

Halachic Discussions

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Special Topic: Gun Control in Halachah



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Halachic Discussions is a publication of halachic essays published by Igud HaRabbonim, the Rabbinical Alliance of America. Topics include the timely and the timeless, applying texts and sources from across the generations to contemporary life. While the primary language of halacha is Hebrew, for logistical reasons this is being published in English.

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Gun Control and Jewish Law

Introduction

We live in an era of increasing antisemitism and increasing gun violence, a time in which many people fear for the safety of themselves and their families. While, of course, we pray for our safety, we also must also take initiative and do *hishtadlus* to protect ourselves by avoiding dangerous situations when possible. Some have suggested that included within the appropriate *hishtadlus* is arming oneself with a gun for self-defense. In order for a gun to be even remotely effective and not dangerous to oneself and others, one needs proper training. One also must maintain appropriate safety protocols to avoid the gun being misused by children or otherwise.

Some political advocates argue that statistics prove that guns only increase danger, both to the gun holder and society in general. Other political advocates argue to the contrary, that when only criminals have guns, they have free rein over honest citizens. These are important arguments among experts that need to be considered. Our concerns here lie not in the data and politics but in the Torah arguments on the subject.

In the following pages, we will see different perspectives on the subject as they emerge from Torah sources. These are not political arguments but rather religious arguments. Nothing here should be interpreted as advocating for violating local law. Rather, these are attempts to arrive at Torah attitudes to be considered within greater contexts.

The articles in this journal are part of broader “halachic discussions.” Every author speaks only for himself and not for others nor for the Rabbinical Alliance of America. Readers should not draw practical halachic conclusions from these articles. All practical questions should be directed to appropriate halachic authorities who can advise based on normative views and the relevant local laws.

Is It Proper to Own a Gun?

by Rabbi Yaakov Klass

Question: Is It Proper to Own a Gun?

Answer: Obviously the question is not only in regard to owning a gun, but having it in one's possession and if necessary using it.

The Torah (Devarim; 22:8) teaches us: *"ki sivneh bayis chodosh v'asisa ma'akeh l'gagecha v'lo sosim domim b'veisecha ki yipol ha'nofel mimenu* – When you build a new house, you shall make a parapet about your roof, that you not cause blood to be spilled in your house, if any fall from it." In translating the Torah's words literally, it should read, "the one who fell will fall from it." This means to say that if not for the Ma'akeh – the parapet – one will surely fall. Thus our sages (Sifrei, Parshas Ki Seitsei) learn that in this verse there is both an aseh – a positive command and a lo sa'aseh – a prohibitory command.

They derive from this verse as well that one should not have in his possession anything that can be a source of danger to others. This in the words of the Chayyei Odom (Topic 15:24) "and any matter that can be a cause of danger to life there is a positive commandment to remove it." Thus a dangerous animal fits that description. In our day and age we know that for example where proper construction guidelines were not kept that too is something that if not remedied can cause death and destruction.

Now as far as a gun is concerned it too is a tool that has the capacity to kill, but then so can an automobile, yet no one questions the right to own a car. The answer lies in the intended purpose for possessing this item – an auto is for transportation but one must take care so as not to harm anyone in the course of its being used.

As for a gun, the Torah would sanction its use and obviously ownership in certain circumstance, as we see the Torah (Shmos 22:1) states clearly: *"Im ba'machteres yi'matzei haganov v'hukah va'mes ein lo damim* – If the thief is found breaking in [to one's house] and he was hit [by one in the home] and died the one who has hit him has shed no blood." Rashi (ad loc.) explains that from here our sages derive *Ha'boh l'horgecha hashkeim l'horgo* – if someone comes to kill you, with haste kill him.

Thus we see that the right to own a gun (U.S. Constitution, Second Amendment) is a right because of the need for an individual to protect life and limb.

Of course, with gun ownership comes responsibility. Just as one must learn how to use any tool or device such as our example of the auto, one must as well train in how to use a gun or any other weapon. One must take care that it not come into the hands of young children as well.

In summation, we do pray, especially as we live in times where lawlessness is rampant as the criminal element have been emboldened by the increasing ascendancy of our woke society, that Hashem save us from any harm or even our causing harm to others even when justifiable.

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A View on Guns

by Rabbi Zeev Saunders

Those of you who have heard me speak will know I am not qualified for the top political job in America. For those who haven't, although I am now an American citizen, my accent makes it clear that I was born in another country, one that does not permit its ordinary citizens to have guns. I never remember seeing guns on the street. There was occasional gun crime, but that was usually related to gangs. Even the police did not carry guns. According to statistics, the UK has 0.04 deaths per one hundred thousand people and the US 3.96. I can remember after the Dunblane massacre in Scotland in 1996 where 16 children in a school were murdered, even guns for sporting purposes were banned. My father who worked as a chaplain to the British Armed Forces was told that as a rabbi, he is a man of peace and would not be allowed to carry nor train in using a gun. However, the US constitution provides the right for its citizens to bear arms. I am sure many people more knowledgeable than I will debate whether this is Halachically permitted or not. There are a lot of sources on both sides of the argument. I will take for granted that owning a gun is permitted. I would like to delve into the permissibility of having it in your house and the need to be trained.

The Talmud has several references to owning weapons:

We have a dispute in the Mishna in masechet Shabbat (63a) between Rabbi Eliezer and the Chachamim about whether one can carry a weapon on Shabbat if there is no *eruv*. In Makkot (9b) there is a discussion about whether the city of refuge should have a weapons shop in it. The rationale for and against is whether the need to protect from an outside enemy overrides the danger that the Goel Hadom, the next of kin, might purchase a weapon and kill the person who is seeking refuge for killing his relative by accident.

What we can take away from these disputes is the basic underlying fact that weapons are allowed to be kept in most circumstances. However, there needs to be some limits like on Shabbos or in a city of refuge.

We can also see from the dispute in Makkot about the city of refuge how imperative it is to make sure these guns don't fall into the wrong hands.

I would like to consider the idea of bringing something dangerous into one's house. Bava Kama (46): Rabbi Natan said, "From where do we learn that a person should not raise a not raise a 'bad dog' (i.e., dangerous) in his house, and that he should not put up an unsafe ladder in his house? The verse states 'Don't put blood in your house.'" Although the verse specifically mentions only the mitzvah of building a ma'akeh (fence) on the roof of

one's house to help prevent a person who goes there from falling and losing his life, Rabbi Natan teaches that this verse is also the source for not keeping dangerous objects around one's house.

Rambam Hilchot Rotzei'ach (11:4) implies that the prohibition of owning a dangerous object only applies to something life-threatening. Any other type of danger does not fall under this prohibition. The Sefer Ha-Chinuch (no. 546) states that the prohibition applies to any kind of danger.

The Shulchan Aruch (CM 409:3) says that the prohibition to raise a dangerous dog does not apply if it is kept in chains. He also says that in a border city, it is allowed, presumably because you need it for protection. The Vilna Gaon on this Halacha points out that living amongst non-Jews is like living in a border town and therefore one is allowed to have a dangerous dog for protection even without chaining it up. However, the Aruch Hashulchon still says that one should chain up the dog during the day when it is not needed for protection and only release it at night. He also says that one who transgresses the prohibition of having a dangerous dog in his house brings upon himself an "orrur," a curse. This curse would seemingly not apply to owning a locked gun as the curse is for raising a pig which doesn't apply to the case of a gun. The curse for raising a pig comes from Menachot (64): "The elderly man said to them: 'As long as they are engaged with the Temple service, they will not be delivered into your hands.' Upon hearing this, on the following day, when they lowered dinars in a box, they sent up a pig to them. Once the pig reached halfway up the wall, it inserted its hooves into the wall and Eretz Yisrael shuddered four hundred parasangs by four hundred parasangs. When the Sages saw this, they said at that time: Cursed is he who raises pigs, and cursed is he who teaches his son Greek wisdom."

Most people who own guns only do so for protection. One could argue that it is a great mitzvah to protect oneself and one's family. We can say that you could potentially be fulfilling the Mitzvah of "You shall not stand against the blood of your friend" (Vayikra 19:16) which Chazal take to mean that if you witness your friend in a life threatening situation you must make every attempt to save him and if you don't you transgress this prohibition (Sanhedrin 73a). If one owns and carries a gun then one has the ability to save people if he needs to. The Shulchan Aruch (CM 426_ says one must do everything possible to protect and save one's fellow from harm. We know the Talmud tells us based on the pasuk in Mishpatim that if someone is coming to kill you, you have full rights to kill him as he has forfeited his right to live.

Let's consider if having a gun and not knowing how to use it offers much protection. To quote an article by Jake Bercowitz in the *Trace* magazine: If a person has never fired a real gun, "they don't know how they're going to react" in a self-defense situation. "They're starting to shoot holes through walls because they don't know how the gun reacts." This will put more people in danger as innocent bystanders can be killed. In Divrei Hayomim 1 (chapter 12), the pasuk tells us of all the highly ranked officers of the army of King David. Pasuk 2 tells us of the skilled people who could hold swords and throw stones at the same time. We are told that Achiezer and Yehoyash were the leaders

and best marksmen. In pasuk 8 we are told who the mighty warriors are. Why are we being told all of this information? What lessons are we supposed to take from this and implement in our own lives? Perhaps the message is that we need to be trained in weaponry. King David did not just rely on miracles. He made sure his army was trained and practiced regularly in warfare.

Therefore, based on what we have seen, I believe there is a mitzvah to be trained and continually practice at the gun shooting range if one wants to own a gun. If a dangerous dog is permitted when tied in chains, presumably a gun in chains is also acceptable according to the Shulchan Aruch. There is a paramount need to make sure our weapons will not be found by our children and used, chas v'shalom

Finally, I hope and pray that we see very soon a time when we can all lay down our weapons peacefully in fulfillment of the pasuk in Yishayahu (2:4): "They shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war anymore."

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Guns-N-Moses

by Rabbi Shay Tahan

The Significance of Obtaining a Firearm License

In today's climate, people are grappling with uncertainty about how to respond to the increasing incidents of anti-Semitism worldwide. The dilemma arises: should we flee or stay and confront the challenges? Even if the option to run is considered, recent events demonstrate that no corner of the world seems entirely safe for us. Another quandary facing the Jewish community is whether to apply for a gun permit. Raised and educated to respect and love others, and not to inflict harm in any way, the notion of wielding arms for potential self-defense goes against these values, presenting a moral conundrum for many.

