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GENERAL ACCOUNTING:

Holding Puppet Masters of Terror Accountable

Rav Yitzchak Grossman

President Trump recently reported on the elimination of arch terrorist, Abu Bakr Baghdadi, the leader of ISIS, and the world responded with a sigh of relief. Although Baghdadi was guilty of murder, torture and assorted depravities, he was targeted in his capacity of leadership-responsible for untold cruelty and murder on a mass level. Here we will explore the underlying question of whether a fomentor and financier of terror can be held *halachically* liable for the actions of its proxies and agents. In modern Western law, an instigator or plotter can be held civilly and criminally liable under the general categories of aiding and abetting and participating in a conspiracy, as well as the more specific statute providing material support to terrorists; in *halachah*, we have two possible theoretical frameworks to consider: agency (*shlichus*) and indirect causation (*garmi*).

SHLICHUS

Generally, the rule that “there is no agent for a sinful matter” forecloses both criminal and civil liability for a principal for the transgressive action of his agent. One who orders his agent to commit murder is therefore not criminally liable (under terrestrial law, although it is taken for granted that he will be held responsible by Heaven), and one who instigates and plans (but does not directly participate in) a burglary is therefore not civilly liable.

Some authorities, however, assert a major exception to this principle in the case of an agent who has an established history (“*muchzak be’kach*”) of engaging in such activity. The Talmudic rationale for the inapplicability of

agency to sinful behavior is: “the words of the Master and the words of the student, to whose words shall we listen?”, which these authorities apparently understand to mean that the principal can claim that he did not really believe that the agent would obey him. This does not apply in the case of an agent with a demonstrated disregard for the “words of the Master”.

Others, however, strongly disagree, maintaining that the inapplicability of agency to sinful conduct is simply a Divine decree, and therefore absolute and independent of any expectations of the principal.

It follows that one who incites a novice terrorist to perpetrate an act of terrorism would definitely not be liable under the theory of agency, whereas the liability of one who conspires with a veteran, professional terrorist would depend on the aforementioned dispute.

GARMI

There is generally no criminal or civil liability for a crime or tort perpetrated indirectly (*grama*). A major exception is civil liability for the subcategory of indirect causation the Talmud terms *garmi*, but there is much dispute over the definition and parameters of this class. Some posit conceptual criteria, that what distinguishes *garmi* is that the damage caused is “certain”, “immediate” and “perpetrated by [the tortfeasor] himself”, while others explain the distinction pragmatically, that the liability for *garmi* is simply a rabbinic penalty imposed in situations that were particularly “common” and “frequent”. The *Terumas Ha’Deshen* therefore rules that in the case of a conspiracy to commit theft, a non-participating conspirator is not liable under the rubric of *garmi* as none of the above criteria are satisfied: the injury (in the case of a Jewish actor) is uncertain, as the would-be

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By: Rav Yosef Jacobovitz

CANDLE LIGHTING: CANDLES ONLY?

Yitzchak brought Rivka home and saw a special blessing in Rivka’s mitzvah of *hadlakas neiros*, similar to his mother, Sarah, in that it was not extinguished from shabos to shabos.

What is the minimum requirement as a fuel?

Shulchan Aruch - all oils and waxes are permitted; yet, olive oil is preferable based on *mesorah*.

Mishna Berurah - olive oil is preferable only because it kindles well. If olive oil isn’t readily available, one may use wax candles.

Rav Moshe Feinstein- the clearest flame is the most preferred.

The Steipler Gaon - used wax candles since it lit better or equal to oil.

The Baal HaTurim - Parshas Tetzave- Tetzave is the gematria of *nashim tzavei-* that they too should light with oil.

Rav Shmuel Kamenetzky- based on above,

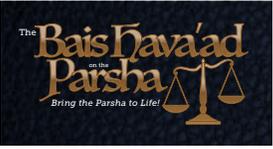
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one would need *hataras nedarim* to change their *minhag* from olive oil to candles. However, if one does not have a particular *minhag*, it is not necessary to use specifically olive oil.

WHEN ONE CANNOT LIGHT [I.E. A HOSPITAL]

Electric bulbs: Rav Chaim Ozer Grodzensky-an incandescent bulb is a regular flame.

Rav Henkin agrees.

Rav Shlomo Zalman Auerbach distinguishes between a battery operated device [i.e. a flashlight] where the entire energy source is present and ignited prior to shabos. A wall based ac current has only a small por-

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criminal, even if he has an established criminal history, may nevertheless repent and refrain from perpetrating the crime; it does not immediately follow the conspiracy, but occurs later; and it is not a common occurrence. All of these considerations seem to apply equally to terrorist conspiracies, except for the first, with respect to non-Jewish terrorists.

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