

JEWISH LAW AND GUNS: A MODEST PROPOSAL

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Question

Given the recent shooting in Parkland, Florida, is there a clear Jewish position regarding gun ownership? May a Jew own guns for self-protection? May a Jew sell firearms to the public or own a store that sells guns? May a Jew advocate for firearm regulation or gun control?¹

¹ Orthodox Jewry is divided regarding the issue of private gun ownership; see, e.g., Eugene Volokh, "Orthodox rabbis on guns" in *The Washington Post* (September 16, 2014), accessed at https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/09/16/orthodox-rabbis-on-guns/?utm_term=.826d9bf5f22c on June 3, 2018. Notably the Orthodox Union and the (Orthodox) Rabbinical Council of America reaffirmed their commitment for "common sense measures to reduce gun violence;" see the Orthodox Union Advocacy Center, "Statement by the Union of Orthodox Jewish Congregations of America in the Aftermath of the School Shooting in Parkland, Florida; 'We are deeply saddened... and we call for action'" (February 15, 2018), accessed at <https://advocacy.ou.org/statement-union-orthodox-jewish-congregations-america-aftermath-school-shooting-parkland-florida-deeply-saddened-call-action/> on April 18, 2018. Among the progressive movements the position is more consistently supportive of firearm regulation, with emphasis on certain legislative actions. Note that the Reform movement has positioned itself on the issue so frequently as to land in the NRA's list of enemies; see, e.g., Nathan Guttman, "The Gun Lobby's Jewish Enemies List" in *The Forward* (February 8, 2013), accessed at <https://forward.com/opinion/170775/the-gun-lobbys-jewish-enemies-list>, on April 18,

Introduction

After every highly publicized mass shooting in America, questions such as these arise. As terrifying as the prospect of an emotionally unstable person barging into a school carrying military-grade weapons and discharging them is, this is just the most visible aspect of the question of guns in America. There are additional statistics that need to be taken into consideration when talking about guns and gun ownership according to Jewish law. The fact that there are a few rabbis who are vehemently opposed to any firearm regulation² does not help to point to a clear consensus position gleaned from the Jewish sources.

It should be noted that the argument about a possible need to keep firearms with the intention of overthrowing a tyrannical government is beyond the scope of this *teshuvah* (“responsum”). That being

2018. The Conservative movement’s Rabbinical Assembly came out with resolutions calling for gun control in 1990, 1995, 2011, 2013 and 2014—all of which the RA reaffirmed in 2016; see Rabbinical Assembly, “Resolution on American Gun Violence” (April 6, 2016), accessed at <https://www.rabbinicalassembly.org/story/resolution-american-gun-violence> on April 18, 2018, and *idem.*, “Resolution on Sensible Control in the United States” (April 24, 2014), accessed at <https://www.rabbinicalassembly.org/story/resolution-sensible-gun-control-united-states?tp=1354> on April 18, 2018. Reconstructing Judaism did similarly in 2017 and 2018; see Reconstructing Judaism, “Response to Parkland, Florida Shooting” (February 15, 2018), accessed at <https://www.reconstructingjudaism.org/cause/gun-violence> on June 3, 2018. In 2012 Ohalah, the association of Jewish Renewal clergy, also published a “Resolution on Gun Safety,” accessed at <https://ohalah.org/tikkun-olam/statements/resolution-on-gun-safety/> on April 18, 2018..

- ² See, e.g., Rabbi Dovid Bendory and Alan Korwin, “Jews for Preservation of Firearms Ownership White Paper: Why Jews Hate Guns: Are they right? And who are *The Shomrim*?” (2012) as accessed at <http://jpfo.org/articles-ssd02/why-jews-hate-guns.htm> on April 18, 2018; and Nathan Guttman, “Jewish Gun Leaders Come Out Firing” in *The Forward* (January 11, 2013), as accessed at <https://forward.com/news/169077/jewish-gun-leaders-come-out-firing/> on April 18, 2018.

said, without judging the merit of this discussion in the American body politic, one should remember that the maxim *dina demalkhuta dina* — i.e., “the law of the land is the law” — is part and parcel of Jewish political thought, which generally discourages rebellion against the authority of the government.

There is no denying that American society has a strong culture of firearms. Guns are used for recreational purposes, and they are used in hunting as well. Regarding hunting, whereas the consumption of meat is definitely allowed in Jewish law, killing an animal while hunting it makes the animal *t’refah*, that is, not kosher from the outset.³ A Jew could trap a kosher animal and then slaughter it,⁴ but not hunt it with a weapon. Accordingly, firearms are being considered in this *teshuvah* for self-defense, and for recreational use at shooting ranges.

