

Subject: Amelek, Ethics and Ockham's Razor

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Dear R. Lamm,

Yasher koach on your paper on the problematics of the mitzvah to destroy Amelek. I have given much thought to this issue, as it poses a severe moral and theological problem. Of course I am in sympathy with your "apologetics," as you term it, and marvel at the energy you devoted to the issue.

I prefer a more elegant approach, one that ultimately provides a more powerful argument. I am now traveling and don't have the precise notes from a lecture that I gave to the U. of Chicago Divinity School and to a number of shuls in the metropolitan area and Boston. Here is my best attempt to reproduce the outline of the argument:

1. Along with you, I remain unconvinced by R. Moshe's and the Rav's reading in Rambam distinguishing between Amelek and the 7 nations. As you point out, the textual evidence is weak and empirically it makes no sense to say that Sanherev intermingled all the nations except for Amelek. I will speculate about what was really bothering the Soloveitchiks later, but let's leave them aside for now.

2. Hazal did sense the moral problem with the mitzvah of killing innocent persons, as a literal reading of the mitzvah demands. [Your point that this also troubled the Torah is well taken.] This may be why R. Yehoshua laid down the principle that after Sanherev it was simply impossible, for technical reasons, to implement the mitzvah. The principle is actually irrational or at least unscientific, as it precludes any later empirical data identifying persons as Amelek or Canaanite. I have a different scenario than yours: What if IDF marches through Sinai and Yigal Yadin uncovers unimpeachable documents that identify some Jordanians as Amelekite descendants? Does the halakhah change? I suspect not and that R. Yehoshuah's claim would still carry the (halakhic) day. He—and the mesorah—thus solved the practical moral problem of Jews actually taking

immoral action and killing innocent Amelekite or Canaanite women and children. Radbaz also comments [Hil. Melakhim 5:5] that there is a tradition that the destruction of Amalek is a mitzvah that is deferred until the messianic era, thus also rendering the mitzvah inoperative for normative Jewish behavior.

3. However, the philosophical/theoretical theological problem remains, namely, how could God command something immoral (genocide)—even theoretically? Doesn't this contradict our understanding of God being constrained by the laws of morality ("Ha-shofet kol ha-ha'aretz le ya' aseh mishpat?") and worse commanding Jews do something immoral? It is Rambam who tries—and I believe succeeds—in solving this problem. The key is Hil. Melakhim, chapter 6, not only chapter 5.

4. In 6:1, Rambam reads Deut. 20 clearly contrary to the peshat [see Rashi] and contrary to the Sifri, by maintaining that peace must be offered l'hatkhilah to Amalek and Canaanites. [See Lehem Mishnah ad loc.] I believe he opts for this innovation because he needs this to solve the theological problem. [By the way, this means that milkhemet mitzvah is not a "holy war", i.e. a religious ideal l'hatkhilah, but an obligation that obtains bedi'eved due to undesirable circumstances, logically similar to eating pork on Yom Kippur to save one's life.]

5. In 6:4 Rambam makes the startling claim that if Amelek accepts peace (and the basic laws of civility in the form of the sheva mitzvot b'nai Noach) he is allowed to remain alive. You state this early in the paper with the implication that it is part of the mesorah, but to my knowledge this is Rambam's hiddush. Let me know if there is an earlier source. This leap changes the definition of Amelek from a racial category to a behavioral category. [See Kesef Mishnah on 6:4.] We are only allowed to kill those who see no moral prohibition in murder and who threaten Jewish and all society. Once the definition of Amelek is behavioral, the mitzvah cannot apply to a collective or race or ethnic group, but is logically restricted to individuals who behave in this barbaric way.

6. Note that Rambam insists in 6:5 that this is the correct interpretation of the mitzvah and has always been so from the time of

note 1  
can find  
in the Mishnah  
in the Talmud  
in the Midrash  
in the Zohar

Yehoshua. [This is probably historically false, but conceptually necessary.] He does this because he cannot admit that God EVER commanded genocide due to his theological assumptions. There is no change [progress] in the halakhah, just reinterpretation.

7. We now have solved both the practical moral problem as well as the philosophic problem—in other words, totally neutralized the mitzvah to commit genocide.

8. Perhaps R. Moshe and the Rav were troubled by rendering the mitzvah both practically and theoretically valueless. I sympathize with this concern. What then is the function of the mitzvah? Does it have any meaning for us today?

9. Since 9/11, the significance of the mitzvah is clearer. It tells us that some people are absolute evil with whom we cannot compromise, forgive or make deals with. The moral imperative is to destroy them, because if we don't, they will destroy us and the civilized order. Terrorists are those who kill or maim innocent non-combatants to undermine the foundations of society—eerily close to what the Torah tells us Amalek did. I would say that the mitzvah alerts us to the need to destroy all those who embody absolute evil through their heinous behavior to destroy society by not recognizing the fundamental distinction between killing innocent civilians for a cause and killing combatants in the context of a war.

10. This approach also yields stronger conclusions than does yours. It is not sufficient to state that not killing innocents or avoiding genocide is supererogatory or *lifnim meshurat ha-din*. This implies it is still a *reshut*, when moral argument demands that it be categorically prohibited. It is not an incorrect application of genocide that is wrong, it is the very concept itself.

Although this approach does not utilize the notion of moral progress in halakhah and Torah, I too believe in its reality and desirability. Perhaps the best case for this was made by R. Nahum Rabinovitch in a magnificent essay, "Darkha Shel Torah," that was later expanded to a book. The Edah Journal translated the original essay into Hebrew. Let me know if you want



me to supply you with the original Hebrew or the English translation.

Lastly, the whole subject of halakhah and ethics is critical, but one that much of the yeshiva world and most roshei yeshivah ignore at the peril of the Jewish people. (To paraphrase Kant, "If ethics without law is impotent, law without ethics is blind.") You correctly identify lifnim meshurat ha-din as the key concept bridging halakhah and ethics. I have written a scholarly paper on this, analyzing lifnim meshurat ha-din and rebutting the denial of ethical values outside formalistic halakhah. Your paper in Cardozo LR influenced my thinking regarding judicial discretion in peseqah and attitude to natural law. I cite you in a footnote.

I attach it here for your comments. It is a PDF file that you should easily be able to download.

Yasher koach once again.

b'vrakhah,

Eugene

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