

הַיּוֹצֵא לַיהֶרֶג מְשַׁקֵּין אוֹתוֹ קוֹרֵט שֶׁל לְבוּנָה בְּכוֹס שֶׁל יַיִן

One who is being taken for execution should be given approximately one cup of wine.

When one person is making Kiddush for many, he should ask their permission by saying, “savri moronin, v’rahenum v’rabosai”, because there is a dispute whether Birkas Hamazon is to be recited over a cup of wine. He therefore, asks permission, since the practice is in dispute. Those present signify their acquiescence by saying l’chaim.

This is due to a Gemara which shows wine being used for the person to be executed.

Daf Digest

אַף עַל פִּי שֶׁחָטָא יִשְׂרָאֵל הוּא

Even though he sinned, he is a Jew.

Tur writes that the kiddushin of an apostate is binding and a get is required.

Mahara Shadom – A Jew who rebels, remains a Jew. This principle comes from our Gemara; even though Achan sinned, he remains a Jew.

Yevamos 47b agrees.

R Moshe Feinstein - Even a convert to Judaism, who reverts to his idolatrous ways, is still a Jew and is treated so in all matters.

This rule expresses the great love that HaShem has for the Jewish people.

A person who refuses to walk on the floor, but walks on the walls and on the ceiling, is still inside the house. Jews only sin because of the Yetzer Hara, but their Godly soul is not touched by sin. All the world knows this. In the Holocaust, even the non-observant, assimilated Jews were recognized and murdered as Jews by their killers.

בְּרוּר לוֹ מִיתָה כְּמוֹדִי יָפָה

Choose a pleasant death for him.

If a person is condemned to death by stoning, is it better for him to be clothed or naked. If clothed, the clothes will protect his body and he will die more slowly and with greater pain. If naked, he will be embarrassed, but will die more quickly and with less pain. Perhaps a man cares less about embarrassment and a woman feels greater disgrace, by being unclothed.

We should treat each person as we would wish to be treated, and after punishment, each person is again to be considered our brother.

Which method is more a pleasant way to die.

Rambam - Humiliation is more significant than personal comfort. A woman is stoned wearing clothing.

בית הסקילה היה גובה שתי קומות

The height of the stoning area was twice the height of a man.

The condemned stands on an elevation 2x his height.

Therefore, with his own height, he is 3 times his height.

One witness – He is pushed from a standing, not sitting position.

One witness – He is turned, so that a single large stone can be thrown on his (her) chest.

The Mishnah says-He is turned on his hips. Rashi interprets this as on his side, since it would be a great indignity to be turned face up (yet it uses the word ‘mosnuv’(plural) ‘his hips’ and the only way to be on both hips is to be face up).

If he is still alive, every one present throws stones until he is dead (Deut 17:7).

בית הסקילה היה גובה שתי קומות

The height of the stoning area was twice the height of a man.

Describes the method of execution detailed in Sanhedrin 45a3.

First the witnesses (1) to push off a height.

(1) to throw the first large stone.

Then the entire people.

כולן נקברין עמו

All are buried with him.

One must buy a sword used to carry out capital punishment. It may never be used again.

Similarly, the candle we use to search out chometz. We burn it together with the chometz, which represents the evil within all of us.

Daf Digest

הַסְפִּידָא יִקְרָא דְחַיִּי הָוֵי אֹי יִקְרָא דְשָׂכְבִי הָוֵי

Is a hesped (eulogy) delivered to give honor to the living, or to give honor to the deceased?

Gemara – To the deceased.

Shulchan Aruch – Therefore, if a person instructs his survivors not to deliver a eulogy, his request should be honored.

In the eulogy, one is permitted to exaggerate, but not overly much. One should not be overly brief in describing the positive traits of the deceased. We can assume that a person would do more good deeds and give more Tzedakah, if he had more resources. So we can discuss the good he would have done, as if he had actually done so – to a slight extent.

הַסְפִּידָא יִקְרָא דְחַיִּי הָוִי אִו יִקְרָא דְשָׂכְבִּי הָוִי

Is the purpose of the hesped (eulogy) said at a funeral, to honor the survivors, or to honor the departed?

A person makes a request that he be buried without any eulogy. If the purpose of the hesped is to honor him, he may make such a request, but if it is to honor his survivors he may not make such a request, because that honor he wishes to avoid, does not belong to him.

If the survivors do not wish to arrange a hesped at the funeral and it is considered an honor for them, they may avoid the hesped. However, if for the honor of the departed, they may not do so. The honor is not theirs.

R Nassan – A person who is not eulogized has suffered a disgrace on this earth which will serve as atonement for him in the world to come.

We see, therefore, that the eulogy's purpose is to honor the departed.

אֵיתָמַר

It was stated

If one weaves a cloth for a shroud, but it was not yet used. Abaye says it is forbidden.
Rava says it is permitted to use it for another purpose. It is not yet forbidden.

When an object is designated to be used for a Mitzvah, may it be used for anything else?

-If you weave a garment for a burial.

-If you buy a bag for your tefillin.

-If you designate a plot of land for a burial plot, is it restricted from any other use?

Abaye says – Yes.

Rava says -It may be used for other purposes.

Ran - If the designation was made in a formal manner, it is prohibited from other uses.

However, if it is designated only verbally, it is not so limited.