General Considerations

The most important numbers about guns in the United States come from daily occurrences. Guns and related firearms were responsible for 15,581 deaths in America as well as 31,181 gun injuries in 2017.⁵ CDC—the American health protection agency, the Centers for Disease Control and Prevention—gives the total number of suicides for 2015 (last year of available data) as 44,193.⁶ About half of that

³ *T’refah* is defined as an animal unfit to be consumed since before its kosher slaughter one of its major organs is defective or missing, perforated, torn, poisoned, broken or injured in a fall. Major organs include the brain, heart, spinal column, jaw, esophagus, crop (in fowl), lungs, trachea, liver, gall bladder, spleen, kidney, womb, intestines, omasum, abomasum, rumen, reticulum, legs, ribs, and hide. See, e.g., Rabbi Yacov Lipschutz, *Kashruth: A comprehensive background and reference guide to the principles of Kashruth* (New York, NY: ArtScroll 1988), pp. 23-24.

⁴ See Leviticus 17:13. The verse refers to catching an animal in order to kill it through kosher ritual slaughter.

⁵ See the Gun Violence Archive at <http://www.gunviolencearchive.org/>; accessed on March 13, 2018.

⁶ See Centers for Disease Control and Prevention, “Suicide and Self-Inflicted Injury,” as accessed at <https://www.cdc.gov/nchs/fastats/>

number (22,018) had a firearm as its instrument. Another important piece of information is the FBI's reporting that women are killed by their domestic partners with guns at a rate of 50 fatalities per month.⁷

A Jewish conversation about guns has to begin before any discussion of guns themselves: it begins with a conversation about violence, life, and the sanctity of life. Regarding this, most sources agree: human life is not to be trifled with. The famous dictum "whoever kills a soul [from Israel], Scripture considers as if s/he has killed an entire world" appears in several places in rabbinic literature.⁸

It is common knowledge that (nearly) all *mitzvot* ("commandments") can be transgressed to save one's life. There are three notable exceptions to that general rule, and murdering an innocent person is among them:

A certain person came before Rabba and said to him: The chief of where I live said to me: Go kill so-and-so, otherwise I will kill you.

He [Rabba] said to him: Let him [*i.e.*, the chief] kill you and you should not kill. Who is to say that your blood is redder? Perhaps the blood of that man [*i.e.*, the innocent man you are being asked to kill] is redder.⁹

The answer "his blood is redder" implies that there is no logical reasoning, nor moral impetus, that would allow a person to save her-

[suicide.htm](#) on March 13, 2018. One can find there a .pdf with the raw data as well.

⁷ Federal Bureau of Investigation, "Supplementary Homicide Reports 2009-13," cited in Everytown for Gun Safety, "Guns and Domestic Violence," as accessed at <https://everytownresearch.org/guns-domestic-violence/> on March 13, 2018.

⁸ See, *e.g.*, Mishnah, Sanhedrin 4:5; Jerusalem Talmud, Sanhedrin 4:22; Babylonian Talmud, Sanhedrin 37a; and P'sik'ta Zut'ra, Bereshit 1. The words "from Israel" are added when the source is being used regarding capital punishment by Jewish courts, but, for other purposes, the more general sanctity of human life is stressed.

⁹ Babylonian Talmud, Sanhedrin 74a.

self by killing another innocent one. This idea is codified in the Tur,¹⁰ in Maimonides' *Mishneh Torah*,¹¹ and in other sources.

The value of human life, however, is not absolute; and capital punishment exists within the Jewish body of law – albeit rendered inapplicable by Talmudic sources¹³ and posterior codes.¹⁴ For our discussion regarding the permissibility of owning weapons, this point is important. That being said, the fact that the rabbis did not erase capital punishment from the Jewish tradition underscores the many balances the body of Jewish tradition is trying to achieve. The unwillingness to commit to any single value as absolute is arguably an important characteristic of Jewish thought in general.

Guns are a modern implement created by modern people to do more effectively what humans have been doing since the beginning of history: murdering. It is instructive that our Torah brings us the story of Kayin (“Cain”) and Hevel (“Abel”), in Genesis 4:1-18, just after the story of Creation and the Garden of Eden. One could say that the story of Kayin and Hevel is the first story that happens, as it were, in our world. That Kayin killed Hevel without using a gun is irrelevant; the violence is already there. That our Torah sees fit not to add the words exchanged between them is also fundamental to the story: in nature,

¹⁰ Tur, Yoreh Deah 157:1. The Arbaah Turim is often called the Tur. This important halakhic code, first published in 1475, was written by Jacob ben Asher (born in Cologne, 1270; died in Toledo, Spain c. 1340). The four-part structure of the Tur and its division into chapters (*simmanim*) were adopted by the later code Shulchan Arukh.

¹¹ Moses ben Maimon, commonly known as Maimonides, was born in Cordoba then Almoravid Empire, either in 1135 or 1138, and died in Cairo, Egypt in 1204. The code he authored, the *Mishneh Torah*, was compiled between 1170 and 1180.

¹² *Mishneh Torah*, the Foundations of Torah 5:1-4.

¹³ See, e.g., Babylonian Talmud, Makkot 7a.

