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RUNNING RIOT: RESPONDING TO THE POLICE DEPARTMENT

A Torah perspective on chaos (*ra'os*)

Adapted from a shiur by Dayan Yosef Greenwald

In light of the terrible violence and unrest that has gripped the United States in recent days, it behooves us to examine the concept of lawlessness according to the Torah. Are support for anarchy and demonization of law enforcement Torah violations per se? Does flouting the laws against stealing goods, harming people, and burning buildings constitute an *aveirah* independent of the particular transgressions involved?

The Rambam (*Hilchos Melachim* 9:14) states that the residents of Shechem were liable to death in Parshas Vayishlach for not preventing the abuse of Dinah, which is why Shimon and Levi had the right to kill them. The Rambam explains that although the townsfolk did not attack Dinah themselves, one of the seven

mitzvos of *b'nei Noach* is to set up a legal system to preserve peace in society. Since none of the residents of the city who saw what occurred protested or brought the perpetrators to justice, they too were responsible for the crime.

The Ramban disagrees, arguing that we do not find that non-Jews who do not set up courts are liable to death. He posits that a sin of commission, rather than omission, is required, so he explains Shimon and Levi's actions differently.

But perhaps the Rambam doesn't mean to say that the crime lay in the populace's inaction, but that fostering flagrant disregard of decency is reckoned as the active creation of a lawless environment. If so, any social system that



Excerpted and adapted from a shiur by
 Rav Moshe Zev Granek

PARSHAS SHELACH

NOTHING TO SPEAK OF

Send forth for yourself men, and they shall explore the Land of Canaan.

Bemidbar 13:2

Rashi asks why the story of the spies is juxtaposed with that of Miriam being struck with *tzara'as* for slandering Moshe. He answers that the spies sinned by not taking Miriam's punishment to heart and realizing that they should not speak *lashon hara* about Eretz Yisrael.

The problem with this is that the Gemara (*Arachin* 16a) employs a *kal vachomer* (a fortiori) between the two cases, arguing that if the spies were punished for forty years in the desert for speaking *lashon hara* (slander) about *eitzim va'avanim* (sticks and stones), certainly one who speaks *lashon hara* about a person should be subject to such punishment. According to this reasoning, though, how could the spies have been taken to task for not learning from Miriam? Couldn't they have rationalized that she was punished for speaking about a person, but speaking about an inanimate object

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Q&A from the
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Untimely Assistance

Q May one ask a non-Jew before Shabbos to do *melacha* on Shabbos? Conversely, may one ask him on Shabbos to do *melacha* after Shabbos?

A The answers to your questions depend upon the reason for the prohibition of *amirah lakum* (asking a non-Jew to do *melacha*). Several are offered:

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condones lawlessness or promotes disdain for or hatred of law enforcement is actively creating a dangerous environment for all. As the famous Mishnah in Pirkei Avos directs, "Pray for the welfare of the government, for if not for fear of the government, a man would swallow his fellow alive." Of course, policemen who overstep their boundaries should be prosecuted. But all police cannot be condemned on account of a small number who deport themselves wantonly.

The Torah mandates that we abide by the justice system established by the society: *dina d'malchusa dina*. Rashi (Gittin 9b) avers that the reason for this is that we must confer approval and legitimacy on the code that the society enacts in fulfillment of its Divine mandate. Thus, one who denigrates the system of law and order would seem to be guilty of violating the imperative to create such a system.

PURSUIT CURVE

Does a looter have the status of a *rodef*, one who is pursuing another to kill him, whom one is permitted to kill in response, as it says, *haba l'hargecha, hashkeim l'horgo* (one who comes to kill you, kill him first)? Although looters are seemingly committing only financial crimes, the Gemara (Sanhedrin 72a) says that a homeowner may kill a burglar, because it is assumed that the infiltrator came prepared, should he encounter resistance, to kill. What about a nighttime attack, when the targeted stores were purportedly empty? Can we assume the looters did not arrive prepared to kill because they did not expect to encounter the owners?

It stands to reason that generally, looters were aware of the possibility that they may

be stopped by the police, private security, or a motivated shop owner; in such cases, it could be presumed that the looters planned to respond with violence if confronted, so the directive of *haba l'hargecha hashkeim l'horgo* would apply and police could preempt them by shooting first.

It is true that the Gemara states that if possible, one must try to avoid killing a *rodef* if *yachol l'hatzilo b'echad meieivarav* (one can save the quarry by just injuring the pursuer). But many *Rishonim* maintain—and the halacha accords with this view—that the target himself is not bound by this limitation and may kill the pursuer even in this instance. In addition, if police shoot at the legs but miss, they might not get a second chance, which would put their lives in danger. Therefore, under the circumstances described above, the halacha would permit a police officer to shoot to kill.

UNTO THE NATIONS

It appears that Jews living in non-Jewish societies are to promote the values of maintaining a justice system within the broader society. This is one reason that it is important to take part in the electoral process and support these values. Although we may be inclined to vote for the candidate who will support our local and religious interests, perhaps when these values are called into question the Torah would direct us to vote for a candidate who more strongly supports a conservative, traditional, law-abiding society rather than a more liberal candidate who does not always express respect for the system of law and government.

May Hashem uphold the welfare of the government and protect us from chaos.

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Gemara between cases where *ahanu ma'asav* (the *lashon hara* had a negative

is permitted?

Perhaps the answer lies in the halachic distinction made in that

effect upon the victim) and *lo ahanu ma'asav* (it did not negatively impact the victim). Perhaps the spies should have derived from Miriam's experience that even though Moshe was unaffected by the slander, *lashon hara* was nonetheless forbidden, so the same would apply to the inanimate Eretz Yisrael, even though it would not be affected.

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- Rashi (Avodah Zarah 15a) says that the prohibition is based on the *pasuk* in Yeshaya, *mimtzo cheftzecha v'dabeir davar*: It is forbidden to talk about and plan *melacha* on Shabbos, which certainly includes asking someone to do *melacha*.
- The Rambam (*Hilchos Shabbos* 6:1) says the reason is that if one asks a non-Jew to do *melacha*, he may come to do it himself.
- The Smag (*lo sa'aseh* 75) quotes from the Mechilta (Bo 12:16) that we derive from *kol melacha lo ye'aseh vahem* that *melacha* of a non-Jew is forbidden. (The Smag is unsure whether this is a Biblical prohibition or an *asmachta*.)
- The Me'iri (Avodah Zarah 21a) says the reason is *shelichus*: If one asks a non-Jew to do *melacha*, it is considered as if he did it himself.
- The Ritva (Shabbos 122a) says the reason is that it would turn Shabbos into *chol*, i.e., if *melacha* were permitted it would make Shabbos feel like a weekday, and the Torah mandates that Shabbos be different from *chol*.

If one would ask a non-Jew before Shabbos to do *melacha* on Shabbos, there would certainly not be Rashi's problem of *v'dabeir davar*, since he is not talking about the *melacha* on Shabbos. However, the Me'iri's issue of *shelichus* would certainly still apply, and the other reasons would likely apply as well.

In the reverse case, where he asked the non-Jew on Shabbos to do *melacha* after Shabbos, Rashi's reason would forbid it, but the other reasons would not.

In practice, *amirah lakum* is forbidden in both cases.



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