In this article, we will explore the Torah's perspective on navigating the challenges posed by contemporary dangers and assess whether seeking a gun permit is aligned with its recommendations.

Let's begin with the core principle that Jewish people typically avoid targeting others unless it is necessary for establishing deterrence in self-defense. In contrast to nations that have historically targeted Jews based on religious persecution, jealousy, or animosity, Jews, as a generalization, do not harbor an inherent desire to inflict harm on others. Instead, the primary objective is to coexist peacefully, guided by the principle of "live and let live." Therefore our emphasis in this article is specifically on the aspect of self-defense.

Thus, it's important to note that our discussion goes beyond the old American debate on whether guns themselves are responsible for mass school shootings or if it is the evil individuals behind the guns who commit such acts. We are specifically addressing the importance of Jews holding guns as a means to protect ourselves from potential harm.

Halachic Perspectives on Obtaining a Firearm License

It is an undisputed halachic principle universally accepted that individuals are obligated to protect themselves from harm. The concept dictates that one should not passively allow others to inflict harm upon them. The Gemara (סנהדרין סב) states that if someone attempts to take your life, there is a moral obligation to preemptively defend yourself by taking their life first - הבא להרגך השכם להורגו. The Gemara derives this principle from a case where a robber breaks into a house - בא במחתרת, and the Torah permits the homeowner to kill the intruder. The reasoning explained in the Gemara to justify this permission is that the intruder is presumed to use lethal force if confronted by the

homeowner, and therefore, the homeowner is justified in taking action to protect themselves before being subjected to harm.

Example to this we find in the incident involving Gedaliah (Yirmiah 40-41). After the destruction of the First Temple in Jerusalem, the Babylonians appointed Gedaliah as governor over the remaining Jewish population in the land. However, Gedaliah's lenient and trusting approach toward his political opponents led to a tragic outcome.

Ishmael, a member of the royal family, plotted against Gedaliah and eventually assassinated him. Despite warnings from Yohanan about the threat to his life, Gedaliah did not take decisive action to protect himself. Chazal (גדה סא,א) criticized Gedaliah for not being more vigilant and for not taking the necessary precautions to ensure his safety in a politically volatile environment.

This story is often cited as a cautionary tale, emphasizing the importance of self-preservation and the duty to take reasonable steps to protect one's life, even in times of apparent peace. The broader lesson is about balancing trust and caution, understanding the potential risks, and acting responsibly to safeguard oneself and the community.

As we journey through the Torah's parashot, a recurring theme emerges – our forefathers were frequently engaged in battles and wars. Those wars were either fought in self-defense or to rescue hostages. Later, Hashem commands the conquest of the Land of Israel.

Warfare for the Liberation of Hostages.

Avraham Avinu, for instance, undertook a war to rescue his kidnapped nephew Lot, highlighting the prevalence of conflict in their narratives.

The concept of engaging in warfare to rescue captives is evident in the Torah narrative when Shimon and Levi took action against the city of Shechem for violating and kidnapping their sister, Dinah. Additionally, the Israelites waged war when a female slave was taken hostage (במדבר כא,א). The Torah narrative illustrates a justification for employing all means necessary in situations where a Jewish woman is violated or someone is held hostage.

Afterward, Yaakov Avinu had to defend himself from the surrounding nations who came to attack him following the incident with the city of Shechem (רש"י בראשית מה, כב). Yaakov emerged victorious in the war, declaring, "The land that I conquered with my sword and arrow."

In fact, Yaakov had to arm himself before meeting Esav. He prepared for the encounter with prayer, ready to engage in a potential fight if necessary. Yaakov dressed his people in white clothing, symbolizing goodwill as they greeted Esav. However, beneath the exterior of peaceful attire, they were armed and prepared to defend themselves if the need arose (רמב"ן לב, ט).

The Wars of the Nation in the Desert

Not only did the Avot need to engage in wars for self-defense, but throughout the journey of Am Israel, they were also required to fight battles. This is exemplified by the fact that the nation emerged from Egypt armed, as the pasuk states (שמות יג, יח), “Israel were armed when they went up from Mitzrayim.”

The Ramban asserts that the nation was armed to instill in them the confidence that they could defend themselves in the desert if necessary. The Gemara (שבת ו, ד ירושלמי) further elaborates on this verse, noting that they were armed with 15 different types of ammunition. This emphasizes the importance of having a variety of means to defend ourselves, as in a war, a diverse range of techniques is essential to overcome the enemy.

The Purpose of Being Armed for Confidence and Significance

One might question the above, considering the preceding pasuk explained that Hashem made the nation take a detour to avoid coming near another nation and experiencing war. Why, then, were they armed if they were intentionally kept away from potential areas of conflict?

The Ohr Hachaim explains that even though, in reality, they may not encounter any wars, the mere feeling of being unable to engage in battle would be sufficient for the nation to feel lost. This sentiment could potentially lead them to retract and consider returning to Egypt.

We glean from his words that being armed contributes to a person feeling secure and reassured, even though they may not actually need it. The very sense of being armed already builds confidence.

The Ramban adds another layer, suggesting that Hashem armed them not only for a sense of security but also to instill pride and honor within the nation. This was done to ensure that they did not emerge from Egypt with the mindset of former slaves escaping their master but rather with a newfound dignity.

Once again, we can infer from this that being armed not only instills confidence but also bestows dignity.

Additional verses from Tanach underscore the significance of being armed

Various psukim in Tanach emphasize the significance of being armed for protection from potential harm. For instance, concerning King Shlomo, it is written: “Here is Shlomo’s couch, surrounded by sixty mighty men from the mighty men of Israel. All of them are skilled in warfare, trained for battle, each with his sword on his thigh, guarding against the terror of the night.” (שיר השירים פ"ג)

Another pasuk from King David, explaining about the righteous:

”יעלזו חסידים בכבוד ירננו על-משכבותיהם. רוממות אל בגרונם וחרב פיפיות בידם. (תהלים קמט)
 “Let the faithful exult in glory; let them shout for joy upon their couches, with paeans to Hashem in their throats and two-edged swords in their hands.”

Certainly, there are spiritual meanings to all these verses, but Chazal emphasize the principle that the simple, literal meaning of the pasuk must also be studied. (שבת סג,א)

Guided and Guarded: Protection by Heavenly Providence

Some may argue that since the Jewish nation is guided by heavenly providence, there might be no need for them to take active measures to ensure their safety. However, Rabbeinu Bechayey (שמות יג, יח) offers an insightful perspective. He suggests that the reason the nation was armed when leaving Egypt was not to undermine the divine protection, symbolized by the glory clouds and the pillar of fire. Rather, it was to encourage the people to behave naturally.

Rabbeinu Bechayey’s point is that while Hashem provides supernatural protection, there is an inherent value in people behaving in accordance with nature. Even in times of divine protection, Hashem encourages individuals to take practical steps for their well-being. This harmonizes the divine guidance with the natural order, emphasizing the importance of both heavenly support and responsible human action in ensuring safety.

Even the righteous Torah scholars, who the Gemara (בבא בתרא ה,א) suggests do not require protection as the Torah protects them, as Chazal explained on the pasuk - “I am a wall,” referring to the Torah, and “And my breasts are like towers”; those are Torah scholars. Still, the Chazon Ish (ס”ה ס”ק יח) and Rav Moshe Feinstein (דברות משה) explain that they must behave according to nature and seek protection.

Summary

This was a brief overview among various sources that highlight the importance of every responsible Jewish person exercising their Second Amendment right. It serves as a reminder that predators target the defenseless, and if the majority of Jews are armed, potential attackers may think twice before initiating an assault.

Rabbi Shay Tahan runs a very busy Bet Hora’a, hosts a show on JRoot radi, and leads the Shaarei Ezra Kollel. Rabbi Tahan has published sefarim named Shaf V’yativ.

Self Defense According to Halacha

by Rabbi Yehoshua Grunwald

Hitting For Defensive Purposes

There is a Biblical prohibition forbidding one from hitting another Jew. Shulchan Aruch (CM 420:1) states, that one who even merely lifts his hands to hit another Jew is called a *rasha* (lit. a wicked person). Nonetheless, when one is being hit or sees another Jew being hit, without legitimate reason, he is obligated to stop the offender even by means of hitting the offender. This is because a person has an obligation to stop another Jew from committing a Torah prohibition and also to protect the victim. In a case where one is the victim, or it is one's close relative who is the victim, he has an additional allowance to hit the offender as a means of stopping him, and that is the right of self-defense.¹

There is another allowance to defend oneself as well, and that is the principle of “*dan dina l'nafshei*.” Everyone has the right to take the law into their own hands where it is clear cut that one is in the right and it is for preventative measures.² For example, in a case where another person is about to steal from you, damage your property, or injure you, you are permitted to take the law into your own hands and stop the offender by hitting him, if there is no other means of stopping him.³

The Extent of Defending

Although, as stated, one could and should stop the offender even by means of hitting, however, if he could have protected the victim by inflicting minimal injury and, instead, injured the offender seriously, he is liable for the excessive damage. (CM 421;13)

Out of Heatedness

Halacha also tells us, that one who was hit by another person or even if he was just terribly slandered by another and he hits the offender back out of anger is not called a *rasha*. The Torah recognizes that it is human nature to get angered when being terribly offended and to sometimes react without control. Although one does violate a transgression by hitting even in this instance (see Shu”t Chavos Yair 65), nevertheless, one is not called a *rasha* since it was out of pressure.⁴ He is even exempt for the injuries that he did, if it can be sensible that it was out of the pressure of his heatedness. *Poskim*

¹ Taz, CM 421;13

² There are additional instances which are permitted because of *dan dina l'nafshei*, but they are beyond the scope of this article.

³ CM 4; Igros Moshe, CM 1:3. See also CM 421:6.