¹⁴ For a through discussion on this subject, as well as the Talmudic and post-Talmudic sources, please read Ben-Zion Bokser, “Statement on capital punishment” (1960) in the *Proceedings of the Committee on Jewish Law and Standards 1927-1970*, Volume III, pp. 1537-1538; and Jeremy Kalmanofsky, “Participating in the American Death Penalty” (October 15, 2013), available at <https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/cjls-onesh-mavet.pdf> on June 3, 2018.

members of the same species killing one another for reasons other than food scarcity or reproduction seems to be an exclusively human activity.¹⁵

In our times, the question regarding gun possession is certainly even more critical: if the killer in the Sandy Hook massacre had had access only to knives or swords, the tragedy that that particular mass shooting brought—the death of 20 six- and seven-year-olds and six adults—certainly would not have been as great. As a matter of strange coincidence, on the same day as Sandy Hook—December 14th, 2012—a man in China went on a stabbing spree near an elementary school. He wounded 24 people; 23 of those were children. None died. Access to guns in China is completely restricted among common citizens.¹⁶

For our purposes, we have to face the fact that firearms are a distinct instrument: their basic function is to kill animals or humans. Plowshares and pruning hooks may be used to kill, but that is not their basic function. The same can be said of baseball bats, knives, and almost any other device created by humans. In America, where advocates for a complete lack of restrictions on firearm ownership frequently compare guns with other tools—affirming that people would kill regardless—this is an important distinction to bear in mind. “Guns don’t kill people; people kill people” is brandished around on bumper stickers—as if guns had any other function.

There are indirect functions of gun ownership, which must be dealt with: deterrence and display of power. In that same category, of course, are most instruments of war. One must consider how firearms imply power, as do all other weapons of destruction.

In a discussion in the Babylonian Talmud about what objects a person may carry in a public domain on Shabbat, the question of

¹⁵ Joseph Castro, “Do Animals Murder Each Other?” on *Live Science* (September 16, 2017), as accessed at <https://www.livescience.com/60431-do-animals-murder-each-other.html> on April 16, 2018; and Erika Engelhaupt, “How Human Violence Stacks Up Against Other Killer Animals” in *National Geographic* (September 28, 2016), as accessed at <https://news.nationalgeographic.com/2016/09/human-violence-evolution-animals-nature-science/> on April 16, 2018.

¹⁶ See, e.g., Shannon Van Sant, “China school knife attack leaves 23 injured” on *CBSNews* (December 14, 2012), as accessed at <https://www.cbsnews.com/news/china-school-knife-attack-leaves-23-injured/> on December 28, 2017; and many other news sources.

weapons comes up.¹⁷ What is the nature of weapons? Rabbi Eliezer's idea, first offered and then rejected, is that they are ornaments, like jewelry. Jewelry may be carried on Shabbat, so—maybe if weapons are things of which to be proud, things that imply strength and masculinity—they could be carried. The sages say, however, that weapons are something shameful—the prooftext being Isaiah 2:4, the swords-into-plowshares vision for the world. The *gemara*, on that same Talmudic page, elaborates and aims to prove that people should only have weapons because of their need for war—and therefore, in Messianic times, a need for weapons will not exist. This argument thereby forecloses the idea that one ought to see weapons, through the Jewish collective lens, as items that bring aesthetic pleasure. Following that logic, in the absence of a direct threat to one's life, one is not allowed to carry weapons on Shabbat. By extension, given the prooftext, absent a direct threat to one's life, one should never carry a weapon.

It is important to note, however, that owning a gun would be permissible when one lives in an area where crime is present, and personal safety or of one's family could be in jeopardy. Whether owning a gun in such a case is merely permitted or is in fact obligatory depends on having a rational, statistics-based argument as to the expectation that such a person could reasonably have regarding the presence and the efficacy of their local police forces.

Throughout most of Jewish history, the idea of a police force, financed by all the inhabitants of a place through taxes, committed to serve all people with the same level of justice and courtesy, was non-existent. The first country to have a modern police force was England in 1829, and even more recent is the expectation that police officers will respond to the public—through the justice system—for misuse of police force. These expectations vary not only between countries but between neighborhoods in any given city as well.

But what if one lives in a dangerous area—one full of robbers and home invaders, with little or no expectancy of policing and police work? In that case, one could say that his or her house falls into a specific category within the Talmud, the category of one who is “near the border.” “Near the border” for the Talmud means that the home is located in an area prone to being attacked by bands of non-Jewish marauders. This idea of one's home being “near the border” gives rise to

¹⁷ Babylonian Talmud, Shabbat 63a.

several allowances in the Talmud, such as requiring that the city be encircled by walls¹⁸ and other defense mechanisms, such as raising vicious dogs¹⁹ (we will return later to the similarities between firearms and dogs). The Talmud then states, as an exception, that weapons can be carried out on Shabbat if the inhabitants are certain that the marauders are invading with the intent of inflicting bodily harm to the population. If they merely seek food, then weapons cannot be taken out against them on Shabbat.