Menachos 34b - A person declared that he bought a box for his shel rosh.

He may not use it for his shel yad. The Kedusha for the shel rosh is greater and it is prohibited, once the designation was made, to lower the Kedusha of the item.

הַזְמָנָה לֹא מִילְתָּא הִיא

Designation is not significant.

Does designation make something prohibited even before it is used for the designated purpose or not?

The Gemara concluded that an object designated for a Mitzvah does not become prohibited from other uses, until they are actually used for the Mitzvah for which they were designated.

For example, a tefillin bag is not prohibited for general use until one actually places his tefillin into the bag, after that it is, indeed, prohibited for other uses.

Mishnah Berurah - Is our time the tefillin are first covered by a box and then put into the bag. The bag does not serve the tefillin some say, but serves the box and is permitted to use, but others point out that the knots of the tefillin are not covered by the box, so the bag does actually cover the tefillin.

אַרְבַּע מִיתוֹת נִמְסְרוּ לְבֵית דִּין

There are four methods of applying the death penalty by the courts:

“Stoning, burning , decapitation and strangulation; ‘skillah’, ‘serefah’, ‘hareg’, ‘chenek’.

Rashi - We need to know the relative severity of the death penalties so that:

- If a person is liable for two deaths sentences at the same time, he is put to death with the more severe of the two options.
- If a person is to be put to death using one method and he becomes mixed with others who are to be put to death by a less severe method, they all are put to death with the less severe method.

אַרְבַּע מִיתוֹת נִמְסְרוּ לְבֵית דִּין

Four methods of execution were delegated by the courts,

stoning, burning, beheading and strangulation, in descending order of severity.

This is the procedure for stoning (See Mishnah #5 BT Sanhedrin 45a3 procedure for stoning).

Gemara

There is a long discussion on the question of whether the Talmud lists are in an order, or are merely an enumeration of the order which is not crucial.

Also, discusses why each method is considered in the order of severity.

סְקִילָה חֲמוּרָה מִשְׁרִיפָה

Stoning is a worse method of execution than burning.

Some say that burning is a worse method of execution than stoning.

Stoning - Blasphemer, idol worshiper.

Sin: He attacks the most fundamental tenet of faith.

Burning - A daughter of a Kohen who committed adultery.

Sin: She profanes her father.

Why is this a “worse sin”? This harms a person (her father).

Being an idol worshiper cannot harm God.

- A married woman who is adulterous – is strangled.
- A fully married daughter of a Kohen is burned, not stoned.
- A betrothed daughter of Kohen is stoned.
- A betrothed general woman, who is adulterous, is also stoned. She sins against God and her father.

Beheading - For people of a subverted city and their property, must be destroyed.

- Being a subverter is a greater sin than a person subverted to idolatry.

Does not require a warning

No arguments for acquittal, other than his own, are heard.

שֶׁכֶּן הוֹקֵשׁ כְּבוֹדָן לְכְבוֹד הַמָּקוֹם

We equate the honor to parents as that to the honor of God.

Strangulation is more harsh, since it is administered to one who strikes his father or mother.

Sin: Honor of parents is compared to the honor for God.

שֶׁכֵּן הוֹקֵשׁ כְּבוֹדוֹן לְכָבוֹד הַמָּקוֹם

Because we equate the honor to parents with the honor to the Almighty.

Chaye Adom states-A child who does not honor his parents, for the care and benefit they gave him, may say, “They brought one into this world for their benefit and took care of me because of the natural animal instinct to care for their young. He should get no special honor from me for doing that.”

With such an attitude, the person will ultimately deny HaShem’s goodness, since he will say, “We are all God’s children and He created us out of His self interest and is obligated to care for us.”

הָבָא נִמְי דְּרוּשׁ וְקִבֵּל שָׂכָר

Expound and receive reward.

Does receiving a reward suggest that the learning is not l'ishmah?

One can learn only to fulfill the Mitzvah of learning and another can learn for the joy he feels in learning.

Is the second method less praise-worthy?

And even if a person learned only for pleasure and not l'ishmah, our sages teach – ‘learning, not l'sihmah, will lead one to learning Torah l'ishmah.’”

הָיוּ מְשַׁקְעִין אוֹתוֹ בְּזָבֵל עַד אֶרְכּוֹתָיו

Procedure for those who are burned. He stands in manure up to his knee,

- with a scarf around his neck
- each end is pulled until he opens his mouth
- one lights a wick and throws it into his mouth
- it descends into his stomach and burns his intestines.

R Yehudah - No, we pry open his mouth with tongs, against his will.

This prevents him from jumping around. Wicks are placed in his mouth and throat and molten lead is poured into his throat.

This method, molten lead down the throat, allows the burning of the soul with the body remaining intact.

Burning at the stake burns the body (learned from Korach Num 17:3).

“The fire pans of these sinners with their souls”, the bodies remained intact.

שְׂרִיפַת נֶשְׁמָה וְגוֹף קָיָים

The soul was consumed, but the body remained intact.

Describes the death of Nadav and Avihu. The two sons of Aaron.

R Simon Dolgin - This happens to fundamentals of Judaism:

Kashrus is considered merely a health measure and its spiritual value is disregarded.

Circumcision is regarded as merely an operation and its covenant with the people is not considered.

Sabbath is viewed as a day of rest and relaxation to do as you wish and the holiness, sanctity of prayer and Torah study is ignored.

