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Commentary

Gun Control, the Jews, and the Third Reich

By [Abraham H. Miller](#) | November 20, 2013 Also published in [American Thinker](#) on Wed. November 20, 2013

In 1996, in commemoration of the one hundredth anniversary of the modern Olympics, the German government issued a set of four stamps. [One of these](#) celebrates [Alfred](#) and Gustav Flatow, cousins, who were gold medalists in the 1896 Olympics. Alfred took the first in the parallel bars and with his cousin also won gold for the German team's overall performance.

In 1932, Alfred Flatow registered three handguns, as decreed by the harsh gun control laws of the Weimar Republic that were drawn amid the violence and chaos of the aftermath of World War I. The Weimar Republic grew out of the ashes of the Great War. Perceived as an institution imposed by Germany's enemies, Weimar lacked political legitimacy and was vulnerable to insurrection.

The first assault on the Republic, however, came not from the right but from the communist left. Under the leadership of Rosa Luxembourg and Karl Liebknecht, the German Communists attempted to overthrow the government by armed struggle. The fragile government mobilized the Freikorps, undisciplined militias composed largely of veterans. The Freikorps brutally put down the communist insurrection and murdered its leaders. The Communists had also seized the government in Bavaria and the Freikorps succeeded in vanquishing them.

Hoping to stem further attacks on the state, the liberal Weimar Republic imposed Draconian gun control laws that made it punishable by death to carry a gun. The brutal and undisciplined Freikorps were given the task of enforcing these laws and did so with alacrity, even murdering nurses who carried firearms for protection against rape amid the post-war chaos.

The Weimar Ministry of the Interior made gun registration mandatory. The overall intention of the gun control laws was to disarm those who were making war against the state and each other. Inspired by gangster violence in Chicago, the Nazis and the Communists loaded up cars with thugs armed with Tommy guns and invaded each other's neighborhoods.

Like most attempts at gun control, the policy failed. Neither the Nazis nor the Communists gave up their guns, but law-abiding citizens like Alfred Flatow did and bore the consequences. Although the Weimar Ministry of the Interior worked to assure registrants that their information would remain safe, this proved to be an empty promise. When the Nazis took over in 1933, the information was culled for registrants who were deemed "enemies of the state," a euphemism for Jews, communists, and other political opponents.

Gestapo legal adviser [Werner Best](#) proposed to execute Jews who were [found in possession of firearms](#). He had both ample precedent and experience to draw upon from the harsh gun laws and their brutal enforcement in the Weimar Republic.

In 1938, in preparation for [Kristallnacht](#) (November 9-10, 1938), the Gestapo used the Weimar gun registration records to disarm Jews and focused on Jewish gun owners for deportation to concentration camps. Alfred Flatow fled Germany for the Netherlands, but when the Nazis invaded the Netherlands, in May 1940, Flatow was on the Gestapo's list.

Flatow was arrested and sent to Theresienstadt Concentration Camp, where he died from starvation on December 28, 1942. His cousin Gustav died in the same camp three years later.

Throughout their conquest of Europe, the Nazis encountered armed resistance by those who refused to accept defeat. Even the pitifully armed Jews of the Warsaw Ghetto put up meaningful resistance, as did the Jewish Bielski partisans in the forests of Byelorussia and Poland. Among the conquered people of Europe, where there were arms and munitions there were partisans who continued to fight.

Only in Germany was there no armed resistance, other than what came from the military. Would armed resistance on German soil have made a difference? No one can answer that with any certainty,

but clearly it was a formidable concern for Werner Best and his Gestapo henchmen. Without arms there was no hope of meaningful resistance.

The issue of an armed populace resisting tyranny is why the Second Amendment exists. It was not written to promote hunting or target shooting. It was written to keep a check on tyrants both foreign and domestic.