Many generations later, Maimonides saw living in a city near the border as such a precarious position that he gave permission to deploy weapons for defense even on Shabbat. He affirmed, in this particular case, contrary to what the Talmud proposes, that there is no need to investigate whether the marauders come merely seeking food and affirmed: “in the city near the border, even if they come only after food, we bring out weapons and desecrate the Shabbat on account of the marauders.”²⁰

In other situations, that is, if the home is not in a city near the border, Maimonides’ Mishneh Torah makes clear that there are different limits. For instance, should a homeowner be aware that an intruder has broken into the home certainly only to steal, and not to do anything else, killing such a robber is, in Maimonides’ words, murdering—for defending possessions is not viewed as at the same level as defense of a human life.²¹

But let’s continue with that line of thought: What if there is an actual threat to a person’s life? What if—God forbid—one knows that a would-be murderer is coming with the single intent of murdering? Then, of course, the Talmud brings the flip side: “[if] one comes to kill you, get up earlier and kill him.”²² This can only be understood with the premise that the one coming to murder is not innocent; on the contrary, he or she is considered under the rubric of *rodef*, a pursuer whose only intent is to murder and against whom the dictum above applies. Maimonides will even go one step further, and assure that, should the intentions of the intruder be unclear, given that every person would

¹⁸ *Ibid.*, Bava Batra 7b.

¹⁹ *Ibid.*, Bava Kamma 83a.

²⁰ Mishneh Torah, Laws of Shabbat 2:23, based on Babylonian Talmud, Eruvin 45a.

²¹ Mishneh Torah, Laws of Theft, 9:9-11.

²² Babylonian Talmud, Berakhot 58a and Sanhedrin 72a.

stand up for their possessions, killing the intruder is not punishable by law.²³ Here we see that security of individuals is fundamental in Jewish thought; and this adds another layer of complexity to the issue of firearm ownership at home by Jews.

It should be noted that the idea of having a gun for self-defense, whereas emotionally appealing, is not efficacious in practice. A study published by the Harvard School of Public Health in 2015, led by Dr. David Hemenway, shows that self-defense gun use in “contact crimes” present a 0.1% decrease in the likelihood of injury to “contact crimes” in which the victim has no gun and defended herself in any other way.²⁴ This sobering statistic should give pause to anyone considering keeping a gun at home, given the enormous amount of danger that a firearm presents to those living in close quarters with one.

Having guns in a house is certainly dangerous. Unsecured guns pose a clear danger to children and adults: a gun kept at home is more likely to be used in cases of criminal assault, suicide or accidental shooting than be used in self-defense.²⁵ In terms of unintentional gun fatalities, American children between 4 and 15 years of age are seventeen times more likely to die by a gun accident than those in the rest of the developed world,²⁶ with an average of 5,790 children being treated for gunshot wounds, and 1,300 dying, on average per year.²⁷

²³ Mishneh Torah, Laws of Theft, 9:7-8.

²⁴ David Hemenway and Sara J. Solnik, “The epidemiology of self-defense gun use: Evidence from the National Crime Victimization Surveys 2007–2011” in the *Journal of Preventive Medicine*, Volume 79 (October 2015), pp. 22-27—available at <https://www.sciencedirect.com/science/article/pii/S0091743515001188> as accessed on April 16, 2018.

²⁵ Arthur L. Kellermann, Grant Somes, Fred Rivara, and Joyce G. Banton “Injuries and deaths due to firearms in the home,” in *The Journal of Trauma*, 1998 Aug; 45(2):263ff; abstract available at <https://www.ncbi.nlm.nih.gov/pubmed/9715182> as accessed on December 28, 2017.

²⁶ David Hemenway, *Private Guns, Public Health* (University of Michigan 2004), p. 86.

²⁷ The research was done with numbers from 2002 to 2014. Katherine A. Fowler, Linda L. Dahlberg, Tadesse Haileyesus, and Joseph L. Annet, “Childhood Firearm Injuries in the United States” in the *Journal of the American Academy of Pediatrics*, vol. 140:1 (July 2017), as accessed at <http://pediatrics.aappublications.org/content/140/1/e20163486> on April 18, 2018.

The situation is deemed serious enough that the American Academy of Pediatrics has issued policies and recommendations against keeping firearms at home.²⁸

Keeping dangerous things in a home is not a modern problem, and it is taken up by the Babylonian Talmud.²⁹ From the Torah verse regarding making a parapet on one's flat roof³⁰ comes the rabbinic idea that dangerous entities, such as vicious dogs and rickety ladders, should never be kept at home.³¹

In the Talmudic reality, vicious dogs constituted weapons in a house. They could attack strangers, and thus the fear they provoked was of concern. Talmudic legend has it that women miscarried due to the fright caused by a barking dog.³² So too, the Talmud informs us that vicious dogs prevented people from giving *tzedakah* ("charity"), for they prevented the poor from asking for *tzedakah* due to their fear of being attacked.³³

Recalling these anecdotes, Jewish questions surrounding the ownership of dangerous entities turns towards the halakhic (*i.e.*, Jewish legal) question of whether one may keep vicious dogs at home at all. The Shulchan Arukh³⁴ does allow having such a dog—provided

²⁸ See the American Academy of Pediatrics, "Policy Statement: Firearm-Related Injuries Affecting the Pediatric Population," as accessed at <http://pediatrics.aappublications.org/content/pediatrics/early/2012/10/15/peds.2012-2481.full.pdf>, and Quora, "The American Academy of Pediatrics Gun Safety Recommendation" on *HuffPost* (February 1, 2017), accessed at https://www.huffingtonpost.com/quora/the-american-academy-of-p_b_14553860.html on December 28, 2017.

