**S.A.L.T. – PARASHAT KI-TEITZEI**

**By Rav David Silverberg**

Motzaei Shabbat

The Torah in Parashat Ki-Teitzei introduces the law of *ben sorer u-moreh* – the “wayward son,” referring to a thirteen-year-old boy who disobeys his parents and conducts himself in a gluttonous manner, for which he is to be killed. The Gemara in Masekhet Sanhedrin (71a) teaches that there never was a situation of *ben sorer u-moreh*. Indeed, so many detailed requirements must be met for this *halakha* to practically apply, including several far-fetched sets of circumstances, that it is all but impossible for such a thing to actually happen. Hence, the concept of the *ben sorer u-moreh* has often been viewed as a model of the very opposite of how the Torah envisions a young Jewish person’s conduct and education, as opposed to a practical halakhic directive.

One of the conditions mentioned by the Mishna (Sanhedrin 70a) for this law to take effect is that the youngster must eat a certain quantity of meat, and that this meat must be kosher. If the child consumes forbidden food, even in very large quantities, he does not fall under the category of *ben sorer u-moreh*, and this law does not apply to him.

[Rav Yehuda Amital *zt”l*](http://news.vbm-torah.org/en/messages-elul) noted how this law reflects the importance of living a generally noble and sacred life, beyond the observance of the particulars of *Halakha*. As the Ramban famously discusses in his commentary to the beginning of Parashat Kedoshim, it is possible for a person to strictly adhere to every halakhic detail while living a life that is very far from the noble, sacred lifestyle which the Torah demands. One can spend his life indulging in physical pleasure and vanity without technically transgressing a single halakhic prohibition or neglecting any halakhic requirement. Torah life requires not only strict compliance with the code of *Halakha*, but also living a life of meaning, nobility, and spiritual ambition. And thus the *ben sorer u-moreh*, the prototype of the opposite of Torah life, is somebody who strictly follows the Torah’s dietary laws, but is a glutton – to emphasize the need to focus on both the “trees” and the “forest,” to carefully and meticulously observe halakhic details without neglecting the broader values and general modes of conduct the Torah requires.

The Rambam, in a famous passage in Hilkhot Teshuva (7:3), clarifies that repentance is required not only for particular sinful acts, but also for negative character traits:

Do not think that repentance is [relevant] only for transgressions that involve an action, such as sexual immorality, theft and burglary. Rather, just as a person must repent for these, so must he examine his negative traits, and repent for anger, enmity, jealousy, frivolity, the pursuit of money and honor, and the pursuit of food and the like. One must repent for everything.

*Teshuva* is relevant not only to particular infractions, but also to inappropriate and undisciplined conduct that may be technical permissible, but is directly at odds with Torah ideals. We must be sensitive not only to the specific dos and don’ts of *Halakha*, but also to the broader behaviors and modes of conduct which the Torah expects us to embrace, and ensure that we apply these ideals in our day-to-day lives.

Sunday

The opening verses of Parashat Ki-Teitzei present the law known as “*eishet yefat to’ar*,” which applies in situations of warfare. The Torah addresses the situation of a soldier who in the course of military conflict sees and desires a woman who was captured from the enemy nation, and the Torah outlines the procedure he should follow if he wishes to marry the woman. After bringing her home, he must allow her a one-month period to mourn, and take measures to make her less attractive. If the soldier still desires her, then he may marry her, and if he does not, then he must set her free.

Oftentimes, during our encounters with other cultures, we come across an “*eishet yefat to’ar*” – elements that appear attractive, compelling and appealing, and we are naturally and instinctively drawn to them. The law presented here by the Torah warns us that before we embrace these ideas and implant them within our value system, we must exercise patience, giving ourselves time to think the matter through, and waiting until the glitter and initial attraction fade. If, after a period of careful consideration and honest, objective assessment, we determine that this is something of value that ought to be embraced, then the Torah instructs us to do so. In some instances, however, after this waiting period, when we are able to look beyond the alluring, external trappings, we find that the idea, value or practice in question is not something we wish to bring into Jewish life, in which case we are to let it go.

