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בית המדרש ע"ש זיגלר

להתהלך בצדק  
Walking with Justice

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# SOCIAL JUSTICE AND ISRAELI SOCIETY

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## INTRODUCTION

The roots of social justice in Israeli society today begin with the Bible. What captured the imagination and the intellect of most of those who became members of the Zionist movement was their grounding in the Bible as the defining document of Jewish existence:

The conception of social justice in ancient Israel and the Near East was expressed by means of an hendiadys, [a figure of speech in which two words connected by a conjunction are used to express a single notion]. The most common and widespread in the Bible is *'mishpat u-tzedakah'*, 'justice and righteousness'...it is based on the idea that God imparts to rulers, and, indeed, to all humans, a sense of justice, and this helps the ruler to judge the people and the poor fairly.<sup>1</sup>

In the Bible, social justice is extended from being an obligation of the rulers to being a general obligation of every person in society. Thus, it is no surprise that social justice as expressed in the Bible, both as applied to the obligation of government and that of individuals, was a central feature of Zionist ideology. The framers of Zionist thought could not conceive of a Jewish society in an independent state without a strong central pillar of social justice as set out in the Bible. This was true of all of the Zionist thinkers, whether they were left wing socialists or more right wing capitalists. While they may have disagreed on how to interpret specific laws of the Bible - some wishing to connect those laws to socialist, and others to capitalist, ideas - they all agreed on the basic premise of social justice as indispensable for a Zionist society.

The centrality of social justice is clearly borne out by *Megillat ha-Atzmaut*, Israel's scroll of independence, which is the equivalent of the Declaration of Independence of the United States. The scroll begins with an opening statement which fixes the central and eternal relationship of the Jewish people to the land of Israel. It makes the connection between Jewish history on the land and the development of Jewish civilization, in particular the Bible. And the Bible, in its turn, has left its imprint upon the final document.

Let us take a closer look at this critical paragraph:

THE STATE OF ISRAEL will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.

The ideal described here is a modern rendering of *mishpat u'tzedakah*. The common good – “the benefit of all its inhabitants” – is the central goal of the activities of government and individual citizens. There is an explicit Biblical reference in the phrase, “it will be based on freedom, justice and peace as envisaged by the prophets of Israel.” Finally, the idea of justice in the Bible is closely connected with the idea of equality before the law. The phrase, “it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex,” is a throwback to the Torah rule found in Leviticus 24:22: “You shall have one standard (*mishpat ehad*) for stranger and citizen alike: for I, The Holy One, am your God.”<sup>2</sup> These qualities of society make up a clear definition of the ideal of social justice to be achieved in the Zionist conception of the State of Israel.

Let us now focus on two aspects of social justice currently relevant in the state of Israel. Both these issues have generated considerable controversy. They are: the right of women to vote and to be elected to office, and the question of standards of justice in some aspects of the Israel army, the IDF.

<sup>1</sup> Professor Moshe Weinfeld, *Justice and Righteousness in Israel and the Nations, equality and freedom in ancient Israel in light of social justice in the ancient Near East*, [Hebrew], The Magnes Press, Jerusalem, 1985, p 1

<sup>2</sup> The word translated as “standard” is the Hebrew “*mishpat*”, so that a better translation would be “one justice”



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## WOMEN: VOTING AND ELECTION TO OFFICE

As we have seen, the Scroll of Independence promises “complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex.” However, in Jewish tradition, both legal (in halakhah) and by custom, women did not hold office in Jewish communities, nor were they empowered to be counted among those who chose or validated the communal officers. If the traditional approach is upheld, it is clear that the promise of the new state cannot be met.

For example, when Maimonides comes to codify the requirements of Deuteronomy 17:15: “You shall set a king over you”, he writes:

One does not place a woman on the throne, as it says “a king over you” – not a queen. Similarly, for all offices in Israel, only a man may be appointed.<sup>3</sup>

This position retained its force from the time it was codified, and was recognized as being correct. Furthermore, in most countries of the Western world women did not have the power to vote or run for office until after the First World War. In the US and Canada these rights were achieved only between 1910-1917.

