



Volume 10. Issue 24

## Ben sorer u'moreh nidon al shem sofo

After learning about the details of a *ben sorer u'moreh* in the earlier *Mishnayos* of this chapter, the question must be asked: What terrible crime did the *ben sorer u'moreh* commit to be included in the list of *niskalin* in 7:4? He did eat and drink like a glutton, and he even stole from his parents. However, neither of these *aveiros* is normally punished with the death penalty.

The abovementioned quote in the title explains that the *ben sorer u'moreh* is killed on the basis on what he will eventually do. The *Gemara* (72a) says the *ben sorer u'moreh* will keep taking money from his parents to support his gluttonous habits until he has stolen everything. He will then begin to be "m'lasteim", rob people to continue his way of life. "M'lasteim" can also have the connotation of murder.

The *Margaliyos Hayam* cites the *peirush* of the *Ba'alei HaTosfos al HaTorah* (*parshas Ki Teitze*) who ask that if the *ben sorer u'moreh* is stoned now because when he is older he will kill people to steal from them, then why is he specifically stoned? The death penalty for a murderer is beheading! According to all opinions stoning is more *chamur* than beheading. Why does *beis din* give a more severe penalty to the *ben sorer u'moreh* for a crime that he has not yet committed than if he had actually murdered? Let him be beheaded.

The *Ba'alei HaTosfos* answer that since one of the criteria of the *ben sorer u'moreh* is that he does not listen to his parents (see 8:4) this is considered as if he cursed them and the punishment for cursing one's parents is stoning (7:4).

The *Yad Ramah* answers that since the *ben sorer u'moreh* will go out to steal money from people he will also come to be *mechalel shabbos*, the penalty of which is stoning. If so, continues the *Yad Ramah*, what is the *heter* to kill the *ben sorer u'moreh*? We know from *mishnah* 8:7 that unlike a *rodef achar chaveiro l'horgo* who we kill to prevent him from killing, someone on their way to be *mechalel shabbos* may not be killed to prevent the *chillul shabbos*. The *Yad Ramah* answers that the *ben sorer u'moreh* will without a doubt end up killing people and thus he is a *rodef achar chaveir l'horgo*. With regard to *skila*, that is the *ben sorer u'moreh*'s punishment due to the *chillul shabbos*.

One more question that must be addressed is that even if the *ben sorer u'moreh* is considered a *rodef*, how can *beis din* kill him for something that he will do years from now? We know that *Hashem* judged *Yishmael* as he was right then – "ba'asher hu sham". *Hashem* did not take into the account *Yishmael*'s future and the tremendous *tzaaros* that *Yishmael*'s descendants give us to this very day. Rav Aharon Kotler zt'l (*Mishnas R' Aharon al HaTorah* p. 337) says that in the case of *Yishmael*, at that time he was a *tzaddik* or at the very least, a *tzaddik b'dino*. However, a *ben sorer u'moreh* already has the seeds of evil and destruction. This *ben sorer u'moreh* is completely and utterly involved in the pleasures of *olam hazeh*. Furthermore, he has no problem of violating *dinei Torah* such as stealing in order to continue obtaining those pleasures. (See the above source in *Mishnas R' Aharon* for a full treatment of this point and how this *mehalach* can also explain why the *ben sorer u'moreh* deserves *skila*.)

Zamir Pollak

### Revision Questions

סנהדרין ח' א' י' א'

- At what age can one qualify to be a *ben sorer u'moreh*? (ח' א')
- What is the source for the law in the previous question? (ח' א')
- What must the child do to become a *ben sorer u'moreh*? (ח' ב')
- If the child does so, when is he still not a *ben sorer u'moreh*? (ח' ב')
- Explain the debate regarding how the child must acquire the object to perform the act in order to become a *ben sorer u'moreh*. (ח' ג')
- What are four requirements placed on the parents for the son to be a *ben sorer u'moreh*? (ח' ד')
- How was a child warned prior to becoming a *ben sorer u'moreh*? (ח' ד')
- How many judges are required for a case of *ben sorer u'moreh*? (ח' ד')
- Explain the rationale of punishing a *ben sorer u'moreh*? (ח' ה')
- What other case is treated in a similar manner? (ח' ו')
- For which three crimes can one kill a person trying to perpetrate them? (ח' ו')
- Which three crimes are listed in the *Mishnah*, that one might think share the same law as stated in the previous question, but do not? (ח' ו')
- Aside from a person having a relationship with “*isha u'bitah*” what other crime is punishable with *sreifa*? (ח' ז')
- What falls under the category of “*isha u'bitah*”? (ח' ז')
- Which two crimes are punishable with *hereg*? (ח' ז')
- If someone pushed another into the water and they drowned, when are they not charged with murder? (ח' ז')
- Which murder case is the subject of debate between the *Tana Kama* and *R' Nechemya*? (ח' ז')
- If one strikes another and the person dies, assuming he was warned, what two component are critical to charge the person with murder? (ח' ז')
- Explain the murder case where *R' Yehuda* argues. (ח' ז')
- What is law if one of two people committed murder and one of the people is righteous? (ח' ז')
- In general, what does *beit din* do if people found of guilty capital punishments, each carry different punishments, get mixed together? (ח' ז')
- Regarding the previous question, which specific cases are debated between the *Chachamim* and *R' Shimon*? (ח' ז')
- How is a person punished if *beit din* ruled he must receive two different capital punishments? (ח' ז')
- Regarding the previous question, in what case does *R' Yosi* argue? (ח' ז')
- What does *beit din* do to a repeat offender that has already received lashes? (To which sins is the *Mishnah* referring?) (ח' ז')
- Regarding the previous question, who else is treated in this manner? (ח' ז')
- For which three crimes do “*kana'in pog'in bo*”? (ח' ז')
- For which offence committed by a *kohen* do his “brothers” deal with him? Explain. (ח' ז')
- Explain the debate regarding the punishment for a non-*kohen* that serves in the *Beit Ha'Mikdash*. (ח' ז')
- Complete the phrase: “\_\_\_\_\_ להם” (ח' ז')
- For which three offences does one lose their *chelek*? (ח' ז')

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### Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
28 <sup>th</sup> July כ"א אב	29 <sup>th</sup> July כ"ב אב	30 <sup>th</sup> July כ"ג אב	31 <sup>st</sup> July כ"ד אב	1 <sup>st</sup> August כ"ה אב	2 <sup>nd</sup> August כ"ו אב	3 <sup>rd</sup> August כ"ז אב
Sanhedrin 10:2-3	Sanhedrin 10:4-5	Sanhedrin 10:6-11:1	Sanhedrin 11:2-3	Sanhedrin 11:4-5	Sanhedrin 11:6 – <b>Makkot</b> 1:1	Makkot 1:2-3