²⁹ Babylonian Talmud, Bava Kamma 15b and 46a.

³⁰ Deuteronomy 22:8.

³¹ The image of the vicious dog in the Talmud appears in contrast with the village dog, which helps in ridding homes from mice, and obviously poses no danger, as found in *e.g.*, the Babylonian Talmud, Bava Kamma 80a.

³² Babylonian Talmud, Shabbat 63b.

³³ *Ibid.*, 63a.

³⁴ The Shulchan Arukh is the most widely consulted of the various legal codes in Judaism. It was authored in Safed (today in Israel) by Joseph Karo in 1563 and published in Venice two years later. Since Karo supported his decisions mostly on Sephardi authorities and customs, most editions of the Shulchan Arukh also contain the glosses of Moshe Isser-

that it is constantly secured with a metal chain³⁵ (in accordance with the Babylonian Talmud's broad statement on the matter).³⁶ Maimonides affirms that, if the owner of the vicious dog refuses either to chain the canine or to remove the danger, the owner should be put in *cherem* (effectively, "excommunication"), becoming ostracized by the Jewish community.³⁷

Making an analogy from vicious dogs to firearms, one can understand that, if, as stated above, there is a need for a firearm in a home, then that it should be kept absolutely secured, that is, "chained at all times." Particularly in a home where children live, this stipulation is vital, and the severity of the consequences cannot be overly stressed. The AAP study previously mentioned highlights the fact that an average of 1,300 children die from gun injuries annually, many of them due to unsecured firearms at home; and every week in the United States there are reports of toddlers and children shooting adults or other children using unsecured and easily accessible loaded guns.

Selling Guns

It is obvious that weapons have been made and sold since they were created, way before the invention and production of firearms, and Jews have been involved in such sales. While there is no prohibition against a Jew owning a gun shop, *halakhah* (Jewish law) does prescribe some limits.

The question of whether Jews may sell weapons receives an intriguing treatment in the Babylonian Talmud.³⁸ There, Jews are forbidden to sell weapons or their accessories to idolaters, for there is an assumption of a negative outcome of their actions. The same applies, the Talmud continues, to Jewish bandits. The evident idea is not necessarily the religion or ethnicity of the buyer, but the probable outcome of the buyer's actions.

les, an Ashkenazi halakhic authority contemporary of Karo. Isserles wrote his glosses so that the customs of the Ashkenazim might be recognized and not be discarded on account of Karo's reputation.

³⁵ Shulchan Arukh, Choshen Mishpat 409:3.

³⁶ Cf. Babylonian Talmud, Bava Kamma 79b.

³⁷ Mishneh Torah, Laws of Torah Study 6:14.

³⁸ Babylonian Talmud, Avodah Zarah 15b.

These ideas are brought forth in stark clarity by Maimonides: “[O]ne does not sell... anything that can bring damage to the public.”³⁹ His instruction continues, expressing that

anyone who supports a criminal, who is blind to the ways of truth because of the greed in his heart, transgresses the negative commandment “do not put a stumbling block in front of the blind” (Leviticus 19:14).⁴⁰

In the words of the Shulchan Arukh:

And so too, for every stumbling block in which there is danger to life, it is a positive commandment to remove it, protect oneself from it, and be exceedingly careful in its regard; as it says: “You shall guard and protect your lives” (Deuteronomy 4:9). And if the stumbling blocks were not removed and were placed in front of those who come to danger, one has violated a positive commandment and transgressed “do not place blood in your home” (*ibid.*, 22:8).⁴¹

Based on this, one should only sell weapons if the purchaser has received firearm training, if the buyer has a clear history of sound mental health as well as a clear criminal background check, and if his or her good intentions are beyond doubt. The presence of any doubt in the seller’s mind must prevent the sale, as the seller would be transgressing the Biblical injunction to “not put a stumbling block in front of the blind.” It should be noted that most guns used in mass shootings are obtained legally⁴² and sellers have been reported to be distraught when facing the undeniable fact that they had a part in the chain that led to enabling the crime to be committed. Moreover, many gun shops

³⁹ Mishneh Torah, Laws regarding the Murderer and the Preservation of Life 12:12.

⁴⁰ *Ibid.*, 12:14.

⁴¹ Shulchan Arukh, Choshen Mishpat 427:8.

⁴² Larry Buchanan, Josh Keller, Richard A. Oppel Jr., and Daniel Victor, “How They Got Their Guns” in *The New York Times* (February 16, 2018), as accessed at <https://www.nytimes.com/interactive/2015/10/03/us/how-mass-shooters-got-their-guns.html> on March 13, 2018.

are broken into and have had their guns stolen and subsequently used in crimes.

