

Pursuing Peace (appendix III)

1. Devarim 20:10

When you approach a city to do battle with it you should call to it in peace. And if they respond in peace and they open the city to you, and all the people in the city shall pay taxes to you and be subservient. And if they do not make peace with you, you shall wage war with them and you may besiege them.

2. Rashi, in his commentary, indicates that the obligation to seek peace prior to attack is limited to Authorized wars (Milchemet Reshut). However, in Obligatory wars (Milchemet Mitzvah) there is no obligation to seek a peaceful solution. Indeed, such a position can be found in the Sifri, one of oldest of the midrashic source books of Jewish law.

However, the Rambam disagrees:

3. Rambam Law of Kings 6:1

War is not made with anyone in the world until they call to him in peace. This is true whether it involves an authorized war (Milchemet Reshut) or an obligatory war (Milchemet Mitzvah), as it says "When you approach a city to wage war against it, you must call to it in peace."

3. Rambam Law of Kings 6:5

Joshua sent three written messages before he entered the Land of Israel. The first one said "Whoever wants to flee, flee." The second one said "Whoever wants to make peace, make peace." Then he sent another one that said, "Whoever wants to make war, make war."

4. Maharal

"When you approach a city to wage war against it, you must call to it in peace." This applies when they did not do anything to Israel; but when they did...it is permitted to wage war without calling them to peace.

5. Yitchak Kaufman. The Army according to Halacha

It is permitted to call to the enemy in peace, if this will not hinder the attack. Examples of hindering would be prevention of the attack, revealing the aim of our forces, or removing the element of surprise.

How has the imperative to pursue peace been affected by Maharal's and Kaufman's comments?

6. Rambam, Laws of Kings 6:5

When one surrounds a city to lay siege to it, it is prohibited to surround it from four sides; only three sides are permissible. One must leave a place for inhabitants to flee for all those who wish to abscond to save their life.

7. Ramban elaborates on this obligation:

God commanded us that when we lay siege to a city that we leave one of the sides without a siege so as to give them a place to flee to. It is from this commandment that we learn to deal with compassion even with our enemies even at time of war

8. When you besiege a city many days to bring it into your power by making war against it, you shall not destroy the trees thereof by swinging an axe against them; from them you may eat but you may not destroy them; for is the tree of the field like a human who could withdraw before you?" Deut.20:19-20.