In the Zionist movement, which had begun to form governmental institutions in Israel from the first decade of the 20<sup>th</sup> century, there was a heated debate among rabbis about this issue. Most rabbis at the time upheld the classical halakhic position that women should not be allowed to vote, and certainly they had no right to be elected to office. Some held that women could vote, but could not hold office, and another group felt that nothing in Jewish law forbid women from all forms of participation, both voting and serving in office.

Among those in the first group (who denied all political rights to women) were some of the most important and central leaders of the Zionist religious establishment. Foremost among them was Rabbi Abraham Isaac ha-Kohen Kook, Chief Rabbi of the Land of Israel from 1921 to 1935.

Rabbi Kook insisted that the Zionist society remain true to the principle of Jewish law that public service is only open to men, and not to women. He also utilized a frequently cited phrase in halakhah which shows concern regarding sexual modesty, “*kol kevudah bat melekh p’nimah*” - “the honor of the princess is staying inside,”<sup>4</sup> and assumed that such modesty would be inherently compromised by a mingling of the sexes in public life. Rabbi Kook also expressed the idea that such loyalty to Jewish tradition would be viewed favorably by many nations. He did express a notion of an “ideal status of woman,” in which he leaves open the possibility of women having more participation in public matters, but he insisted that this was something that might come in the future. Certainly in his day, most of the world had not reached that idea.

The opposite view - that women must participate as voters and elected officials - was stated most clearly by Rabbi Ben Zion Uzziel, chief Sephardi rabbi of the Land of Israel from 1939. Before him, Rabbi Haim Hirshensohn (1857-1935) had also taken that stance, as part of his overall work dedicated to defining a modern democratic state that would be valid according to Jewish law. Rabbi Hirshensohn fully utilized his prodigious knowledge of halakhah to argue for full equality for women, but in addition he fixed some general rules that he declared to be basic principles that one learns from the halakhah. Among those rules was the idea that Jewish law has a teleological goal to be in tune with prevalent conceptions of justice and righteousness of the times. Those developed with human history and knowledge, and halakhah strove to adapt to what was right by its own principles in human culture at any given point in history. Once halakhah had recognized the correctness of a general cultural value, it would not go back and deny it.<sup>5</sup>

<sup>3</sup> Maimonides, *Mishneh Torah, Hilkhoh Melakhim 1:5*

<sup>4</sup> *Psalms 45:14*

<sup>5</sup> cf. *Malki ba-Kodesh, part 4, p. 8 exchange of letters with Rabbi Kook.*



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Rabbi Uzziel, in his own ruling, acknowledges his debt to Rabbi Hirshensohn. He writes that there is no clear-cut halakhic tradition which prohibits women voting or being elected. As to Maimonides' stand, Uzziel interprets that as applying only to appointments by the Sanhedrin, but in the absence of a Sanhedrin, it has no relevance. Furthermore, Uzziel, following Hirshensohn, describes the important power of acceptance by the community as a factor in fixing the halakha. If a community elects a woman, and accepts her leadership, then it is a true act, and even Maimonides would admit that this would be legitimate.

As to the issue of public welfare and modesty, Rabbi Uzziel seems once again to follow Hirshensohn. He argues that since any serious discussion has no aspect of licentiousness, and women and men working together for the public good has no aspect of frivolity, it follows that women can and should be elected to public office.

