim* (*Bamidbar* 1:3) and others rule that these people cannot volunteer. Similarly, he considers that the newly-wed, the fearful, the Kohen, and others cannot volunteer.

There is some disagreement between the view of *Machzor Vitry* (above, note 27) and others. This is discussed in Vilner ט אר"ח. See also Felder תורה שבע"פ כ"ג.

garment is worn for a *function*, the *issur* does not seem to apply.³⁴ On these grounds, one could well sustain the argument that a woman is wearing a gun in the army not for the sake of resembling her brother soldier but for the purpose of protection.

This brings us to a fundamental issue which almost all rabbis accept in their understanding of the law concerning men and women wearing each other's garments or adopting each other's practices – the motivation. Virtually all rabbinic authorities accept the premise that the Torah forbade it so that a man might not dress like a woman and mix with women, and vice-versa. Men or women passing for the opposite gender could lead to immorality and is therefore prohibited.³⁵ But absent such motivation, it might be permissible for a woman to adopt a "man's practice." A number of rabbinic decisors have considered this element in their practical rulings on the subject:

Rabbi Ovadia Yosef³⁶ was asked whether a woman may carry a

34. טויו יויד קפידר. ובית שם. It is the *Taz* who expands upon the rationale that the Torah's prohibition is not a blanket *issur* and that if the person is wearing the garment (or copying the habit) for a reason, for a purpose which is not immoral, the behavior might be acceptable. In this respect, he is basing himself on the *Ramo* (יויד קניו). However, the *Ramo*, in אורח חיים, mentions the custom of men dressing up on Purim so that one could not tell if they were men or women, and he notes that, although he considers it permissible, there are those who do not. In יויד קניו the *Shach* states his opinion that those who disapprove the practice are correct. The *Mishnah Berurah* allows it (חריצו) although he too mentions that, since many authorities are opposed to the practice, a truly pious person should avoid it.

Thus, although the normative law is that if one is donning women's clothing for a functional purpose, it is permitted, there is a distinct body of opinion which frowns on it.

Furthermore, if, as some contend, the purpose of the *issur* stems from the prohibition to copy Gentiles, who are not careful to prevent indiscriminate mixing of men and women, then the "functional" factor would not in any way change the *issur*.

35. חזקת ומרינה, כך דרש רמב"ם. The author cites the two reasons which the *Rishonim* gave for the *issur*:

(a) immorality.

(b) חזקת ומרינה לא חלבו.

36. יתור רעה חלק ה נהי.

gun when she is on guard duty at a kibbutz or settlement on the border of Israel. After citing the authorities mentioned above, Rabbi Yosef concludes that in addition to the criteria they raised, there is an additional element to be considered herein, namely *pikuach nefesh* (a life-threatening situation) and for that reason he allows it. As support for this position, he cites the *Sefer Chasidim*³⁷ and *Terumat Hadeshen*.³⁸

Furthermore, Rav Yosef takes the position that if a deed is being done not for the purpose of mixing with the other sex but for a specific function, there is no *issur* in wearing a man's garment. The woman carrying a gun on duty is clearly doing it for a well-understood function (analogous to the way Rabbi Yehudah and his daughter used the same cloak to cover themselves.)

Although Rav Moshe Feinstein concurs with Rav Yosef that one must rule leniently in this instance since it presents a danger to life, he disputes other aspects of the responsum.³⁹

Both Rabbi Feinstein and Rabbi Yosef are prepared to waive, the *issur* of dressing like the other sex in a life-threatening situation. They also note that when Rashi, as cited earlier, explained Yael's use of a tent peg rather than a knife or sword to slay Sisera, as arising out of her understanding that a woman must not adopt a man's practice – it was because she saw that her enemy had fallen

37. ספר חסידים סימן ר'.

38. תרומת הדשן סי קצ"ו. While Rav Yosef notes that he relies for his leniency on a precedent of the *Terumat Hadeshen*, actually there is more to it than meets the eye at first glance. In the case brought before the *Terumat Hadeshen*, a man asked for permission to dress in the fashion of non-Jews, for he was going to travel in an area which was barred to Jews, and he feared for his life. Although the author of *Terumat Hadeshen* did grant the permission, it was somewhat reluctant, for he notes האיל ומחילה עליו, since the man is willingly putting himself in the dangerous situation, he should not really be entitled to rely on a lenient opinion.

However, Rav Yosef does not quote this part of the responsum. Rav Moshe Feinstein, אורח חיים ע"ה אוח ג, dismisses the fact that the man had no free access to that area and considers the *heter* valid, without conditions.

39. אגרות משה אורח חלק ר' ע"ה אוח ג.

into an exhausted sleep and she knew she had the time to choose the proper method. But had it been necessary to act quickly, any weapon would have been allowed. Rashi did not intend to imply that women cannot save their lives by violating the *issur* of "wearing a man's garment."

In reviewing rabbinic literature on the practical application of the prohibition "a man's garment shall not be worn by a woman," we are led to conclude that the biblical verse, according to most authorities, need not present an impediment to a woman's carrying or using weapons in time of war. Furthermore, a historical analysis of rabbinic opinion leads to the realization that many rabbis have found no other major halachic obstacles for their bearing arms. Yet that is a long, long step from arriving at the conclusion that in a Jewish state, women may be drafted for military service. As we have seen, there are many other factors at work in arriving at the final halachic decision (*psak*) in any given situation. The social, religious, and political context in which a situation arises can have an overwhelming effect on the manner in which this issue is viewed halachically, for the moral and societal impact of its implementation are crucial elements in any solution. At all times, authentic Jewish leadership is not constricted by the niceties of academic precedent but acts from a broader and deeper appreciation of halachic norms, which may take precedence over other considerations.

We also have to realize that rabbis employ a variety of methods in arriving at a halachic conclusion, so that at times there is a certain anomaly in their conclusions. Widely diverse criteria are taken into account by individual *poskim*; their multi-faceted conclusions arise from their divergent points of departure. Our purpose herein has not been to offer a solution but rather to examine the considerations which *poskim* have raised in reaching their decisions, and possibly to open some avenues for further discussion.

Love Your Neighbor:
Halachic Parameters
Rabbi Reuven P. Bulka