A new book, [*Gun Control in the Third Reich*](#), analyzes the manner in which the Nazis capitalized on the strict gun control policies of the Weimar Republic and used those policies to consolidate power and render the political opposition defenseless and the Jews hopeless.

It is far too facile to dismiss any comparison between the rise of Hitler and a threat from analogous policies in a viable democracy. As scholar [Stephen P. Halbrook](#) notes, historians have failed to see gun-control policies as the prelude to the rise of tyranny, even in Nazi Germany.

The Weimar Republic, despite problems in legitimacy and economic strangulation by the victors of World War I, was a struggling democracy with liberal principles. Its leaders thought that their policies of gun control would end the street violence between radical groups and promote political stability. The Weimar ministers did not comprehend that their gun control policies would pave the way for tyrants to direct and remove the political opposition.

Hitler came to power without ever winning a majority vote. His own electoral results paled in comparison to those garnered by President Paul von Hindenburg, and the Nazi party itself never received more than 37% of the vote. In the last free and fair German parliamentary elections of November, 1932, the Nazis actually lost 34 seats. Through orchestrated chaos and the incompetence of others, Hitler was appointed Chancellor of Germany. He stayed in power by eliminating future elections and preventing armed struggle against the regime. The fragile democracy of the Weimar Republic had created a tyrant, who now abused the pledge Weimar had made on the secrecy of gun registration.

Any real analysis of the rise of the Third Reich should contribute to our own debate over gun control, but of course, that is a pipe dream. When it comes to guns, the lines are tightly drawn. If you are among those who believe that you do not need a gun and no one else should have one, then there really is no room for debate. In this country, [John Lott, Jr.](#), through decades of exhausting empirical research, has shown that guns save lives. Yet, Lott's work hardly gets mentioned in the policy debate.

Jews, who should look at the Battle of the Warsaw Ghetto and understand the value of resistance for the sake of preserving the dignity of the human spirit, are all too prone to utter the fatalistic Yiddish adage that translates as—if it comes to this, nothing will help. In other words, when I will need a gun it will not do any good.

Such sentiments, in the light of Jewish history, are appalling, as are the attitudes that liberal Jews generally bring to the gun control debate. I am reminded of my great aunt Sifra, who stood nearly six feet tall and fought with the [Bielski partisans](#). She died fighting; it was a noble death. She died a warrior's death, not an anonymous death as a nameless, faceless victim. That is what separates a hero from a victim. That is the difference a gun makes.

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<https://www.myjewishlearning.com/article/hunting-in-judaism/>

Jews and Guns

Jewish law forbids hunting, and few Jews own firearms.

BY MJL STAFF

Jews, particularly American ones, have a longstanding aversion to guns. According to a 2005 American Jewish Committee study, Jews have the lowest rate of gun ownership of among all religious groups, with just 13 percent of Jewish households owning firearms (compared to 41 percent for non-Jews) and only 10 percent of Jews personally owning a gun (compared to 26 percent).

The majority of American Jews, who overwhelmingly live in urban rather than rural communities (where gun ownership tends to be more widespread) support the Democratic party, whose platform calls for stricter gun control, and major Jewish organizations have repeatedly thrown their support behind gun control measures. A 2013 list of prominent anti-gun activists compiled by the National Rifle Association included several of the largest Jewish groups.

Jewish gun groups, meanwhile, are few and far between, with limited influence. The most visible is Jews for the Preservation of Firearms Ownership, based in Bellevue, Washington, which reported less than \$100,000 in revenues in 2015 and lists only three board members on its IRS filing. Still, some Jews have long argued that the community's broad opposition to firearms is naive and dangerous given the history of Jewish oppression and the persistence of anti-Semitism, sometimes violently expressed.

Is Jewish tradition in favor of gun control?

The debate over gun control policy, like most contemporary policy issues, has sources in the Jewish tradition to support both sides.

