

Shmuel Silverberg, a nineteen-year-old yeshiva student, was fatally shot last week in front of Yeshiva Toras Chaim in Denver, in the culmination of a crime spree that included two carjackings and another shooting that left a victim critically injured.[1] There have been a number of high-profile murders of Jews in the United States in recent years, including Pittsburgh, Poway, and Jersey City, as well as numerous acts of nonlethal assault and vandalism.[2] This author has heard that some Orthodox Jews have begun carrying firearms for protection. In this article, we explore various Torah perspectives on the bearing of arms for self-defense.

### **Weapons: reprehensible or ornamental?**

The Mishnah records a dispute about whether one who bears arms in a public domain on Shabbos is liable to bring a sin offering. R' Eliezer maintains that the weapons are ornaments for him, so the bearer is not liable,[3] while the other sages maintain that he is liable, because:

[Weapons] are nothing other than reprehensible, as it is written: "And they shall beat their swords into plowshares and their spears into pruning hooks; nation will not raise sword against nation, neither will they learn war anymore." [4]

In a *braisa* cited by the Gemara, R' Eliezer defends his position by explaining that although weapons are currently ornamental, they will nevertheless be eliminated in the Messianic era because they will become unnecessary, and they will thus no longer have even an ornamental function, just as "a candle in the afternoon" does not.

The Gemara proceeds with an alternative explanation of R' Eliezer's view: He maintains that even in the Messianic era, weapons will **not** be eliminated, in line with the opinion of Shmuel that "the only difference between this world and the Messianic era is subjugation of the governments," i.e., society will not change, and wars will continue to be waged.

The Gemara concludes its discussion by adducing a source for R' Eliezer's position that weapons are considered ornaments from a *pasuk* in Tehillim: "Gird your sword upon your thigh, mighty one, your glory and your splendor." [5][6]

We have, then, a fundamental dispute regarding the Torah's attitude toward weapons: R' Eliezer considers them ornaments, at least in the non-Messianic world, but the other sages consider them reprehensible, a necessary evil, and thus presumably something to avoid unless absolutely necessary.

According to R' Avraham Yitzchak Hakohen Kook, R' Eliezer's position is that even in our non-Messianic world, the purpose of weapons is not to spill blood, but on the contrary, to maintain peace via deterrence and a balance of power, which are necessary in our era, in which international

“opposition” (*nigud*) is essential and productive for social development. This positive function of weapons is what makes them considered ornaments.[7]

### **Muktzeh**

Although the halacha does not follow the view of R' Eliezer,[8] Rav Kook's perspective that a weapon's primary function is deterrence rather than shooting arises in a different context: the *muktzeh* status of firearms. Some *poskim* maintain that a firearm is *muktzeh* as a *kli shemelachto le'issur* (a utensil whose function is prohibited on Shabbos), because its primary function is to be fired,[9] but the Shmiras Shabbos Kehilchasah quotes R' Shlomo Zalman Auerbach as stating that:

It seems that [carrying] a rifle or pistol in order to cause fear is actually considered *tzorech gufo* (handling an item for the purpose of making use of it, which is permitted for a *kli shemelachto le'issur*) (and it seems that not during wartime, most of their utilization is merely to intimidate).[10]

Rav Auerbach seems to be saying that a firearm is actually a *kli shemelachto le'heteir*, because outside of wartime, its primary function is deterrence rather than shooting.

Similarly, the Klausenberger Rebbe initially assumes that a firearm is a *kli shemelachto le'issur*[11] and cites various *Acharonim* who so categorize weapons like swords,[12] but he ultimately concludes that “in our times, when most of those who bear arms do so only to impose fear, and on the contrary are prohibited from using them,” a weapon may be characterized as a *kli shemelachto le'issur uleheteir*, which has the same status as a *kli shemelachto le'heteir*. [13]

### **Hotza'ah**

Returning to the Gemara's question of carrying weapons on Shabbos, the Or Zarua rules that when there is fear and rumor of impending enemy attack, it is permitted to carry weapons “to guard and to make a commotion in the city” in order to forestall the attack, because “we are not meticulous regarding *pikuach nefesh*.”[14] It is difficult to establish, however, how substantial the danger must be in order to qualify as *pikuach nefesh*. Over the past century, many *poskim* have considered the permissibility of carrying weapons on Shabbos, in various circumstances of necessity and danger;[15] analysis of their rulings and the numerous halachic questions involved is beyond the scope of this article.

