YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

**Rav Aviad Tabory**

**Shiur #21:**

**25 February 1994**

**Massacre at *Me'arat Ha-Makhpela***

The First Intifada lasted from December 1987 until the [Madrid Conference](https://en.wikipedia.org/wiki/Madrid_Conference) in 1991. Some date its conclusion to 1993, with the signing of the [Oslo Accords](https://en.wikipedia.org/wiki/Oslo_Accords). During this first Palestinian uprising, 172 Israelis were killed.

In 1993, Israel signed the Oslo accords recognizing the "right of the Palestinian people to self-determination." On the other side, Palestinian representatives recognized the State of Israel.

These accords created the [Palestinian Authority](https://en.wikipedia.org/wiki/Palestinian_Authority); they continued being negotiated for some years, up until the process ended after the failure of [Camp David II](https://en.wikipedia.org/wiki/2000_Camp_David_Summit) in 2000, which led to the outbreak of the [Second Intifada](https://en.wikipedia.org/wiki/Second_Intifada).

During the Palestinian uprising violent clashes erupted throughout Yehuda, Shomeron and Aza. As the main emergency doctor of the Hebron area, American-born Dr, Baruch Goldstein was involved in treating victims of Arab-Israeli violence during those years. On 6 December 1993, Mordechai Lapid and his son Shalom Lapid were killed by terrorists in Hebron. Goldstein, a close friend of the family, arrived at the scene and tended to the victims.

On Purim morning, 25 February 1994, at 5:00 AM, Goldstein entered *Me’arat Ha-Makhpela,* the Cave of the Patriarchs, and opened fire, killing 29 Muslims and wounding another 125, among them children.

During the killing, he was overcome, disarmed and beaten to death.

The vast majority of Israeli society condemned the massacre and were appalled by the act.

Prime Minister Yitzhak Rabin denounced Goldstein. At the Knesset, he declared:

You are not part of the community of Israel... You are not part of the national democratic camp which we all belong to in this house, and many of the people despise you. You placed yourself outside the wall of Jewish law... We say to this horrible man and those like him: you are a shame on [Zionism](https://en.wikipedia.org/wiki/Zionism) and an embarrassment to Judaism.

Opposition Leader [Binyamin Netanyahu](https://en.wikipedia.org/wiki/Benjamin_Netanyahu) stated:

This was a despicable crime. I express my unequivocal condemnation.[[1]](#footnote-1)

**Rabbinical Response**

Although most rabbis came out vehemently against the massacre, there were a few who failed to do so.

Both Chief Rabbis of Israel came out strongly against the attack. [Sephardic Chief Rabbi](https://en.wikipedia.org/wiki/Eliyahu_Bakshi-Doron) Eliyahu Bakshi-Doron declared:

I am simply ashamed that a Jew carried out such a villainous and irresponsible act.

His Ashkenazi counterpart, Rav [Yisrael Meir Lau](https://en.wikipedia.org/wiki/Yisrael_Meir_Lau), called it “a desecration of God's name.”

Rosh Yeshivat Har Etzion Rav Aharon Lichtensteincomposed a letter to his colleagues at other *yeshivot hesder*:[[2]](#footnote-2)

Therefore, I must vigorously protest against what transpired last night before all of Israel and the entire world. A person, whatever his previous merits may have been, departed this world while engaged in an act of awful and terrible slaughter, *tevah ayom ve-nora*, and thereby, beyond the crime itself, desecrated the name of Heaven, trampled upon the honor of the Torah and *mitzvot*, soiled and sullied the image of *Kenesset Yisrael*, and endangered the future of [Jewish] settlement in Yehudah, Shomron, and Gaza. This man won praise and honor in the yeshiva of his hometown, in Kiryat Arba, and was eulogized “*ke*-*halakha*," with full ceremonial honor, by her *Rosh Yeshiva.*

Woe to the ears that hear this! But, if it has been decreed that we must hear it, at least there should be a clear protest which expresses not just disassociation, but also disgust and shock. We must do so, not to protect our public image, but to preserve our self-image.

Rav Dov Leor, Rosh Yeshivat Hesder Nir, Kiryat Arba, responded to the letter and defended his position, having delivered a eulogy for Goldstein in his *yeshiva*. His main claim was that although he wasn’t necessarily supporting the massacre, he felt it was appropriate to honor other periods and acts of Goldstein’s life:

Indeed, I eulogized the late Baruch Goldstein (may *Hashem* avenge his blood), who was lynched by the non-Jews in the Cave [of Makhpela]. A Jew who is killed because he is a Jew must certainly be called *kadosh*, a holy martyr, just as we refer to the *kedoshei ha-Shoa*, the holy martyrs of the Holocaust, without investigating their previous conduct. How much more so in this case, for we knew him intimately as God-fearing and compassionate, as one who loved humanity and saved lives.