⁴ CM 421:13 and Pischei Teshuva ad. loc.

discuss the length of time to which we can still consider that he is an anus due to the fact that it was out of heatedness. Shu"t Chavos Yair (ibid.) writes that if another injured him, it can even be the next day that he will be angry and compelled to revenge. For practice, a *bais din* would have to estimate how long is legitimate, based on the specific situation. We find in the Sefer Hachinuch (338) that if one retorts back sharp words to an offender, even if it was only verbal abuse, they haven't violated any *issur*. It is, however, commendable if someone is silent when another offends them.

Hitting One's Child

The Gemara writes that it is forbidden for a father to hit his child for educational purposes, when the child is over twenty-two (or according to another opinion over twenty-four) years old, because the child will be tempted to hit back, thereby causing the father to violate the prohibition of *lifnei iver*. However, when the hitting is for self-defense, there is no difference if the child is older or not. (see below regarding hitting minors) Below this age, not only is it permissible to hit a child for the purpose of preventing him from violating a Biblical or Rabbinic prohibition or to train him to have proper *middos*, it is even mandatory when the situation calls for it. The Shulchan Aruch⁵ writes that this is true for anyone under one's influence.

Nonetheless, Rav Shlomo Wolbe writes in his sefer Zriah u'Binyan b'Chinuch that times have changed with regards to this halacha. He says, that today one who hits a child that is relatively young transgresses the prohibition of *lifnei iver*, because the child, even at a young age, will rebel against his father. Once upon a time it was possible to hit a child without destroying the relationship between the father and the child, but nowadays it just might not. The sefer Minchas Shmuel says in the name of Rav Chaim Volozhiner Zt"l that harsh words do not penetrate or make any positive impact and a parent should only speak softly and with kindness. If in the times of Rav Chaim Volozhiner this was the case, certainly it is true in our times and even more so with regards to children.⁶

School Yard Fights

If one child hits another child in school how should the victim respond? Should he hit him back or should he go to the Rabbi and tell him what was done to him?

The sefer Aleihu Lo Yibol (Chinuch 23) says that this question was asked to Rav Shlomo Zalman Auerbach Zt"l and he said to tell the child to hit the other child back in order to defend himself and deter the other child from hitting him again. However, the child should be told that it must be for this purpose and not for revenge.

Killing for Defensive Purposes

When there is an offender pursuing to kill another, known as a *rodef*, anyone may kill the *rodef*, in order to prevent the intended homicide. Not only is it permitted, it is mandatory.

⁵ CM 421:13 in the name of the Terumas Hadeshen.

⁶ See Sefer Pele Yoetz s.v. Haka that also says the same as Rabbi Chaim Volozhiner and Rabbi Wolbe.

However, when the one pursued can be saved by merely maiming the rodef, it is forbidden to kill him. A rescuer, who uses lethal force when the life could have been saved without such force, is guilty of capital punishment. Nonetheless, from a practical perspective, it is often difficult to ascertain if nonlethal force is really a viable alternative. Police officers are quoted as saying “shooting to wound doesn’t make sense scientifically, legally, or tactically.” This brings tremendous challenges to those who are faced with such given real-world situations. By no means, do the challenges encourage to avoid using this law, rather, it puts the authorities in a position where they must do due diligence to seek out the unbiased truth in each individualized situation.

A Minor as a *Rodef*

Even a minor who is threatening someone else’s life, may be killed. (Rambam Hilchos Rozeach 1;6) Although, the Talmud (Sanhedrin 72b) brings a dispute over whether a minor is subject to being killed as a *rodef*, the *halacha*, as stated, follows the view that he is. Moreover, we find, that even one who has no intention to be a rodef, if in fact he is one, is classified as a *rodef*, and it is incumbent on all to save the pursued. (See Biur Hagr”a CM 425;10)

Carrying Weapons on Shabbos

Weapons are *muktze* on Shabbos, and therefore cannot be moved around. Additionally, wearing weapons, such as a gun in one’s belt, is considered carrying and cannot be done out of an *eruv*. (Shulchan Aruch OC 301;7) Sefer Kovetz Teshuvos (vol. 3; 51) writes, that even for a soldier to wear a gun during wartime, when it is common practice for such a person to wear a gun, is considered carrying. Additionally, aside from the issue of carrying, Chazal forbade walking around with armory on Shabbos, because of *maris ayin*, that others will suspect him of planning to make war on Shabbos. Of course, when there are real life threatening situations, all of these Shabbos related issues are permissible, but one must know the guidelines of what is considered *sakana*. For this point, and everything else in this article, as a matter of practical *halacha* one should contact a competent halachic authority.

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Gun Control in Halachah

by Rabbi Josh Flug

If you drive around different parts of the US long enough, you are likely to encounter two bumper stickers asserting two contradictory ideas. One states, “The only thing that stops a bad guy with a gun is a good guy with a gun.” The other states, “More guns, more death.” Those who support stricter gun control measures believe that gun control reduces violent crime by taking guns away from criminals. Those who are opposed to stricter gun control measures believe that gun control increases crime by disarming the “good guys” who deter criminals from committing violent crimes. Each side of the debate has statistics to support its side of the argument. There are studies that “prove” that areas with looser gun restrictions have less crime.¹ There are also studies that “prove” that areas with greater availability of guns have a higher rate of violent crimes.²

As intellectually honest people, we strive to gather the facts before making decisions about controversial topics. Yet the conflicting studies in the area of gun control should not deter us. One possible resolution to this conflict is that there is no one-size-fits-all approach to the way people behave with guns. Sometimes guns will be used to commit violent crimes and sometimes they will be used to protect people. How then, does one come to a decision? In Talmudic times, the rabbis struggled with similar issues. Perhaps we can glean some lessons about gun control from the Talmud and its commentaries.

Weapons in the Talmud

The Gemara (*Avodah Zarah* 15b-16a) has a lengthy discussion about laws relating to selling weapons and their accessories. The discussion involves a number of points. 1) The Gemara quotes a *beraita* that one may not sell weapons or their accessories (holsters, et cetera) to a non-Jew or a *kuti*. (A *kuti*, for these purposes, represents anyone who we suspect may sell the weapons to non-Jews.) One may not sharpen non-Jews’ weapons nor sell them handcuffs or similar tools. The Gemara explains that the reason for the prohibition is because non-Jews are prone to use these weapons or tools for murder, an observation that was true at the time. 2) The Gemara further states that just as it is prohibited to sell weapons to a non-Jew, it is also prohibited to sell them to a Jewish bandit. The Gemara adds that this certainly applies to a bandit who might murder, but it

¹ See Carlisle E. Moody and Thomas B. Marvell, “The Debate on Right-to-Carry Concealed Weapons Laws,” *Working Papers* 71 (2008), Department of Economics, College of William and Mary, available at http://economics.wm.edu/wp/cwm_wp71.pdf.

² See Lisa M. Hepburn and David Hemenway, “Firearm Availability and Homicide: A Review of the Literature,” *Aggression and Violent Behavior* (2004) 9: 417-440, abstract available at <https://www.ncjrs.gov/App/publications/Abstract.aspx?id=206421>.

also applies to a *mashmuta* (Jewish bandit who has no history of violence). 3) The Gemara then quotes a dispute about whether one may sell shields to non-Jews. The dispute centers around one question: will the shields be used as weapons to attack others or for self-defense? 4) The Gemara further states that one may not sell iron to non-Jews because they might use it to make weapons. The Gemara notes that while one can convert any tool into a weapon, this rule relates to a type of iron primarily used for weaponry. 5) The Gemara goes on to justify selling iron to the Persians because they protected the Jews at the time. The Gemara seems to be permitting the sale of a specific type of iron. Yet many Rishonim extend the prohibition to ban the selling of all types of weaponry to non-Jews.

What is the nature of the prohibition against selling weapons? Is it based on public policy considerations (i.e., the safety of the public) or is it based on pre-established halachic principles? This seems to be the subject of a dispute among the Rishonim. Rabbi Yosef ibn Chabib, *Nimukei Yosef (Avodah Zarah 16a)*, writes that the prohibition is based on a concern that it will lead to murder. Ritva (*Avodah Zarah 16a*) writes explicitly that it is based on the concept of *lifnei iver*, the prohibition against enabling someone else to commit a transgression. By providing weapons to someone who might use them for crime, one is enabling the purchaser to violate a transgression. Rambam codifies these laws in *Hilchot Avodat Kochavim* as well as in *Hilchot Rotzei'ach*. In *Hilchot Avodat Kochavim*, Rambam emphasizes that we don't provide people with tools that can harm society, while he downplays *lifnei iver*. In *Hilchot Rotzei'ach*, Rambam connects these laws with the concept of *lifnei iver*. Thus, for Rambam both the societal concerns and the *issur* of *lifnei iver* play a role in the prohibition against selling weapons.

If the basis for prohibiting the sale of weapons is solely the concept of *lifnei iver*, then perhaps it is permissible to sell weapons to someone who has another means of acquiring them.³ If the prohibition is based on the harm weapons do to society, then the prohibition would still apply even if the purchaser has other means of acquiring the weapons.

Guns for Protection

The most significant practical difference between these approaches emerges in explaining why the Gemara permits selling weapons to the Persians. According to *Nimukei Yosef* (op. cit.), selling weapons to those who protect us will certainly (*vaday*) provide an added measure of security, while the concern that they might use the weapons for murder is only speculative (*safek*). Rabbeinu Nissim (*Avodah Zarah 5a*) follows a similar approach and writes that one must analyze whether selling the weapons will prove to be more protective or more harmful. In Talmudic times, selling weapons to the Persians provided greater security overall.

³ The Gemara (*Avodah Zarah 6b*) states that the Biblical prohibition of *lifnei iver* is only violated if one provides the prohibited item and the recipient has no other reasonable means of attaining the item. If he has other means of attaining the item, there is no Biblical violation of *lifnei iver*. Rabbi Moshe Sternbuch (*Da'at U'Machshavah 9:8*) notes that this rule may not apply in the case of selling weapons. Even if the rabbis based the prohibition against selling weapons on *lifnei iver*, the parameters of the rule may not follow the same exact parameters as *lifnei iver*.

