



## Mourning the Executed

This week's *Mishnayot* were focused in the different types of capital punishment, with *sekila* (stoning) dominating much of the focus. At the end of the discussion of the trial and execution, the *Mishnah* (6:6) teaches that the regular, public morning practices (*aveilut*) would not be observed by the family of the executed. Inward grieving (*aninut*) would not however be prohibited. We shall try to understand this law.

The *Bartenura* provides two different explanations why *aveilut* was not observed. The first is that the lack of mourning would be degrading to the deceased, and thereby afford him an atonement (*kapara*). The second answer however is that ordinarily *aveilut* begins once the deceased is buried. For this individual, his *kapara* is not achieved until the body decomposes, which is much later. Consequently, the *aveilut* is pushed off, and therefore delayed indefinitely.

The *Tosfot Yom Tov* explains that according to this second explanation, it is not that the absence of mourning achieved a *kapara*, but rather it is inappropriate to this person prior to *kapara*. This is because the loss of a *rasha* is to be associated with joy (*rina*) rather than mourning (*Mishlei* 11:10). The *Tifferet Yisrael* however adds that while it is true that mourning is not observed for this reason, one nevertheless does not celebrate his death, since we learn the *Hashem* does not rejoice at the downfall of *reshaim* (*Megilah* 10b). The *Tosfot Yom Tov* notes that the first explanation is the *Rashi's* while the second is the *Rambam's*.

The *Iyun Yaakov* explains that *Rashi* preferred his explanation because the death of one executed by *Beit Din* is different to the regular loss of a *rasha*, because the guilty party performs *vidui*, confession, prior to execution. Even though full atonement is not achieved until the body decomposes, his performing *vidui* means that he is no longer defined as a *rasha* such that mourning his loss would conflict with the above verse from *Mishlei*.

In short, we find two different approaches to understanding the *Mishnah*. According to *Rashi*, refraining from *aveilut* in this case is beneficial to the deceased as it assists in achieving an atonement. According to the *Rambam*, *aveilut* is forbidden until *kapara* is achieved as he is still defined as a *rasha*.

The *Yad Rama* (46b) explains that the end of the *Mishnah* that nonetheless permits *aninut* can be understood according to both explanations. According to the first, *aninut* is permitted since it is not an outward show of respect. In other words, refraining from *aninut* would not contribute to achieving a *kapara* and is therefore permitted. According to the second approach, the *Yad Rama* suggest two explanations. Either that since *aninut* is something internal, it is not perceived as conflicting "the loss of *reshaim* is joy" and therefore permitted. The *Yad Rama* however also suggests that perhaps since *aninut* is expressed solely in one's heart – it is emotional – it would be too difficult for one who lost a relative to suppress.

Interestingly, the *Iyun Yaakov* raises a difficulty on the *Rambam*. If the executed individual is indeed still defined as a *rasha* then even *aninut* should be prohibited. The *Rambam* rules (*Avel* 1:10) that the death of one that separates himself from the people (*poresh mi'darkei tzibur*) is marked as a happy event with people wearing white clothing. Perhaps one can suggest an answer based on the *Iyun Yaakov's* own explanation above. This case is different to one that is *poresh mi'darkei tzibur* since the individual performs *vidui* prior to *kapara*. As the *Iyun Yaakov* explained, according to *Rashi*, that is enough for him to no longer to be defined as a *rasha*. Perhaps according to the *Rambam*, even though the *passuk* from *Mishlei* still applies, *aninut* is still permitted and we do not rejoice, since his *kapara* will ultimately be achieved.

**Revision Questions**

סנהדרין ה' ג' – ז' ה'

- If one witness said the incident occurred on the second of the month and the other witness said it occurred on the third, are they invalid as witnesses? (ה' ג')
- What flexibility is given where the witnesses conflict regarding the time of the incident? (Provide both opinions) (ה' ג')
- What would occur immediately after the witnesses were interrogated? (ה' ד')
- Could the witnesses contribute any further to the case? (ה' ד')
- Could the “students” contribute to the deliberations? (ה' ד')
- What would cause the case to delay and what would the judges do during this time? (ה' ה')
- Explain in detail how the deliberation would proceed if only a majority of one judge ruled guilty in a capital case. (ה' ה')
- When taking a person out for stoning: (ה' א')
  - Where was the location of the site? (ה' ב')
  - What would happen if someone discovered a way to find favour for the guilty party?
  - What would the person leading him announce?
- What would they request from the criminal prior to stoning? (ה' ב')
- What are the two opinions regarding the difference between the stoning of a man and woman? (ה' ג')
- Explain the stoning process. (ה' ד')
- Describe what a “hanging” is and when it is applied. (ה' ד')
- According to *R' Meir*, how does *Hashem* respond to such punishments and what does he learn from it? (ה' ה')
- When does one not transgress “*lo talin*” when delaying the burial? (ה' ו')
- Where was one given a death penalty buried? (ה' ו')
- What would people say to the judges after execution and why? (ה' ו')
- What are the four capital punishments? (ה' ז')
- What are the two opinions regarding their order of severity? (ה' ז')
- Describe *sreifa*? (ה' ז')
- What are the two opinions regarding *hereg*? (ה' ז')
- Describe *chenek*? (ה' ז')
- List the sixteen offences that are punishable with *skilah*? (ה' ז')
- Explain the debate regarding one who has a relationship with their mother. (ה' ז')
- For which offence does an animal also receive *skilah* and why? (ה' ז')
- What is the definition of a *megadef* that is punishable with *skilah*? (ה' ז')
- What is the complexity involved with trying a *megadef* and how was it dealt with? (ה' ז')

**Melbourne, Australia**

**Sunday -Thursday**  
10 minutes before *Mincha*  
Mizrachi Shul  
Melbourne, Australia

**Friday & Shabbat**  
10 minutes before *Mincha*  
Mizrachi Shul  
Melbourne, Australia

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
14 April ט' ניסן	15 April י' ניסן	16 April יא' ניסן	17 April יב' ניסן	18 April יג' ניסן	19 April יד' ניסן	20 April ט"ו ניסן
Sanhedrin 7:6-7	Sanhedrin 7:8-9	Sanhedrin 7:10-11	Sanhedrin 8:1-2	Sanhedrin 8:3-4	Sanhedrin 8:5-6	Sanhedrin 8:7-9:1

