

S·E·P·H·A·R·D·I·C HALACHA JOURNAL

Family, Business, & Jewish Life Through the Prism of Halacha



VOLUME 5779 · ISSUE XX · PARASHAT TETZAVE · A PUBLICATION OF THE SEPHARDIC HALACHA CENTER

MOB RULES:

Does the Torah Sanction Vigilante Justice? PART III

Adapted from a shiur by Rav Yosef Greenwald

GOING ALONE

Bet Din has a side job in addition to *Mishpat* (justice): to serve as *Shotrim* – officers (Devarim 16:18). This function requires *Bet Din*, in certain circumstances, to intervene to protect society from those that would menace it. If a troublemaker were to make a practice of causing damage via *Gerama* (indirectly), *Bet Din* could apply social pressure or excommunicate him, but that is not a *Mishpat* function.

Likewise, on the *Dine Nefashot* (capital offenses) side of the aisle, if a murderer is known to *Bet Din*, it can act to protect the public by placing him in circumstances that will lead to his death (*Mishna, Sanhedrin* 9:5). This is a *Halacha L'Moshe MiSinai* (a law not written in the Torah, but handed to Moshe and down the generations). That is not part of the court's *Mishpat* role.

There is a *Halachic* concept of “adjudicating for oneself” (*Bava Kama* 27) but it is quite limited in scope. One may stop someone from stealing his property, even to the point of physically removing him. The *Nimuke Yosef* understands that the victim is empowered by *Bet Din* to act as its emissary, but according to the *Rosh*, the *Halachic* mechanism here is that in a clear-cut case, one may actually rule on the matter himself. But even this authority is tightly circumscribed: the *Mordechai*, citing *Maharam M'Rottenberg*, says that one may seize his own property but not collect a debt.

An example: If your bicycle has been stolen, you may enter the thief's garage and take it. But if the bicycle is gone, you may not grab its value in cash from the kitchen drawer.

Were that to be permitted, he says, anyone could steal with impunity by claiming he's owed the money, and the rule of law would collapse. The *Rosh* in *Bava Kama* writes that a creditor can't seize property for collateral without resort to *Bet Din*.

May I tow someone's car if he regularly parks in my driveway and he ignores repeated warnings? Probably. May I physically remove someone who is damaging my property? Yes.

The *Mitzva* to rebuke another Jew for his wrongdoing (*VaYikra* 19:17) includes the responsibility to prevent it where possible. Suppose someone is about to smoke on *Shabbat*. I may be permitted to slap his hand to cause the cigarette to fall out, but I certainly may not beat him up to deter future violation. This, too, is not about justice or punishment.

The *Ketzot* and the *Netivot* (3) disagree whether an individual may force someone to perform a positive *Mitzva* (as *Bet Din* must). R' Moshe Sternbuch writes that one who knows his friend violates *Issurim* with one of his possessions he may break it. Prevention, not punishment.

The defense of oneself or others is a legitimate use of force, in fact a required one (*Rambam Hil. Rotzeah* 1:6), but lethal force may be applied only if the threat cannot be averted by nonlethal means (*Sanhedrin* 84a). The *Mishneh LaMelech* (*Hil. Rotzeah* 1:15) writes that the pursued man himself is not so restrained. (Note that defense from attack is very different from the after-the-fact vigilante justice we discussed in Part I.)

What if someone threatens to kill a man if he doesn't comply with an arbitrary demand? “I don't like your tie. Remove it or I'll kill you.” Is this a case of self-defense, or, because the threat can be eliminated by simply comply-

(continued on back)



A Parasha & Halacha Shiur Summary, Parashat Tetzave, by Rabbi Moshe Medrez

Holy Oil: Understanding the Miracle of Hanukkah

The Gemara in *Shabbat* 21b relates the story of the miracle of *Hanukkah*. *Maran* asks the famous question (which was asked by many *Rishonim*): why is *Hanukkah* 8 days and not 7 days if they found oil that would last for at least the first day?

The *Tosafot HaRosh* gives his own three answers: 1. They divided the oil into eighths, thus every night was a miracle. 2. They poured all of the oil in the Menorah on the first night, but the amount left in the Menorah didn't go down. 3. They poured the contents of the jug into the Menorah, but found that the amount of oil in the jug remained the same.

Rav Chaim Brisker asks on the third answer, how can such oil be used, if it is produced by a miracle and is not a physically sourced oil? Rav Chaim concludes that the answer has to be that the miracle enhanced the ability of the oil to last for eight days and not that the miracle “produced” oil.