Israel is seen as merely another country for refugees to settle and its holiness and our spiritual kinship with it is not appreciated. These separate the body and soul.

Charity is given out of obligation, or reluctantly. The great value charity does and the fact that we have something to give is by the grace of God.

This is forgotten.

אֵימָתִי יָמוּתוּ שְׁנֵי זָקֵנִים הָלָלוּ

When will these two old people die.

When Moshe and Aaron walked among the people, Nadav and Avihu walked behind them. One of the explanations for Nadav and Avihu's punishment is that they said the above – implying that they wished to take Moshe and Aaron's place.

Rav Elimelech of Lozbensk interpreted their remark in a positive light, i.e., 'We must search our souls in order to be prepared intellectually and emotionally to lead the Jewish people, because we never know when we will be required to do so, since we don't know when these two elderly leaders will die.'

מצות הנהרגין

Procedure for those who are beheaded.

With a sword – This is disgraceful because person then, falls down in a heap.

Head on a block, chopped off with an ax – This is disgraceful for an ax smashes, rather than cuts as a sword.

Reserved for the people of a subverted city.

“Smite the people of a subverted city by the edge of the sword” (Deut 13:16)

and a murderer (Ex 21:20) “A man who kills his slave --- he shall be avenged”.

How do we know that ‘avenged’ means using a sword? Because of its reference (in Lev 26:25) “I will bring you a sword avenging the vengeance of the covenant”.

Therefore, avenging means death by the sword.

מצות סנהדרין

Procedure for strangulation.

The person stands in manure, up to his knees.

A soft scarf, surrounded by a coarse one, are wound around his neck.

Two witnesses each pull, until his soul departs.

Gemara

This is the punishment for adultery – Adulterer and adulteress both put to death.

A Jewish woman married to a non Jew - Kiddushin does not take place. They are not married, therefore, there is no adultery.

A minor who is married to a Jewish woman –A minor cannot effect betrothal. Therefore, they are not married. There is no adultery.

Since it was specified that a Kohen's daughter, guilty of adultery, is executed by burning.

We can derive from this that a daughter of a non-Kohen is not subject to burning. Therefore, the punishment must be by strangulation.

שְׁמִיעוּת לְדַבְרֵי חֲכָמִים

It is a Mitzvah to listen to the words of the Chachamim.

Where should we place the bimah in a shul?

Minchas Yitzchak states, “In the middle of the Shul”.

Rambam explains that is so that people could hear.

Is the same true in a small shul where everyone could hear, should the bimah also be placed in the middle?

The bimah must always be placed in the middle of the shul. The rule does not provide any explanation, so that if that explanation was found to be not pertinent, people could change the rule. Not so, you cannot change a rule because an explanation does not pertain.

We should not accept a reason that allows us to act contrary to the simple reading of the rule.

אם אדם חטא בהמה מה חטאה

One who cohabits with another male,

- or with an animal,
- or a woman, who cohabites with an animal.

The animal is also stoned.

Why?

- Because it caused the downfall of a human being.
- So that no one should see it and say, “This is the animal that caused so and so to be stoned.”
- So that others will not come to sin through it, as well.

אם אדם חטא בהמה מה חטאה

If man sinned, what sin did the animal do

that it should be destroyed? The animal was only a victim of the person's behavior.

One reason is that the person was brought to sin because of this animal and perhaps another person will be similarly enticed to do so.

A second reason is that we do not want the animal to be seen and remind people of the sin. It further degrades the unfortunate sinner, who has already been punished for his sin.

We need both reasons to teach us that if the perpetrator is a non-Jew, we don't want someone else to sin. If the perpetrator was a minor, or the act was unintentional, we don't want the animal to remind people of the act and the person who did it.

בֵּית שְׁלֹשׁ שָׁנִים

A girl aged three years and one day..

A minor who commits a crime, or a sin, is not punished, since he is not obligated for his sins.

This is not true.

Even minors must follow the seven Noachide laws.

Rav Chaim Kaniefsky says -Sins have a negative effect on minors.

Chazon Ish – Sins dull the heart of a minor. He is however absolved of punishment.

Viddui – The Confession of Sins, include the phrase, “from the day I existed on earth, until today, please forgive me”, indicates that even the sins I committed as a child, do have a negative effect and must be cleansed.

וְרַחֲמָנָא הוּא דְחָס עֲלֶיהָ

The Torah spares her life.

The Midrash teaches that when a boy reaches the age of 13 his father should say, ‘Boruch Shepetrani’, “Blessed be He, who exempted one from the transgressions of this child”.

A transgression of a child requires no punishment and the father would not be liable, unless the transgression was a result of failure to teach the boy right from wrong, or if the sin resulted in pleasure for the child.

Its most usual significance is to separate the father from responsibility for any future sins of this young person.

הַמְגִדֵּף אֵינוֹ חַיִּיב עַד שִׁפְרַשׁ אֶת הַשֵּׁם

A person is not punished until he blasphemes the name of God.

Mishnah – Only if he explicitly pronounces God's name

Rashi – Only if he himself uttered God's name, but not if he heard it and simply uttered a curse referring to it.

Rid – Only where he uses the Ineffable Name, but not one of the names we use to refer to Him.

Do not curse Elokim – Teaches us also, that we may not curse a judge.