On the pro-gun side is the famous Talmudic dictum: If someone comes to kill you, rise up and kill him first. This statement from the Talmudic sage Rava is derived from a Mishnah passage that permits a homeowner to kill an intruder in self-defense if the trespasser arrives in the night.

Some Jewish gun proponents have argued that since the Torah commands self-preservation, acquiring the means for that preservation is also a religious requirement, with some going so far as to suggest that gun control laws prevent Jews from exercising their religious obligations.

Others have made the more pragmatic argument that in an era of heightened terrorist concerns, prudence dictates that Jews acquire firearms for self-defense — especially given that Jewish institutions are routinely targeted by Islamic and white supremacist terrorist groups. (Many institutions are, as a result, protected by security guards and other defensive measures.) Rabbi Dovid Bendory, sometimes known as the “gun rabbi,” has asserted that, given the history of Jewish oppression and the ongoing threats to Jewish institutions, Jews should be the first people in line to acquire defensive weaponry.

“How do Jews expect to put teeth behind the words “Never Again!” if not with the ability to apply and project personal force when righteous — and necessary — for survival?” Bendory wrote in an article on the JPFO website.

Jewish critics of the prevailing anti-gun sentiment within the Jewish community, have also noted the critical role guns and other weapons played for Jewish partisans — Jews who actively resisted the Nazis — during World War II, and later for Israelis fighting to establish and defend their state.

On the gun control side are a number of frequently cited rabbinic principles. Judaism mandates that one avoid unnecessary danger, and some studies show that gun ownership is risky. The Talmud in Avoda Zara prohibits selling weapons to idolaters, prompting one rabbinic authority to extend the ban even to Jewish bandits — a statement readily invoked to justify restricting gun sales to criminals and the mentally ill. Rabbinic groups from all three major Jewish denominations — Orthodox, Conservative and Reform — have all cited Jewish legal precedent in resolutions supporting gun control.

Finally, there’s the famous saying of Isaiah, who prophesied a time when nations would beat their swords into plough shares — a vision often said to reflect Judaism’s belief that the ideal society is one devoid of deadly weaponry. This dim view of weapons is cited in a Mishnah that records a disagreement over whether it is permitted to carry weapons on Shabbat. Rabbi Eliezer maintains that they are merely “ornaments,” but his colleagues, citing Isaiah, disagree, saying weapons are “indignities.”

The Orthodox Rabbinical Council of America, in its 2014 resolution in favor of restricting “American citizens’ easy and unregulated access to weapons,” cited Isaiah in support of its call

for avoiding “recreational activities that desensitize participants to killing, weaponry, and violence.”

Didn't gun control cause the Holocaust?

Some have suggested that if Jews had possessed guns in Nazi Germany, the Holocaust might not have occurred. Germany's move to forbid Jewish gun ownership prior to launching the Final Solution is typically cited as a key support for this belief. Republican presidential candidate Ben Carson briefly made this notion a matter of public debate after including it in his 2015 book *A More Perfect Union* and in subsequent interviews. The Anti-Defamation League responded that it was ludicrous to suggest armed Jews could have stopped the Holocaust. (Carson called the ADL statement “foolishness.”)

But the argument has also surfaced in publicity materials from Jewish gun activists, including the 2010 documentary *No Guns for Jews*, which implied that gun control measures in Europe in the 1930s enabled the Nazi genocide. “When the right to self defense is denied, God's law is violated,” the film intones. “Would history have been rewritten if the SS confronted thousands of armed Jews during the riots of Kristallnacht?”

Does Jewish law allow hunting?

Most authorities say it is not permissible to hunt for sport. Two sources are generally cited in this regard. The first is Rabbi Isaac Lampronri, who wrote in his work *Pahad Yitzhak* that it is forbidden to hunt animals because it's wasteful. The 18th-century rabbinic authority Ezekiel Landau added that recreational hunting is forbidden on the grounds of animal cruelty and because of the risks to the hunter. Neither of the two biblical figures known to be hunters — Esau and Nimrod — are held up as role models. All the biblical patriarchs (Abraham, Isaac and Jacob), as well as Joseph, Moses and King David were herders — nurturers of animals, not their pursuers.