Even if someone holds the opinion that his final act was improper*, lo haya ke-shura*, why should he not be entitled to a eulogy *ke-halakha*? In my eulogy, I intentionally did not address the deed itself, but rather his personality and his achievements, and I did not take a public position on the deed itself.

In his response, Rav Leor tried to understand the background which led Goldstein to commit the massacre:

I marvel that great Torah sages, lovers of Israel, are quick to judge an individual without knowing the background and circumstances in which he acted and which compelled him to act. Perhaps this was a situation of "his heart coerced him" (T.B. *Shevuot* 26a), for he was the first to see the spilling of blood in the area; people died before his eyes, and (he) also (heard) the cry "Slaughter the Jews! (Atbah al-Yahud!)” on Purim night and (saw) the disgrace of the Jewish people. All these together, I assume, caused him to do this extreme deed.

I repeat that my purpose in these remarks is not to formulate a conclusive judgment, but rather to judge favorably, *le-lammed zekhut*, as we are commanded to judge our fellow Jews favorably [*Avot* 1:6].

I hope the honorable rabbi will understand the spirit of my words, which are said in pain and distress, and may *Hashem* bind up His people's wounds [Isaiah 30:26].

In a second letter, responding to the *roshei yeshiva* of Yeshivat Hesder Karnei Shomeron, Rav Lichtenstein protested against the silence of all other *roshei yeshiva,* not only in face of the massacre, but also in the face of Rav Leor’s description of Goldstein as a holy martyr.

Thus, the question begs to be asked: Why were you silent then? Why was no protest heard from those in our community, *mi-pi anshei shelomeinu*, who champion your political views, against the tribute given in a *yeshivat hesder* to (as Rabbi Leor wrote in his response to me) "the late Baruch Goldstein (may *Hashem* avenge his blood), who was lynched by the non-Jews in the Cave [of Makhpela]. A Jew who is killed because he is a Jew must certainly be called *kadosh*, a holy martyr, just as we refer to the *Kedoshei Ha-Shoa*, the holy martyrs of the Holocaust, without investigating their previous conduct"?

Was this the time for the enlightened scholars, with impeccable foreheads, without slivers and without beams, perhaps even foreheads adorned with *tefillin*, to be silent and still?

Rav Lichtenstein goes on to explain:

Even as we are astonished by the silence relating to the tribute expressed in tears and eulogy, we must likewise question the inaction within our own yeshivot in regard to the killing itself. I do not suspect my colleagues, God forbid, of giving a seal of approval to the occurrence, even after the fact. But the reluctance to take a public position, in and of itself, calls for inquiry; it has caused moral and public damage to both our immediate and our broader community.

The Chief Rabbis, *shlita*, have said their piece; Rabbi Menachem Eliezer Shach and Rabbi Ovadia Yosef have issued, however belatedly, vigorous statements. In the religious-national camp, however, several of the elder statesmen who are accustomed to take positions and issue protests on the occasion of much less significant events were struck mute.

This fact has given rise to a variety of questions, and many have reached the sad conclusion that "since they are silent, presumably, the rabbis are content" (T.B. *Gittin* 56a).

As mentioned in the above quotes, besides the transgression of “*Lo tirtzach*,” “Do not kill,” according to many, this murderous act also involves *chillul ha-shem.* Previously we have discussed this idea, regarding the massacre done by the Phalangists during the First Lebanon War at Sabra and Shatila.

This idea is found in the writings[[3]](#footnote-3) of Rav Meir Simcha Cohen of Dvinsk (1843-1926). He explains why we find that the Torah does not demand the death penalty for the murder of non-Jews as it does for the murder of Jews. Rav Meir Simcha lays out the reasoning for this law:

Perhaps it is because that when a Jew kills a Noahide, aside from the sin of murdering, he is also guilty of an additional sin, which is the desecration of God's name. His sin is so severe that even death by the hands of man cannot atone for his sins; therefore he can be judged by God alone.

**Rabbinical Response During the 1930’s**

This wasn’t the first time in the history of our country that partisan acts of murder were committed against the Arab population by vigilantes.

During the Arab riots prior to the establishment of the State of Israel, at the time that the Jewish community in Israel (Yishuv) was under daily murderous attacks, certain individuals responded by killing random Arabs within their towns and communities.

In 1937, both Chief Rabbis, Rav Yitzchak Herzog and Rav Ya’akov Meir, in the name of the Torah, condemned any acts of revenge and called on the Jewish population to show restraint (*havlaga*).[[4]](#footnote-4)

In July 1938, in a gathering called by heads of the *Yishuv,* the Chief Rabbis called for further restraint. Rav Ben-Tziyon Uziel (who would become Sephardic Chief Rabbi the next year) explained that *Lo tirtzach* is an unconditional law.[[5]](#footnote-5) It is only permitted for the sake of saving a life. Additionally, he quoted a verse in the Torah written in the context of the Torah’s laws of providing cities of refuge for unintentional killers.