הַמִּגְדֵּף אֵינוֹ חַיִּיב עַד שִׁפְרַשׁ אֶת הַשֵּׁם

A person is not punished until he blasphemes the name of God.

Blasphemy is prohibited and is subject to death by stoning, ONLY if he pronounces the Divine name.

- The specific name.

- The tetragrammaton.

Rambam says- Both names.

When requiring witnesses, the judges use a pseudonym for God's name, after the case is heard.

The judges send everyone out of the courtroom, except the principles and ask the witness state exactly what he heard and he must mention God's name.

The judges then tear their clothes and never repair them.

A second witness need not re-utter the name, but only needs to say, "I heard that as he (the first witness) said it."

הַמְגִדֵּף אֵינוֹ חַיִּיב עַד שִׁפְרָשׁ אֶת הַשֵּׁם

The blasphemer is not liable to execution unless he pronounces the Divine Name.

When he blasphemes the Name, he shall die.

We learn from this sentence, by the repetition, that one who blasphemes the Name, by using the Name, shall be put to death (Sanhedrin 56a1).

And he must blaspheme with one of God's 7 names.

Rambam – Any of the 7 names.

Rashi- Only Adonai or 'yud kay vav kay'.

Ramah - Only the 'shaime ha'meyuchad'.

הַמִּגְבִּיהַ יָדוֹ עַל חֲבִירוֹ אֶף עַל פִּי שֶׁלֹּא הִכָּהוּ

One who lifts up his hand against his neighbor, even if he does not hit him,
is called a wicked person.

(Ex 2:13) “And he said to the wicked one, Why would you strike your fellow?”

It does not say, “Why did you strike?”

This shows that he was called a ‘rasha’, ‘a wicked person’, even though he had not yet stricken his ‘fellow’.

הָאֵל אֶמְרֵי לֵוִי אֵין דְּבָר טָמֵא יוֹרֵד מִן הַשָּׁמַיִם

A non-Kosher thing does not descend from Heaven.

R Shimon ben Chalafta was confronted by two hungry lions, (Tefillin 104:21), “The lions cry out for game”. R Shimon cried out and two slabs of meat fell down from Heaven. The lions ate one and left the other.

R Shimon took the meat to the Bais Midrash and wondered was it Kosher or not.

The answer was, “No impure food comes down from Heaven”.

וְהַמְלִבִּישׁ עוֹבֵר בְּלֹא תַעֲשֶׂה

But one who puts clothes, or shoes on an idol, has violated a negative commandment.

(BT Shabbos 113a) This is derived from the discussion that on Shabbos one's clothing should be different from one's weekday clothes. Since our Gemara specifically mentioned shoes, can we assume they are not included in the designation 'clothes' and do not have to be different on Shabbos?

Shoes and clothing are mentioned separately, which should not indicate that shoes are not clothing, but only a person, who puts both clothes and shoes on an idol, is liable.

Rav Yosef - No, clearly putting any garment on an idol is prohibited. Shoes are not required to be different for Shabbos, but should be cleaned and polished. If he has special shoes for Shabbos, such a person is to be praised.

המתעסק בחלבים ובפירות חייב

One, who is preoccupied while eating forbidden fats or having illicit relations, is liable.

Generally speaking, a person who is preoccupied while performing a sin, did not receive benefit from the transgression and therefore, is not liable.

For example:

- Eating matzah against his will – still fulfills the Mitzvah, because he gets benefit from eating.
- Hearing the shofar by accident- No intent and no benefit. He has not fulfilled the Mitzvah.
- Maror – Eaten without intent. There is no benefit and therefore, he did not fulfill the Mitzvah.
- Illicit sex without intent – is he guilty of a sin? Yes, we assume he had benefit from the action.

כָּל הַמַּשְׁתֵּף שֵׁם שָׁמַיִם וְדָבָר אֲחֵר נֶעְקָר מִן הָעוֹלָם

Whoever associates the Heavenly name with anything else, is eradicated from the world.

Rambam (Hil Shevuos 11:2) - It is forbidden to associate His name with anything else while taking an oath.

(Sanhedrin 63b) - In business disputes, oaths are occasionally needed and a non-Jew may wish to swear by his own perceived higher authority.

Tosphos maintains -That it is permissible for the non-Jew, as long as he believes in God, he may also accept another deity.

Others say a Jew cannot be party to an oath made on the authority of some other deity.

לֹא תֹאכְלוּ עַל-הַדָּם׃

Do not eat the blood.

If members of Sanhedrin sentenced someone to die, they were obligated to fast that day.

Chozeh of Lublin taught that the greater the Tzaddik, the more likely he is to judge others favorably. He can see good even in a wicked person. If the judges had been truly righteous, they would have found a way to judge favorably, even the worst-seeming person.,

אֶהְיֶה בֵּיהּ דְּלֹא אִיגְרִי אִינִישׁ בְּקִרְוֹתֶיהָ

They succeeded in that it would not incite a person to sin with his relatives.

Rashi - Sanhedrin ordained that the Yetzer Hara cannot entice a person toward illicit relations with his mother or sister.

Kiddushin – A person is permitted to be in seclusion with his sister, since our Gemara states that the Yetzer Hara for a sister does not exist.

Teshuvos B'tzeil Hachochma asks, “Is this still true if a brother or a sister convert?”

