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### NO "SACRED DISOBEDIENCE"

Recently, the Israeli Defense Forces (IDF) dismissed a number of officers who, for religious reasons, refused to abide by orders to evacuate settlers from the Gaza Strip and some areas on the West Bank. This is most distressing, especially for Orthodox Jews, and most especially for Orthodox Jews who are Zionists or are sympathetic to Zionism. What is upsetting is not the IDF's disciplinary action, but the religious officers who have allowed certain nationalistic right-wing Rabbis to convince them that disobedience in this case is mandated by the Halakha – and have thus contributed to a massive “desecration of the divine Name.”

It should be clear that these Israeli “refuseniks” are not draft dodgers looking for a way out of their national duty. Service in the IDF is their chosen career, one for which they have volunteered and worked hard in love and devotion. This is their career, and we are proud of them.

What we are not proud of is their decision, unlike so many of their colleagues, to follow the lead of those Rabbis who declared it a sin to assist in the disengagement initiated by the Sharon government – and which has the support of the majority of the Israeli public in this democracy.

Ultimately, the fault lies with those Rabbis – including a distinguished ex-Chief Ashkenazi Rabbi, an eminent Talmudic scholar. The problem revolves about the commandment to settle the Land of Israel – *Yishuv Eretz Yisrael*. Unquestionably, there is such a mitzvah. But they have absolutized this one mitzvah over against all others. In the process of so doing they have succeeded in setting religious against secular, and religiously observant against religiously observant -- thus placing their own students and other yeshiva graduates in a quandary, having to choose between their religion and their patriotism.

By sanctioning and sanctifying insubordination, these Rabbis have jeopardized whatever unity prevails in Israel, for the IDF is the country's main instrument of unity. And thus too they have contributed to the weakening of the IDF: No army can long exist and function if individual soldiers can veto policy—or have politics or religion determine military strategy or tactics.

In their halakhic deliberations, they failed to take into consideration what my teacher, the “Rav,” the late Rabbi Joseph B. Soloveitchik, so consistently stressed: the dominance of the principle of *pikuach nefesh*, the value of saving a life over all other values. The Halakha demands the overriding of *pikuach nefesh* only in the case of the three major sins – murder, immorality, and idolatry. *Yishuv Eretz Yisrael* is not included in this list. The Rav often and rightly compared the halakhic status of diplomatic or military policy to questions of medical life or death. Just as in the latter case it is up to the medical doctors to decide on the most advisable medical protocol, with the Rabbinic function based on the analysis of the situation as established by the medical specialists, so with regard to the former: the statesmen and generals decide policy and strategy, and the Rabbis decide the Halakhah on the basis of the picture painted by the specialists in national survival.

It is true that Israel, in light of the excuses offered by Nazi leaders at Nuremberg that they were “only following orders,” recognizes that there is a Higher Law which is superior to laws promulgated by the temporal authorities. But this Higher Law is a *moral* one, and the question of evacuating Jewish settlements and *Yishuv Eretz Yisrael* is a halakhic or strategic issue, not a specifically moral one. It is not of one piece with deliberately shooting civilians or torturing prisoners of war.

I wish the IDF commanders would creatively arrange for non-observant troops to carry out the disengagement. But that may be too obvious and too difficult to arrange on a large scale. Absent that solution, the IDF ought not draft citizens who follow the strict insubordination policy advocated by their Rabbis, and should dismiss those “refuseniks” who are at present officers. This is not an inconsiderable burden to bear in a society in which prestige and privileges, such as preference in employment and university education, are offered first to veterans of the IDF.

By way of analogy, in ancient Israel on the eve of war, the chaplain would address the conscripts and present a list of those excused from military service and who were to be sent home. Included in this list was one who was “fearful and faint-hearted; let him go and return to his home lest his brethren’s heart melt as his heart” (Deut. 20:8). The Mishnah (*Sotah* 8:3) records two interpretations of this verse. Rabbi Akiva’s was quite literal: one who cannot bear the sights and sounds of war, i.e., a coward. Rabbi Yossi the Galilean interpreted it as one who is frightened because of “the sins in his hand,” one who feels religiously inadequate: If a soldier has pangs of conscience and is disheartened for not observing the mitzvot properly, he is to be relieved of his

duty to his nation because he will not make a good soldier and will only bring harm to his comrades.

There is a lesson in this for our contemporary situation: a soldier whose religious conscience causes him to question the justice of the army and its mission, had best be asked to leave, or not be conscripted in the first place, because he will demoralize his comrades. He who fears because of "the sins in his hands," one who considers a specific military activity as sinful, and is therefore insubordinate to his superior officers, should be sent home – no matter how praiseworthy his intentions or record. Thus, R. Akiva and R. Yossi offer two differing narratives, both of which lead to the same conclusion: Both the coward and the conscience-stricken, so very far apart in character and motivation, should be released and not endanger their fellow soldiers.

In our case, it is fatuous to conceive of a Sacred Disobedience.