Although there is no prohibition against selling guns, *halakhah* urges that Jewish individuals should consider other ways to make a living, so as not to be put into a position of having enabled or facilitated murder and other crimes.

Guns For Recreation

The existence of the Second Amendment to the Constitution of the United States, even though legal scholars and judges disagree about its precise meaning and scope, is very significant in cultural terms. Any Jewish view on an issue needs take into consideration the civilization in which the Jew finds him or herself living. In part this is due to the fact that we are applying Jewish texts that were written in a certain set of circumstances to a different set of circumstances.

The sociological aspect of American gun culture cannot be ignored.⁴³ The questions that arise from having the possibility of personal gun ownership protected by an amendment of the United States constitution do not arise in other countries where gun ownership is not debated as an individual right; nor as an important piece of a country's history. Given numbers such as the ones presented by the 2015 National Firearms Survey⁴⁴ it is understandable that Jews could be interested in collecting and/or using guns for sport.

⁴³ See one of the few studies on the subject: David Yamane, "The Sociology of U.S. gun culture" in *Sociology Compass* 11:7 (June 16, 2017), as accessed at <https://onlinelibrary.wiley.com/doi/full/10.1111/soc4.12497> on June 4, 2018.

⁴⁴ This survey allowed respondents to name multiple primary reasons for firearms ownership. It presented as results: 40% hunting, 34% collecting, and 28% sporting use. 63% of all owners did mention protection against people as one of the primary reasons. See Deborah Azrael, Lisa Hepburn, David Hemenway, and Matthew Miller, "The Stock and Flow of U.S. Firearms: Results from the 2015 National Firearms Survey" in *RSF: The Russell Sage Foundation Journal of the Social Sciences* 3(5) (2017), pp. 38-57, as accessed at <https://www.rsfjournal.org/doi/full/10.7758/RSF.2017.3.5.02> on April 18, 2018.

Should a Jewish person be inclined to have guns for recreational use and see the need of improving his or her marksmanship, in the confines and safety of a shooting range, this technically poses no problem from a *halakhic* perspective, once the question of safeguarding the weapon at home is solved with the utmost care and that that home has no children.

At this moment one should pause, however, and recall the words of Rabbi Yechezkel Landau,⁴⁵ who, through his *teshuvoah* on hunting, is one of the few post-talmudic sages who engaged, albeit tangentially, with the question of guns: “For how can a man of Israel actively kill beasts needlessly, simply to pass his leisure time by engaging in hunting?”⁴⁶

Similarly, that a Jewish person would spend time in a shooting range just for the sake of shooting, with no other objective in mind aside from passing time, is astounding. One would hope that such interest in firearms would be channeled towards service to one’s country or police force.

Guns as an Expression of Power and Masculinity

In Hebrew, weapons are called *kelei zayin* (כלי זין), and the phallic imagery should not escape us.⁴⁷

There is a toxic brand of masculinity sold in a specific type of American movie, and as an archetype in American culture, which has been duly noted by scholars. Thus, in *Rampage: The Social Roots of School Shootings*, the authors state the fact that “the script of violent masculinity is omnipresent” and offer an enormous amount of evi-

⁴⁵ Yechezkel ben Yehuda Landau was born in Opatow, Poland, on October 8, 1713 and died in Prague – then in the Holy Roman Empire – on April 29, 1793. His responsa are collected under the name *Noda BiYhudah*.

⁴⁶ *Noda BiYhudah*, *Yoreh Deah* II:10.

⁴⁷ In the Hebrew phrase *kelei zayin*, the *kelei* (כלי) can be translated as “instruments of” and *zayin* (זין) as either “weaponry” or “phallus.”

dence for the message that boys and teenagers receive that “‘Men’ solve their own problems. They don’t talk, they act. They fight back.”⁴⁸

Dr. Peter Langman, in his *Why Kids Kill: Inside the Minds of School Shooters* makes clear that there is a connection between the lack of power, owning guns and killing fantasies.⁴⁹

In terms of Jewish law, parents and teenagers should be careful with exposure to such images and archetypes, as well as seeking help should any anxiety regarding toxic forms of masculinity arise. Buying a gun, or enabling access to one, in these circumstances would be completely forbidden, given the statistics provided throughout this paper.

Weapons with High Capacity

Even if an individual might legitimately see the need to own a handgun or a rifle for protection, as stated above, it is very difficult to see an individual need to have a military-grade weapon of any sort. The fact is that having no limit to what type of weapon a person can own makes for a steady climb of body counts in mass shootings as is statistically evident: 59 were killed in Las Vegas last year, in contrast with 50 in Orlando (2016) and 33 at Virginia Tech (2007).⁵⁰ Allowing military-grade weapons to reach the hands of mentally unstable people necessarily leads to war-like deaths.

A firearm that can shoot up to 600 bullets in a minute, such as an AR-15,⁵¹ has no place outside a military operation—and a Jew should join the military in order to manipulate such a weapon. It is unusable for hunting, for hunters prefer their prey with as much flesh

⁴⁸ Katherine S. Newman, Cybelle Fox, David J. Harding, Jal Mehta, and Wendy Roth, *Rampage: The Social Roots of School Shootings* (New York, NY: Basic Books, 2004), p. 269.