Applying *Nimukei Yosef's* analysis to modern times would require knowledge of whether less restrictive gun control laws are inherently protective or not. As we noted earlier, there is no clear consensus on whether this is true or not. Do gun control laws contribute to public safety (*pikuach nefesh d'rabim*) or detract from it? Ritva (op. cit.) writes that the Gemara permits selling weapons to the Persians because there is no *lifnei iver* in this situation. Perhaps what he means is that *lifnei iver* only applies when one knows that the weapon is going to be used for harm. If one sells to people who are trying to protect themselves or who serve to protect, one can assume that the weapon will be used for good, similar to the permissibility of selling ordinary tools to someone. We are not concerned that they may be converted into a weapon. Advocates for looser gun control restrictions might use this comment to support their argument and claim that *lifnei iver* doesn't apply because normally guns are sold for protective or neutral purposes.

Opponents might counter that argument and claim that this is only true if we properly evaluate the purchase and perform a proper background check on the purchaser. Rambam, both in *Hilchot Avodat Kochavim* and in *Hilchot Rotzeiach*, seems to limit the permissibility of selling weapons to (Persian) military and law enforcement personnel. Rambam seems to not permit selling weapons to civilians even if their stated goal is to protect themselves or to provide protection to society.

Background Checks in Halachah

Some advocates for stricter gun control laws are asking for enhanced criminal background checks as well as psychological evaluations of those purchasing weapons. Interestingly, support for this can be found in a Talmudic discussion. As noted earlier, the Talmud prohibits selling a weapon to a *mashmuta*—a Jewish bandit who has no history of violence but may use the weapon to escape capture. Rashi (*Avodah Zarah* 15b, s.v. *L'Olam*) notes that even if one is certain that the bandit won't use the weapon to kill someone, he may use it to threaten someone and commit a crime (steal, et cetera). Thus, selling weapons to a bandit could make one guilty as an accessory to a crime. Rabbeinu Nissim (*Avodah Zarah* 5a), however, has a different explanation. He suggests that even if the bandit does not have a violent past, he will eventually be in a situation where he will use the weapon to avoid being captured. According to Rabbeinu Nissim, we are not only prohibited from selling weapons to people who are actually prone to commit murder, we may not sell weapons to those who have a greater than average propensity to use the weapon in a destructive manner. As such, perhaps one should not sell a weapon to someone who has a criminal past or a psychological proclivity towards violence.⁴

⁴ Even according to Rabbeinu Nissim's interpretation, the prohibition only applies to selling to a known bandit. Requiring a criminal background check would mean checking every individual to make sure that a gun isn't sold to the few people who are criminals. Nevertheless, when the likelihood of violating a prohibition is small but significant (*miut hamatzui*), Jewish law generally requires one to investigate the matter if the facts can be determined with relative ease (see Tosafot, *Avodah Zarah* 40b, s.v. *Kol* based on the Gemara, *Yevamot* 121a, *Shulchan Aruch*, *Yoreh De'ah* 1:1 and *Beiur HaGra* ad loc.). When the matter can potentially lead to a life-threatening situation, the threshold for statistically significant risk is even lower. Given that performing criminal background checks can be done with relative ease, one should screen all customers to ensure that they aren't established criminals.

The entire Talmudic discussion takes place against the backdrop of a barbaric society. In Talmudic times, Jews lived in a society where Jewish blood was routinely spilled in vain and there was good reason to suspect that any non-Jew might commit an act of violence against a Jew. There are a number of other laws in the Talmud that are based the same premise. Rabbi Yair Bachrach (*Chavot Yair* no. 66) and Rabbi Avraham Danzig (*Chayei Adam* 12:42) write that nowadays, we live in civilized societies and we don't have to suspect that any non-Jew will attempt to murder us.⁵

Does this mean that in today's times, we can ignore the entire Talmudic discussion? If we apply Rabbeinu Nissim's argument here, we can suggest that even though we need not be suspicious of the average citizen, we have the right to suspect that there are people in the general population who should not own guns and as such, we can take protective measures to ensure that guns don't come into their hands.

No Right to Bear Arms

As a concluding point, there is an important distinction between Jewish law and US law with regard to gun ownership. Whereas US law—as per *District of Columbia v. Heller* (2008)—guarantees each individual a right to bear arms, Jewish law does not. Jewish law does not guarantee anyone's right to bear arms and such a right plays no role in the Talmudic discussion. Jewish law is primarily interested in preserving society and ensuring that public policy keeps people safe. US lawmakers are also interested in protecting its citizens, but must do so within the confines of the Second Amendment right to bear arms.⁶

At the same time, Jewish law does value the importance of providing weapons to those who serve to protect us and by extension, those who are interested in protecting themselves, whether it was the Persians of Talmudic times or the security officers of today's times, despite the possibility that those very weapons may be used to harm us. Jewish law recognizes that weapons control is complex and that a key determinant in whether to provide weapons to someone is whether doing so is more protective than it is dangerous. In Jewish law, knowledge is our friend and the more we know about the effects of gun control laws on public safety and about the specific individuals who are interested in purchasing guns, the better equipped we are to address this complexity.

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⁵ The comments of Rabbi Bachrach and Rabbi Danzig were not said with regard to the prohibition against selling weapons to non-Jews.

⁶ It is also noteworthy that the debate about gun control in the US focuses on possession rather than sale. If an individual purchases a gun illegally or produces it on his own, he is still in violation of the law. While the Talmudic discussion addresses the provider and not the purchaser, the values that can be extrapolated from the discussion provide guidance as to who should own a gun.

Gun Control – The Jewish View

by Rabbi Dr. Nachum Amsel

The numerous shootings of many innocent people in the past few years, which have occurred in public places such as schools and movie theaters, have caused renewed debate and attempts at legislation regarding prevention or limitation of gun ownership, popularly known as gun control. This issue is especially acute in the United States, where the Second Amendment to the United States Constitution, “the right of the people to keep and bear arms,” gives each citizen the legal right to protect himself, even with guns obtained legally and quite easily. In 2008 and again in 2010, the Supreme Court of the United States issued two landmark decisions officially establishing the interpretation that the Second Amendment protects an individual’s right to possess a firearm, unconnected to service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home. Therefore, the percentage of U.S. citizens who own handguns and the actual number of legal guns in the United States far exceeds the number in any other country in the world. However, this law and protection also makes it far easier for deranged people to also obtain guns and kill blameless individuals for no logical reason at all. As more and more guiltless people are being shot publicly for no apparent reason, many U.S. citizens and legislators are seeking to limit the guns that people can legally obtain. They also want to legislate closer scrutiny for obtaining a firearm, thereby limiting the damage and deaths that a single gun can cause, in order to minimize such incidents in the future. Where does Judaism stand on this issue? Since traditional Jewish sources were all written before handguns were invented, can Judaism possibly have a view on this and related issues?

Because Judaism is not merely a religion, but also a way of life, many of the issues related to gun control have indeed been addressed by the Rabbis and Jewish law in the distant past. As with any modern issue, Judaism’s principles, established hundreds or thousands of years ago, are still as valid today as they were then, since human nature has not changed. These concepts may clearly and decisively be applied to our discussion of gun control and help develop the normative Jewish view on this important and timely issue. The sources of the past have certainly dealt in general with the issues of weapons, safety, self-protection, the right to protect one’s property, and using weapons for sport. These and other topics will be presented and analyzed from a Jewish perspective.

Protection and Safety

Self-protection and survival are basic instincts and needs for every species. It is certainly part of human nature as well. But this idea is also one of the 613 commandments in the

Torah. The Torah commands a Jew to protect himself or herself,⁷ and repeats this warning a few verses later.⁸ Specifically, when it comes saving oneself from danger, the Talmud is very sensitive to this requirement, as it states that danger sometimes even supersedes Jewish law.⁹ Amazingly, this concept is quoted in the essential book of Jewish law, written by Rabbi Yosef Caro.¹⁰ But it states that G-d also promises to protect man from all evil (possibly referring only to the very righteous).¹¹ How does this promise reconcile with the requirement for each Jew to protect himself or herself? Since Judaism is about actions, laws and details, and not just concepts and thoughts, let us explore how Judaism, in another Torah law, puts these ideas into practice.

The Torah mandates that a Jew protect his or her home – not with guns, but with a fence that must be placed surrounding a (straight) roof which will prevent family members and strangers from accidentally falling off and killing themselves.¹² Rashi defines this fence as something that protects that which is inside, and even if a person who falls accidentally probably “had it coming” as retribution for some other sin. Nevertheless, each Jew has a responsibility to see that this does not happen.¹³ Thus, just as a gun is bought to protect one’s home and family, like the fence, the owner of the home must be careful to also protect others in his home, even sinners, from coming to unnecessary harm. Rabbeinu Bechaye expands this concept to mandate that each person must guard himself and others in his home from any type of danger that may come. While this may allow for the purchase of a gun as protection in the twenty-first century, it also places a responsibility for the safety of that gun upon any homeowner who owns one – i.e., that it does no accidental harm to anyone in the house.¹⁴ Shulchan Aruch codifies this idea into law, requiring anyone who owns a home to minimize danger within, and maximize safety on the premises, including putting a fence around a pit with or without water in it, or to cover it, in order to prevent accidents.¹⁵ In this same vein, some states today have passed a law that an owner of a swimming pool must put a fence around it in order to protect not only invited guests and household members, but also trespassers – “sinners” who come illegally at night onto the property and who may unknowingly fall into the pool and drown. Thus, the safety of a home is a prime principle in Judaism, mandated by Jewish law.