[1]Horrific Tragedy: Crime Spree Ends with Yeshiva Bochur Shot and Killed in Front of Denver Yeshiva. Yeshiva World News.

<https://www.theyeshivaworld.com/news/featured/2000926/horrific-yeshiva-bochur-shot-and-killed-in-front-of-denver-yeshiva.html>.

[2]See, e.g., Ruth Graham and Liam Stack. U.S. Faces Outbreak of Anti-Semitic Threats and Violence. The New York Times.

<https://www.nytimes.com/2021/05/26/us/anti-semitism-attacks->

violence.html;

Nicole Chavez, Brynn Gingras, and Kristina Squeglia. Anti-Semitic attacks are being reported in US cities as tensions flare over the Israeli-Palestinian conflict. CNN.

<https://www.cnn.com/2021/05/21/us/anti-semitic-attacks-new-york-los-angeles/index.html>;

Charles Fain Lehman. The Last Acceptable Hate Crime. The Washington Free Beacon.

<https://freebeacon.com/latest-news/the-last-acceptable-hate-crime/>.

[3]Me'iri implies that R' Eliezer nevertheless prohibits bearing them *lechatchilah*, and this is the explicit position of Magein Avraham *siman* 301 s.k. 27. Meleches Shlomo is uncertain about this. R' Prachiah ben Nissim interprets R' Eliezer to permit bearing arms even *lechatchilah*, but he understands that the Mishnah actually records two different dissenting views: one that merely forbids the practice, and one that maintains that it engenders sin-offering liability. Cf. Machatzis Hashekel *ibid.*; R' David Lau, Tiltul Kli Neshek BeShabbos.

[4]Shabbos 6:4.

[5]Tehillim 45:4.

[6]Shabbos 63a. See Shu"t Igros Moshe O.C. *cheilek* 4 *siman* 81.

[7]Ein Ayah *ibid.*

[8]Rambam *Hilchos* Shabbos 19:1; Or Zarua *Hilchos* Shabbos *siman* 94 *os* 13; Tur O.C. *siman* 301.

[9]See R' Gil Student, Guns on Shabbos, Hirhurim-Musings.

[10]Shmiras Shabbos Kehilchasah (new edition) Ch. 20 n. 29 p. 298.

[11]Shu"t Divrei Yatziv O.C. *cheilek* 1 *siman* 148 *os* 1.

[12]Shu"t Zera Emes *cheilek* 3 *siman* 24 s.v. Tshuvah; Mishneh Lechem (Emden, second edition of Lechem Mishneh) Shabbos *ibid.*

[13]Divrei Yatziv *ibid.* end of *os* 4.

[14]Or Zarua *ibid.* This ruling is codified by the Rama in O.C. 329:6.

[15]Shu"t Zeicher Simcha (Bamberger) *siman* 35; Shu"t Chelkas Yaakov O.C. *siman* 96; Divrei Yatziv *ibid.*; R' Avraham Avidan, Tiltul Dvarim Chiyuni'im Lelo Eiruv, Techumin Vol. 4 from p. 227; R' Re'eim HaKohen, Tiltul Batzava, *ibid.* from p. 234 (the latter two sources are cited by Rav Lau in n. 20 of his article); Rav Lau *ibid.*; R' Chaim Eisenstein, Halacha from the Daily Daf: Shabbos 63—Can a soldier carry his gun on Shabbos even when there is no danger?