The application of these approaches, which see an overriding standard of justice and righteousness as being formative of halakhic practice, led to the acceptance of Rabbi Uzziel's position, and equal political rights for women became a basic principle in Israeli law. However, there is an ongoing tension between religious leaders who object to what they consider to be violations of Jewish law in Israeli society, and those who believe in a developing law which is open to change. In 1988 the case of Leah Shakdiel v. the Minister of Religious Affairs and the Local Authority of Yerucham was brought before the Israel Supreme Court. Mrs. Shakdiel was elected to the local religious council in the town of Yerucham, but the rabbis refused to let her take up her seat because she was a woman. The Court held that Mrs. Shakdiel could not be disqualified from serving on the local religious affairs authority merely on the basis of her being a woman, and that the attempt to exclude her from office was unlawful discrimination, contrary to the Women's Equal Rights Law. The court's ruling was written by Justice Menahem Elon, who is an orthodox Jew, and Professor of Jewish Law at the Hebrew University. Elon is one of Israel's greatest experts on halakhah and he writes specifically: "It pains us that the decision [of the Chief Rabbinate of Israel] was not in favor of the petitioner, even though a decision in her favor would have the sanction of the halakhah, according to the opinion of prominent authorities."<sup>6</sup>

Still, the State Rabbinate did everything it could to prevent Mrs. Shakdiel from taking up her position. This case was a reminder that such issues are by no means settled, and that the struggle for equality for women in Israeli society continues.

## STANDARDS OF JUSTICE IN THE ISRAELI ARMY

An army always creates particular problems within any society that values justice and righteousness. By its definition, an army contains elements which test the boundaries of these notions. The more these concepts are important to the society, the greater the test and tension created by keeping a standard army.

In 1994, a special commission established by the IDF published "The Ethical Code of the Israel Defense Forces." The document is also known as "The spirit of the Israel Defense Forces" (*Ruah Tzahal*). The commission included senior commanders of the IDF, and Professor Asa Kasher, who is a professor of Philosophy, well known in Israel for his work in ethics. He is also a bereaved parent, having lost a son during an action of the IDF.

*Ruah Tzahal* was intended to give guidance to soldiers in the IDF as well as to reflect the values which underlie the uniqueness of the IDF as an army. In its introduction, we find the following:

The IDF is different from other armies. The basic function of this document is to concretize a common language and standard of evaluation for values and norms. Its very existence creates a motivation to operate by its standards.

<sup>6</sup> *Rulings of the Supreme Court of Israel, Shakdiel v. Minister of Religious Affairs, 42 (2) PD 221, 263-264; CA 294/91; CA 294/91*



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Some of the main points of *Ruah Tzahal* are:

1. A soldier must always be aware of human life, and will endanger himself or another person only to the extent necessary to fulfill the mission.
2. A soldier will use his weapons to defeat the enemy, to the extent necessary to accomplish that, and will show restraint by preventing harm to human life, honor or property, when force is not necessary.
3. A soldier will fight and make an effort, to his utter limit, even though endangering his life, not to surrender to the enemy, but to overcome the enemy....
4. A soldier will always go to help a comrade in need....no matter the danger, including self sacrifice. The soldier will do all that is necessary, even endangering his own life, in order to help his comrades in order not to leave wounded soldiers in the battle-field.
5. A soldier will act in such a manner that his personal opinions about public, social or ideological issues will not be involved in his military actions.
6. A soldier will act fairly, properly restrained, informed and professionally in all contacts with civilians who live or are present in the areas which the IDF controls.

The mere publication of *Ruah Tzahal* caused a wide range of reactions, from praise to damnation. The official IDF stance was very positive about the effort to create a climate of moral awareness in the army. Critics, by contrast, felt that this document would not work, since reality was different from philosophy, or that it would confuse soldiers and be a detriment to their fulfilling their task at all. Some critics took the stance that war and morality were inherently incompatible, so the whole effort was dangerous.

It is interesting that many of the questions raised in *Ruah Tzahal* are also found in rabbinic halakhic discussions; these, in their turn, have their roots in rules and laws which are found in the Bible. For example, the codes of the IDF stress that there is a sanctity to life that must be respected, even as one is prepared to kill an enemy who wants to kill you, and that killing in war falls under the Talmudic dictum of “*Ha-ba lehorgekha hashkem le-horgo*” – “if a person comes to kill you, you should kill them first”. This is taken to mean that killing in war is justified only if one is attacked.