The Talmud expands upon this obligation of a person who owns a home. Not only must any stationary, permanent obstacle that is part of the structure of the house be protected, but even protecting a non-stationary object (like a gun) or anything located in the house that may pose a danger is also the responsibility of the homeowner. Thus, it is forbidden for a Jew to leave around the house a dangerous dog or a faulty ladder, unprotected, as a

⁷ Deuteronomy 4:9

⁸ Deuteronomy 4:16

⁹ Chulin 10a

¹⁰ Shulchan Aruch, Orach Chaim 183:2

¹¹ Psalms 121:7

¹² Deuteronomy 22:8

¹³ Rashi commentary to Deuteronomy 22:8

¹⁴ Rabbeinu Bechaye commentary to Deuteronomy 22:8

¹⁵ Shulchan Aruch, Choshen Mishpat 427:7

possible danger.¹⁶ This would be analogous to leaving a gun lying around the house and not in a special safe (under lock and key). Judaism also prohibits endangering others even outside the home, as it forbids placing a stumbling block before a blind person,¹⁷ which is interpreted by all the commentaries not only in the physical sense but also metaphorically. Therefore, it is forbidden to endanger anyone else, and maximum safety must be ensured. Why the Jewish stress on safety? Judaism is a religion of peace and tries to ensure peaceful living, says the Talmud.¹⁸

The Right to Self-Protection in Judaism

In general, Judaism does not allow an individual Jew to take the law into his or her own hands and execute justice for criminals. For instance, if a person, along with many judges, witnesses a clearcut murder – the case of the perpetrator will certainly be convicted according to all logic and the opinions of those witnessing this act – and at the time it is easily within the power of a witness to kill that murderer on the spot (thus avoiding a long trial and possibility that the criminal could be freed on a technicality). Nevertheless, it is still forbidden to take justice into one's own hands according to Jewish thought and kill that murderer on the spot. That killer must, nevertheless, be given over to the police and brought to trial like any other criminal.¹⁹ However, there are some instances when this situation is impossible, and an individual is forced to take the law into his or her own hands. The classic case is that of the intruder, the thief who attempts to rob one's home at night. In that situation, there is usually not enough time to call the police before the thief robs the house, or worse, harms the occupants. May a Jew prepare for this situation by purchasing a weapon? May a Jew take preventative action to eliminate the danger by using this gun against the intruder?

The Torah describes just such a case. If the thief is found breaking into a home at night, the Torah says that if a Jew kills that thief, he or she is blameless.²⁰ This seems to give legal authority for purchasing a weapon in advance in order to kill an intruder who may break into a home. But why is this so? By what legal authority can the owner of the home become judge and jury in one fell swoop and kill this thief, without the legal system first determining that this man is a (potential) murderer who may be stopped with a gun? Rashi, in his commentary on this verse, gives us a clear explanation. Killing this intruder, says Rashi, is not considered murder because the Torah creates a special ruling in this case: this person, intent on murdering the occupants of the house, already has the legal status of a "dead man" who may legally be killed, since he will certainly kill the occupants if he is confronted. Thus, it is lawful to kill such a person by any means necessary.²¹ But how do we know that this person is indeed a murderer, even in potential? Maybe he came only to steal some objects, but if he were challenged by the residents of the home, he would run away? The Talmud responds to this question by

¹⁶ Bava Kama 15b

¹⁷ Leviticus 19:14

¹⁸ Gittin 59b

¹⁹ Maimonides, Sefer HaMitzvot, Mitzvah Lo Taase 292

²⁰ Exodus 22:1

²¹ Rashi commentary to Exodus 22:1

explaining that a typical thief knows that most homeowners, if confronted, will not simply give up their possessions. Thus, the thief who knows this in advance generally comes armed and is prepared to kill the inhabitants if confronted.²²

Based on this verse and the Talmudic discussion, the Talmud establishes the legality of the principle of self-defense – if someone is coming to kill you, you may kill him first.²³ In addition, G-d's command to the Jews to attack the Midianites who attacked the Jewish people in the desert²⁴ is also a basis for the concept of self-defense.²⁵

However, this principle of self-defense and the right to kill an intruder is predicated on the assumption that the thief is indeed a potential and likely murderer, and will kill the inhabitants if confronted. What happens when the homeowner knows that the thief is not at all interested in confrontation and has absolutely no desire to harm the inhabitants, but only wants to steal, and will run out of the house if someone wakes up? The continuation of the Torah in the next verse speaks of this situation. It says that if “the sun shines” on the homeowner and he then kills the intruder, then the homeowner is guilty of murder.²⁶ What does the sun shining signify? The Talmud discusses this subject by framing the question: “Does the sun only shine on the homeowner? It shines on everyone!”²⁷ It answers that the phrase about the sun shining means that it is “as clear as day” to the homeowner. What is so clear? If it is evident that the thief will not kill or harm the people in the house, then the owner who pulls out a gun and kills the thief is indeed guilty of murder. Therefore, use of a gun or any weapon to harm or kill the intruder must be justified. Similarly, the Midrash says that the sun is the symbol of warmth and peace. Thus, if the sun is shining and it is clear that the thief is no threat to life, then it is forbidden to kill that thief, and the resident of the home who does so is considered a murderer.²⁸

But how can the head of the house know in advance the specific intentions of the thief? One explanation is the situation where the thief is the father of the occupant of the house. The Talmudic passage quoted above states that children who hate their parents may both steal and even kill a father or mother. But the opposite is not true. While a father might resort to stealing from one's child, he would never murder him or her. Thus, if the thief is the father, it is certain that the homeowner need not resort to using his gun to protect himself. Maimonides codifies this idea and adds that if the thief is on the way out of the home when the owner sees him, clearly with no intent to harm the occupants, it is forbidden to shoot and kill that thief who is no longer a threat to the lives of the people he stole from.²⁹

²² Sanhedrin 72a. For an expansion of this theme, see the chapter on Self-Defense in my book, *The Encyclopedia of Jewish Values*.

²³ Yoma 85b

²⁴ Numbers 25:16-18

²⁵ Midrash Tanchuma, Pinchas 3

²⁶ Exodus 22:2

²⁷ Sanhedrin 72a

²⁸ Midrash Mechilta Nezikin 6

²⁹ Maimonides, Hilchot Genaiva 9:10-11

The Jewish Attitude to Weapons

Before a discussion of gun control in Jewish thought can be explored in detail, it is important to first discuss how Judaism views guns and weapons in general. Are these simply part of everyday living in every society where there are criminals? Are they desirable or undesirable? A necessary evil or part of every ideal society?

Weapons first appear in the Torah at the very beginning of Creation after Adam and Eve sinned, with the flaming sword that protected the Garden of Eden and the Tree of Life preventing man from re-entering.³⁰ This first Divine weapon, then, was intended to protect property, like a gun in a home, but for defensive purposes only. A few generations later, as society developed implements and tools for working the land and musical instruments, one person, Tuval Kayin, forged sharp instruments out of bronze and iron, which Rashi says were weapons made for murderers to kill people.³¹ Thus, the first human weapons were made in order to hurt individuals and kill human beings, not essentially different from the guns and other weapons that are manufactured to kill people today. Needless to say, the Rabbis did not look upon this invention as a positive development for mankind. Nachmanides expands on this story and says that Lemech, the great-great-grandson of Cain, was very smart and inventive.³² He had three sons and he taught each one a unique skill and new trade in the world. His oldest son perfected how to herd animals, the middle son perfected musical instruments and the youngest son, Tuval Kayin, perfected weapon making. When Lemech's wives were afraid that Lemech would be punished for introducing weapons into the world, especially for his son who was named for the first murderer in the world, Kayin-Cain, Lemech gave the answer that is still given today by manufacturers of weapons who do not want to assume any responsibility for deaths and destruction that takes place as a result of using these weapons. He said: "The weapons do not kill people. People kill people." Like today, this argument then did not hold water with most people and with G-d.

Later in the Torah, when the Jewish people left Egypt, it says that Jews left "Chamushim,"³³ a word that has many explanations, but one translation is that they left armed with weapons. In fact, this is the explanation of Ibn Ezra, Rashbam and Rabbeinu Bechaye.³⁴ The Jews knew they would be fighting battles in the desert and to conquer the land of Israel, and therefore needed weapons for these wars. Based on these explanations, weapons were a necessary "evil" for the Jewish people, and were needed to accomplish the national task to defeat the enemy (on the occasions when G-d did not do so by Himself miraculously, as by the Red Sea-Sea of Reeds). Though the Jews relied on G-d as well, they also had to fight other nations by natural means, using the weapons of the day, says Rabbeinu Bechaye. In fact, King David attributes to G-d not only his successes in wars, but also G-d as his teacher to become an expert in using weapons for his many

³⁰ Genesis 3:24

³¹ Genesis 4:22 with Rashi commentary

³² Nachmanides commentary to Genesis 4:23

³³ Exodus 13:18

³⁴ Commentaries of Ibn Ezra, Rashbam and Rabbeinu Bechaye to Exodus 13:18

battles.³⁵ Thus, Judaism clearly recognizes the need of weapons on the battlefield as a necessary part of life.

And yet, Judaism makes a clear distinction between “religion and state” when it comes to weapons. Weapons are indeed necessary, but they remain an “evil” and must never be used in any realm considered “religious” or holy. Thus, already in the Torah, G-d forbids the building of the Holy Altar using any metal implement (it was built miraculously with a special Shamir worm that cut stone).³⁶ Why? Rashi explains that the symbol of the Holy Altar is to extend human life, while metal, representing weapons, diminishes life. One cannot be used to build the other. Bechor Shor similarly states that since metal and weapons represent hurting man, which is the opposite of holiness, the symbol of holiness – the Altar – could not be built with metal.³⁷ It is clear, then, that while Judaism recognizes the need for weapons in the context of war, they are only a necessary tool for engaging in battle, and not something to be proud of or admired. The ultimate goal for weapons, in the famous verse in Isaiah, is to make them totally unnecessary and hope for the time when the metal from weapons will be melted down to make farm tools.³⁸

The separation between weapons and holiness begun with the Altar, “religion and state,” continues with the Jewish law that forbids a weapon to be brought into the House of Study, which is already seen in Talmudic times.³⁹ Like the Altar, the author of the Shulchan Aruch forbids a Jew to enter the synagogue with a knife because the synagogue symbolizes lengthening life, while the knife represents shortening life.⁴⁰ Then Shulchan Aruch codifies this Jewish law in his Code.⁴¹ When discussing the prohibition of carrying on Shabbat, the Mishna questions whether wearing the artifacts made of weapons are considered carrying or not, much like some soldiers carry and wear souvenirs of war today. Rabbi Eliezer considers wearing parts of weapons to be like jewelry and, thus, permits them to be worn on Shabbat. The Rabbis vehemently disagree and state that these are considered a disgrace, forbidden to be worn not only on Shabbat, but also the rest of the week as well.⁴² Shulchan Aruch codifies the opinion of the Rabbis and rules that any wearing of weapons is not attractive, forbidden on Shabbat and even a disgrace.⁴³ This Jewish law demonstrates the normative view of weapons in Judaism.

