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• **Ben Sorer Umoreh – How?**

not make him liable.

The *Mishna* stated that to become a *ben sorer umoreh* – *wayward son*, he must eat meat and drink wine.

The *Gemora* questions how Rabbi Yosi the son of Rabbi Yehudah can require him to steal from his mother as well, since whatever a wife acquires is owned by her husband. The *Gemora* offers two answers:

1. He stole from money that was reserved for a meal for both his parents.
2. Someone gave his mother money, on condition that his father has no rights to it.

The *braisa* explains that no food besides meat and no drink besides wine makes him a *ben sorer umoreh*. Although there is no textual proof for this, there is a hint to it in the terms used to describe the *ben sorer umoreh* – *zoleil v’sovai* – *a glutton and guzzler*. The verse in Mishlei uses the same terms when exhorting the reader not to be among the *sovai yayin* - *wine guzzlers*, nor among the *zolelai basar* – *gluttons of meat*. The *braisa* continues with the next verse, which explains that one should avoid these traits, since a guzzler and glutton ends up poor, and one who sleeps will end up with torn clothing. Rabbi Zeira explains that the latter half of the verse is teaching that one who sleeps in a *beis medrash* ends up with gaps in his Torah knowledge, making it “torn.”

The *Mishna* says that the *ben sorer umoreh* is only liable if both his parents want to judge him for his crimes. Rabbi Yehudah says that if his mother is not a fit wife for his father, he is not liable.

The *Mishna* says that the *ben sorer umoreh* is only liable if he stole from his father to purchase meat and wine, and then consumed them elsewhere. Rabbi Yossi the son of Rabbi Yehudah says that he must steal from his father and mother.

The *Gemora* explains that when Rabbi Yehudah says his mother is not fit, he is not referring to her permissibility as his wife, since the verse just stipulates that he be the child’s mother. Rather, as explained in the *braisa*, he is requiring that the mother and father be totally equivalent to his father, sharing the same voice, appearance, and height.

The *Gemora* explains that the *ben sorer umoreh* is only liable for activity which can become a habit. Therefore, he must steal from his father, whose property is always accessible to him, and eat elsewhere, where he is not concerned about his father’s supervision and punishment. Any other combination will not be sustainable, and does

The *Gemora* explains that Rabbi Yehudah learns these requirements from the verse, which says that the parents state to the court that their son does not heed *koleinu* – *our voice*. The use of one word to reflect both their voices indicates that they must share the same voice. From the requirement of an equivalent voice, Rabbi Yehudah extrapolates to an equivalent appearance and height.

The *Gemora* cites a *braisa* which says that there never was or will be a *ben sorer umoreh*, and it was only mandated by the Torah for us to learn and get reward.

The *Gemora* says this *braisa* follows Rabbi Yehudah, whose requirements make it impossible to actually prosecute a *ben sorer umoreh*.

The *Gemora* says it also may follow Rabbi Shimon, who says in another *braisa* that it is illogical that the Torah would mandate, and the parents would request, execution for one who simply eats meat and drinks wine.

Rabbi Shimon says that the section of *ben sorer umoreh* is not for practical purposes, but simply for us to learn and get reward.

Rabbi Yonasan differs, and says that he actually saw a *ben sorer umoreh* executed, and sat on his grave.

The *Gemora* cites other similar disputes:

1. The *braisa* says that there never was nor will be an *ir hanidachas* – a city incited to idolatry, but the Torah taught it for us to learn and get reward. This *braisa* follows Rabbi Eliezer, who says that any city that has a *mezuzah* cannot be an *ir hanidachas*, since the Torah mandates that we burn all the property of the city, but not property of Hashem, i.e., Torah scrolls and *mezuzos*. Therefore, Rabbi Eliezer says that *ir hanidachas* was never practical, but just taught for us to learn and get reward. Rabbi Yonasan counters that he saw an *ir hanidachas*, and he sat on the mound of its destruction.
2. The *braisa* says that there never was nor will be a house plagued by *tzara'as*, but the Torah taught it for us to learn and get reward. This *braisa* follows Rabbi Elozar the son of Rabbi Shimon, who says that a house is declared to be impure with *tzara'as* only if there is a spot on two stones at the corner of the house, with a *gris* size stain on each, since the verse refers to the *tzara'as* on the *kir* – wall and on the *kiros* – walls. The one spot in the house which is both one

wall and multiple walls is the corner. The *Gemora* concludes with a *braisa* which describes places that were used to store the impure stones taken from plagued houses. Rabbi Elozar the son of Rabbi Tzadok says that there was a place in the Aza area, which was known as the region where impure stones from plagued houses. Rabbi Shimon from Ako says that he once went to Galil, and he saw a restricted area, where impure stones were brought.