⁴⁹ Peter Langman, *Why Kids Kill: Inside the Minds of School Shooters* (New York, NY: St. Martin’s Press, 2009), pp. 28-29 and 39-40.

⁵⁰ Susan Miller, “Las Vegas shooting now tops list of worst mass shootings in U.S. history” in *USA Today* (October 2, 2017), as accessed at <https://www.usatoday.com/story/news/2017/10/02/worst-mass-shootings-u-s-history/722254001/> on December 28, 2017.

⁵¹ The number given in its manual affirms that 45 bullets can be shot per minute under regular conditions, the number 600 comes without having to account for changes in magazines (which hold up to 30 bullets).

as possible. That such a weapon can be bought in the city of Orlando in under 40 minutes merely a few days after the Orlando shooting,⁵² in which 50 people were killed, shows the current lack of legislation as well as common sense on the part of sellers.

Firearm Regulation, Gun Control and Gun Advocacy

Firearms are ubiquitous in America. Between 37% and 42% of American households own a gun⁵³ and between 265 million and 310 million guns are estimated to be in civilian hands in America. This is about one gun per American. The concentration of firearms is high: 3% of the American population owns about half of the firearms in America.⁵⁴ Any proposal to deny citizens of their firearms is unthinkable, particularly when considering the presence of the second amendment in the American Constitution.

However, the question of firearm regulation is fundamental, precisely given the presence and lethality of firearms. In Jewish thought there are no rights, but rather obligations that come with power. As an example, if a person wants to own an ox, which is a powerful animal to plow fields, every effort is needed to make sure that it is safe to have that animal around, both in one's domain and in the possibility that the animal encounters other people and animals.⁵⁵ The Jewish concept of freedom comes with boundaries. This is most clearly

⁵² Andy Campbell and Roque Planas, "It Took Us Just 38 Minutes To Buy An AR-15 In Orlando" on *HuffPost* (June 14, 2016), as accessed at https://www.huffingtonpost.com/entry/ar-15-orlando-us_576059f3e4b0e4fe5143fd4d on June 3, 2018.

⁵³ Pew Research Center, "A minority of Americans own guns, but just how many is unclear" (June 4, 2013), as accessed at <http://www.pewresearch.org/fact-tank/2013/06/04/a-minority-of-americans-own-guns-but-just-how-many-is-unclear/> on March 13, 2018; Gallup research, "Guns," as accessed at <http://news.gallup.com/poll/1645/Guns.aspx> on March 13, 2018.

⁵⁴ Youyou Zhou, "Unequal Distributions of Arms: Three percent of the population own half of the civilian guns in the US" in *Quartz* (October 6, 2017), as accessed at <https://qz.com/1095899/gun-ownership-in-america-in-three-charts/> on March 13, 2018; also see Azrael *et al.*, *ibid.*

⁵⁵ Exodus 21:28-32.

expressed in the wordplay of the Hebrew terms for “freedom” and “engraved,” present in the midrashic interpretation regarding the inscriptions on the Tablets of the Law, as described in Exodus 32:16:

Do not read [the word חרות as vocalized as] *charut* (“engraved”); rather read *cherut* (“freedom”), for the really free are those who study Torah [*i.e.*, the Law and its ways of peace].⁵⁶

Put in American parlance, there is no right without limits.⁵⁷ Arguing for limits and the type of limit is fundamental to any right. This is also true regarding gun ownership; it is proven that strong firearm regulation diminishes the effects of gun violence and suicide using firearms.⁵⁸

Mindful of the research stated above regarding masculinity and guns, it is clear that some of these regulations should be directed at firearms being purchased by teens and young adults—even though recent shootings have been perpetrated by older males as well, such as the one in Las Vegas in 2017. The question of gun availability for those with mental health issues is also of importance: most people with depression should not be able to buy a gun, given the cited statistics regarding suicides. The lethality of a firearm in a suicide attempt is 91%, meaning that only 9% of firearm suicide attempts are not successful.⁵⁹ Regulations that impose a waiting period between purchas-

⁵⁶ Tanna deVei Eliyyahu Zuta, Pirkei Derekh Eretz 2; and Avot deRabbi Natan A 2:3 (ed., Schechter, p. 10).

⁵⁷ In the words of Justice Antonin Scalia, the Supreme Court decision of June 26th, 2008, “Like most rights, the Second Amendment right is not unlimited.” To read the entire decision, see Supreme Court of the United States, “District of Columbia v. Heller (No. 07-290)” (June 26, 2008), as accessed at <https://www.law.cornell.edu/supct/html/07-290.ZS.html> on June 4, 2018.

⁵⁸ Michael D. Anestis and Joye C. Anestis, “Suicide Rates and State Laws Regulating Access and Exposure to Handguns” in the *American Journal of Public Health* (October 2015), as accessed at <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2015.302753> on March 18, 2018.

