

What Do We Do When Secular Law Diverges from Halacha?

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Question: There are times when the secular laws of inheritance diverge from halacha. How do we deal with those cases?

Answer: There is a very strong consensus amongst the Poskim that we do not follow secular law when it conflicts with the halachos of *yerusha*. The Rashba has a fiery *teshuva* about this with very strong language, such as that Torah would have to gird itself in sackcloth if we would follow secular law, and *chas v'shalom* for us to do so. While there are a couple of outlier opinions who say that we do follow *dina d'malchusa*, they are very much the minority.

There is even a *teshuva* in Torah Lishma, written by the Ben Ish Chai, where he endorses an idea in theory that if a woman tries to go to a secular court to take inheritance money that she is entitled to according to secular law but not according to halacha, the halachic heirs may forge a will to remove her claim. He says that in theory if one is permitted to lie for *darchei shalom*, one certainly is permitted to do so in order to defend the Torah. However, he strongly recommends thinking twice before doing this in practice because it could lead to a *chillul Hashem*.

So, it is clear that the general consensus is that we follow Torah law over *dina d'malchusa*. It is not 100% clear if we do this when there is a will, but if there is no will, it is clear that the strong consensus is that we follow the halacha and not secular law.