The Gemara in *Horayot* and *Keritut* discusses the many miracles that involved the *Shemen HaMishcha* – the oil that was used to anoint the *Mishkan* and its vessels as well as the Kohanim.

The *Havatzelet HaSharon* quotes Rav David Soloveitchik, grandson of Rav Chaim Brisker, who claims his grandfather never said what is attributed to him. He adds, that the Gemara in *Menahot* says that wheat that is brought

(continued on back)

(continued from front pg.)

ing, must the threatened party give in? The *Galya Masechta* (Y.D. 5; see also *Teshuvot Helkat Yo'av, Kuntres He'arot* 17) takes the former view. He proves it from the Gemara that says that Zimri would've been allowed to turn and kill Pinhas out of self-defense, even though Zimri could have eliminated the threat from Pinhas just by stopping what he was doing. (This is relevant to the controversial "stand your ground" laws in many U.S. states and the de-

bate about whether there ought to be a "duty to retreat," as required by common law.) Some question whether this would apply to someone like Zimri, who was engaged in forbidden behavior (see *Minhat Shelomo* Vol. 1, 7:2).

* * *

This concludes the series. May we soon merit to see the fulfillment of the promise that Zion will be redeemed through mishpat (Yeshaya 1:27).

(continued from front pg.)



miraculously is acceptable to be used for a *Minha*. He says that the reason

must be that as long as the miraculous item is exactly like the one that is naturally found, it is acceptable.

The *Gemara* in *Sanhedrin* discusses two *Amoraim* who were studying the secrets of the Torah and created a calf. The *Shlah* in *Parashat VaYeshev* writes that it didn't require *Shehita*,

unlike our previous assertion. Another *Gemara* writes that if it would be possible that a non-kosher item would fall from Heaven it would be permissible. How then do we reconcile all of these sources?

The *Havatzelet HaSharon* writes that there is a special Halacha with regards to Menorah oil that it must be crushed. This seems to be the Rambam's opinion as well. Thus we can understand why miraculous oil would be unacceptable.

When your heter iska needs to satisfy the law and The Law.

OUR CHOSHEN MISHPAT PROFESSIONALS WILL GET IT DONE

CONTACT THE BUSINESS HALACHA DIVISION 1.888.485.VAAD(8223) EXT. 309
EMAIL: SERVICE@BAISHAVAAD.ORG

The **Daf** in **Halacha**
Bring the Daf to Life!

מסכת חולין

RAV YOSEF GREENWALD
Dayan, Ba'is HaVaad

RAV CHAIM WEG
Rosh Kollel, Kollel Zichron Gershon

- דף פ' Mother-in-Law or Wife's Mother?
- דף פ"א Between Man and Animal
- דף פ"ב Shechitah Dichotomy
- דף פ"ג Shechita & Kisui HaDam: A Comparative Study
- דף פ"ד Living Within Your Means
- דף פ"ה Unsuitable Slaughter: Studies in Shechita She'eina Re'uya
- דף פ"ו Davening While Dining?

HAVE A QUESTION?

HALACHIC GUIDANCE in all MEDICAL MATTERS

המרכז לרפואה ע"פ הלכה עם ייבית חינוך
M·E·D·I·C·A·L HALACHA CENTER

Hotline 732.276.2183
Email INFO@THEMEDHC.ORG



Business Halacha Services



Bet Din & Dispute Resolution



Zichron Gershon Kollel for Dayanut



Medical Halacha Center



Kehilla & Bet Din Primacy Initiative



Halachic Awareness & Education



S·E·P·H·A·R·D·I·C HALACHA CENTER

105 River Ave, #301, Lakewood, NJ 08701
732.9300.SHC (742)
www.theshc.org
info@theshc.org

MIDWEST DIVISION RABBI DOVID ARON GROSS

A 3718 SHANNON ROAD CLEVELAND, OH 44118

P 216.302.8194

E MIDWEST@BAISHAVAAD.ORG

BROOKLYN DIVISION RABBI DOVID HOUSMAN

A 2238 85TH STREET BROOKLYN, NY 11214

P 718.285.9535

E RDHOUSMAN@BAISHAVAAD.ORG

SOUTH FLORIDA DIVISION RABBI YOSEF GALIMIDI, MENAHEL RABBI MEIR BENGUIGUI, SAFRA D'DAYNA

A SAFRA SYNAGOGUE 19275 MYSTIC POINTE DR AVENTURA, FL 33180

E BD@BAISHAVAAD.ORG