

Rabbi Lior and Torat HaMelech

by: Rabbi Jeremy Rosen

We like to pride ourselves, we Jews, that our Orthodox firebrands aren't as violent as the Muslims. The more Orthodox you get in Islam, the more Jihad turns from peaceful to violent. But the more Orthodox in Judaism, the more the tendency toward the spiritual and the passive (Chasidic pyromaniacs excluded). The exceptions to this rule are the rabbis of Hebron/Kiryat Arba. Not all nationalist rabbis aggressively incite violence; think of Rav Fruman of Tekoa. But no one illustrates the moral evil of extremism better than some of them.

A few years ago a book purporting to be a rigorous halachic tome called Torat HaMelech (The King's Law) was published by (politically) right-wing Rabbis Yitzchak Shapira and Yosef Elitzur. It caused a furor. The authors argued that the Biblical prohibition "you shall not murder" applies only to a Jew who kills a Jew; non-Jews were described as "uncompassionate by nature" and attacks on them "curb their evil inclination". Babies and children of Israel's enemies may be killed, since it is clear that they will grow to harm Jews. Apologists argued that they used legitimate sources. They did. But over three thousand years in any system it would be surprising if there were not all sorts of minority views. They concluded without context or presenting the overwhelming body of halachic literature against their contentions.

Some well-known Orthodox rabbis initially wrote encomia in praise of the authors, which they subsequently retracted once they actually read the text. The book was (and is) inflammatory, dishonest and as much a distortion of Judaism as the ravings of anti-Semites who accuse Judaism of condoning murder, rape and theft so long as the victim is a non-Jew. But then remember these are men who regard Baruch Goldstein, who gunned down unarmed praying Muslims, as a hero. It was seized upon by all those sick and disturbed impressionable young nationalist fanatics as an excuse for violence and disobedience.

I understand why people can become morally crippled by the perpetual hatred and prejudice coming from around the world and the incitement, coldblooded murder and loss of loved ones they experience daily. These experiences can and do drag otherwise balanced minds towards extremism and they go both ways! I feel something of this pressure myself on occasion. But I have always tried my best to follow the advice of Shimon Ben Shetach in Pirkei Avot 1:9, "Be careful what you say lest others learn to lie from them."

The issue came back into the news recently because another Kiryat Arba/Hebron rabbi, Dov Lior, was rightly called in by the authorities, suspected of breaking the state law against incitement. He has repeated the distorted conclusions of Torat Hamelech and endorsed the book. Young hot head activists attempted to block the entrance to Jerusalem in protest.

A recent [Haaretz editorial](#) said:

The arrest of Rabbi Dov Lior...has aroused worrisome reactions. Those who favor freedom of expression will of course find it difficult to accept as self evident the arrest of a person, any person, for things that he said or wrote. An open and liberal democratic society is not tested by its support for speakers or writers of texts of which it approves, but by providing an opportunity to say harmful things, as infuriating and subversive as they may be, about it and even against it.

To its credit, Israel has a Supreme Court that can, if necessary, act as a moral counterweight to religious and fanaticism (just as the religious can occasionally act as a counterbalance to the excesses of the secular).

Nevertheless, the claims of these rabbis need answering, and for anyone fluent in Hebrew I can heartily recommend [Ariel Finkelstein's thorough and impressive Derech HaMelech](#).

But the record needs putting straight for the world in general. It is true that the Bible says some unpalatable things regarding the treatment of Canaanites. But the truly great rabbis who lived over 2000 years ago agreed that these Biblical commands no longer applied. Regardless of how corrupt or dangerous the Canaanites might have been, one can no longer accurately identify them and therefore the laws were no longer applicable (Mishnah Yadayim 4:4).

To lump all non-Jews together and treat them the same as Canaanites or idol worshippers flies in the face of reason, morality, Torah, and all major halachic experts. It is no different than regarding modern homo sapiens as Neanderthals.

Secondly, the same rabbis insisted on maintaining good relations with non-Jews and instituted a halachic principle of Eyvah, avoiding enmity (Tosfot, Avodah Zara 2a), and Darkei Shalom, encouraging peaceful coexistence (Gittin 61a). These principles superseded those laws that gave preferential treatment to members of a self-ruling Jewish community. Indeed the great Chafetz Chaim said that this alone made killing anyone outside of Judaism the worst kind of crime.

Thirdly, they accorded equal civil rights to any non-Jew accepting the seven Noachide commandments of very basic moral obligations, even where the conditions for the egalitarian Biblical law of the Ger Toshav (a non-Jew living amongst Jews) had not been met.

Fourthly, medieval and early modern rabbis like the Maharal, Rav Lowe of Prague, drew a very definite distinction between idol worshippers (in the ancient sense of people who had no moral or civil constraints, but acted solely on the basis of pagan commands mediated by magicians, pagan priests, and random chance), and, on the other hand, those non-Jews "constrained by moral and legal codes" (Meiri, Bava Kama 113b).

It is true to say that when Christianity and Islam began to claim superiority

and imposed exclusionary laws on us and persecuted us, Jewish self-protection responded by asserting its primacy over persecutors. Any civil distinction between Jew and non-Jew was only relevant as a protective measure and only when we ourselves were discriminated against first. The preference they gave to fellow Jews were no different than the rights any citizen might have had then or now over citizens of other countries or cultures.

Self-defense remains, to this day, the one area where killing is halachically allowed. But this applies Jews just as much as non-Jews. Besides, no one suggests you may generalize halachically and assume everyone of any group or nationality either hates you or wants to kill you. And one is still constrained by the Law of the Land, even in Israel.

In Israel today, of course, there is a unique political dimension. And Torat HaMelech is an overtly political tract, not a genuine legal opinion. That is why not one acknowledged giant in the Charedi world supports it, any more than under the worst excesses of Christian and Muslim persecution no authority justified gratuitous killing of anyone pagan or otherwise.

I pray that we remain strong enough to protect ourselves against our declared enemies of whatever age. But I also pray that we do not bring ourselves down to their level, and above all that we do not twist and distort our tradition to validate inhumanity against anyone. As we are now in the three weeks of mourning that lead up to the Ninth of Av, we should be reminded that twice our moral shortcomings led to the loss of a Jewish state.