Even other kinds of weapons, those not used in the battlefield but nonetheless dangerous, are discouraged in Judaism. A wild dog was already used in Talmudic times (and still today) as a weapon to protect one’s home. Even though this is not a weapon of war, it is still considered a weapon (more about this below), and its use was discouraged as a “weapon” to protect one’s home. The Talmud says that a wild dog used as weapon in a

³⁵ II Samuel 22:35

³⁶ Exodus 20:21-22

³⁷ Rashi and Bechor Shor commentaries on Exodus 20:22

³⁸ Isaiah 2:4

³⁹ Sanhedrin 82a

⁴⁰ Beit Yosef commentary on Tur, Orach Chaim 151

⁴¹ Shulchan Aruch, Orach Chaim 151:6

⁴² Mishna Shabbat 6:4

⁴³ Shulchan Aruch, Orach Chaim 301:7

home minimizes kindness in the home.⁴⁴ Maharsha explains that even the rumor of a vicious dog in a person's home will discourage guests from entering and poor people from coming around, thus minimizing social interaction and good will for this family.⁴⁵

For many years, the issue of bringing weapons into a synagogue or Beit Midrash-House of Learning was not a very practical one, since few Jews carried weapons to begin with, there was no Jewish army, and there was no concept of Observant Jews with weapons coming into the synagogue. However, with more and more Israeli soldiers today emerging from observant homes, the very real question of a soldier coming from the army base with a gun directly to the synagogue is a very real one today. Rabbi Ovadiah Yosef was asked this question, knowing that it is not permitted for a soldier in uniform to part with his gun. What should this soldier do when he wants to pray? Rabbi Yosef answers that since the soldier must have his weapon with him at all times, the soldier should try to cover it up in the synagogue as much as possible, so that it cannot be seen by others. But if this is impossible, such as with a rifle, and for security reasons the weapon must be brought into the synagogue, then he permits it.⁴⁶

Jewish Gun Control in Ancient Times and Today

Although there were no handguns in ancient times, people (including Jews) used other means and other “weapons” as a way of protecting their homes. Certain wild animals were used and kept in one's home, as a means of scaring and warding off trespassers, robbers or even murderers. The Mishna has a disagreement about the lion, the bear, the leopard and the panther. The majority opinion is that these animals are always dangerous and cannot be controlled, so they cannot be kept in a home as a “weapon” of protection, while Rabbi Eliezer says that these animals can be tamed in certain situations.⁴⁷ If they are indeed untamable, these animals are unacceptable as “pets” in a home and any damage they cause to an outsider or attacker would be the responsibility of the homeowner. Rabbi Eliezer believes that these animals can be tamed, as they are in the circus, and are then able to protect one's home. All agree that a snake can never be tamed and would be a liability, forbidden to be kept in any home. How do the Sages rule? Although there is a minor opinion that the wild animals can indeed be tamed, both Maimonides and Shulchan Aruch rule that these animals may not be used in a home as a weapon as they are too dangerous for home protection.⁴⁸ Therefore, we see that Judaism believes that some weapons have too great a risk factor to be used as protection in the home. While it is anyone's guess precisely how this translates into which weapons of today are similarly perilous, undoubtedly assault rifles and machine guns would be considered inherently hazardous, like these wild animals, and for that reason be unsuited for home protection.

⁴⁴ Shabbat 63a

⁴⁵ Maharsha commentary on Shabbat 63a

⁴⁶ Responsa Yechave Daat 5:18

⁴⁷ Mishna Bava Kama 1:4

⁴⁸ Maimonides, Hilchot Nizkei Mamon 1:6, Shulchan Aruch, Choshen Mishpat 389:8

Which weapons are acceptable for home protection? There was one type of city that was an unusual “experiment” for people with a proclivity for using weapons. While cold-blooded murderers would immediately go to jail and be punished after the trial in a Jewish society, there is a different Jewish law for those who killed “accidentally” – i.e., a person killed with a weapon, where the death might have been prevented with a bit more care and sensitivity. These people who killed accidentally would be forced to live in one of six cities of the Levites that were called “Cities of Refuge.”⁴⁹ But the majority of inhabitants were Levites and were not murderers. There had to be mostly regular, upstanding, law-abiding Levites, as well as elderly people, in order for the accidental murderers to live in a society of “regular” people. Moving away from family and friends for a time period was their punishment (until the High Priest died, when they would return home).⁵⁰

In these Cities of Refuge, there was an argument about which weapons were permitted for a person to have and which were forbidden. Rabbi Nechuniah said no weapons at all were permitted in these cities in order to avoid tempting these accidental killers to use weapons and possibly kill again. The Rabbis understood that a total ban on weapons was not feasible or practical, since weapons can always be smuggled in (as in today’s societies). Thus, the Rabbis permitted some weapons. However, both the Rabbis and Rabbi Nechuniah agreed that weapons that were traps for animals as well as ropes, should not be left about and openly displayed in the city itself. Why? The relatives of the these accidental murderers were always on the lookout to kill these people who murdered accidentally, in order to give them some sense of revenge and closure, and, indeed, they were legally permitted to kill these murderers if these people left the City of Refuge. But both the Rabbis and Rabbi Nechuniah feared that if traps were left open in this city, this would attract the relatives to enter the city surreptitiously, and use them against the accidental murderers.⁵¹ These relatives would not be so brazen as to bring in their own weapons to these cities and kill the accidental murderers, but if they saw weapons of opportunity lying around, they would not hesitate to use them against those who had killed their relatives. Thus, we see that when weapons of opportunity are left around, they add to the potential dangers of a society and increased killings. One commentary adds that the reason that other kinds of weapons were not a threat in the Cities of Refuge was that the relatives would never kill these people inside the city limits with regular weapons. But with ropes and traps left around in public areas, these relatives might try to kill these people in a way that would look like an accidental death, so that the relatives would never be caught and charged with murder.⁵² The lessons learned from this law is that in situations where murder is more likely to take place, no weapons should be left around, and that, wherever possible, weapons should never get into the hands of those who are more likely to use them.

Although no hand guns were around then to use for protection, the equivalent to the guns at the time were wild dogs, used as protection from home invaders. People kept wild dogs

⁴⁹ Numbers 35:9-13

⁵⁰ Maimonides, Hilchot Rotze-ach 7:4-6

⁵¹ Makkot 10a

⁵² Siach Yitzchak on Makkot 10a

on their property to scare away thieves and murderers. Much can be learned and derived about gun control today from how Jews were permitted or forbidden to keep wild dogs then (as well as today). The Talmud says that wild dogs could be kept in one's home near the frontier (for the purposes of biting and harming thieves and murderers in an area where their intrusion is more likely), on the condition that they were tied up securely during the day and only let out at night on the property when people were sleeping.⁵³ This indicates to us today that even when a weapon of protection is permitted, it must be safeguarded and be eliminated as a danger to others, except at times where theft is more likely. (The same Talmudic passage also informs us that tame animals such as domesticated dogs, cats and tamed monkeys were permitted in the home in order to keep the house clean from rodents and other small animals. Domesticated livestock were forbidden to be kept in homes in cities the Land of Israel because of limited living space, but were permitted outside of Israel or in the deserts of the Land of Israel.)

Another passage shows that some feared wild dogs even if they were chained (like today), since they scared people even when tied down, and once such a dog barked so loudly that it caused a pregnant woman to miscarry.⁵⁴ Evidently, even secured weapons had their detractors then. When ruling in normative Jewish law, Shulchan Aruch follows the basic rulings of the Talmud, but not only demands that a wild dog, the equivalent of a gun, be tied down, but it must be tied down with a metal chain and can never be untied except in frontier areas where there is real danger of theft and murder.⁵⁵ The implications for the twenty-first century are that a gun must be kept in a very secure place, and it is only permitted where the chance of theft and murder is very likely. This is not the standard law concerning where and when a gun is permitted in the United States today.

Rabbi Meir Eisenstadt (1670-1744) limited the permissibility of weapons even further, by writing that wild dogs are permitted for protection from intruders only in areas where large groups of Jews lived and needed protection. But in areas where only a few Jews lived, wild dogs would be forbidden.⁵⁶ In the eighteenth century, Rabbi Yaakov Emden only permitted such wild dogs in areas where the danger was real, and further limited the use of these dogs to one per household.⁵⁷ The implication for today is clear: if there is no real danger of break-in or theft, guns for protection would not be permitted, and even in dangerous areas, only one gun per household is allowed. The contemporary Rabbi Pinchas Zvichi rules that if a person fears burglary, then the chained dog should be visible by day and a clear sign must be posted about a vicious dog on the premises. Then the dog can be let out into the courtyard at night. But if there is fear of a terrorist attack, then the dog can be kept unchained at all times, provided that safeguards are taken to prevent it from harming innocent people.⁵⁸

⁵³ Bava Kama 79b with Rashi commentary

⁵⁴ Bava Kama 83a

⁵⁵ Shulchan Aruch, Choshen Mishpat 409:1,3

⁵⁶ Responsa Panim Meiros 2:133

⁵⁷ Responsa Shei-lat Yaavetz 1:17

⁵⁸ Responsa Ateret Paz 1:3, Choshen Mishpat 8

Gun Control in Two Countries: United States and Israel

After the massacres of adults and children in schools in America, some “experts” in the United States have made the argument that the USA needs to implement a policy about guns like the one in Israel, where there is a guard in every school, placed there in order to prevent weapons from gaining entry and being used in a possible attack. Since in both countries a plethora of guns exist, the situations seem to be very similar, they say. But even a cursory analysis shows that in each country the attitudes towards civilian weapons differ radically.

Because Israel has a citizen’s army, guns can be seen almost everywhere, as soldiers riding on buses and coming home for the weekend carry their weapons. But these are army-issued weapons, quite different from the guns owned by citizens who are the subject of this discussion. In addition, no attack on an Israeli school or in a public area has ever been made by a deranged lone gunman who killed civilians, as has occurred recently in other countries. Mass attacks on civilians in Israel are always in the guise of a national attack by Arabs (sometimes a single Arab terrorist) who are usually part of an organization bent on destroying Israel (such as the 1974 attack in Maalot, where twenty-two schoolchildren were murdered). Thus, the purpose and goals of these attacks in Israel are very different from those in the United States, and the way these Arab killers procure illegal weapons to carry out the attacks (and the weapons themselves) are also very different. Let us, instead, compare apples to apples by investigating the laws of each country and the process to legally obtain a handgun, as well as the number of legally obtained guns in each country.

