

## **Gun Control – The Jewish View**

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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,<sup>1</sup> and repeats this warning a few verses later.<sup>2</sup> 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.<sup>3</sup> Amazingly, this concept is quoted in the essential book of Jewish law, written by Rabbi Yosef Caro.<sup>4</sup> But it states that G-d also

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<sup>1</sup> Deuteronomy 4:9

<sup>2</sup> Deuteronomy 4:16

<sup>3</sup> Chulin 10a

<sup>4</sup> Shulchan Aruch, Orach Chaim 183:2

promises to protect man from all evil (possibly referring only to the very righteous).<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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 possible danger.<sup>10</sup> 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,<sup>11</sup> 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.<sup>12</sup>

### **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 clear-cut murder – the case of the perpetrator will certainly be convicted according to all logic and the

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<sup>5</sup> Psalms 121:7

<sup>6</sup> Deuteronomy 22:8

<sup>7</sup> Rashi commentary to Deuteronomy 22:8

<sup>8</sup> Rabbeinu Bechaye commentary to Deuteronomy 22:8

<sup>9</sup> Shulchan Aruch, Choshen Mishpat 427:7

<sup>10</sup> Bava Kama 15b

<sup>11</sup> Leviticus 19:14

<sup>12</sup> Gittin 59b

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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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 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.<sup>16</sup>

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.<sup>17</sup> (See the chapter on [Self-Defense](#) for an expansion of this theme.) In addition, G-d’s command to the Jews to attack the Midianites who attacked the Jewish people in the desert<sup>18</sup> is also a basis for the concept of self-defense.<sup>19</sup>

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.<sup>20</sup> What does the sun shining signify? The Talmud discusses this subject

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<sup>13</sup> Maimonides, Sefer HaMitzvot, Mitzvah Lo Taase 292

<sup>14</sup> Exodus 22:1

<sup>15</sup> Rashi commentary to Exodus 22:1

<sup>16</sup> Sanhedrin 72a

<sup>17</sup> Yoma 85b

<sup>18</sup> Numbers 25:16-18

<sup>19</sup> Midrash Tanchuma, Pinchas 3

<sup>20</sup> Exodus 22:2

by framing the question: “Does the sun only shine on the homeowner? It shines on everyone!”<sup>21</sup> 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.<sup>22</sup>

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.<sup>23</sup>

### **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.<sup>24</sup> 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.<sup>25</sup> 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.<sup>26</sup> 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

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<sup>21</sup> Sanhedrin 72a

<sup>22</sup> Midrash Mechilta Nezikin 6

<sup>23</sup> Maimonides, Hilchot Genaiva 9:10-11

<sup>24</sup> Genesis 3:24

<sup>25</sup> Genesis 4:22 with Rashi commentary

<sup>26</sup> Nachmanides commentary to Genesis 4:23

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*,”<sup>27</sup> 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.<sup>28</sup> 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 battles.<sup>29</sup> 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).<sup>30</sup> 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.<sup>31</sup> 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.<sup>32</sup>

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.<sup>33</sup> 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.<sup>34</sup> Then Shulchan Aruch codifies this Jewish law in his Code.<sup>35</sup> 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.<sup>36</sup> Shulchan Aruch

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<sup>27</sup> Exodus 13:18

<sup>28</sup> Commentaries of Ibn Ezra, Rashbam and Rabbeinu Bechaye to Exodus 13:18

<sup>29</sup> II Samuel 22:35

<sup>30</sup> Exodus 20:21-22

<sup>31</sup> Rashi and Bechor Shor commentaries on Exodus 20:22

<sup>32</sup> Isaiah 2:4

<sup>33</sup> Sanhedrin 82a

<sup>34</sup> Beit Yosef commentary on Tur, Orach Chaim 151

<sup>35</sup> Shulchan Aruch, Orach Chaim 151:6

<sup>36</sup> Mishna Shabbat 6:4

codifies the opinion of the Rabbis and rules that any wearing of weapons is not attractive, forbidden on Shabbat and even a disgrace.<sup>37</sup> 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 home minimizes kindness in the home.<sup>38</sup> 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.<sup>39</sup>

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.<sup>40</sup>

#### **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.<sup>41</sup> 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.<sup>42</sup> 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.