A number of commentators noted that in describing the soldier’s initial attraction to the captive woman, the Torah uses the word “***chashakta***” (21:11), whereas later, when it speaks of the soldier’s eventual disinterest in the woman, it says, “*im lo* ***chafatza*** *bah*” – “if you do not want her” (21:14). It has been suggested that the verb “*ch.sh.k.*” denotes instinctive lust and desire, whereas “*ch.f.tz.*” refers to a genuine wish that one has after making a reasoned, calculated decision that this is something beneficial. Like the soldier described by the Torah, our instinctive “*cheishek*” is sometimes at odds with our true “*cheifetz*”; we are lured and misled by the charm and external appeal of certain ideas and are tempted to embrace them without a second thought. The law of the “*eishet yefat to’ar*” alerts us to the need to be careful and discerning before we embrace newly-discovered concepts and ideas, and ensure that we are not just falling prey to their external charm and appeal.

Monday

Among the laws presented in Parashat Ki-Teitzei is that of the *ben sorer u-moreh*, the teenage “wayward son,” whose parents are authorized to bring him to *Beit Din*, and under very specific circumstances, he would be put to death.

In discussing this law in Hilkhot Mamrim (7:14), the Rambam writes that in the case of a *ben sorer u-moreh* who is executed, his father inherits anything he owned, in accordance with the standard rule that a father inherits his deceased child’s possessions. The Rambam adds that “even though his father caused him” to be executed, the father nevertheless inherits his estate. It appears that in the Rambam’s view, one might have assumed that the father in this case does not inherit the deceased son’s possessions, as he caused his death by bringing the boy to the *Beit Din*. The Radbaz explains that since *Halakha* does not require parents of a *ben sorer u-moreh* to bring him to *Beit Din*, and they have the option of forgiving him for his offenses, we might have assumed that *Chazal* would deny the father his inheritance rights. Therefore, the Rambam found it necessary to clarify that despite this argument, the father of a *ben sorer u-moreh* indeed inherits his property. The reason, presumably, is that since the Torah authorizes the father to bring the child to *Beit Din*, he should not be penalized by being denied the inheritance.

The Radbaz’s comments seem to indicate that if one wrongfully causes the death of somebody whose estate he is in line to inherit, and certainly if he kills him, he is not entitled to the inheritance, and the case of the *ben sorer u-moreh* marks an exception to this rule.

The Mabit, however, in his *Kiryat Sefer* commentary to the Rambam’s *Mishneh Torah*, seemingly suggests otherwise. Commenting on this passage in Hilkhot Melakhim, the Mabit draws our attention the Gemara’s discussion in Masekhet Sanhedrin (48b) concerning the story told in Sefer Melakhim I (21) of Achav and Navot. The story involves Navot’s vineyard which neighbored King Achav’s palace in the Jezreel Valley, and Achav’s queen, Izevel, schemed to have Navot falsely accused of treason and executed, so that Achav could then take the vineyard, which he desired. The Gemara comments that Achav felt entitled to the property because he was a relative of Navot and an heir to his estate. The Mabit shows from this story that one who brings about his relative’s death does not forfeit his rights as inheritor, and this incident thus sets a precedent for the Rambam’s ruling that a *ben sorer u-moreh*’s father inherits his property. According to the Mabit, it appears, the laws of inheritance apply even when an heir is responsible for the deceased’s passing.