In the United States, the obtaining of a weapon by a civilian is seen as a national right, as explained above. In Israel, obtaining a weapon by a civilian is seen as a privilege. Therefore, the sum total of weapons in the hands of Israeli non-soldiers is 170,000 out of a population of seven million (2.5% of the population, or one in 30 people). In the United States, there are about 315 million legally purchased handguns in the hands of civilians, the same number of American citizens (or 100% of the population, or one gun for every person). In Israel, 80% of the people who apply for a handgun for protection are turned down. In the United States, in most states, if a person buys a handgun from a private dealer (which is very easy to do), then the buyer does not even need a license and no background check is required! In Israel, automatic weapons are banned for private ownership, and it is very rare that any one person is authorized to own more than one gun. In the United States, the opposite is true. In Israel, applicants must undergo police screening and medical exams, in part to determine their mental status, before obtaining a license to own a gun. In addition, a need must be shown to own a gun in Israel, such as living in a settlement surrounded by a hostile Arab population. In the United States, no such rigorous conditions exist as a pre-requisite to purchase a gun, and no legitimate need for the gun must ever be demonstrated. Thus, the difference between these two countries and societies in this area is vast, and the much lower homicide rate in Israel can at least partially be attributed to the difficulty in acquiring guns.

Providing Guns to Other People

Already in Mishnaic times the Rabbis forbid selling wild animals to non-Jews because of the damage that these animals can cause to innocent people. (Non-Jewish idol worshippers at that time were always suspected of unethical behavior since they did not subscribe to a code of ethics.)⁵⁹ The Talmud also forbids selling these people weapons of any kind because they will undoubtedly misuse them and hurt people with them.⁶⁰ Rabbi Nachman says that Jews cannot even sell to middlemen – Jewish arms dealers who may sell to non-Jews, who will then misuse the weapons. Rabbi Dimi says that it is forbidden to sell weapons to unscrupulous and criminal Jews who may use them for nefarious ends.⁶¹ All these ideas are codified into normative Jewish law by Maimonides.⁶² Thus, it is clear from all these statements that a Jew is forbidden to give or sell a weapon of any kind to any individual who may use it for harm or worse. The Jewish need to determine that the buyer of any weapon in the twenty-first century is a mentally stable non-criminal and a responsible person is evident through the sources. The argument that, “I am only selling the guns. It is my business, and not my job to care what happens to them afterwards,” does not hold water in Jewish thought.

Using Guns for Hunting or As Sport

One of the main reason that the National Rifle Association insists on not limiting the sale of guns is that they are not only bought for protection of one’s home (that would never require more than a handgun), but also the guns are needed for sport and for hunting. Thus, a very large percentage of gun sales in the United States and around the world are for this purpose as well. What is the Jewish view of hunting and using guns for sport?

The Torah speaks of hunting animals or fowl.⁶³ The use of the word “Tzayid” clearly signifies hunting, which seems to be permitted in Judaism. But the Torah context of hunting is very different from the concept of hunting in the modern sense. First, in the verse itself, as explained by the commentaries,⁶⁴ the “hunt” is for food that is Kosher, which will then be eaten by the hunter, and it especially refers to the hunting of geese and wild chickens. Thus, there is no Jewish term for hunting merely for sport. Similarly, when the Mishna uses this term, “hunting,” it never refers to a gun, knife or weapon to be used to kill the animal, but rather to trapping the animal while still alive, especially since killing the animal with any weapon would render it non-Kosher for eating.⁶⁵ Therefore, there is no concept of hunting for sport or killing any animal with a weapon in Judaism.

This concept is codified in Jewish law. Shulchan Aruch rules that it is forbidden on Shabbat to “hunt” even a deer (a Kosher animal) that is old, blind, sick or damaged. Rema adds that hunting with trained dogs is not only forbidden on Shabbat but is

⁵⁹ Mishna Avoda Zara 1:7

⁶⁰ Avodah Zara 15b

⁶¹ Avodah Zara 15b

⁶² Maimonides, Hilchot Avodah Zara 9:8

⁶³ Leviticus 17:13

⁶⁴ Commentaries on Rashi, Mizrachi and Gur Aryeh on Leviticus 17:13

⁶⁵ Mishna Beitza 3:1-2

prohibited even during the week since it is a frivolous, non-Jewish activity.⁶⁶ Why is hunting forbidden? The Rema, in another of his books,⁶⁷ explains that hunting is forbidden, whether the purpose is for “fun” or to sell the prey. This is the occupation of the evil Eisav, which shows a quality of cruelty in preying on animals and killing G-d’s creations. It is the opposite of man’s purpose in life, which is to enhance and expand the world, when he curtails life as sport or for fun. Not only is Eisav depicted as the classic hunter, but another evil leader, Nimrod, is also called a hunter in the Torah,⁶⁸ and is viewed very unfavorably in Jewish thought. Chinuch forbids hunting as part of the prohibition of needlessly causing pain to animals.⁶⁹ Hunting also violates the general spirit of Judaism, which is to promote peace in the world.⁷⁰

The most famous discourse on Jewish opposition to hunting is a responsum of Rabbi Yechezkel Landau (1713-1793). In it⁷¹ Rabbi Landau reviews all the reasons presented above to prohibit hunting. He adds that it is forbidden for a Jew to hunt because part of hunting for sport involves putting oneself in danger in the forest or jungle, which is forbidden for a Jew. He concludes that the entire activity is disgusting, cruel and dangerous, and utterly forbidden for all Jews.

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⁶⁶ Shulchan Aruch, Orach Chaim 316:2

⁶⁷ Darchei Teshuva, Yoreh Deah 117:44

⁶⁸ Genesis 25:27

⁶⁹ Sefer Chinuch, Mitzvah 550

⁷⁰ Gittin 59b

⁷¹ Responsa Noda BeYehudah Mahadura Tennina, Yoreh Deah 10

Vigilantism in Halachah

by Rabbi Gil Student

I. The Subway Vigilante

I've been thinking lately about Bernhard Goetz, who 40 years ago famously shot four teenagers trying to mug him. Goetz, called the "Subway Vigilante" by the media at the time, raised a national debate regarding taking the law into your own hands, and probably helped create a climate that successfully demanded the cleanup of New York subways.

I'd like to address the question, within Jewish law, whether someone in fear of being mugged may shoot his would-be robbers with intent to kill. While there may be a remote threat to the victim's life, does that justify his use of deadly force when he can aim for the mugger's leg?

II. Two Principles

Rav Eliyahu Mizrachi, in his super-commentary to Rashi (Gen. 32:8), distinguishes between two principles in Jewish law. The first is *ha-ba le-horgecha hashken ve-horgo* — if someone is coming to kill you, kill him first. This means that if someone is attacking you, even if you are not sure whether he intends to kill you, you may kill him.

The second principle is that of *rodef*, a pursuer. A pursuer may be stopped with deadly force. However, you must use minimal force to stop a pursuer. If you can disable him without killing him but kill him anyway, you are guilty of murder. This rule, Rav Mizrachi argues, does not apply to the previous principle.

When someone is pursuing you, the first principle applies and you may kill him without trying to use minimal force. You are, almost certainly, incapable of determining the real danger you face given the great personal risk and are therefore exempt from even trying. Just do what you can to save yourself.

However, when someone is pursuing someone else, only the second principle applies and you must use minimal force. Because you are not personally in danger, you are required to determine just how much force is required and not go beyond that.

The *Mishneh Le-Melech* (*Hilchos Chovel U-Mazik* 8:10) agrees in principle with Rav Mizrachi. He writes that someone who is being chased does not have a presence of mind and, therefore, is not obligated to warn his pursuer before attacking nor to use minimal force.

III. Contrary Views

However, this seems to be quite an innovative position. Others disagree. Rav Akiva Eiger (Commentary to *Kesubus* 33b) explicitly disputes this position. The *Minchas Chinuch* (600:7) points to the discussion in *Sanhedrin* (49a), in which Avner is condemned for killing Asahel even though Asahel was pursuing him (2 Samuel 2:18-23). While Avner was allowed to attack his pursuer, he could have disabled him and therefore had no right to kill him. According to Rav Mizrachi and the *Mishneh Le-Melech*, Avner was being pursued and therefore did not have to make this distinction.

The *Minchas Chinuch* also points to Rashi (*Sanhedrin* 57a sv. *ve-yachol*) who states explicitly that even someone being pursued should use the minimal amount of force necessary. See also *Margoliyos Ha-Yam* (49a:3) for a list of relevant sources.

IV. Conclusion

What we have, then, is a dispute among the authorities. According to Rav Mizrachi and the *Mishneh Le-Melech*, someone being mugged may shoot to kill. According to Rav Akiva Eiger and the *Minchas Chinuch*, he should only use the minimal amount of force necessary to save himself.

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Gun Ownership in Halachah

by Rabbi Gil Student

Anyone who owns a gun needs to understand proper gun training, safety and usage in order to avoid tragedy. These issues are crucial but not our topic. Here I am interested in exploring other aspects of gun ownership.

I. Carrying a Gun on Shabbos

The Sages forbade carrying utensils on Shabbos without a reason. Certain utensils contain more restrictions. A utensil primarily used in forbidden work is called a “*keli she-melachto le-issur*,” and may only be carried in order to use the space in which it currently rests or for a permitted activity. For example, you may only carry a hammer if you want to use it for a permitted purpose, like cracking a nut, or if you want to put something like a book in its place. Is a gun like a hammer, a utensil for a forbidden purpose that may only be carried for a specific, permitted purpose or for its place?

Rav Shlomo Goren (*Meishiv Milchamah*, vol. 2 no. 61) argues that a gun is used for a permitted purpose. Since the only time a gun is fired is for self-defense purposes, which are permitted on Shabbos, the gun is not classified as a utensil for a forbidden purpose.