The *Mishna* says that the *ben sorer umoreh* is not liable if either parent is missing a hand, crippled, mute, blind, or deaf. Each requirement is learned from the verse:

| Verse | Exclusion |
|------------------------------------|---|
| And his father and mother grab him | Missing hands |
| And they take him out | Crippled |
| And they say, | Mute |
| “This son of ours.. | Blind, since they cannot point to their son |
| Does not listen to us” | Deaf, since they cannot hear his response |

They first warn him in front of three, and punish him with lashes if he does not listen. If he repeats his actions, he is then judged by a Sanhedrin of twenty-three judges, which must include the original judges who condemned him to lashes, since the verse says that the parents refer to their son as *zeh* – this son, indicating that the judges already know him, from the earlier judgment.

The *Gemora* says that even if we generally do not assume every verse’s details must be fulfilled, this whole verse is extraneous, and therefore mandates that its details be fulfilled.

Abaye explains that when the *Mishna* says he is “first warned in front of three,” it means that that he is “first warned [in front of two and then judged and sentenced to lashes] in a court of three.”

Rabbi Avahu explains that a *ben sorer umoreh* is punished by lashes, since the word *ben* is used, similar to the *bin* used in the verse *im bin hakos harasha* – if the guilty one is liable for lashes.

The *Gemora* explains that the phrase *benainu zeh* – this son of ours, teaches two things:

1. The judges must already know the child, since they previously judged him.
2. The parents must not be blind, since the verse doesn't simply say *hahu* – that son of ours, but *zeh* – this son, indicating that *they* can view and identify him. (71a – 71b)

Changed Circumstances

The *Mishna* says that if the *ben sorer umoreh* escaped and fully matured before being sentenced, he is not liable, but if he was sentenced, he is liable, even if he escaped and fully matured before being executed.

Rabbi Chanina says that if a Noahite blasphemed God and then converted, he is not liable. Since his conversion changed his legal process, it removed the liability for death as well.

The *Gemora* suggests that our *Mishna* supports Rabbi Chanina. The *Mishna* says that a *ben sorer umoreh* who matures before sentencing is not liable, perhaps because his legal status has changed.

The *Gemora* deflects this proof, since in the *Mishna*, he wouldn't be liable for death if he did his actions now, and therefore he is not liable if not yet sentenced. However, the

Noahite would be liable for his crimes in his new status as well, and therefore may be liable for his earlier transgression.

The *Gemora* attempts to disprove Rabbi Chanina from the second case of the *Mishna*, where the *ben sorer umoreh* is liable if he escaped and matured after sentencing, although his legal status has changed.

The *Gemora* deflects this, since once he is sentenced, he is considered already dead, leaving no room for change in status.

The *Gemora* cites another *braisa* to disprove Rabbi Chanina. The *braisa* discusses a Noahite who killed someone or committed adultery with someone's wife, and then converted. The *braisa* says that if he committed the crime against another Noahite, he is not liable, but if he committed it against a Jew, he is liable. The *Gemora* asks why he is liable when he committed it against a Jew – if his legal process changed, he should not be liable. The *Gemora* answers that in order to avoid execution, his legal process and execution method must have changed. A Noahite's execution for all his crimes is decapitation. A murderer is also punished by decapitation, so his execution has not changed, leaving him liable. The *Gemora* explains that although the punishment for adultery is strangulation, since this is less severe than decapitation, it is included in his original liability, and his overall status has therefore not changed. Rabbi Shimon, who considers strangulation more severe, will say that a Noahite is generally executed by strangulation, in line with a *Tanna* from the Academy of Menasheh. Therefore, for murder, his new execution of decapitation is included in his original execution of strangulation, which is more severe, and for adultery, his original and current method of execution are the same.

The *Gemora* attempts to support Rabbi Chanina from a *braisa* that states that if a formally married young woman (*naara meurasa*) matures before sentencing, she is

sentenced to strangulation. The *Gemora* suggests that she is not sentenced to stoning, the original execution for her crime, since she has physically changed, and she would not be liable for stoning if she committed the same crime now. This would be all the more true in the case of Rabbi Chanina, where the whole legal process has changed.

