

Teachings from Tractate Makkot

Introduction

Tractate *Makkot*, in the Talmud, deals with false witnesses, flogging for certain violations, and protecting unintentional killers by exiling them to cities of refuge.

Four punishments in Torah: Death, flogging, fine, shunning. (No jail.)

-Last death sentence rendered in year 30.

-Last flogging was in the Middle Ages.

The defendant must have been warned before his deed

Rabbi Yosei says: [Transgressors are] never executed unless his two witnesses are [the ones] warning him ahead of his deed, as it is stated:

At the mouth of two witnesses... [he who is to be put to death shall die.]

[Deuteronomy 17:6],

[This is interpreted as meaning that that it is from the mouths of his two witnesses that the accused must be warned. A warning issued by someone else is not sufficient. Rava disagrees and says the warning can come from any person, even the victim, even a “demon”.]

[Makkot 6b]

No court interpreters accepted

If the judge does not understand the language of the witness, the testimony is not accepted. No interpreter is allowed:

[From the phrase] “at the mouth of two witnesses” [one derives that the judges must hear the testimony directly from the witnesses, and] the Sanhedrin will not hear [testimony] from the mouth of an interpreter. [Makkot 6b]

However, the judge need not speak the language, only understand it.

Bad deal for teachers!

[The Sages] taught: [If] a student is exiled [to the city of refuge], his teacher is exiled with him, [so that the student can continue studying Torah with him there,] as it is stated:

[And he shall flee to one of these cities] and live, [Deut. 4:42]
from which it is derived: Perform some [actions] for [the unintentional murderer so] that [life in the city] will be [conducive to] living for him. [Since Torah study is an integral component of his life, arrangements must be made to ensure its continuity.]

Rabbi Zeira says: From here one learns that a person should not teach a student who is not fit, [as that may result in the teacher following the student into exile].
[Makkot 10a]

Torah education comes first

A certain schoolteacher mistreated his students. Rav Acha made him vow [that he would not teach again]. But Ravina [annulled the vow] and reinstated him, because none could be found who was as good as he was. [The best possible Torah education takes precedence.] [Makkot 16b]

Code of Jewish Law reaffirms teaching:

אם יש כאן מלמד שמלמד לתינוקות ובא אחר טוב ממנו מסלקין הראשון מפני השני
If there is a teacher here who teaches the children and another one comes who is better than him, we remove the first one on account of the second one.
[Shulchan Aruch, YD 245:18]

Learning from students

Rabbi Yehuda HaNasi says: Much Torah have I studied from my teachers, and I have learned more from my colleagues than from them, and I have learned more from my students than from all of them. [Makkot 10a]

Find out for yourself!

Rabbi Yoḥanan says: [There are two mitzvot on this matter:] This one and another one.

Rabbi Elazar said to Rabbi Yoḥanan: Which is that other mitzvah?

Rabbi Yoḥanan said to him: [You will find out] when you discover it for yourself.

Rabbi Elazar went out, examined the matter, and discovered the answer. [Makkot 16a]

Does this mean that you must always check things out for yourself in matters of Torah, if you are capable, and not take anybody's word for it?

When you gotta go you gotta go!

Rav Aḥai says: One who delays relieving himself through his orifices when the need arises violates the [following Torah] prohibition [in Leviticus]:

You shall not make your souls detestable. [Leviticus 20:25]

[Makkot 16b]

Enough!

The prophet Malachi quotes God as saying:

I will pour out blessings for you without limit [*ad beli dai*]. [Malachi 3:10]

The Talmud asks:

What is [meant by] "without limit"?

Rami bar Rav said: Until your lips wear out from saying "Enough!" [Makkot 23b]

The more mitzvot the better

Rabbi Ḥananya ben Akashya says: The Holy One, Blessed be He, sought to confer merit upon the Jewish people; therefore, He increased for them Torah and mitzvot. [Makkot 23b]

This passage is usually printed after each chapter in Pirkei Avot.

Rambam adds: Because there are so many mitzvot, one mitzvah observed perfectly is enough to be allowed in the World to Come.

Antisemitism is credited for Jewish survival. [Makkot 24a]

See separate d'var.

Clever argument to avoid giving lashes

One said: On my oath I will eat this loaf today, and the day passed and he did not eat it.

-Rabbi Yoḥanan and Reish Lakish both say: He is not flogged for taking a false oath. They disagree with regard to the reason that he is not flogged.

-Rabbi Yoḥanan says: He is not flogged because it is a prohibition that does not involve an action. He violates the oath by failing to perform an action, rather than by performing an action, and the principle is: With regard to any prohibition that does not involve an action, one is not flogged for its violation.

-Resh Lakish says: He is not flogged, because the forewarning in this case is an uncertain forewarning. One cannot properly forewarn him before he takes the oath, because as long as time remains in the day he can still eat the loaf at a later time and fulfill the oath; and any uncertain forewarning is not characterized as forewarning. [Makkot 16a]

Terminally ill people have different rules?

[The mishna teaches that] Rabbi Tarfon and Rabbi Akiva say: If we had been [members of the Sanhedrin, we would have conducted the trials in a manner where no person would have ever been executed. The Gemara asks:] How would they have acted [to spare the accused from execution if witnesses testified that he intentionally committed murder?]

Rabbi Yoḥanan and Rabbi Elazar both say [that they would have asked the witnesses]: Did you see [whether the accused] killed a tereifa, [i.e., a person with a condition that would lead to his death within twelve months,] or if [he killed someone who was] intact? [The halakhic status of a tereifa is like that of one who is dead, in the sense that one who kills him is not executed. Since no witness can be certain with regard to the victim's physical condition, the judges could invalidate any testimony to a murder.] [Makkot 7a]

It is prohibited to hasten death, even the death of one who is about to die [Shulchan Aruch, YD 339:1]. However, one who murders a terminally ill individual is not punished by a human court. [Rambam, Laws of Murder 2:8]

Rapist who must marry victim

[One who rapes] a virgin young woman... is required by Torah law to marry her [if she and her father agree] and [is] prohibited from divorcing her as long as he lives, [as the Torah says]:

He may not send her away all his days. [Deuteronomy 22:29].

-[If he] divorces [her anyway], and is not a priest, he [must] remarry her, and he is not flogged.

-If he is a priest, he is flogged and he does not remarry her because a priest may not marry a divorcée. [Makkot 15a]