

Exploring Jewish Conscientious Objection: Past, Present and Future

PART 2

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This is a working outline of today's presentation. We likely will not cover all of this material but I'm sharing it for attendees to be able to refer to for additional reading through the cited sources, etc. I have also added a few extra footnotes (after the presentation) to update some content.

Our primary text - Deuteronomy 20:8

Deuteronomy 20:5-9

(5) Then the officials shall address the troops, as follows: "Is there anyone who has built a new house but has not dedicated it? Let him go back to his home, lest he die in battle and another dedicate it. (6) Is there anyone who has planted a vineyard but has never harvested it? Let him go back to his home, lest he die in battle and another harvest it. (7) Is there anyone who has paid the bride-price for a wife, but who has not yet taken her [into his household]? Let him go back to his home, lest he die in battle and another take her [into his household as his wife]." (8) The officials shall go on addressing the troops and say, "Is there anyone afraid and disheartened? Let him go back to his home, lest the courage of his comrades flag like his." (9) When the officials have finished addressing the troops, army commanders shall assume command of the troops.

The key words in 20:8 are "הַיָּרֵא וְרַח הַלֵּב" (hayaray v'rach hal'vav) which I think could better be translated as describing men with "fearful tender hearts" instead of "afraid and disheartened," with the most important word being רַח (rach) which can be translated as soft, tender or delicate. In other words, I think they are speaking of disposition more than state of mind.

Let's look how later generations will interpret this text. This next reading is from the Mishnah, the first written recording of oral traditions (what we today call The Oral Torah) starting around the 3rd century CE:

MISHNAH:¹ *“The policemen shall add and say to the people: ‘Who is the man fearful and faint-hearted, let him go and return to his house. Rabbi Aqiba says, “fearful and faint-hearted” in its simple meaning, that he cannot stand in military engagements and see a drawn sword. Rabbi Yose the Galilean says, “fearful and faint-hearted” is one who is fearful because of his sins; therefore the Torah appended him to all of these that he should return because of them. Rabbi Yose said, a widow for the High Priest, a divorcee or one having received ḥaliṣah for an ordinary Cohen, a bastard or Gibeonite girl for an Israel, a Jewish girl for a bastard or a Gibeonite, that is the “fearful and faint-hearted”.*

This is one example of several I found in sources of this era that discuss the idea of there being two primary possibilities of meaning for this verse: (1) the fearful are exempted because they are simply afraid of war itself, or (2) the fearful are exempted because they are not afraid of war, but rather of unaddressed sin that could cause harm to the mission. Some commentators also speak of scripture showing a kind of mercy to the sinners because of this instruction being placed in the context of other draft exemptions.

Most later commentaries continue to argue for some variation of these two theories until much more recently, when two additional theories started becoming more important: (1) the verse’s message is pragmatic in nature, designed to eliminate distractions that could impair battlefield morale (similar to Rabbi Akiva’s position), and (2) the verse is an early grudging acknowledgment of the principle of conscientious objection, which happens to benefit both the one being sent home, but also the Army as a whole.

My own take is the latter. It is obvious that the compiler of the Deuteronomy text was more concerned with issues of pragmatism than anything else, however, the author’s choice of the word “soft-hearted” to refer to the draftee being sent home, has a bit of kindness to it, which opens up a window of possibility, of seeing a way to amplify the meaning of this text beyond its original more narrow intent.

¹ https://www.sefaria.org/Jerusalem_Talmud_Sotah.8.9.1?lang=en

What other biblical texts might have relevance for us in this discussion?

Judges 7:2-3² *GOD said to Gideon, “You have too many troops with you for Me to deliver Midian into their hands; Israel might claim for themselves the glory due to Me, thinking, ‘Our own hand has brought us victory.’*

Therefore, announce to the men, ‘Let anybody who is timid and fearful turn back, as a bird flies from Mount Gilead.’” Thereupon, 22,000 of the troops turned back and 10,000 remained.

1 Samuel 8:10-14³:

Samuel reported all GOD’s words to the people, who were asking him for a king.

He said, “This will be the practice of the king who will rule over you: He will take your sons and appoint them as his charioteers and riders, and they will serve as outrunners for his chariots.

He will appoint them as his chiefs of thousands and of fifties; or they will have to plow his fields, reap his harvest, and make his weapons and the equipment for his chariots.

He will take your daughters as perfumers, cooks, and bakers.

He will seize your choice fields, vineyards, and olive groves, and give them to his courtiers.

1 Maccabees 3:56 (CEB)⁴

In keeping with the Law, he told all who were building houses or were about to get married or were planting a vineyard or were fainthearted to go home.

² <https://www.sefaria.org/Judges.7.2?lang=bi>

³ https://www.sefaria.org/I_Samuel.8.10-14?lang=bi

⁴ <https://www.commonenglishbible.com/explore/passage-lookup/?query=1+Maccabees+3>

Additional commentaries and perspectives:

disheartened Literally, “soft-hearted,” meaning cowardly, as in verse 3 (“courage falter”). Some tannaitic and medieval commentators took this idiom to mean “tender-hearted” in the sense of compassionate and unable to inflict harm on others. - Jeffrey H. Tigay, [Deuteronomy](#), The JPS Torah Commentary (Philadelphia: Jewish Publication Society, 1996), 188.

Mishneh Torah, Kings and Wars 7:15

To whom does the phrase 'Is there a man who is afraid or faint-hearted?' refer? The phrase should be interpreted simply, as applying to a person whose heart is not brave enough to stand in the throes of battle.

Once a soldier enters the throes of battle, he should rely on the Hope of Israel and their Savior in times of need. He should realize that he is fighting for the sake of the oneness of God's Name. Therefore, he should place his soul in his hand and not show fright or fear.

