

The JEWISH Spin on Current Events

PUNISHMENT, TORTURE & HUMILIATION *How are we supposed to treat POW's and Terrorists?*

☞ OVERVIEW ☞

1. IS TORTURE PERMITTED TO ELICIT A CONFESSION?
2. ACTING AS A GOOD SAMARITAN IS AN OBLIGATION OR A CHARITABLE ACT?
3. UNDER WHAT CIRCUMSTANCES IS ONE ALLOWED TO KILL A "PURSUER"?
4. DOES THE LAW OF A "PURSUER" APPLY TO ONE WHO IS PASSIVELY INVOLVED?
5. IS THERE A DIFFERENCE BETWEEN KILLING AND TORTURING A "PURSUER"?

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☞ SOURCES ☞

1. Is Torture permitted to elicit a confession?

☞ 1A ☞

TALMUD, SANHEDRIN 9B

A man does not depict himself as evil.

2. Acting as a Good Samaritan is an obligation or a charitable act?

☞ 2A ☞

LEVITICUS 19:16

Do not stand idly by the blood of your fellow.

3. Under what circumstances is one allowed to kill a “pursuer”?

☞ 3A ☞

EXODUS 22:1

If the thief is found [caught] while breaking in, and is struck and killed, there is no liability for his blood.

☞ 3B ☞

TALMUD, TRACTATE SANHEDRIN 72A

Raba said: What is the reason for the law of breaking in? Because it is certain that no man is inactive where his property is concerned; therefore this one [the thief] must have reasoned, If I go there, he [the owner] will oppose me and prevent me; but if he does I will kill him. Hence the Torah decreed, If he come to slay you, forestall by slaying him.

☞ 3C ☞

TALMUD, TRACTATE SANHEDRIN 72A

Our Rabbis taught: "There shall no blood be shed for him, if the sun has risen upon him." (Exodus 22:2) Now, did the sun rise upon him only? But [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.

⌘ 3D ⌘

MAIMONIDIES, LAWS OF A MURDERER, CHAPTER 1, LAWS 6-7, 9

Every Jew is commanded to save a person being pursued for his life, even if it means killing the pursuer, and [even if] the pursuer is a minor.

Thus, if warning is issued and he continues to pursue, the pursuer can be killed even without his acknowledging the warning. But if the pursuer can be stopped by disabling part of his body, by striking him with an arrow, a stone, or a sword . . . then that should be done.

And this is a negative commandment, i.e., not to have mercy on the life of a pursuer.

⌘ 3E ⌘

MISHNAH, OHOLOT 7:6

If a woman is having difficulty in giving birth [and her life is in danger], one cuts up the fetus within her womb and extracts it limb by limb, because her life takes precedence over that of the fetus. But if the greater part was already born, one may not touch it, for one may not set aside one person's life for that of another.

4. Does the law of a “pursuer” apply to one who is passively involved?

⌘ 4A ⌘

PALESTINIAN TALMUD, TERUMOT 8:10.

It has been taught: A group of travelers that were surrounded by marauders who deliver an ultimatum: “Give as one of you or we will kill all of you!” Even if they will all be killed let them not deliver a single Jewish life. However, if they singled out an individual, such as with the case of Sheva ben Bichri, he should be delivered, and they should not let themselves be killed. Rabbi Shimon ben Lokish says, this is so providing that the individual is culpable of a capital crime, like Sheva ben Bichri. Rabbi Yochanan says, even if he is not liable of a capital crime as Sheva ben Bichri.

5. Is there a difference between killing and torturing a “Pursuer”?

⌘ 5A ⌘

TALMUD, KESUBOS 33A-B

...on the basis of what do you assume that the death penalty is the more severe penalty [than lashes]? Perhaps lashes is the more severe penalty! For Rav said: “Had they whipped Chananyah, Mishael and Azaryah, they would have worshiped the statue.”