Despite rulings and codes, there are cases where soldiers do not uphold the values of justice and righteousness. Israel's courts, as in cases having to do with women, are constantly dealing with suits regarding potential violations of the principles of justice by IDF soldiers in specific situations. For example, in 2002 a group known as Physicians for Human Rights brought suit against the IDF for violating the traditional neutrality of medical personnel. Some physicians and medical aides had been wounded and even killed by IDF actions in Gaza. The IDF responded that even though they are bound to uphold the recognized rights of medical personnel, there are many cases where terrorists hide behind doctors, or in medical facilities. The court did not consider that it could rule on the particulars of this incident, but it did insist that the IDF had to: “... once again instruct the combat forces, down to the level of the lone soldier in the field, of this commitment by our forces based on law and morality - and, according to the state, even on utilitarian considerations - through concrete instructions which will prevent, to the extent possible, and even in severe situations, incidents which are inconsistent with the rules of humanitarian law.”<sup>7</sup>

There are numerous Israeli organizations which are dedicated to the struggle to preserve the basic commitment of Israeli society to justice and righteousness. There are those who see some of their causes as controversial. The reason

<sup>7</sup> H CJ 2936/02 *Physicians for Human Rights v. The Commander of IDF Forces in the West Bank ....The Supreme Court sitting as the High Court of Justice* [April 8, 2002]



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is that the struggle to preserve the strong Jewish propensity for justice and equality runs into conflict with terrorist activity, which targets Jews indiscriminately. Some people fear that protecting the rights of Arabs by a Jewish group, and certainly by rabbis, might send a message of weakness to terrorists. Or, even worse, it might encourage terrorists who may feel that they will be protected by such groups. Thus, the struggle over the implementation of basic Jewish values in a highly charged and multifaceted reality is a continuous one.

## CONCLUSION

The idea that “justice and righteousness” are the signs of being a member of the nation Israel is found at the very outset of the story of our peoplehood:

For I have chosen him [Abraham], that he may command his children and his household after him to keep the way of the Lord by doing righteousness and justice, so that the Lord may bring to Abraham what he has promised him.<sup>8</sup>

From that time on this notion has been central to the ethos of the Jewish nation. Thus, it is no surprise that the Zionist movement placed these values at the center of its vision of the renewed Jewish society in the land of Israel. The complexity of the reality of Israel being involved in a constant struggle for its own existence, coupled with the basic commitment to these ideals, creates a situation of a constant need for self-examination and for creating social and legal tools for dealing with the results of this reckoning of the soul. This very challenge is testimony to the fidelity of Zionist society to its most cherished ideals.

<sup>8</sup> *Genesis 18:19*



# SOCIAL JUSTICE AND ISRAELI SOCIETY – TEXT 1

## בראשית א:א

בראשית ברא אלהים את השמים ואת הארץ:

### GENESIS 1:1

In the beginning God created the heavens and the earth.

## רש"י

בראשית. אמר רבי יצחק, לא היה צריך להתחיל את התורה אלא מ'החודש הזה לכם' (שמות יב:א) שהיא מצוה ראשונה שנצטוו בה ישראל, ומה טעם פתח ב'בראשית', משום "כח מעשיו הגיד לעמו לתת להם נחלת גוים" (תהלים קיא:ו), שאם לאמרו אמות העולם לישראל, לסטים אתם שכבשתם ארצות שבעה גוים, הם אומרים להם, כל הארץ של הקדוש ברוך הוא היא, הוא בראה ונתנה לאשר ישר בעיניו, ברצונו נתנה להם, וברצונו נטלה מהם ונתנה לנו:

### RASHI ON GENESIS 1:1

*In the beginning.* Rabbi Yitzhak said, this did not need to start the Torah! The Torah should start with, "This month will be the first month" [Exodus 12: 2], which is the first mitzvah which Israel was commanded. So why does it start with "in the beginning"? Because of what it says in the verse, "He has shown his people the power of his works, in giving them the inheritance of nations." [Psalms 111:6] Because if the nations of the world say to Israel, "You bandits! You conquered the lands of seven nations!" Israel can reply, "The whole world belongs to the Holy Blessed One, who created it, and who gave it to whomever it appeared to be just to give it. The Holy One wanted Israel to have the land; and The Holy One wanted to take it from them [the seven nations] and give it to Israel."

### STUDY QUESTIONS

- Without reference to Rashi, how do you understand Genesis 1:1?
- Why do you think Rashi chose to bring Rabbi Yitzhak's midrash?
- Look up the Psalms verse – how does it support the argument?
- How do you think the ideas expressed here might translate into current Israeli reality?



## SOCIAL JUSTICE AND ISRAELI SOCIETY – TEXT 2

### מגילת העצמאות של מדינת ישראל

מדינת ישראל תהא פתוחה לעליה יהודית ולקבוץ גלויות: תשקוד על פיתוח הארץ לטובת כל תושביה; תהא מושגתה על יסודות החירות, הצדק והשלום לאור חזונו של נביאי ישראל: תקיים שוויון זכויות חברתי ומדינתי גמור לכל אזרחיה בלי הבדל דת, גזע ומין: תבטיח חופש דת, מצפון, לשון, חינוך ותרבות: תשמור על המקומות הקדושים של כל הדתות: ותהיה אמונה לעקרונותיה של מגילת האומות המאוחדות.

### FROM THE DECLARATION OF INDEPENDENCE OF THE STATE OF ISRAEL

The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.

### STUDY QUESTIONS

- What ideals are expressed by this paragraph?
- Has the Bible left an impact on this paragraph? If so, where?
- Does this paragraph remind you of any other document? If so, which?
- How do you think the ideas expressed here might translate into current Israeli reality?





## SOCIAL JUSTICE AND ISRAELI SOCIETY – TEXT 3

**מתוך: השופט מנחם אלון, לאה שקדיאל נ' השר לענייני דתות ואח' פ"ד מב(2) 221**  
נדאי ואין צריך לומר כי בעולמה של הלכה אין אנו דנים בשאלה הלכתית בלבד, בחינת זכויות וחובות משפטיות, אלא שלוב וכרוך הוא נושאנו, קשר בל יינתק, בעולמה הערכי-אידיאולוגי של ארחות חיי תורה ומצוות. שהרי כלל גדול בדינו: אל תיקרי הליכות אלא הליכות (השנה מגילה, כח, ב), ואותה מדה נוכל לומר, בדרך הפרפראזה: על תיקרי הליכות אלא הליכות, שהרי הליכות משפט והליכות חיים ירדו כרוכים אלה באלה. ואכן ראינו בכל דבריהם של חכמים ופוסקים שעמדנו עליהם, שבנוסף לבחינה המשפטית של נושאנו דנים הם, באריכות ובמפורט, באספקטים-מושגים של מהות המשפחה בעולמה של יהדות, בתפקידי האב והאם, האישה והגבר, בשלום בית, במושג הצניעות וכיוצא באלה, שהרי העיון במושגים אלה הכרחי הוא, וחלק מהותי הוא, מהפסיקה ההלכתית המשפטית שהתעוררה בנושאנו. אך במושגים חשובים אלה יש לדון בהם הן לפי משמעותם המקורית והן לפי זמן הדיון בהם, כפי שצד למדנו דעת מדברים שעמדנו עליהם וציטטנו מהם...

