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MOB RULES:

Does the Torah Sanction Vigilante Justice?

Adapted from a Shiur by Rav Yosef Greenwald

MURDER IN THE PARK

Victor Melo, 16, began his afternoon listening to music in the sprawling national park in the Brazilian capital, Brasilia.

At some point a classmate of Victor's, standing nearby, had her phone stolen. She thought Victor did it and called out for help. Her friends, assisted by onlookers from whom a pair of sunglasses had been taken earlier, ran to punish the offender.

Over the next thirty minutes, while a hundred spectators stood by, Victor was beaten savagely. When paramedics arrived, they found a stab wound from a broken bottle in his belly, multiple screwdriver punctures between his ribs, and a knife wound in his heart. They worked vainly to resuscitate him.

At no point did anyone bother to search Victor for the missing phone or glasses. Police later found them in another man's possession. *Oops.*

Sadly, this is not an isolated incident. In addition to the world's highest murder rate, Latin America has the world's highest rate of impunity. In Brazil and Mexico, police solve fewer than one in ten murders. (Brazil's Supreme Court has a 44,000-case backlog that stretches back 49 years.) Anticipating no justice from the authorities, mobs mete it out daily, with participants often summoned on WhatsApp. And the mob's process for determining guilt can be less than rigorous.

What is the Torah view of vigilante justice? This article, first in a series, will begin to address the issue.

We are told in *Pirke Avot* (3:2): "Pray for the welfare of the government, for but for the fear of the government, each man would

swallow his fellow alive." R' Yerucham Levovitz, the *Mirrer Mashgiach*, used to say, "Within a person lies an entire zoo."

When fear of government disappears (the lynchers are rarely punished), there is no limit to the cruelty of which man is capable. Add a dollop of righteous indignation and you have a recipe for staggering evil.

Additionally, acting cruelly damages the actor's personality, making him cruel (see *Or HaHayim HaKadosh, Devarim* 13:18). This initiates a vicious circle. Each episode makes the people less human and more likely to act cruelly in the future, so the society gets progressively worse.

There are multiple reasons vigilantes might act: in vengeance, to punish violators or to deter future violations. In the Torah's jurisprudential system, none of these is the job of the public—or of the courts. The role of *Bet Din* is not to maintain order in society, to forestall chaos, or to make sure offenders don't go unpunished. That is Hashem's department. Rather, the job of *Bet Din* is to promote a value system in society that keeps people upright and good. Torah keeps at bay the baser instincts of man. Recognizing and respecting the *Tzelem Elokim* – the image of G-d – in oneself and in others is, according to R' Shimshon Refael Hirsch, the foundation of a just society.

It has become popular of late in some quarters in the United States to treat law enforcement with derision. Those who promote this are in violation of that *Pirke Avot* dictum, and they help to foster the creation of the kind of society *Hachamim* are warning us about.

There is a Torah precept (see *Bava Kama* 23) that *Kim Leh Bid'Rabba Minneh*, meaning that one who commits a capital crime cannot for the same act be liable to monetary payment. This is true



Summary of Parasha & Halacha Shiur for Parashat Yitro by Dayan Shlomo Cohen

Partners in Crime: Stealing in Pairs

We are commanded not to steal. According to *Maran*, who follows the *Rambam*, that includes stealing from a non-Jew. However, the *Rama* permits keeping a *Hafka'at Halva'a* (forgotten debt) or mistake of a *Goy*, unless there is a chance of *Hillul Hashem*.

The *Sm"a* writes, that not paying from merchandise is not considered a "forgotten debt" but rather stealing, and is forbidden. *Rama* says that the mistake we permit must be made by the *Goy*, but one may not trick a *Goy*. The *Be'er HaGolah* writes that money made from such mistakes is never blessed, whereas, people who have returned the money in place of *Hillul Hashem* merited great *Beracha*.

The *Havot Ya'ir* was asked about two thieves who conspired to steal silverware, one climbed up the ladder, packed up a sack and threw it down to his friend who drove off and sold \$100,000 worth of merchandise for \$20,000 in the black market. One of them was caught, and was obligated to pay \$100,000 for the real value of the merchandise.

Many years
later

(continued
on back)

spotlight

Medical Halacha
Center Seminar on RPL

The *Bet HaVaad Medical Halacha Center* recently hosted an informative seminar for Rabbanim on the topic of recurring pregnancy loss featuring Senior Medical Halacha Posek, Rav Moshe Zev Feldman, shlit"a; Dr. Isaac Glatstein, Associate Medical Director of Boston IVF; and the emotional perspective, by Dr. Elyahu Weinschneider.

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even where the act is unintentional and the death penalty doesn't obtain (*Ketubot* 35). Rav Hirsch (*Shemot* 21:22) sees in this a great principle of justice: As evident in *BeMidbar* 35:31, no amount of money can compensate for murder. For the court to exact payment for the illicit killing of someone created in the Divine image would be an affront to human dignity.

Even where the crime comprises the murder of one person and financial damage to another (e.g., an arsonist who burns down a house and kills someone inside who isn't the homeowner), *Bet Din* doesn't order compensation for the monetary damage. Murder and theft are so distant from each other that they cannot appear in the same case file. Murder is adjudicated by a minor *Sanhedrin* (rabbinic court) of 23 judges, each with *Semicha* (ordination) in an unbroken chain from Moshe *Rabbenu*. Financial claims are judged by three, no *Semicha* required. And ne'er the twain shall meet.

Equating phone theft to murder is an outrage to *Tzelem Elokim*.

Although *Bet Din* cannot collect payment even if the act was unintentional and the perpetrator is not actually subject to death, he owes the money and must pay it *LaTzet Yede Shamayim* – to fulfill his obligation to Heaven. For this reason, as the *Ketzot HaHoshen* (28) demonstrates from *Rashi* (*Bava Metzia*

91a), the victim is permitted to seize payment nonviolently. However, if the perpetrator was actually subject to death, like one who murdered intentionally and also damaged property, there is no monetary obligation of any kind (*Ketzot* *ibid.* citing *Yam Shel Shelomo* B.K. 6:6). A death sentence is the ultimate seizure; it wouldn't make sense to "additionally" take his money.

Likewise, in the case of a *Rodef* (pursuer), whom a bystander must kill if that is necessary in order to save the pursued. Because he was subject to death, there is no financial obligation at all. The *Ketzot* proves this from Rav's refusal to accept his property back from the man who burgled his home (*Sanhedrin* 72). A burglar is considered a *Rodef* and may be killed (*Shemot* 22:1), because we assume he comes prepared to kill the homeowner if he's confronted.

* * *

Last week, Jair Bolsonaro assumed the presidency of Brazil. During the entire election campaign, only once was he stabbed nearly to death. (He survived despite organ damage and 40% blood loss.)

Elected on a platform of a return to Biblical values, Bolsonaro roundly rejects secularism and leftism. Maybe there's hope for Brazil after all...

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they both became *Ba'ale Teshuva* and they met on *Erev Yom Kippur!*

The thief who was caught told his friend he owes him \$50,000 for his share of the theft.

The *Havot Ya'ir* says that we may compare this to two "business" partners who borrowed jointly, where, if one was made to pay the full

loan the other must reimburse him for half. Or we can compare it to two damaging partners, where, if only one was caught, it would depend whether each one could've caused the damage on their own right. Thus, in our scenario, if each could've stolen on their own right, it would seem that each one is really responsible for the full value, whereas if they could've only stolen together, then each one is only responsible for a half.

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מסכת חולין

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