“So that innocent blood will not be shed in the midst of your land which the Lord, your God, gives you for an inheritance, which would make you guilty for [having shed this] blood.”[[6]](#footnote-6)

This law teaches us not only that it is prohibited to murder and spill innocent blood, but that it is prohibited to spill blood in the holy Land of Israel, which becomes impure when it is soaked by blood. This act puts a stain on the name of Israel and on its honor.

In a declaration which appeared in the newspaper *Haaretz* in July 1939, Rav Herzog and the newly-appointed Sephardic Chief Rabbi Uziel said the following:

God forbid, no one of the Jewish faith should even think of performing acts of revenge and acts of murder against innocents. God forbid that the current situation (of Jews being killed) should bring us to act against the Torah and commit murder, which would desecrate not only the name of Israel but also the entire operation of national renewal here in the Land of Israel.

In 1938, the Chief Rabbi of Tel Aviv, Rav Moshe Avigdor Amiel, protested the sporadic attacks on Arab civilians by Jews who were responding to the Arab attacks on the Jewish population. The Yishuv was calling for *havlaga* (restraint). Rav Amiel’s objection was not only to the attacks themselves but also to the reasons given by the Yishuv:

I object to the name *havlaga*, which indicates that the prohibition of shedding the blood of Arabs is based on the need to "restrain” ourselves, while this is really forbidden because of the prohibition of *Lo tirtzach*. It is an incomparable moral degradation to justify the sinfulness of murder simply because it is ineffective. In my opinion, even if we knew that by these acts of murder, we would bring about complete redemption, we must reject this "redemption" with both hands, and not be redeemed by blood.

Moreover, if we succeed in capturing a number of Arabs who have committed murder, but we have a doubt, one in a thousand, that there is an innocent among them, we must not harm them, lest the innocent suffer as well.[[7]](#footnote-7)

The obvious difference between the pre-State era and modern times is that we now have a well-established government which is responsible for the safety and security of its citizens.

In 2010, Rav Shelomo Aviner of Beit El strongly condemned the suggestion that there are those who permit in the name of the Torah to kill another human being:[[8]](#footnote-8)

I do not believe that there is a rabbi who has permitted the murder of Arabs. Perhaps he expressed such an idea as figurative hyperbole, but even by doing so he violated the dictum of “Sages, be cautious in your words” (*Avot* 1:11). If, however, it should become clear, God forbid, that a Rabbi gave a practical ruling to do such a thing, it would become retroactively clear that that rabbi, with all of his importance, is unworthy of the title *moreh hora’ah*, teacher of the law.

He adds that any vigilantism is even more severe a sin in our days:

(Nowadays) we have an army and a police force who risk their lives day and night for the nation’s security, and it is they, and no one else, who are appointed by the whole Nation to fight the enemies of our people. No private individual is entitled to engage in anti-Arab terrorism, to weaken the government and to perform, in the name of the Nation, any act whose repercussions will be felt by the entire Nation.

Let us rid ourselves of the desecration of God’s name inherent in such painful, insulting questions.

During the First Intifada, Rav Ya’akov Ariel discussed halakhic questions that came up during those challenging times.[[9]](#footnote-9) In one article, he argues that although the IDF admits that it does not have the power to completely enforce law and order throughout the land, that does not give authority to civilians to take the law into their own hands.

He obviously permits self-defense, but emphasizes the responsibility on the *tzibbur* (community) in this case the IDF, to handle the war against our enemies.

1. I have taken most historical details and quotes from various Wikipedia pages. [↑](#footnote-ref-1)
2. *Tradition: A Journal of Orthodox Jewish Thought,* Vol. 28, No. 4 (Summer 1994), pp. 59-63. [↑](#footnote-ref-2)
3. *Meshekh Chokhma, Shemot* 21:14. [↑](#footnote-ref-3)
4. See Eliezer Don-Yichya, “*Dat U-terror U-politi*: *Ha-Yahadut Ha-datit U-peulot Ha-tagmul Bi-tkufat Ha-meoraot,” Ha-Tziyonut* 17 (1993), pp. 162-163. [↑](#footnote-ref-4)
5. Appears in Binyamin and Ya’akov Peterzeil, *Negged Ha-terror (*1939*)*, pp. 68-69. [↑](#footnote-ref-5)
6. *Devarim* 19:10. [↑](#footnote-ref-6)
7. *Techumin,* Vol. 10, p.148. [↑](#footnote-ref-7)
8. *Be-ahava U-ve’emuna*, *Nitzavim-Vayelekh* 5770, #175. [↑](#footnote-ref-8)
9. *Techumin,* Vol. 10, pp. 61-75. [↑](#footnote-ref-9)