Hunting for food is, in principle, not objectionable. However land animals must be ritually slaughtered by hand to render them kosher, which would make hunting them for food with a firearm impermissible.

Some American Jews do, nonetheless, hunt for sport. However, the American Jewish population is clustered in urban and suburban areas, where hunting is less pervasive than in rural areas.

Isn't everyone in Israel armed?

Guns are highly visible in Israel. Soldiers toting large automatic weapons are ubiquitous in Israeli cities, and many sites and institutions are protected by armed security guards. In addition, some civilians carry sidearms, particularly in Jewish settlements in the West Bank. Supporters of looser gun laws in the United States have pointed to Israel as an example of a society made safer by the widespread availability of guns. Following the Sandy Hook elementary school massacre in 2012, National Rifle Association chief Wayne LaPierre claimed that Israel had ended school shootings by placing armed guards at every school. Israel said that claim was false and that there is “no comparison” between massacres by the mentally ill and those by

ideologically driven terrorists. While most Israelis serve in the army, where they are trained to operate firearms, private gun ownership rates (not including military-issued weapons) are far lower in Israel than they are in the United States.

In fact, Israel has extensive restrictions on guns. Unlike the United States, Israel has no right to bear arms, and only certain groups of citizens are eligible to get a gun license — among them residents of West Bank settlements. Background checks, weapons training and demonstration of a bona fide reason for needing a gun are prerequisites for obtaining one. Maintaining a license requires completing regular courses in shooting and undergoing regular psychological evaluations. As many as 80 percent of Israel's license requests are turned down annually.

https://www.chabad.org/library/article_cdo/aid/507002/jewish/What-Does-Judaism-Say-About-Gun-Control.htm

What Does Judaism Say About Gun Control?

Of Weapons and Wickedness

By [Shlomo Yaffe](#)

Terrible events invite profound soul-searching as to what went wrong and how to prevent similar events from happening again.

The following essay, written in the wake of the Virginia Tech Massacre of 2007, is an attempt to explore these questions through the lens of Jewish law:

We are all devastated by the horror and senselessness of it all. As a rabbi who engages in pastoral work, I—like most of my colleagues—know that the wounds will persist in families and friends and teachers for many years to come; in fact, for lifetimes.

One of the things we have seen is an intensifying of the gun control debate by well-meaning citizens on both sides of the issue. Frankly this creates a debate within ourselves as well. Many of us appreciate and are torn between both approaches to this vexing issue.

As Jews, our teachings tell us that preserving human life is the greatest human calling, and murder the most depraved attack on man and G-d there can be.

The question is: What does Jewish tradition and law tell us about the best way to preserve human life?

I think if we honestly look at matters we can see that, on one hand,

The murderer could not have killed anywhere near the number killed had he had a weapon other than a firearm. He was outnumbered by his victims 20, 30 and 40 to 1. Only a semiautomatic weapon gave him the ability to kill so many without hindrance.

If there were stricter background checks and other encumbrances in place, he may have been prevented from acquiring a handgun legally.

If no one but the police and military had weapons, it would be very difficult to acquire a gun, even illegally (as is the case in Japan and the UK).

On the other hand,

If weapons had been permitted on the VT campus, a student or professor may have stopped the killer before so many were killed. As it was, only a person breaking the law had a weapon available to him—the murderer.

The murderer "flew beneath the radar." It is possible that no system of flagging suspicious individuals could have helped in this case, or would help in similar cases in the future.