[Rav Asher Weiss](http://www.torahbase.org/%D7%90%D7%9D-%D7%99%D7%A9-%D7%9C%D7%9C%D7%9E%D7%95%D7%93-%D7%94%D7%9C%D7%9B%D7%94-%D7%9E%D7%9F-%D7%94%D7%AA%D7%A0%D7%9A-%D7%AA%D7%A9%D7%A2%D7%95/), however, suggests that in truth, there is no debate on this issue. After all, Achav’s seizure of Navot’s vineyard was condemned in the harshest of terms by Eliyahu, whom God sent to censure Achav for what happened and to warn of the calamity that will befall his family as a result of this grievous crime. Eliyahu famously exclaimed, “*Ha-ratzachta ve-gam yarashta*” – “Have you murdered and also inherited?!” – clearly indicating that, as our intuitive sense of morality would dictate, there is no possible justification for granting a murder victim’s estate to the murderer. Rav Weiss therefore explains that according to both the Radbaz and the Mabit, although the Torah’s inheritance laws do not, technically, change in the case where the prospective heir killed the deceased, nevertheless, it is clear that the *Beit Din* should not allow this to happen. God’s stern reaction to Achav’s appropriating Navot’s estate demonstrates that even if the technical laws of inheritance apply to an inheritor who caused the deceased’s death, such an inheritor should not be given the estate, and *Beit Din* should use its authority to deny the killer inheritance rights. Rav Weiss cites in this context the *Shulchan Arukh*’s ruling (C.M. 283:2) that *Beit Din* should utilize its authority, when it deems necessary, to deny an evil person rights to inherit his family member’s estate. In a similar vein, it is expected that *Beit Din* would not allow a killer to inherit his victim’s estate, if he is first in line to receive it.

(Rav Weiss presented this analysis in a responsum written to an Israeli judge who presided over the tragic case of a husband who was convicted of killing his wife, and demanded inheritance rights to his wife’s estate.)

Tuesday

Yesterday, we noted the Rambam’s comment in Hilkhot Melakhim (7:14) concerning the case of a *ben sorer u-moreh* (the “wayward son” who is killed for his dangerous and corrupt behavior): “A *ben sorer u-moreh* is like all those executed by *Beit Din*, in that their money is given to their inheritors. For although his father caused him to be stoned, he inherits all his possessions.” The Rambam here establishes that the standard rule awarding a bereaved father rights to his son’s estate applies even in the case of a *ben sorer u-moreh*, despite the fact that the father is responsible for the child’s death, as he brought him to the court, which then sentenced him to execution. As we saw, later writers sought to explain why the Rambam found it necessary to emphasize that the father receives the estate despite the fact that he had caused the son’s death.

Rav Yitzchak Zilberstein, in *Chashukei Chemed* (Bava Metzia 38b), cites his father-in-law, Rav Yosef Shalom Elyashiv, as explaining the Rambam’s comments by noting the Rambam’s emphasis that the *ben sorer u-moreh* resembles other cases of court-administered execution. The Rambam here makes reference to the general rule that in the rare cases when *Beit Din* convicts and executes a violator of a capital offense, the standard rules of inheritance apply, and the violator’s possessions are inherited by his heirs. This is in contrast to the case of *harugei malkhut* – people put to death by special order of the government. *Halakha* grants the government the authority, under rare and exceptional circumstances, to execute criminals and traitors who pose danger to public safety and cannot, for technical reasons, be prosecuted and punished through the standard due process of law. When this happens, the executed person’s estate is not inherited by his or her heirs, and is instead seized by the government. Rav Elyashiv thus suggests that the Rambam made this comment – “A *ben sorer u-moreh* is like all those executed by *Beit Din*, in that their money is given to their inheritors” – to dispel the possible misconception that a *ben sorer u-moreh* should be classified under the category of *harugei malkhut*. Unlike all other convicted offenders, whom *Beit Din* punishes for wrongs which they have committed, a *ben sorer u-moreh*, as *Chazal* explain, is executed due to the concern of what he would likely do in the future. His sentence is not, by nature, punitive, but rather a measure taken by the Torah which foresees that one who qualifies as a *ben sorer u-moreh* will undoubtedly grow to be a dangerous criminal. As such, one might have thought that the case of a *ben sorer u-moreh* resembles that of *harugei malkhut* – extraordinary cases of execution to protect the public – and should not treated as a standard case of execution by *Beit Din*. For this reason, Rav Elyashiv explained, the Rambam found it necessary to clarify that the *ben sorer u-moreh*’s property is inherited by his father, as we do not consider this a case of *harugei malkhut*.