נושא מעמד האישה בעולמה של הלכה יכול וישמש דוגמה מובהקת להתפתחותו של אחד הנושאים המרכזיים בעולמה של הלכה, כשהוא אחוז ושוזר בחיי המציאות ותמורותיה, כשהוא מדרוך מציאות זו ומודרך על גדה, כשמצד אחד - הדאגה המתמדת להמשך פיתוחו והיצירה בו, ומצד שני - האחריות הגדולה של שמירה על רוחו, מגמתו ורציפותו, ועל הערכים המרכזיים והיסודיים שבו...

### FROM THE JUDGMENT OF ELON J, *SHAKDIEL V. MINISTER OF RELIGIOUS AFFAIRS*, HCJ 153/87

It need scarcely be said that in the world of the halakhah we do not discuss purely legal-halakhic questions, in the sense of juridical rights and duties. Rather the ideological and normative values of Jewish religious life are inherent in and inseparable from the subject of the discourse. For we are taught “do not read ways of behaviour [halikhot], but legal rules [halakhot] (cf. T.B. Megilla 28b) and by way of paraphrase we could equally well say, “do not read legal rules [halakhot] but ways of behaviour [halikhot], since legal rules and ways of behaviour come inextricably linked. We have seen clearly reflected - throughout the scholarly passages here cited - in addition to the legal exposition of our subject, also lengthy and detailed discussion of the conceptual implications of Jewish family life; the roles of the father and the mother, of the woman and the man, domestic harmony, the concept of modesty, and so on. All this because examination of these concepts is essential to the juridical-halakhic ruling on our subject. However, these important concepts must be addressed according to both their original significance and their contemporary setting, as we have learned from the passages quoted...

The status of women in the halakhah serves as a classic example of the development of a central subject in the world of Jewish law, the subject being rooted in and intimately tied to daily life and its exigencies, guiding that reality at the same time as it is guided by it. We see, on the one hand, a constant concern for the continued development and creativity of the halakhah, and on the other hand, the great responsibility of preserving its spirit, purpose and continuity, along with its central, fundamental values...

### STUDY QUESTIONS

- What, according to Justice Elon, is the relationship between rights and duties/Jewish values?
- Why was it important for the ruling in this case to be “juridical-halakhic”?
- What tensions are expressed in the second paragraph?
- How do you think the ideas expressed here might translate into current Israeli reality?



## SOCIAL JUSTICE AND ISRAELI SOCIETY – TEXT 4

**עמותת רופאים לזכויות אדם נגד מפקד כוחות צה"ל בגדה המערבית  
בבית המשפט העליון בשבתו כבית משפט גבוה לצדק [8.4.2002]  
לפני השופטים ד' דורנר, א' פרוקצ'יה, א' א' לוי**

העותרות הוגשו במהלך פעולות צה"ל נגד תשתיות הטרור בשטחי הרשות הפלסטינית (מבצע "חומת מגן"). לטענת העותרים, מפר צה"ל את כללי המשפט הבינלאומי בכך שפוחותיו יורים על צוותים רפואיים, מונעים פינוקים של פצועים וחולים לבתי החולים, מונעים אספקת ציוד רפואי לבתי החולים הנצורים ומונעים פינוי גופות הרוגים לקבורה. בתשובת המדינה נאמר כי נתברר במהלך הלחימה, שבאירועים מספר הועברו חמרי נפץ באמבולנסים, ומחבלים מבוקשים מצאו מחסה בבתי חולים. אך ככלל, צה"ל רואה את עצמו מחויב לקיים את כללי המשפט ההומניטרי לא רק מן הטעם שכללים אלו מתחייבים מן המשפט הבינלאומי, אלא גם כמתחייב מבחינה מוסרית, ואף מטעמים תועלתניים. לכוחות הלוחמים ניתנו הנחיות לפעול בהתאם לכללים אלו, וצה"ל אף מקדיש כוחות ואמצעים רבים לתיאום ולמתן סיוע הומניטרי באזורי הקרבות.