It is rarer by far, but determined criminals even in Japan and the UK can get illegal guns. Just the other day the mayor of Nagasaki in Japan was killed by a firearm wielded by a gang member. And with 200 million guns in this country, it may not be possible to remove every one from circulation—even if as society we wanted to. Hence maybe law-abiding citizens should have the ability to defend themselves. Even if only the police and military have weapons—what if a policeman goes on a rampage against unarmed and defenseless citizens? Indeed, in 1982 South Korean policeman Woo Bum-Kon killed 57 people, then himself, in rural South Korea using a high-powered rifle and grenades.

There is a claim that in the United States, many people save themselves from criminal attack by the use or the threat of the use of a firearm. Judaic law would seem to direct us to ask: Can this claim be substantiated or refuted? And if substantiated, we must ask: Which approach in the aggregate saves more lives?

These are all arguments wielded by reasonable, good and caring people—who exist in large numbers on both sides of the societal divide this issue creates in our nation.

So where does Judaism stand on the issue?

I believe the issue can be argued on both sides from a Judaic point of view.

I. On one hand:

1) Talmud, Shabbat 63a:

One must not go out [on Shabbat] with a sword, nor with a bow, nor with a triangular shield, nor with a round one, nor with a spear; if he does so he is liable for a sin-offering. R. *Eliezer* says they are ornaments to him [and thus permitted to be worn on Shabbat], but the sages say they are nothing but a stigma, for it is written [[Isaiah 2:4](#)]: "They shall beat their swords into ploughshares and their spears into pruning-knives; nation shall not lift up sword against nation, neither shall they learn war any more." Weapons and their possession are a reproach to mankind—and not anything desirable.

2) Talmud, Bava Kama 46a:

R. *Nathan* says: From where is it derived that one should not breed a bad dog in his house, or keep an impaired ladder in his house? From the text [[Deuteronomy 24:8](#)], "You shall bring not blood upon your house."

I.e., it is forbidden to have anything likely to cause damage about one's domicile.

Rabbi Shlomo Luria ("Maharshal") points out that many authorities forbid raising a dangerous dog even if it is kept chained. This would indicate that a dangerous object—such as a gun—is forbidden, even if it is supposedly safeguarded. However he points out elsewhere in the tractate (fol 83) that in a "dangerous area" one may keep a bad tempered dog that one chains by day and allows to patrol one's property by night.

In conclusion, we are commanded to avoid all danger to our lives. There is no question that a gun is fundamentally a dangerous object, designed to kill.

II. On the other hand...

In [Exodus 22:1](#) we read:

If, while breaking in, the thief is discovered, and he is struck and dies, [it is as if] he has no blood.

Rashi, the greatest commentator on the Tanach (the original, Jewish name for the 24 books of the Bible) who gathers together millennia of interpretation, comments:

"He has no blood. [This signifies that] this is not [considered] murder. It is as though he [the thief] is [considered] dead from the start. Here the *Torah* teaches you: If someone comes to kill you, kill him first. And this one [the thief] has come to kill you, because he knows that a person will not hold himself back and remain silent when he sees people taking his money. Therefore, he [the thief] has come with the acknowledgement that if the owner of the property were to stand up against him, he [thief] would kill him [the owner]. - [From Talmud *Sanhedrin* 72a]"

Here we clearly see the rule, "If someone comes to kill you, kill him first." If we are told by the Almighty to defend ourselves, clearly we may possess the wherewithal to do so. In today's world there is no better tool—if G-d forbid it comes to this—than a firearm. Only with a firearm is the proverbial little old lady living alone a match for the hulking thug. A baseball bat won't give her much of a chance. And law enforcement officials rarely have a chance to intervene to save a victim at the moment of the crime. We indeed yearn for the time of the Final Redemption when "They shall beat their swords into plowshares" but it is a very poor idea to do this **unilaterally** before that point in history!

We believe the teachings of the Torah—including the obligation we have to ourselves to guard our own lives—to be eternal; but the technology to carry them out should be the best available in our era.