[Rav Asher Weiss](http://www.torahbase.org/%D7%90%D7%9D-%D7%99%D7%A9-%D7%9C%D7%9C%D7%9E%D7%95%D7%93-%D7%94%D7%9C%D7%9B%D7%94-%D7%9E%D7%9F-%D7%94%D7%AA%D7%A0%D7%9A-%D7%AA%D7%A9%D7%A2%D7%95/) dismisses this argument, noting that the case of a *ben sorer u-moreh* is handled start-to-finish by *Beit Din*, and not by the government. The parents bring the youngster to the court, which conducts a trial, issues a verdict, and carries out the sentencing. There is no reason why anyone would consider treating this case as one of *harugei malkhut*. Hence, as we discussed yesterday, Rav Weiss explains the Rambam’s comments to mean that ordinarily, an inheritor should not be awarded the estate of a family member for whose death he bears responsibility. One would have therefore questioned whether the father of a *ben sorer u-moreh* is entitled to the child’s possessions after his execution, and the Rambam clarifies that he is, presumably because the Torah authorizes the father to bring the wayward child to *Beit Din* under these exceptional circumstances, and thus the father did not act wrongly in causing his son’s death in this situation.

Wednesday

Towards the end of Parashat Ki-Teitzei, the Torah addresses the case of a violator who was found guilty of transgressing a Torah law, for which he is liable to lashes. The Torah warns, “*Arba’im yakenu, lo yosif*” – the court official administering the lashes must ensure not to lash the sinner any more than he deserves. The simple reading of the verse suggests that the sinner is given forty lashes, but the Mishna (Makkot 22a) explains the verse to mean that the court official administers thirty-nine lashes. In any event, the Torah strictly prohibits whipping a convicted violator even once more than required.

The message conveyed by this law applies well beyond the narrow framework of court-administered punishment, and is relevant in all cases of necessary reactions to wrongdoing. The Torah here perhaps teaches us that on those occasions when criticism or disciplinary measures are warranted, we must exercise extreme care to ensure not to say or do any more than is needed to achieve to desired purpose. Even once we determine that criticism or condemnation needs to be expressed, or, in the case of a child or student, disciplinary action must be undertaken, we are warned, “*lo yosif*” – not to extend at all beyond what is appropriate and warranted. Too often, our anger, our desire to assert authority, or the thrill of controversy drives us to emotional outbursts or disproportionate responses to that of which we disapprove. Religiously-sanctioned criticism and anger can be very dangerous, as it often leads a person to allow himself to break his usual constraints and freely indulge in rage or condescension in the name of the alleged holy objective he seeks to achieve. And thus the Torah warns, “*Arba’im yakenu, lo yosif*,” demanding that any punitive actions we take or critical words we speak be meticulously calculated and limited. Even a single “lash” beyond that which can be reasonably deemed appropriate and necessary for achieving the desired purpose is illegitimate and must be avoided.

Thursday

Yesterday, we noted the prohibition issued by the Torah in Parashat Ki-Teitzei (25:3) forbidding court officials from exceeding the prescribed amount of lashes when punishing violators. The Torah warns lest “*ve-nikla achikha le-einekha*” – one might look disdainfully upon the offender and decide to lash him more than *Halakha* prescribes. Even when a person has committed a Torah violation that warrants court-administered punishment, we must still treat him as “*achikha*” – our kin, and refrain from excessive punitive measures.

The Gemara, in Masekhet Makkot (23a), adds a further layer of interpretation to this verse, explaining, “*Keivan she-laka – harei hu ke-achikha*” – “Once he was lashed, he is then your brother.” This reading of the verse forms the basis of the *halakha* requiring treating a violator as an ordinary, upstanding member of the Jewish Nation after punishment has been administered. He should not be suspected or mistrusted, as he had already endured his due punishment. Thus, for example, his testimony is valid and accepted by a court. Surprisingly, the Rambam writes in Hilkhot Eidut (12:4) that this law applies even if the sinner had not repented. A sinner regains his eligibility to testify, the Rambam writes, either after repenting, or after enduring lashes, even without having repented.

The Tolna Rebbe noted that this *halakha* becomes particularly striking, and instructive, when we consider the circumstances under which a violator would be liable to lashes. In the times when *Beit Din* had the authority to punish violators, lashes were given only if two witnesses saw the act and forewarned the offender of the punishment to which he would be liable, and the offender verbally acknowledged and dismissed the warning. The rule of “*harei hu ke-achikha*,” which requires treating a sinner as our “brother,” applies even to those who were fully aware of the law they transgressed and its consequences, were given the opportunity to reconsider their decision, and flagrantly disregarded the warning. Even such people – and, in some circumstances, even without any signs of repentance – must be viewed and treated as “*achikha*,” as our beloved brethren, worthy of our respect and consideration, and of our trust. Despite the fact that a person committed a Torah violation knowing very clearly what this meant, he can still regain our esteem and affection.