R Moshe Feinstein said, “Yes, even though one converted, the natural revulsion against relations with a sister persists and has nothing to do with the halachic relationship between them.”

Mishnah continues its discussion of the sins punishable by stoning.

בעל אוב

A practitioner of Ov.

One who speaks from his armpit and a practitioner of Yidoni – one who speaks through his mouth – die by stoning. A person who inquires of them is subject to a prohibition, i.e., a penalty of kares.

This is learned from several sentences:

He, who conjures up a ghost, a man or a woman, shall surely be put to death, i.e., ‘a practitioner’ – ‘the one who does it’ (Lev 19:31, Lev 20:6, Lev 20:27).

מַגִּיד מַאי מַעֲשֵׂה אֵיכָא

What physical action indicates that a person is engaged in sorcery?

Such physical action seems to be necessary to obligate him to bring an offering.

(Lev 4:27) - If a person sins unintentionally by:

- clapping his arms.
- moving his lips.
- sacrificing an animal.
- curling one's lips.
- bending one's body.
- burning incense.

He is not permitted to use magic or sorcery, even if he intends to do good,
i.e., to conjure spirits to chase wild beasts, snakes, or scorpions from a town.

Ambivalent, but to save his life from beasts that are chasing him, he is permitted to use magic (Rashi in Kereisos 3b and Shach in Yorah Dayah 179:1).

שאל טורנוסרופוס את רבי עקיבא

Roman Turnus Rufus challenged R Akiva.

A story indicating ambivalence:

In what way is this day (Shabbos) different from other days? Why should it be special?

R Akiva - “Just as Turnus Rufus is special because Caesar Hadrian invested you with being special, so God vested Sabbath as being special. On Sabbath, the river Sabbatyon is not turbulent and a practitioner of Ov will not be able to raise the dead on that day.”

Turnus Rufus said, “The river is far away, I can’t prove what you say, but my father’s grave is close.

Turnus succeeded in raising the spirit of his dead father everyday, but (65b3) was not successful on Shabbos.

Turnus asked his father why he did not come to him on Sabbath and his father said, “Even we, in the after life, rest on Shabbos. We rest from judgement.”

רַבָּא בְרַא גִּבְרָא

Rava created a person.

Rashi - Rava did so by using information in Sefer Yetzilah.

Yad Ramah – Rava was only able to do this because he was righteous.

Chacham Tzvi asked - “Would such a created person be able to be counted toward a minyan?

(Lev 11:32) God is quoted as saying, “And I will be sanctified in the midst of the Children of Israel”. This created being is not considered a member of the Children of Israel and therefore, cannot be counted in a minyan.

Rav Yaakov Emden - The created being is deaf-mute, a minor, and since he lacks the requisite ‘da’as’, he can’t, therefore, be counted in a minyan, even if he would be considered as part of the Children of Israel.

הַמַּחֲלִיל אֶת הַשַּׁבָּת

One who desecrates the Sabbath.

We continue the discussion of those sins punishable by stoning:

- If done intentionally-He is punishable by stoning.
- If no proper warning-He would be subject to the penalty of Kares
- If done unintentionally-He would be subject to a Chatas offering:

Gemara-

This implies that there is a violation of Shabbos that is not subject to stoning, Kares or Chatas. This violation is 'boundaries'-Walking more than 2000 amos from your place (Techum Shabbos).

הַמְקַלֵּל אָבִיו וְאִמּוֹ

One who curses his father and his mother.

One who curses his father or his mother is not liable to be stoned, unless he curses them in the name of God.

If he used a subordinate name of God, such as Shaddai, Tzevaos, Chanun, Rachum, etc.

R Meir - He is liable to stoning.

Chachamim- Not liable to stoning – but is liable to lashes.

Gemara:

The tetragrammaton:

“When he blasphemes using ‘the name’, he is put to death (Lev 24:16)”.

“One who blasphemes the name of HaShem shall be put to death...”.

Therefore, one must use the specific name of God to be punished.

”אֱלֹהִים לֹא תִקְלֹל וְגו’

You should not curse a judge.

There is another source to teach as not to curse a parent.

It says, “You shall not curse a judge or a leader from among your people, using one of the 13 formulas of Biblical hermeneutics (Ex 22:7).

A commonality of laws discusses the common characteristics of a judge and a parent and their differences.

Hermeneutics – A branch of philosophy dealing with understanding and interpretation.

Therefore, you should not curse any member of Israel.

הַאֲוִיזוֹ אֶת הָעֵינַיִם פֶּטוּר

One who creates an illusion is exempt (from stoning), but it is none-the-less prohibited.

Abaye says, “Why?” Because those who see it and are amazed, may ascribe the act as supernatural and due to the special powers of the illusionist, like sorcery.

One who performs illusions, one who hires the illusionist, and those who watch him perform, violate a Biblical prohibition, even if it was done to bring joy to a chasson and kallah.

R Moshe Feinstein - Unless it is clearly known by all, that the performance is merely slight of hand and not sorcery and is not caused by incantations.

Great Poskim prohibit it and R Moshe Feinstein respects them and suggests illusionists should be avoided.

צִפְרִידַּע אֶחָת הִיָּתָה שָׂרָקָה לָהֶם וְהֵם בָּאוּ

There was one frog which croaked for the others, and they came.

(Ex 8:2) And the frog came up and covered the land of Egypt (The second plague).