Rav Yekusiel Halberstam (*Divrei Yatziv, Orach Chaim*, vol. 2 no. 148) argues that a gun is primarily carried as a deterrent to instill fear. Most police officers never fire their guns. Since the primary purpose of a gun is to be carried, which is otherwise permitted on Shabbos, the gun is classified as a utensil for a permitted purpose. *Shemiras Shabbos Ke-Hilchasah* (ch. 20 n. 28) quotes Rav Shlomo Zalman Auerbach as saying that during peacetime guns are mainly used for inducing fear. Rav Yosef Tzvi Rimon (*Halachah Mi-Mkorah: Tzava*, vol. 2 p. 79) and Rav Eliezer Melamed (*Peninei Halachah 27:17*) quote Rav Auerbach (*Shulchan Shlomo*, vol. 2 308:16) similarly.

Rav Ya'akov Ariel (*Be-Ohalah Shel Torah*, vol. 2 no. 32) disagrees with Rav Goren's argument (without quoting him by name). Rav Ariel points out that *piku'ach nefesh*, defense, is not permitted within the laws of Shabbos but overrides them, taking precedence over Shabbos. Shooting a gun for self-defense isn't a permitted Shabbos action but an action that is allowed even though it is forbidden on Shabbos.

Rav Ariel argues against the claim that guns are mainly for deterrent purposes. A gun serves as a deterrent because you can shoot it. If not for that otherwise forbidden activity, the gun would be useless. Therefore, it should be classified as a utensil for a forbidden purpose. Rav Zechariah Ben Shlomo (*Hilchos Tzava 22:1, n. 1*) agrees with Rav

Ariel. *Shalmei Yehudah* (4:15) quotes Rav Yosef Shalom Eliashiv as similarly ruling that a gun is a utensil for a forbidden purpose.

The Sages debates whether you may carry a weapon on Shabbos where there is no *eruv* (*Shabbos* 63a). R. Eliezer believes that weapons that you wear are like jewelery. The Sages disagreed, arguing that since weapons will be abolished in the Messianic Era (Isa. 2:4), they are a disgrace to wear even now. The *Shulchan Aruch* (*Orach Chaim* 301:7) rules strictly. Rav Yechiel Michel Epstein (*Aruch Ha-Shulchan*, *Orach Chaim* 301:51) explains that this is discussing a layman but everyone agrees that a soldier's normal clothing includes weapons. Rav Yekusiel Halberstam (*ibid.*) is not entirely satisfied with this approach and quotes other considerations. He also points out that the rabbis in Israel ruled strictly on this. Rav Binyamin Zilber (*Az Nidberu*, vol. 1 no. 70) disputes the distinction between a layman and soldier, which no prior commentary had mentioned.

Rav Nachum Rabinovich (*Melumedei Milchamah*, no. 68) rules strictly unless there is some security purpose. If there is no security purpose, it is best to act strictly, if possible. But even the leniency only applies to wearing a gun in a holster or wrapped around your body, not in your hand or pocket.

Of course, whenever there is any question of a threat, you may carry a gun.

II. Reciting a Blessing on a New Gun

When you buy new items that make you happy, such as a fancy new suit, you may recite the *Shehecheyanu* blessing thanking God (*Shulchan Aruch*, *Orach Chaim* 223:3). However, since this blessing is optional, many refrain from reciting it (Rema, *ad loc.*, 1). Rav Asher Weiss (*Responsa Minchas Asher*, vol. 1 no. 9) says that his mentor, Rav Yekusiel Halberstam, following in the path of his ancestor Rav Chaim Halberstam, never recited *Shehecheyanu* on new fruits or clothing, presumably because they did not feel sufficient joy over them.

Rav Shlomo Aviner (*She'eilas Shlomo*, vol. 3 no. 87) discusses whether you may recite a *Shehecheyanu* on buying a new gun. If it brings you joy, you should thank God for it. However, an argument can be made that a gun really symbolizes trouble. Should you recite a blessing on buying a defensive weapon? For example, Rav Zerachiah Halevy (*Ha-Ma'or*, end of *Pesachim*) writes that we do not say *Shehecheyanu* on the mitzvah of counting the Omer because it reminds us of the destruction of the Temple. Similarly, a gun reminds us of our present danger. Rav Aviner counters that the situation causes sadness over the danger. The gun provides protection, which brings joy.

Rav Moshe Stern (*Be'er Moshe*, vol. 5 no. 67) rules that you should recite a *Shehecheyanu* on false teeth. Even though you have lost your real teeth, you still have joy from the false replacements. Similarly, Rav Aviner argues, despite the unfortunate situation of danger, you still have joy from the purchase of the gun.

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Bringing a Gun Into a Shul

by Rabbi Gil Student

Laws about gun control serve as perpetual fuel for political debates. However, everyone agrees that some people should carry guns in some circumstances. Whether police officers or soldiers, on duty or prepared for duty, some people need to carry guns in order to protect the public. In Messianic times, weapons will be turned into ploughshares (Yishayahu 2:4). Until then, weapons serve a necessary purpose in this unredeemed world.

Anyone who owns a gun needs gun training and must understand proper safety and usage in order to avoid tragedy. These issues are crucial but not our topic. Here I am interested in exploring other aspects of gun ownership.

I. A Weapon in Shul

Rav Meir (Maharam) of Rothenburg (13th cen., Germany) is quoted as saying that you may not bring a long sword into a synagogue because it contradicts the purpose of prayer—prayer increases a person's life (*Berachos* 8a, 54b) while a weapon shortens life (*Orechos Chaim*, *Hilchos Beis Ha-Knesses* 7; *Kol Bo* 17; *Tashbetz* 202). Similar ideas can be found in a number of rabbinic passages. The Gemara (*Sanhedrin* 82a) says that you may not enter a *beis midrash*, study hall, with a weapon. The *Mechilta* (Shemos 20:22) explains the prohibition against using tools to fashion the stones of the altar that the altar is intended to extend people's lives while iron shortens lives.

However, numerous rabbinic passages mention a sword in a *beis midrash*. For one day in history, Hillel and Shammai, together with their colleagues and students, debated their disagreements until reaching a conclusion. They stuck a sword in the *beis midrash* and said anyone can enter but no one can leave. Clearly, they allowed a sword in the *beis midrash* (*Shabbos* 17a). The Gemara (*Sanhedrin* 94b) describes how Chizkiyahu the king defeated Sancheriv. He realized that Torah study weakened the enemy so Chizkiyahu stuck a sword at the entrance of the *beis midrash* and said, "Anyone who does not engage in Torah study shall be stabbed."

Rav Reuven Margolios (20th cen., Israel; *Margolios Ha-Yam* 82a:34) suggests that a sword was brought to outside the entrance but not inside. This seems a bit forced. However, all these passages refer to a *beis midrash* and not a synagogue.

II. Concealed Weapon

Rabbeinu Peretz (13th cen., France) adds a gloss to Maharam's comment that the only concern is when the weapon is uncovered. This can be interpreted in two ways. One

possibility is that Rabbeinu Peretz was qualifying Maharam's statement, saying that only an uncovered knife is forbidden (*Eliyah Rabbah* 251:10). Alternatively, Rabbeinu Peretz disagrees with Maharam and permits someone to enter a synagogue with a long sword but forbids someone whose head is uncovered to enter (*Birkei Yosef* 251:9).

Rav David Ha-Levi Segal (17th cen., Poland; *Taz, Orach Chaim* 151:2) compares this rule to a similar rule requiring covering any knives on the table while *bentching*, reciting grace after meals, except on Shabbos and holidays (*Shulchan Aruch, Orach Chaim* 180:5, from *Orechos Chaim, Hilchos Birkas Ha-Mazon* 8). The *Taz* asks why we have the option to cover a knife for bentching but not for prayer. He answers that covering works for both. However, at the table, we have small knives that we can easily cover. For prayer, we are discussing long swords that are hard to cover. However, if we can cover the long sword, then everyone agrees you can bring it into a synagogue.

Mishnah Berurah (20th cen., Poland; 151:22) and *Aruch Ha-Shulchan* (19th cen., Russia; 151:11) agree that covering is sufficient to allow bringing a gun into a synagogue. Rav Ovadiah Yosef (21st cen., Israel; *Yechaveh Da'as* 5:28) adds that if you cannot cover the gun or put it in a safe place, you may rely on the lenient opinion and bring the gun uncovered into a synagogue.

III. Guidelines

Rav Eliezer Waldenberg (20th cen., Israel; *Tzitz Eliezer* 10:18:6) adds another factor. A gun without bullets is relatively harmless. While you can use it to hit someone hard, you can do the same with a book or a pen. Effectively, removing the bullets from the gun disables it as a weapon, thereby permitting you to bring it into a synagogue. (He does not say that turning the safety on disables it.)

Therefore, he provides the following order of behavior:

1. In a time of danger or military preparedness, carry your gun with you according to your orders.
2. Otherwise, if it is no extra bother, remove your guns before entering a synagogue and give them to someone to watch.
3. If that is not possible, remove the bullets from the guns (you can still keep the bullets in your pocket, just not in the weapon). If possible, cover the guns also.
4. If you cannot remove the bullets, keep your pistol in its holster and cover any large gun with something like a jacket or *tallis*.

Again, safety has to come first. This rule should never place anyone's life in danger. Be smart and safe.

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Glossary

Bais din – religious court

Beis midrash – study hall

Beraita – early rabbinic text

Chas v'shalom – Heaven forbid

Chazal – the Sages

Eruv – a legal enclosure that allows carrying on Shabbos when it is otherwise forbidden on a rabbinic level

Goel Hadom – blood avenger (Numbers 35)

Halacha – Jewish law or a specific paragraph

Hishtadlus – human initiative to invoke divine intervention

Issur – prohibition

Lifnei iver – literally placing a stumbling block in front of a blind man, figuratively and legally inducing someone to sin (Leviticus 19:14)

Ma'akeh – a fence (Deuteronomy 22:8)

Maris ayin – the obligation to avoid looking as if you are sinning

Masechet – tractate

Middos – proper character traits

Muktze – an item that is rabbinically forbidden to be moved on Shabbos, absent specific permissive conditions

Pasuk (pl. *Psukim*) – verse (verses)

Poskim – Jewish legal authorities

Rasha – wicked person

Rishonim – leading medieval rabbis

Rodef – a pursuer, someone trying to kill another

Sakana – danger

Sefer – book