

Arms' Reach: Weapons for Sale

*Adapted from the writings of Dayan Yitzhak  
Grossman*

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The *New York Times* reports:

It is widely regarded as the world's most potent spyware, capable of reliably cracking the encrypted communications of iPhone and Android smartphones.

The software, Pegasus, made by an Israeli company, NSO Group, has been able to track terrorists and drug cartels. It has also been used against human rights activists, journalists and dissidents.

Now, an investigation published Friday by The New York Times Magazine has found that Israel, which controls the export of the spyware, just as it does the export of conventional weapons, has made Pegasus a key component of its national security strategy, using it to advance its interests around the world.

The yearlong investigation, by Ronen Bergman and Mark Mazzetti, also reports that the F.B.I. bought and tested NSO software for years with plans to use it for domestic surveillance until the agency finally decided last year not to deploy the tools.[1]

The *Times* investigation places Israel's Pegasus strategy within the context of its broader use of arms export policy in support of its national interest:

For Israel, the weapons trade has always been central to the country's sense of national survival. It was a major driver of economic growth, which in turn funded further military research and development. But it also played an important role in forging new alliances in a dangerous world...

By the mid-1980s, Israel had firmly established itself as one of the world's top arms exporters, with an estimated one in 10 of the nation's workers employed by the industry in some way. All of this bought good will for Israel from select foreign leaders, who saw the military aid as essential to preserving their own power. In turn, those countries often voted in Israel's favor at the United Nations General Assembly, the Security Council and other international forums. They also allowed the Mossad and the Israel Defense Forces to use their countries as bases to launch operations against Arab nations.[2]

In this article, we consider the Torah view of the sale of arms to non-Jews.

The prohibition

The Gemara cites a *breisa* prohibiting the sale of arms, as well as various implements of punishment, to non-Jews:

One may not sell [them] weapons or the auxiliary equipment of weapons, and one may not sharpen weapons for them. And one may not sell them stocks, or neck chains, or foot chains, or iron chains.[3]

## Dispensations

The Gemara proceeds to give several dispensations from this general prohibition:

### 1. Defensive weapons and practical considerations (avoiding animosity)

The Sages taught: One may not sell [them] shields. And some say: One may sell shields to them. What is the reason (for the first view)? If we say it is because they protect them in wartime, if so, then even wheat and barley should not be sold to them. Rav said: If it were possible (to avoid selling produce to gentiles without incurring their animosity), it would indeed be prohibited. (Since limiting sales to gentiles to such an extent would cause great harm, it is only prohibited to sell them shields.[4])

Although according to the first opinion, even defensive military equipment may not be sold to non-Jews, and accordingly even selling them provisions should logically be prohibited, the latter is permitted, because refusing to sell them provisions would trigger their animosity (*eivah*).[5] (It is unclear whether this consideration would justify even the sale of offensive weapons in circumstances where refraining from such sales would also cause *eivah*.) In any event, the Gemara proceeds to rule in accordance with the latter view that the sale of shields is generally permitted (i.e., even in the absence of *eivah*).

### 2. Dual-use items

R' Ada bar Ahava says: One may not sell [them] blocks of iron. What is the reason? Because they forge weapons from them. If so, even hoes and axes! Rav Zvid said, (R' Ada bar Ahava meant only) Indian iron (which is of a superior quality and used only for crafting weapons).

The Gemara is clear that dual-use items may be sold to non-Jews, and only items with solely military use may not be sold.

### 3. Customers that protect us

And as for the fact that nowadays we do sell all weapons, Rav Ashi said: We sell the weapons to the Persians, who protect us.

R' Yehuda Dovid Bleich

R' Yehuda Dovid Bleich applies this *sugya* to today's situation as follows:

It would logically follow that the sale of arms is permitted not only to the armed forces and police of one's own country, but also to other nations actively engaged in protecting the security of a Jewish state or of a Jewish populace. Hence sale of arms to nations allied with Israel by means of a formal or informal security pact would be justified. Absent such agreement, arms sales would be forbidden unless absolutely necessary by virtue of other considerations in order

to protect life, e.g., as part of a barter arrangement designed to secure materiel necessary for self-defense. Accordingly, the halachic propriety of the arrangements surrounding each Israeli sale of arms would have to be examined in light of the above factors and considerations. R' Chaim David Halevi, the Sephardic Chief Rabbi of Tel Aviv (*Aseh Lecha Rav* I:19) opines (perhaps overconfidently) "...there is no doubt that [Israel engages in such sales] on the basis of security considerations and takes into account the benefit which will arise to us therefrom." [6]

R' Shlomo Aviner

R' Shlomo Aviner, however, flatly prohibited Israeli arms sales to the government of South Sudan during the South Sudanese Civil War. He stoutly rejected the realpolitik justifications of such sales on the grounds of their benefit to the Israeli economy and its diplomacy, insisting that "money is not everything in life" and that "even politics has limits":

**Q:** Is this a matter of ethics or halacha?

**A:** Both. And anyway, everything unethical is also against halacha...

**Q:** According to this, it is prohibited to sell arms not merely to them, but also to all nations in the world and to all foreign countries?

**A:** If it's a normal country, that does not commit crimes against humanity, but functions in a normal fashion, then it is permitted to sell to it, as per the words of the Me'iri, (that the prohibition applies only to) "savage pagans."

**Q:** And this is the situation in South Sudan?

**A:** Unfortunately, yes. There is a cruel civil war there, going on for a long time. Each side murders the other. We sell weapons to the government. The government's forces, they do not receive wages. Their wages are anything that they succeed in plundering, and all the women that they seize. They descend upon a small village, kill all the men, take by force all the women and girls to marry them, or for slaves...and a woman who resists is killed. This is frightful! And we sell them weapons and train fighters for them?! *Oy va'avoy!*...

**Q:** And in other countries they do not do this?

**A:** They, too, are not so righteous, and it happens there, too, and that is also frightful and terrible. But there are degrees of villainy...

**Q:** But we need *parnasah*. We are in a time of war, we must produce arms, and the IDF cannot acquire all the output of the military industry.

**A:** Quite correct. But money is not everything in life...

**Q:** But it's not just a matter of money, but of political connections.

**A:** Correct...This is also the reason for the connection with South Sudan, a Christian country, which is an ally of ours, as opposed to Sudan, which is a Muslim country, an ally of Iran. All this is true and settled and correct. But even politics has limits... [7]

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- [1]Michael Levenson. F.B.I. Secretly Bought Israeli Spyware and Explored Hacking U.S. Phones. The New York Times.  
<https://www.nytimes.com/2022/01/28/world/middleeast/israel-pegasus-spyware.html>.
- [2]Ronen Bergman and Mark Mazzetti. The Battle for the World's Most Powerful Cyberweapon. The New York Times.  
<https://www.nytimes.com/2022/01/28/magazine/nso-group-israel-spyware.html>.
- [3]Avodah Zarah 15b.
- [4]Ibid. 15a-b.
- [5]Rashi ibid. s.v. *Ee efshar*.
- [6]R' Y.D. Bleich, Survey of Recent Halachic Periodical Literature—Sale of Arms, in Tradition, 20(4), Winter 1982, p. 359. Cf. R' Joseph Polak, Arms Transfers, the State of Israel, and Halacha, ibid., 24(3), Spring 1989, pp. 67-82.
- [7]From "The Sale Of Arms to Corrupt Countries—Do Not Sell Arms to Corrupt Countries," an interview by R' Mordechai Tzion of R' Shlomo Aviner (translated from the Hebrew)