R Akiva – One frog, which filled the whole of Egypt, by breeding.

R Eliezer ben Azariah – One frog croaked for the others and they came.

R Abraham R. Besdin - The plague of frogs can be related to antisemitism. One charismatic tyrant can poison an entire society, such as pharaoh or Hitler.

אָמַר לוֹ רַבִּי עֲקִיבָא שְׁלִי מָהוּ

And R Akiva asked, “And for me, what is my future/”

Even a great person, such as R Akiva, wondered about his future.

He had avoided coming to study with the great teacher, R Eliezer, who told R Akiva, “Your death will be more painful than all the others”, and it was so.

Why?”

The death of R Akiva caused the loss to the Jewish people of one of its greatest teachers, who, if he had lived longer, would have greatly enlightened all future generations.

R Akiva had avoided learning from R Eliezer and thereby, missed an opportunity to learn from him.

A person must avail themselves of every opportunity to learn and expand their knowledge to serve themselves and their community. Never underestimate what you can accomplish and what your potential truly is.

מָכָה בְּבָשָׁרוֹ עַד שֶׁדָּמוֹ שׁוֹתֵת לָאָרֶץ פֶּתַח עָלָיו

He struck his flesh until blood flowed to the ground.

Is cosmetic surgery permitted, and if so, under what circumstances?

It is forbidden for a person to inflict a wound on himself. To permit a doctor to perform unnecessary surgery that is not medically required, would also be prohibited.

R Moshe Feinstein, quotes the Rambam who teaches that it is forbidden to strike a person in a belligerent or degrading manner. If the wound was not inflicted in a belligerent or degrading manner, cosmetic surgery would be permitted.

(B Kamma 91a) R Chisda would roll up his clothes so that his skin would be scratched, rather than his clothes. The skin would heal, whereas the clothes do not.

רַבִּי נְחֵמְיָה אָמַר תֵּאֲנָה הָיָה

R Nechemiah says, “It was a fig tree.”

R Nechemiah says that tree, from which Adam ate, was a fig tree and “by means of the thing that corrupted them, they were fixed”. Adam and Eve sewed fig leaves together to cover themselves. All the other trees refused to supply clothing to those who had rebelled against God’s orders.

Rashi - The Torah intentionally concealed the identity of the tree, to spare it the eternal shame of having facilitated the suffering in the world. Even though the tree did not directly contribute to the regrettable result and was only a passive bystander, it had a direct obligation to assist them in reconstructing their lives in a dignified manner. Even a passive onlooker has responsibilities.

על שם סופו

Because of his end.

A rebellious son, ‘a ben sorer u’momrah’, is stoned to death as a punishment for what he is expected to do in the future; a preemptive punishment! Stoning is considered a more severe punishment than death by strangulation, which is what the punishment would be for a murderer.

Why is he punished more harshly for what he has not done, than would a person who actually did commit a murder?!

One answer: 1. It is to protect the innocent people he will surely corrupt, that he is executed.

2. It is to so frighten the young man that he will surely not act improperly and face such a horrible punishment.

The Gemara lets him die while he is still innocent and not after he commits the capital crime of murder.

שְׁמִיתָן שֶׁל רָשָׁעִים הַנָּאָה לָהֶם וְהַנָּאָה לְעוֹלָם

For the death of the wicked is beneficial to them and beneficial to the world.

	<u>For the wicked</u>	<u>For the righteous</u>	<u>and for the world</u>
Death	a benefit	is bad for them	bad
Sleep and wine	are benefits	is bad for them	bad
Tranquility	bad for them	good for them	good
Dis <u>u</u> nity	a benefit	bad for them	bad

„אם-יִרְחַהּ הַשָּׁמֶשׁ עָלָיו דָּמִים לוֹ“

“When may a homeowner kill an intruder who is breaking into his home?”

Rambam - If it is a ‘clear as day’ that the intruder would kill him if encountered, the homeowner may kill him preemptively.

Ra’aved - When the intruder comes in the daytime hours, the homeowner may not kill him. We may assume the intruder wants no confrontation. He expects that no one is home in the day. If seen, he can easily escape, and he seeks to steal only small items.

If a robber comes at night, he knows the owner is probably home and there might be a confrontation where he can either kill or be killed. Nighttime is more dangerous and the homeowner may kill him only then .

מְקִיֵּשׁ רוֹצֵחַ לְנִעְרָה הַמְּאוֹרָסָה

The verse compares the law of a murderer to the law of a betrothed ‘naarah’.

We may kill a potential rapist before he violates the woman, just as we may kill a potential murderer before he accomplishes his objective to murder a person

Meam Loez 18:47

אָבֵי אָמַר בְּיָכוֹל לְהַצִּיל בְּאַחַד מֵאַבְרָיו

Abaye says, “We are speaking about a case where it was possible to save the victim by merely disabling one of the pursuers limbs.”

If an observer sees a person pursuing someone to kill him, he may intervene to stop the pursuer. However, if the ‘observer’ used excessive force and the pursuer died, the ‘observer’ is held for murder (but a Bais Din would not kill him).

The Tur wonders why, if he is responsible for murder, the court would not exact punishment from him.

Beis Yosef explains –

1. The hero acted to save a fellow man.
2. He could not have been warned against excessive force against the pursuer, there was no time to do so.