This obligation is codified in Jewish law as part of a range of obligations centered on preserving our health and well being, as well as the obligation to defend ourselves or a third party against aggression. Under Jewish Law there is an obligation for a private citizen to assist another in trouble: "You shall not stand by [the shedding of] your fellow's blood. I am the Lord ([Leviticus 19:16](#))" and as Rashi comments, quoting the legal texts of the Talmud:

"You shall not stand by [the shedding of] your fellow's blood. [i.e., do not stand by,] watching your fellow's death, when you are able to save him; for example, if he is drowning in the river or if a wild beast or robbers come upon him. — [Torath *Kohanim* 19:41; Talmud, *Sanhedrin* 73a]"

We cannot exempt ourselves of this obligation – even though in this country we have a wonderful and dedicated corps of law enforcement officers and other emergency personnel. We should respect them and support them in every way possible, as they have devoted their lives to the rescue of their fellows – but our obligation to our fellow remains: if we see someone in trouble we cannot absolve ourselves of our obligation by the fact that "professionals" exist somewhere.

One can therefore make the argument that it would be wrong to deprive citizens of the "tools" most suited to this task, e.g. firearms. Our Sages have a saying "A broken wall calls out to the thief [to come in]." If the law dictates that a citizen may not be armed –the criminals will arm themselves and be unafraid of opposition –as those who abide by the law will be defenseless.

Yet it must be noted that Jewish law forbids the sale of arms to people who are suspect of criminal intentions. We read in the Talmud (*Avodah Zarah* 15b):

And it has further been taught: One should not sell them either weapons or accessories of weapons, nor should one grind any weapon for them, nor may one sell them either stocks or neck-chains or ropes, or iron chains — neither to idolaters nor Cutheans.

The Talmud extends this prohibition to Jewish criminals as well, clearly demonstrating the responsibility to enforce background checks on prospective arms owners.

What of the dangers inherent in improperly stored and handled firearms? We are taught,

"When you build a new house, you shall make a guard rail for your roof, so that you shall not cause blood [to be spilled] in your house, that the one who falls should fall from it [the roof]" ([Deuteronomy 22:8](#))

The Rabbis derive from this that we must create "fences" in all dangerous situations to prevent "blood spilled" in your house. However the Torah **did not forbid flat roofs** –it mandates fences. We need to be responsible with things that may be dangerous, not prevented from having them.

One more quote: There is a fascinating commentary by Nachmanides (13th Century) on [Genesis 4:20-24](#). The verses read:

Now Adah bore Jabal; he was the father of those who dwell in tents and have cattle.

And his brother's name was Jubal; he was the father of all who grasp a lyre and a flute.

And Zillah she too bore Tubal *Cain*, who sharpened all tools that cut copper and iron, and Tubal Cain's sister was Na'amah.

Now Lemech said to his wives, "Adah and Zillah, hearken to my voice; wives of Lemech, incline your ears to my words; for have I slain a man by wounding (him)? A child by bruising (him)?

If Cain shall be avenged sevenfold, then for Lemech it shall be seventy-seven fold."

What is going on over here? What is this marital spat between Lemech and his two wives all about?

Nachmanides explains: Lemech was very wise and taught one son herding, the other music, and the third metallurgy. His wives remonstrated with him that the introduction of ironworking would enable the production of weapons and bring murder to the world. Lemech responds to them: "Have I killed a man, as great-grandpa Cain has done seven generations ago? It is not the sword that kills, but the bad choice by a man. Without a sword, too, a man could kill another by wounding and battering as did Cain..."

Swords do kill – but only if they have evil intent behind them

So who was right in this debate – Lemech or his wives?

Nachmanides leaves the question unanswered.

In conclusion I leave to you, my dear reader, to judge, based on these sources, where Judaism stands on gun control.

That being said, after all of the above to the extent that these arguments might advocate granting permission to private citizens to own guns, certainly Jewish law and ethics would ask, and demand the following:

What type of weapons, magazines etc., do they reasonably need for self defence? Only those can be in good reason permitted.

