Jewish Law and the Castle Doctrine
Judges and Lawyers Lunch and Learn - August 2014, Gabriel Greenberg


דָּמִים, לוֹ אֵין -- וָמֵת וְהֻכָּה, הַגַּנָּב יִמָּצֵא בַּמַּחְתֶּרֶת-

If the thief is discovered while breaking in, and he is struck and dies, he has no blood [i.e. guilt] on his account. If the sun be risen upon him, he has blood [i.e. guilt for killing him].

2. Talmud, Tractate Sanhedrin, 72a

Our Rabbis taught: “He has no blood - if the sun be risen upon him.” Now, did the sun rise upon him only? Certainly not, rather this is the meaning: 'If it is as clear to you as the sun that his intentions are not peaceable, slay him; if not, do not slay him.' Another rabbinic teaching says the opposite: “If the sun be risen upon him, he has blood [i.e. guilt]”. Which means - if it is as clear to you as the sun that his intentions are peaceable, do not slay him; otherwise, slay him.


a. When a person breaks into a home - whether at night or during the day - license is granted to kill him. If either the homeowner or another person kills him, they are not liable.... one may kill in any possible manner. This is all implied by Exodus 22:1, which reads: "He has no blood."

b. The license mentioned above applies to a thief caught breaking in or one caught on a person’s roof, courtyard or enclosed area, whether during the day or during the night.

c. Why did the Torah permit the blood of such a thief to be shed, although he is only attempting to steal money? Because it is an accepted presumption that if the house-owner arises and attempts to prevent the thief from stealing, the thief will slay him. And thus the thief entering his colleague's house to steal is in effect a pursuer seeking to kill his colleague. Therefore, he should be killed, whether he is an adult or a minor, or a man or a woman...

d. If it is clear to the house-owner that the thief who breaks in will not kill him and instead is only seeking financial gain, it is forbidden to kill the thief. If the house-owner kills him, the house-owner is considered to be a murderer.

This is alluded to by Exodus 22:2, which states: "If the sun shines upon him..." - i.e., if it is as clear to you as the sun that he is at peace with you, do not kill him
Lousiana RS 14 - §19. Use of force or violence in defense

A. The use of force or violence upon the person of another is justifiable when committed for the purpose of preventing a forcible offense against the person or a forcible offense or trespass against property in a person’s lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense, and that this Section shall not apply where the force or violence results in a homicide.

B. For the purposes of this Section, there shall be a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of force or violence was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the premises or motor vehicle, if both of the following occur:

1. The person against whom the force or violence was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling, place of business, or motor vehicle.

2. The person who used force or violence knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

C. A person who is not engaged in unlawful activity and who is in a place where he or she has a right to be shall have no duty to retreat before using force or violence as provided for in this Section and may stand his or her ground and meet force with force.

§20. Justifiable homicide

A. A homicide is justifiable:

3. When committed against a person whom one reasonably believes to be likely to use any unlawful force against a person present in a dwelling … while committing or attempting to commit a burglary or robbery of such dwelling...

4(a) When committed by a person lawfully inside a dwelling against a person who is attempting to make an unlawful entry into the dwelling or who has made an unlawful entry into the dwelling, and the person committing the homicide reasonably believes that the use of deadly force is necessary to prevent the entry or to compel the intruder to leave the premises.