Rabaz – As soon as a person chases after someone to kill him, he has forfeited his life. Either the pursued will defend himself, or another will come to the rescue, or a court will later convict the pursuer and execute him. A court cannot use capital punishment against one who killed a person whose life was already forfeit. Only Heaven knows if, indeed, the would-be-killer could have actually been stopped by a lesser force. Let Heaven judge him not Bais Din.

יַעֲבֹר וְאֵל יִהְרֹג

“He must transgress and not allow himself to be killed”.

“I was ordered to kill so and so, or they will kill me. What should I do?”

Rabbah - “You must allow yourself to be killed, rather than to commit murder”. “Who says your blood is redder than that of the other fellow?”

A group of Jews is commanded to deliver one of its members to enemies, who intend to kill him, as a sacrifice of one to save the many – is this permitted?

Rambam - (Yisodei HaTorah 5:5) The entire group is required to give up their lives rather than being accomplices to murder.

תַּלְמוּד לֹאמֵר „וְלֹא תַחַלְלוּ אֶת־שֵׁם קֹדֶשׁי וְנִקְדַּשְׁתִּי”

The Talmud says, “You shall not desecrate my Holy Name and I will be sanctified.”

“If you do not kill him, I will kill you.”

The governor ordered me to kill someone. He said he would kill me if I did not carry out his order. What shall I do?

Let him slay you, but do not take another person’s life. You cannot assume that your blood is redder (more worthy) than his.

מָה לְהֵלֵךְ עֲשֶׂרָה וְכוּלָּהוּ יִשְׂרָאֵל

Just like then, there were ten and they were all Jewish.

Can people who do not observe Shabbos be counted for a minyan?

R Moshe Feinstein - We learn from the verse, ‘V’nikdashti besoch Bnai Yisroel’, “I will be sanctified in the midst of the Bnei Yisroel.” Therefore, all must be Jewish. And we learn from the spies, via a ‘gezeirah sheva’ from the work ‘Toch’, that just as the spies were ten, so those who sanctify God’s name, should be ten and Jewish.

From this sentence, we learn that a minyan requires 10 Jewish men.

וְאֵלֵּי הֵן הַנִּשְׂרָפִין הָבָא עַל אִשָּׁה וּבָתָּהּ

These are the ones who are burned: One who cohabits with a woman and her daughter.

After stoning, burning is the most severe form of execution.

Sins which are punishable by burning:

-Cohabiting with:

- A woman and her daughter.

- his daughter (full), his daughter's daughter, his son's daughter.

- his wife's daughter (step), her daughter, his wife's son's daughter (i.e., his step-granddaughter).

- his mother-in-law or her mother.

- his father-in-law's mother.

- (or his illegitimate daughter, or her daughter).

- (or his illegitimate son's daughter or her daughter).

All 10 are executed through burning and the man is burned also.

The male adulterer of the Kohen's married daughter is strangled.

וְאֵלֵּי הַנֶּהֱרָגִין

These are the ones who are beheaded.

A murderer – one who directly caused the death.

For example, he

- Hit someone with a stone, or iron.
- Held him underwater, or in a fire.
- Held a snake, or dog to him to be bitten.

He is liable to be executed.

If the murderer put someone in water, or fire, but he could escape; or he incited a dog, or snake, but did not hold it against him, the murderer is not liable to be executed.

אָמַר שְׁמוּאֵל מִפְּנֵי מָה לֹא נֶאֱמָרָה יָד בַּבֶּרֶזֶל

Shmuel said, “Why is the word, ‘yad’, not mentioned in the case of an iron weapon.”

The Torah mentions the word, ‘handheld’ and also the words – ‘by which one could die by stone and by wood’, but these words are not written in the case of an iron weapon.

Because, an iron weapon of any size, can cause death, the Torah did not give a particular size for an iron weapon (Num 35).

אָמַר רַבָּא פֶּטוּר

Rava said, (One who bound another person and the victim died of hunger, is) not liable for murder.

On Shabbos, can we wear photo-grey eye-glass lenses, which darken when we go out and lose their color when brought inside?

The person does nothing to cause the change in color.

Is this similar to a person sitting in the sun and becoming tan?

One of the reasons it is permitted is because it is not permanent.

Another is that this is the normal use of these particular glasses and normal use does not constitute a malachah.

Sefer Orechos Shabbos says –No, the cause of the change was present, i.e., sunlight, so his action, in taking the glasses inside, caused the color to change.

However, it is not an act of dyeing, i.e., adding something that causes color change.

Therefore, it is not a malachah and they may be used on Shabbos.

אָמַר רַבָּא פֶּטוּר

Rava says, (One person bound another and he died of hunger,) is not liable for murder.

<u>Rava</u>	<u>liable</u>	<u>Why</u>
Bound and died of hunger when the act was committed.	No	The fatal force in hunger was not present
Bound in the sun	Yes	The fatal force of the sun was present when the act was committed.
Bound in the cold	Yes	The fatal force of cold was present when the act was committed.
Bound where sun has not yet come	No	Fatal force had not yet come.
Bound before a lion	No	Bound or not, lion would kill him.
Bound before gnats been tied.	Yes	He could have fended off the gnats, if he had not But the gnats which were present when he was tied up may not be the gnats who killed him and therefore, the fatal force was not there. Should not be liable. No, just as with water, if you hold his head under, it is not the water that kills him. He is liable. He could have escaped.