**בית המשפט העליון פסק:**

(1) הכוחות הלוחמים מחויבים לקיים את הכללים ההומניטריים הנוגעים לטיפול בפצועים, בחולים ובגופות הרוגים. השימוש לרעה שנעשה בצוותים רפואיים בבתי חולים ובאמבולנסים מחייב את צה"ל לפעול למניעת פעילות כזאת, אך כשלהצמחו אינו מתיר הפרה גורפת של הכללים ההומניטריים. עמדה זו מתבקשת לא רק מן המשפט הבינלאומי שעליו מסתמכים העותרים, אלא גם מערכה של מדינת ישראל כמדינה יהודית ודמוקרטית...

**FROM *PHYSICIANS FOR HUMAN RIGHTS V. THE COMMANDER OF IDF FORCES IN THE WEST BANK*,  
HCJ 2936/02**

**FACTS:** These petitions were submitted during IDF operations against the terrorist infrastructure in the areas of the Palestinian Authority "Operation Defensive Shield". Petitioners claim that the IDF violated international law by firing upon medical teams, preventing the evacuation of the wounded and the sick to hospitals, preventing the removal of bodies for the purposes of burial, and preventing the supply of medical equipment to hospitals. Respondents reply that, during the course of warfare, it became clear that incidents had occurred during which explosives had been transported in ambulances and wanted terrorists had found shelter in hospitals. However, respondents asserted, the IDF sees itself as bound to its obligations under humanitarian law, not only because this is their duty under international law, but also due to moral and even utilitarian considerations. Combat forces had been instructed to operate according to humanitarian law, and the IDF has dedicated personnel and resources to ensure that humanitarian aid was reaching combat areas.

**HELD:** The Supreme Court held that combat forces must fulfill the rules of humanitarian law pertaining to the care of the wounded, the sick and the removal and burial of bodies. The fact that medical personnel have abused their position in hospitals and in ambulances has made it necessary for the IDF to act in order to prevent such activities but does not, in and of itself, justify sweeping breaches of humanitarian rules. Indeed, this is also the position of the state. This stance is required, not only under the rules of international law on which the petitioners have based their arguments here, but also in light of the values of the State of Israel as a Jewish and democratic state...

### STUDY QUESTIONS

- According to this extract, what arguments were made by the petitioners?
- According to this extract, what arguments were made by the respondents?
- Why do you think the court arrived at the decision it did?
- How do you think the ideas here might translate into current Israeli reality?



# SOCIAL JUSTICE AND ISRAELI SOCIETY – TEXT FOR GROUP STUDY

רוח צה"ל יונק מארבע מקומות:

- מסורת צה"ל ומורשת הלחימה שלו כצבא ההגנה לישראל
- מסורת מדינת ישראל על עקרונותיה הדמוקרטים, חוקיה ומוסדותיה
- מסורת העם היהודי לדורותיו
- ערכי מוסר אוניברסליים המבוססים על ערך האדם וכבודו

## דוגמה אישית

החייל ינהג על פי הנדרש ממנו ויקים את שהוא דורש מזולתו, מתוך הכרה ביכולתו ובאחריותו, בצבא ומחוצה לו, להוות דוגמה ראוייה.

## חיי אדם

החייל ינהג באופן מושכל ובטיחותי בכל פעולותיו מתוך הכרה בחשיבותם העליונה של חיי אדם. בעת לחימה יסכן את עצמו ואת רעיו במידה הנדרשת לביצוע המשימה.

## טוהר הנשק

החייל ישתמש בנשקו ובכוחו לביצוע המשימה בלבד, אך ורק במידה הנדרשת לכך, וישמור על צלם אנוש אף בלחימה. החייל לא ישתמש בנשקו ובכוחו כדי לפגוע בבני אדם שאינם לוחמים ובשבויים, ויעשה כל שביכולתו למנוע פגיעה בחייהם, בגופם, בכבודם וברכושם.