How can we make sure that those with a criminal past or the mentally unstable (as in the Talmud Avoda Zarah quoted above) cannot access weapons? This would include restrictions on weapon ownership by those with whom they reside – as the unstable or criminal would then have access to the weapons as well.

We would be obliged to use every possible technological mean to prevent these people from acquiring arms under any circumstances, e.g a robust national system of background checks.

As per the above-quoted ruling that on the border one may keep an aggressive dog, but not in more settled areas, we should accept the demographic diversity of a huge country and understand that citizens of New York City and those residing in the Southwestern cattle country might have very different needs in these regards, based on the ubiquity or lack thereof of law enforcement personnel. Thus, many of these questions should properly and ethically be devolved to as local a level as possible. It is my prayer, which I am certain all our readers share, that we never again see parents bury children snatched from them in the very beginnings of their adult lives and that we shall very soon enter that era in which we shall no longer need to think of defense against violence as it is written: "And a wolf shall live with a lamb....They shall neither harm nor destroy on all My holy mount, for the land shall be full of knowledge of the Lord as water covers the sea" ([Isaiah 11:6-9](#)).

[BY SHLOMO YAFFE](#)

<https://jewishaction.com/religion/jewish-law/gun-control-halachah/>



JEWISH LAW

Gun Control in Halachah

By Joshua 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 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.

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. (*Sidebar: Should I Carry A Gun?*)

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

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.

Notes

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>.
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*.
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.
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.

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This article was featured in Jewish Action [Summer 2016](#).

<https://www.jlaw.com/Commentary/guncontrol.html>

Gun Control: A Jewish Look

by Rabbi Chaim Steinmetz *

On March 24th, in Jonesboro, Arkansas, two junior high school students armed with rifles murdered four of their schoolmates and one of their teachers. These horrible murders reignited the ongoing international debate about gun control. In Canada, the Canadian parliament has passed several major pieces of legislation requiring gun control. In 1995, it passed Bill C-68 requiring all guns and rifles to be included in a national gun registry. This followed previous laws which prohibited machine guns, and required the training and screening of all owners of firearms. To opponents of gun control laws, these laws are a nuisance for law abiding gun owners, and have little effect on violent crime. Proponents of these laws point to extensive academic research that these laws save lives and increase safety. What does Jewish law (halacha) have to say about this issue?

In Judaism, safety is a religious concern. The Bible requires that a roof be properly gated, in order to prevent people from falling off of it (Deuteronomy 22:8). This commandment is understood by the Talmud as a general directive to remove any safety hazard (Bava Kamma 15b; Shulchan Aruch CM 427:8). Contemporary rabbinic authorities include in this commandment an employer's responsibility to ensure occupational safety (Piskei Uziel 47) and an injunction against reckless driving (Minchat Yitzchak 8:148). Someone who refuses to remove a safety hazard can be punished by excommunication (YD 334:7). In general, safety regulations are treated with far greater stringency than any other section of halacha (YD 116:7). Clearly, any Jewish view of gun control would place high value on safety.

In the Talmud there are specific regulations that resemble gun control. There is a law against owning a dangerous dog (Bava Kamma 79a). One who owns a dangerous dog must keep it tied in metal chains at all times (CM 409:3). Even if the dog is defanged or trained not to harm people, it must be chained because it may frighten strangers,

and as a result may cause stress related injuries such as miscarriage and heart attacks (Shabbat 63b). One of the more pious Rabbis, Rabbi Pinchas Ben Yair, was so stringent about this law that he refused to own mules, because they can occasionally cause injury (Hullin 7b; Terumat Hadeshen 2:105). However, there were instances where allowances were made. In border communities, where there is a threat of marauders, owners of dangerous dogs may unchain them at night for protection. Some say that any dangerous city is similar to a border community (CM 409:3). These sources demonstrate that halacha would require any gun to be carefully locked at all times, with allowances made in cases where the gun is actively being used for security. Those who are more stringent would avoid guns completely. (It should also be noted that many authorities prohibit hunting for sport; Rama OH 316:2, Darchei Teshuva YD 117:44)