Pushed in a pit, where there was a ladder:

Shot with an arrow, victim had a shield-perpetrator freed.

Shot a poisoned arrow and victim's had antidote in his hand-perpetrator freed.

Killed someone while playing ball, intentionally -he is liable.

הכל מודים אָמַר רַבָּא בְּהוֹרֵג אֶת הַטְּרֵיפָה שֶׁהוּא פֶּטוּר

All agree that if one kills a tereifah, the murderer is exempt.

All agree that if one kills a tereifah Not liable considered already dead

If one kills a Goses Liable might recover

If a tereifah commits murder before

the court Liable The judges saw it

If a tereifah commits murder outside the court Not liable Why?

The witnesses against him are not subject to Hazomah.

Hazomah – The witnesses wanted to lie and cause the accused to be found guilty and die.

But he is already a tereifah. They plotted to kill someone who is already dead.

הכל מודים אמר רבא בהורג את הטרifah שהוא פטור

All agree that if one kills a tereifah, the murderer is exempt.

Rambam – Only if the doctors confirm that they could not have healed the victim's condition. If he could be healed, he is not categorized as a tereifah. However, an animal, who has a mortal wound, is considered a tereifah and may not be eaten even if the doctors say the animal could be healed. Why the difference between animals and humans in this regard?

An animal is designated a tereifah when it receives a mortal wound, as designated by Halacha and that designation cannot be changed, even if the condition is healed.

A human is a tereifah, because it is going to die. If it does not die, it never was a tereifah. If the doctors can heal him, he never was a tereifah. Killing him is like killing a healthy person and the murderer is fully liable to be executed.

אִם יִלּוּ נִתְכַּוֵּן לְהַרּוּג אֶת זֶה וְהָרַג אֶת זֶה פְּטוּר

A stone-thrower intends to kill A but kills B instead, he is not liable to execution

The stone-thrower:

-Intended to kill either one of them.

-Thought he was throwing at A, but was mistaken. It was B.

Is he guilty of murder?

What if he threw a rock into a crowd and killed one of them?

Sages - He intended to murder and is therefore, liable for the death penalty.

R Shimon – To be liable for the death penalty, he must declare his intention to kill a particular person . Therefore, in all the above cases, there is no death penalty.

Rambam (Hilchos Rotzeiach 4:1) Stone thrown into a crowd; no death penalty

R Yosef Karo - Rambam follows the sages , but in the case of the stone thrown into a crowd, he could not be given a warning and therefore, no capital punishment.

אֵלָא אֹמֵר לוֹ

Rather, he should say to him.

How should one correct his parent?

Should you say?

- | | |
|--|------|
| -Father, you have transgressed to words in the Torah. | No |
| -Father, this is what it says in the Torah. – Rashi | Okay |
| -Father, is this not what it says in the Torah? - Rambam | Best |
- Avoid embarrassing your parent.
-Use a question, or an indirect form.

כִּיּוֹן דְּנִגְמָר דִּינוֹ לְעִבְיָרָה קְלָה הָאִי גִבְרָא קְטִילָא הוּא

Since his verdict was finalized for the lighter transgression, he is legally considered a dead man.

A person was tried and convicted of a crime which required a death sentence. He was then tried and convicted of a crime which required a more harsh death sentence. Does this second conviction have any validity, since it was rendered upon a ‘dead man’?

Tosphos - If the witnesses for the first crime are disqualified, that death sentence is cancelled and the second death sentence would then become valid. That possibility justifies the trial and sentencing of the already convicted person.

שלא נהנה מקופה של צדקה

One should not benefit from the Tzedakah fund.

Meiri – This means that Tzedakah collectors must not benefit from those funds, by taking loans from them for himself, or for others.

The Shulchan Aruch agrees- If the money is tied up in loans, it cannot be available to the poor, who expect it to be available.

Kesav Sofer provided an exception to this rule:

A Tzedaka fund, gathered to be sent on a particular date to a charitable institution, might lend from it, until close to that date. Since, by knowing such a schedule, no one will depend on those funds and expect them to be available early.

נֶהֱפֹךְ זִמְרִי נֶהֱרָגוּ לְפִנְחָס אֵין נֶהֱרָג עָלָיו

If Zimri had turned the tables and killed Pinchas, he could not be executed by the court.

If Zimri, who was being pursued by Pinchas (who was going to kill him) had turned to defend himself and had killed Pinchas (who was pursuing him), Zimri would have been justified to do so in self-defense.

בְּלִי מָקוֹם שִׁישׁ חִילּוּל הַשֵּׁם

Where there is a threat of desecration of God's name.

Zimri ben Salu engaged in chilul HaShem and 23,000 died.

Pinchas ben Elazar ben Aaron Hakohen exposed himself to danger and was willing to die for Kiddush HaShem and thereby, became worthy of the eternal blessing of the priesthood.

Meam Loez 14:XV intro

מִיֵּכֶן שֶׁאֵין נִכְנָסִין בְּכָלֵי זֵיִין לְבֵית הַמִּדְרָשׁ

We learn from this sentence that we are prohibited from bringing weapons into a Bais
Hamidrash

in time of peace.

But it is permitted in time of conflict, to protect the people from enemies, or terrorists.
Then we can have weapons in the prayer hall, or the study hall.