This *halakha* has much to teach us about the proper way to relate to other offenders, who would not be eligible for lashes. More often than not, people act improperly because of deficient knowledge, misunderstandings, misconceptions, clouded judgment, emotional turmoil, or other circumstances. We have all made mistakes that could have been avoided, but resulted from faulty judgment or a momentary lapse of some sort. If even those deserving of lashes, who transgressed with full conviction, are given the opportunity to regain their standing, then certainly, we must look sensitively, forgivingly and lovingly upon those who err due to misunderstandings or poor judgment. There are many different factors that lead people – including ourselves – to act wrongly, and we must therefore give others the benefit of the doubt and treat them as “*achikha*” despite their mistakes and failings.

Friday

Parashat Ki-Teitzei begins with the law known as “*eishet yefat toar*,” outlining the procedure by which a soldier who desires a woman captured from the enemy during war may marry her. The Gemara famously comments in Masekhet Kiddushin (21b) in reference to this law, “*Lo dibera Torah ela ke-negged yetzer ha-ra*” – the Torah made this provision out of consideration to the unique strength of this particular desire. As the Gemara explains, the Torah recognized that unless it established a protocol through which the solider may marry the captive woman he desires, he would likely succumb to temptation and sleep with her in a forbidden fashion. And thus, although a solider in this situation must ideally suppress his desire for the woman, the Torah nevertheless provided a permissible way for him to satisfy his lust, as a safeguard against illicit relations.

The Tolna Rebbe noted that the Gemara’s comment must be considered in light of the view of Rabbi Yossi Ha-gelili in the Mishna (Sota *44*a) stating that any soldiers who feared going out to war because of sins they had committed, were sent home before battle. According to Rabbi Yossi, it appears, all the soldiers who went out to war were righteous men who had no reason to fear the consequences of sins, because their records were clean. It was with regard to people of this unique spiritual stature that the Gemara comments, “*Lo dibera Torah ela ke-negged yetzer ha-ra*” – that the Torah feared they would succumb to temptation if they were not given a permissible way to marry a captive woman they desired. Ironically, the Torah found it necessary to introduce a special provision as a safeguard against the most righteous members of the nation falling prey to their passions.

To explain this anomaly, the Tolna Rebbe suggested a novel reading of the Gemara’s comment. He proposed that the Torah specifically sought to remind these soldiers that even they, the nation’s spiritual elite, were susceptible to natural human weaknesses. The purpose of the law of “*eishet yefar toar*” is not so much to provide a permissible way to marry a captive woman, but rather to humble the soldiers by noting that even they, despite their outstanding religious credentials, were not immune to the basest human desires. This reminder was vitally important, the Rebbe explained, because the soldiers were waging battle on behalf of the entire nation, and needed to see themselves as full-fledged members of *Am Yisrael*, not as a special, separate spiritual class that is detached from the rest of the nation. Particularly these righteous soldiers needed the reminder that when all is said and done, they were not fundamentally different from the rest of *Am Yisrael*, as they, too, were flawed human beings who struggled with negative tendencies and inclinations. Although these were the purest and most spiritually accomplished members of the nation, they needed to see themselves as essentially the same as their fellow Jews, humbly acknowledging their shortcomings and limitations and ensuring not to allow their accomplishments to lead them to arrogance and condescension.

**THE FIRST DECADE OF SALT ARCHIVES CAN BE FOUND AT:**

[www.etzion.org.il/en/salt-archives.html](http://etzion.org.il/en/salt-surf-little-torah-archives)

**MORE RECENT INSTALLMENTS OF SALT DIVREI TORAH CAN BE FOUND AT:**

[www.etzion.org.il/en/topics/salt-surf-little-torah-weekly-files](http://www.etzion.org.il/en/topics/salt-surf-little-torah-weekly-files)