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<sup>37</sup> Shulchan Aruch, Orach Chaim 301:7

<sup>38</sup> Shabbat 63a

<sup>39</sup> Maharsha commentary on Shabbat 63a

<sup>40</sup> Responsa Yechave Daat 5:18

<sup>41</sup> Mishna Bava Kama 1:4

<sup>42</sup> 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.”<sup>43</sup> 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).<sup>44</sup>

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 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.<sup>45</sup> 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.<sup>46</sup> 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 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.<sup>47</sup> This indicates to us today that even when a weapon of protection is permitted, it must be safeguarded

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<sup>43</sup> Numbers 35:9-13

<sup>44</sup> Maimonides, Hilchot Rotze-ach 7:4-6

<sup>45</sup> Makkot 10a

<sup>46</sup> Siach Yitzchak on Makkot 10a

<sup>47</sup> Bava Kama 79b with Rashi commentary

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.<sup>48</sup> 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.<sup>49</sup> 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.<sup>50</sup> 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.<sup>51</sup> 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.<sup>52</sup>

### **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

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<sup>48</sup> Bava Kama 83a

<sup>49</sup> Shulchan Aruch, Choshen Mishpat 409:1,3

<sup>50</sup> Responsa Panim Meiros 2:133

<sup>51</sup> Responsa Shei-lat Yaavetz 1:17

<sup>52</sup> Responsa Ateret Paz 1:3, Choshen Mishpat 8

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.)<sup>53</sup> The Talmud also forbids selling these people weapons of any kind because they will undoubtedly misuse them and hurt people with them.<sup>54</sup> 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.<sup>55</sup> All these ideas are codified into normative Jewish law by Maimonides.<sup>56</sup> 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

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<sup>53</sup> Mishna Avoda Zara 1:7

<sup>54</sup> Avodah Zara 15b

<sup>55</sup> Avodah Zara 15b

<sup>56</sup> Maimonides, Hilchot Avodah Zara 9:8

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.<sup>57</sup> 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,<sup>58</sup> 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.<sup>59</sup> 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 prohibited even during the week since it is a frivolous, non-Jewish activity.<sup>60</sup> Why is hunting forbidden? The Rema, in another of his books,<sup>61</sup> 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,<sup>62</sup> and is viewed very unfavorably in Jewish thought. Chinuch forbids hunting as part of the prohibition of needlessly causing pain to animals.<sup>63</sup> Hunting also violates the general spirit of Judaism, which is to promote peace in the world.<sup>64</sup>

The most famous discourse on Jewish opposition to hunting is a responsum of Rabbi Yechezkel Landau (1713-1793). In it<sup>65</sup> 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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<sup>57</sup> Leviticus 17:13

<sup>58</sup> Commentaries on Rashi, Mizrahi and Gur Aryeh on Leviticus 17:13

<sup>59</sup> Mishna Beitzah 3:1-2

<sup>60</sup> Shulchan Aruch, Orach Chaim 316:2

<sup>61</sup> Darchei Teshuva, Yoreh Deah 117:44

<sup>62</sup> Genesis 25:27

<sup>63</sup> Sefer Chinuch, Mitzvah 550

<sup>64</sup> Gittin 59b

<sup>65</sup> Responsa Noda BeYehudah Mahadura Tennina, Yoreh Deah 10

*including a methodology how to teach Jewish Values using mass media. Recently, he founded the STARS Program (Student Torah Alliance for Russian Speakers), where more than 3000 students in 12 Russian speaking countries learn about their Jewish heritage for five hours weekly. Rabbi Amsel previously served as the Educational Director of Hillel in the Former Soviet Union. He lives in Jerusalem with his wife and has four children and four grandchildren.*