## משמעת

החייל יפעל כמיטב יכולתו לביצוע מלא ומוצלח של הנדרש ממנו עפ"י הפקודות ועל פי רוחן. החייל יקפיד על מתן פקודות חוקיות בלבד, ולא יציית לפקודות בלתי-חוקיות בעליל.

## FROM "RUAH TZAHAL" – THE SPIRIT OF THE ISRAEL DEFENSE FORCES

The Spirit of the IDF draws on four sources:

- The tradition of the IDF and its military heritage as the Israel Defense Forces.
- The tradition of the State of Israel, its democratic principles, laws and institutions.
- The tradition of the Jewish People throughout their history.
- Universal moral values based on the value and dignity of human life...

**PERSONAL EXAMPLE** - The IDF servicemen and women will comport themselves as required of them, and will demand of themselves as they demand of others, out of recognition of their ability and responsibility within the military and without to serve as a deserving role model.

**HUMAN LIFE** - The IDF servicemen and women will act in a judicious and safe manner in all they do, out of recognition of the supreme value of human life. During combat they will endanger themselves and their comrades only to the extent required to carry out their mission...

**PURITY OF ARMS** - The IDF servicemen and women will use their weapons and force only for the purpose of their mission, only to the necessary extent and will maintain their humanity even during combat. IDF soldiers will not use their weapons and force to harm human beings who are not combatants or prisoners of war, and will do all in their power to avoid causing harm to their lives, bodies, dignity and property...

**DISCIPLINE** - The IDF servicemen and women will strive to the best of their ability to fully and successfully complete all that is required of them according to orders and their spirit. IDF soldiers will be meticulous in giving only lawful orders, and shall refrain from obeying blatantly illegal orders.

Taken from <http://dover.idf.il/IDF/English/about/doctrine/ethics.htm>



# SESSION SUGGESTIONS – SOCIAL JUSTICE AND ISRAELI SOCIETY

## INTRODUCTION

Introduce the session. Recap the main points of the essay:

- what is the Biblical basis for the principles of social justice in Israeli society?
- how do those principles translate into the Declaration of Independence?
- what are the main points raised by the authors about the two issues in the remainder of the essay (equality of women/principles of the army)?

## CHAVRUTA STUDY

Hand out the texts for chavruta study. There is one text on each of the main points above: on feedback, you might wish to start with Text 1 and work forward from there. You should note that the extracts from the legal judgments (texts 3 and 4) are only extracts, and that the original judgments are (necessarily) much more nuanced. You may find that Text 4, in particular, will elicit strong reactions. (It was the aim of both the authors and the editors to present as rounded a picture as possible of the issues, even though they are challenging.)

## GROUP STUDY

The text supplied is part of *Ruah Tzahal*. **You should be careful to explain that this is not the whole document.** There are other parts to it, which are less directly relevant to social justice, but which still might make interesting reading. The link to the English version is below the Group Study text, and this is the link for the Hebrew version:

[http://dover.idf.il/IDF/About/Purpose/Code\\_Of\\_Ethics.htm](http://dover.idf.il/IDF/About/Purpose/Code_Of_Ethics.htm)

You might wish to ensure that the session does not become hijacked by a generalized political discussion; it will help to link conversation back to the texts studied in chavruta. The main aim of the discussion should be to address the final paragraph of the essay – how does/should modern Israel deal with the constant need for self-examination that is necessary if social justice is to be achieved?

If you do not wish to use the text – this session is a good opportunity to instigate a nuanced discussion of other aspects of Israeli society which come under the ‘social justice’ rubric – for example, ethnic issues, issues related specifically to equality of women in the army, etc. It is suggested, however, that you do not tackle religious divisions in this session.

## CONCLUSION

Draw the discussions together: what have participants learned from this session that they did not know before? How will they integrate that material into their manifestos? Allow time to amend the manifestos, hand out the essay for next time and conclude the session. **If this is your penultimate session – remind participants to bring their manifestos to the Afterword session.**





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