⁵⁹ E. Michael Lewiecki and Sara A. Miller, “Suicide, Guns, and Public Policy” in *American Journal of Public Health* 103:1 (January 2013), pp.

ing and receiving a gun have the unmistakable effect of diminishing the number of suicides.⁶⁰

A well-known injunction is found in Leviticus 19:16: “Do not stand idly by the blood of your neighbor.” The connection of the individual to the web of obligation in the political body, and the conversation in rabbinic sources regarding the ability of protest and its obligation among contemporary Jews living in democratic societies has been taken up by Dr. Aryeh Cohen in his masterful book *Justice in the City: An Argument from the Sources of Rabbinic Judaism*.⁶¹ Based on these points, and in consonance with the fact that strong regulations diminish the effects of gun violence and suicide by guns, Jews are obligated to support firearm regulation in the United States.

Whereas it is true that just having laws will not prevent every suicide, killing or mass shooting, not having any limit to the ownership and sale of firearms constitutes putting stumbling blocks in front of the blind and letting them stay in the public thoroughfare. Given the amount of deaths that guns bring every year to the United States, advocating for firearm regulation is certainly an obligation.

Conclusions

From the survey of the Jewish sources, what arises is a nuanced view of firearms: there is no complete ban on weapons, for violence is a part of our existence and there is a *mitzvah* of self-defense and defense of our property and of persons. How much violence there is in a

27–31, as accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3518361/> on March 13, 2018

⁶⁰ Michael Luca, Deepak Malhotra, and Christopher Poliquin, “Handgun waiting periods reduce gun deaths” in *Proceedings of the National Academy of Sciences of the United States of America* 114:46 (November 14, 2017), pp. 12162–12165, accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5699026/> on April 18, 2018. See also C. H. Cantor and P. J. Slater, “The impact of firearm control legislation on suicide in Queensland: preliminary findings” in *The Medical Journal of Australia* 162:11 (June 1, 1995), pp. 583–585; abstract accessed at <http://europepmc.org/abstract/med/7791644> on April 18, 2018.

⁶¹ Aryeh Cohen, *Justice in the City: An Argument from the Sources of Rabbinic Judaism* (Boston, MA: Academic Studies Press, 2012), esp. ch. 2.

society, as well as how much effective policing exists, impacts how one applies our sources and makes his or her decisions.

The need for keeping a deadly weapon at home or on one's person should be judged in real terms: not only the real possibility of coming to bodily harm needs to be present, which should be accounted for with data from scientific sources such as CDC and other groups, but also the impulse to have a gun needs to be weighed against the danger that such a firearm brings to a home and society at large. It is clear that, should a person see the unmistakable need to have a firearm at home, such an instrument needs to be securely stored and have safety mechanisms against accidental discharge.

It should be obvious, but it needs to be stated: a Jewish owner of firearms needs to have extensive training so as not to kill bystanders, and a thorough mental health evaluation is required so as to prevent the use of firearms in suicide attempts, domestic disputes or murder-suicides.⁶²

Given the policies and guidelines of the American Academy of Pediatrics, which are based on sound statistics, and given the number of guns present in American society at large, a Jew should not have a firearm if the home has children, and responsible parents must ask about the presence of firearms, and whether they are securely stored, before allowing a child to attend a playdate. The consequences of children encountering an unsecured, loaded firearm while visiting a playmate are too serious not to consider asking the question. Almost every death relating to guns and children under 12 involve an unsecured loaded firearm in a home. There is an average of one of such deaths a week.⁶³

⁶² There are—as of a recent count—26 states in the U.S. where the law permits concealed carry without any type of training; see, e.g., Jennifer Mascia, “26 States Will Let You Carry a Concealed Gun Without Making Sure You Know How to Shoot One” in *The Trace* (April 17, 2017), as accessed at <https://www.thetrace.org/2016/02/live-fire-training-not-mandatory-concealed-carry-permits/> on June 3, 2018.

⁶³ Nick Penzenstadler, Ryan J. Foley, Larry Fenn, USA TODAY, and The Associated Press, “Added agony: Justice is haphazard after kids’ gun deaths” in *USA TODAY* (May 25, 2017), as accessed at <https://www.usatoday.com/story/news/2017/05/24/justice-haphazard-when-kids-die-in-gun-accidents/101568654/> on April 18, 2018.

It is clear that there is no prohibition against discharging firearms in a secure setting such as a shooting range, nor is there any prohibition against owning a gun store. In the latter case, however, it is of fundamental import that the owner have a clear vision of both what he or she is selling and who is buying.

Nowhere else in the developed world do we see more than 30,000 deaths a year due to gun violence. America has so many deaths per capita related to firearms that its gun death per capita is 25.2 times higher than any other developed country in the world.⁶⁴ There is ample evidence that strong firearm regulation diminishes the number of deaths caused by gun violence, and supporting gun and firearm regulation is, therefore, obligatory for Jews in a democratic society.

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⁶⁴ Kara Fox, "How US gun culture compares with the world in five charts" on CNN (March 9, 2018), accessed at <https://www.cnn.com/2017/10/03/americas/us-gun-statistics/index.html> on April 18, 2018.