There is a second halacha that is relevant to this issue. The Talmud prohibits someone from selling offensive weapons to idol worshippers and suspected criminals (Avodah Zarah 15b; YD 151:5-6). The rule against selling to idol worshippers is based on an assumption that the idol worshippers will use them against Jews; however, if the Jews are allied with the idol worshippers, it is permitted to sell them arms. It is likewise prohibited to sell such weapons to anyone suspected of reselling them to criminals. This halacha requires that the buyers of firearms be carefully screened, and resembles in many ways laws requiring a national registry of gun and rifle owners.

Although halacha is extremely concerned about safety, it does not prohibit the ownership of guns. However, recognizing that a gun is a dangerous object, halacha (like many current gun control laws) requires that owners and vendors of guns take all possible precautions to prevent their guns from causing any harm.

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Footnotes

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<http://jewishweek.timesofisrael.com/taking-a-jewish-stand-on-gun-laws/>

Taking a Jewish Stand on Gun Laws

BY [JEWISH WEEK EDITORS](#) February 21, 2018, 11:08 am

There are no words.”

Perhaps that statement from Broward County (Florida) Sheriff Scott Israel (believed to be Broward County’s first-ever Jewish sheriff) was the most eloquent response to the latest in a seemingly endless series of school shootings that result in tragedy, the loss of innocent life and the futility of inaction in Congress to lessen the odds of future assaults.

Will anything change after 17 students and adults, including courageous teachers, were slain in a burst of gunfire in Parkland, Fla., this past week? One might well assume that if the murder of 20 children, ages 6 and 7, and six adults, in the Sandy Hook massacre of 2012 did not soften the hearts of those who oppose limits on guns in this country, nothing will.

But noting that words can lead to action and citing the Jewish imperative to preserve life, a group of rabbis in Westchester is working on a rabbinic mandate to only vote for or financially support candidates from either party committed to work to enact laws that would make assault weapons unavailable to the general public and ensure background checks for anyone seeking to acquire any firearm.

Rabbi Gordon Tucker, senior rabbi of Temple Israel Center in White Plains, told The Jewish Week he is working on “a broad rabbinic statement that invokes Jewish law,” one which he hopes will be endorsed by the Westchester Board of Rabbis and have broad enough appeal to “spark interest” across denominational lines inside the Jewish community and beyond.

The preliminary draft of the proposed rabbinic ruling cites a number of horrific facts about the extensive use of guns in the U.S. resulting in 15,590 deaths in 2017 (not counting deaths by suicide, which is almost twice that number). It notes that homicide rates in America are 20 times those of other wealthy countries, that approximately two children

under the age of 12 are killed by guns every day in the U.S., and that the Stoneman Douglas High School killer, with a troubled record, was able to legally purchase an assault rifle when he was 18.

The Talmud (Avodah Zarah 15b) states clearly a prohibition against selling or providing weapons to someone who might use them to commit violence. Another passage (Shabbat 54b) asserts that if one is able to protest wrongdoing and does not, that person is liable for the wrongdoing. Or, as Rabbi Abraham Joshua Heschel put it more succinctly: "In a free society, some are guilty, all are responsible."

With those facts about gun violence and teachings of Jewish tradition as a basis, the rabbinic statement seeks to encourage support for political candidates who oppose assault weapons and favor background checks.

"This is a moral issue of public safety and the preservation of life," Rabbi Tucker explained. "It's not a partisan issue," he said, adding: "If halacha [Jewish law] does not have something to say about our national epidemic of gun violence, how can we convince people that halacha has any relevance to them?"

We support the Westchester rabbinic effort and hope that its humane message will spread across the region and country, restoring a sense of dignity and compassion to lawmakers everywhere.