The *Gemora* deflects this, since Rabbi Yochanan corrected the author of the *braisa*, saying that she should be sentenced to stoning.

The *Mishna* explains that the *ben sorer umoreh* is judged based on the ultimate trajectory of his current actions, allowing him to die innocent of much more serious crimes. The *Mishna* lists situations which have opposite effects on an individual and the world, depending on the virtuosity of the person:

| Situation | Person | Effect on person and world |
|----------------|-----------|----------------------------|
| Death | Wicked | Gain |
| | Righteous | Loss |
| Wine and sleep | Wicked | Gain |
| | Righteous | Loss |
| Dissension | Wicked | Gain |
| | Righteous | Loss |
| Cohesion | Wicked | Loss |
| | Righteous | Gain |
| Calm | Wicked | Loss |
| | Righteous | Gain |

The *Gemora* cites a *braisa*, which expands on the statement of the *Mishna*. Rabbi Yossi Haglili says that the

Torah would not mandate stoning for the act of eating meat and drinking wine. However, Hashem knows that ultimately this child will seek out his habit and not be able to fund it. He will then turn to ambushing travelers, robbing and potentially killing them. The Torah therefore mandated that his life end while he is still relatively innocent, and before he turns out very guilty. The *braisa* concludes with a partial list of the same situations listed in the *Mishna*. (71a – 71b)

INSIGHTS TO THE DAF

- **Same Wavelength**

Rabbi Yehudah states that in order for a son to become a *ben sorer umoreh*, his parents must share the same voice, height, and appearance. Rabbi Yehudah’s proof is based on the verse’s use of the one word *koleinu* – *our voice* to describe both of the parents’ voices.

The commentators question why their voices must match, and why Rabbi Yehudah extends that to other characteristics as well.

The Ben Yehoyada says that in order for the *ben sorer umoreh* to be prosecuted, he must have transgressed the awe of both his father and mother. In general, when one of them is scolding him, and he ignores them, he is only transgressing the awe of that parent. Only when they are totally equivalent is he effectively hearing both his parents scolding when only one is actually scolding him, and thereby transgressing both their awes when ignoring this scolding.

The Maharsha similarly says that when the parents differ in any way, the child can claim that he was only ignoring the scolding because it was only one of the parents.

The Orchos Yosher explains that an equivalent voice represents unity and harmony in the home between the mother and father. When the child grows up in a home

where the parents “speak in different voices,” in that they exhibit discord and division between themselves, the child cannot be fully blamed if he ends up wayward. Only when the parents have reached a level of total harmony, and they appear to the child as one voice, can we blame the child alone.

- **Learn and Receive Reward**

The *Gemora* says that if a *ben sorer umoreh* never did or will occur, the Torah included this section for us to learn and get reward.

The Ben Yehoyada, based on the Zohar, explains that this section is a parable for the Jews and their relationship to their Father in Heaven. Lest the Jews feel complacent that their Father would never prosecute them for their misdeeds, the Torah tells of a child who is so wayward that his parent brings him to court to punish him. So too, if the Jews sink so low, Hashem will take them to task for their misdeeds.

The Maharsha explains that Rabbi Shimon says that it is impossible for the parents to ever believe that their child is so hopeless that he is better off dead now. The lesson is for them to learn that they must not be complacent, but always discipline their children, lest they sink so low that there is no hope for return.

- **Present or Future?**

The *Gemora* says that the *ben sorer umoreh* is punished not based on his present actions, but based on their future trajectory. The commentators contrast this with the *Gemora* (Rosh Hashanah 16b) that explains that Hashem did not judge Yishmael based on the future crimes of his nation against the Jews, but purely *ba’asher hu sham* – as he is now.

The Chizkuni explains that the *ben sorer umoreh* has already begun the misdeeds which will lead to worse crimes, as opposed to Yishmael, who had done *nothing* wrong at the time, but whose life would enable later crimes. When the life of sin has not begun, Hashem does not punish based on the future, but when the path of sin has been started, Hashem does mandate that the criminal be killed while still relatively innocent.

The Ben Yehoyada notes that the *Gemora* therefore includes robbery in the crimes that the *ben sorer umoreh* will eventually resort to, since that is the same crime that he has currently committed, when he stole from his father for his habit.

The Maharsha explains that the *ben sorer umoreh* is being punished for *his* future sins, while Yishmael escaped judgment for future sins of his descendants. Since he did and will never himself do the sins, Hashem did not judge him based on them.