He should not worry about his wife or children. On the contrary, he should wipe their memory from his heart, removing all thoughts from his mind except the war.

Anyone who begins to feel anxious and worry in the midst of battle to the point where he frightens himself violates a negative commandment, as it is written (Deuteronomy 20:3 : 'Do not be faint-hearted. Do not be afraid. Do not panic and do not break ranks before them.'

Furthermore, he is responsible for the blood of the entire Jewish nation. If he is not valiant, if he does not wage war with all his heart and soul, it is considered as if he shed the blood of the entire people, as *ibid.* 20:8 states: 'Let him go home, lest he demoralize the hearts of his brethren like his own.' Similarly, the prophetic tradition explicitly states: 'Cursed be he who does God's work deceitfully. Cursed be he who withholds his sword from blood.' Jeremiah 48:10

In contrast, anyone who fights with his entire heart, without fear, with the intention of sanctifying God's name alone, can be assured that he will find no harm, nor will bad overtake him. He will be granted a proper family in Israel and gather merit for himself and his children forever. He will also merit eternal life in the world to come as I Samuel 25:28-29 states: 'God will certainly make my lord a faithful house, for my lord fights the wars of God and evil will not be found with you... and my lord's soul will be bound in a bond of life with God.'

Or HaChaim on Deuteronomy 20:8:1

מי האיש הירא, "Who is the man who is afraid, etc." We are told in *Sotah* 44 that our verse speaks of *soldiers* who are afraid to die in battle due to sins they had committed. We find such a concept in Isaiah 33,14: "Sinners in Zion are frightened." It is natural that people who have sinned should be worried. Even people who are not aware that they did commit sins would start to worry about such a possibility when they go to war, on a dangerous mission. *Shulchan Aruch Or Hachayim* 54 mentions that one has reason to worry even if one only knows that one spoke during certain parts of the prayers when one should not have interrupted one's prayer by talking. The reason is simple. When one goes into battle one needs a miracle in order not to be hurt. If one is guilty of sins which one has not atoned for one cannot expect G'd to perform a miracle.

Steinsaltz on Deuteronomy 20:8

The officers shall continue to speak to the people, and they shall say: Who is the man who is fearful and fainthearted, and not brave enough to face war? **Let him go and return to his house, that he shall not melt his brethren's heart like his heart.** Soldiers who do not wish to fight are usually the first to flee or shirk difficult challenges, and they are liable to dishearten others.

The Torah; A Women's Commentary, Deuteronomy 20:8:1

Because of the contagious nature of cowardliness, this verse instructs the officials to remove fearful soldiers lest they demoralize the rest of the troops.

English Explanation of Mishnah Sotah 8:5:2

"Then the officers shall go on addressing the troops and say, 'Is there anyone afraid and disheartened'" (Deuteronomy 20:8).

Rabbi Akiva says: "afraid and disheartened" is to be understood literally, that he cannot stand in the battle lines and see a drawn sword. Rabbi Akiva understands the verse literally. The person is literally afraid to go out to battle. He is exempt because his fear may be contagious and cause the other troops to lose heart.

Menachot 36a:4

Concerning this, it is **taught** in a *baraita*: If one **spoke between** donning the **phylacteries** of the arm **and** the **phylacteries** of the head, **he has a sin, and due to** that sin **he returns from the ranks of** soldiers waging **war**. This is referring to the preparation for war, when the officers announce: "What man is there who is fearful and fainthearted? Let him go and return to his house" (Deuteronomy 20:8). The Sages explained that this is referring to one who is fearful due to his transgressions.

Sifrei Devarim 197:2

"Who is the man that fears and that is soft of heart?": that fears because of his transgressions, as per the words of R. Yossi Haglili: Come and see how the L-rd was solicitous of one's dignity, Scripture attributing (his returning) to all of these (aforementioned) things to salvage the dignity of one who returns because of faint-heartedness — so that they say of him: Perhaps he (is returning because) he built a house or planted a vineyard or betrothed a woman.

Sifrei Devarim 197:3

R. Akiva said: "that fears and that is faint of heart" is to be taken literally — He cannot stand in the ranks of battle and behold the drawn sword. And all had to bring proof (of building a new house, etc.), except the fearer and the faint-hearted, his proof being "with him," i.e., he hears the clashing of the shields and takes fright; the whinnying of the horses, and shakes; the blaring of the trumpets, and panics. R. Yossi Haglili says: "that fears and that is soft of heart": one who is forty (or older). If it is already written "that fears," why need it be added "and that is soft of heart"? To teach that even the bravest of the brave and the strongest of the strong — if he is merciful (i.e., "soft-hearted"), he returns, as it is written "and not melt the heart of his brothers as his own heart."

Gerald E. Gerbrandt, *Deuteronomy*, ed. Douglas B. Miller, Loren L. Johns, and Elmer A. Martens, Believers Church Bible Commentary (Harrisonburg, VA; Kitchener, ON: Herald Press, 2015), 376.

The final question is of a different sort: Is anyone afraid or disheartened? The negative impact on morale of having people within the army who are afraid is mentioned, but again one must ask whether this fully explains the exemption. War and the potential death that it

brings produce fear in virtually all. It is true that the passage opens with the priest assuring the people they have nothing to fear, and yet how many would not admit some fear in battle? These are now exempted. The passage does not address the question of who is left. Who actually will do the fighting? The implicit answer of the passage is clear: God. It was God who defeated Pharaoh at the Red Sea, and it is God who now will give the victory (Deut 20:4).-

Modern Approaches/Responsa/Etc:

See footnotes in the history presentation.