



Volume 4. Issue 22

## Death Row

This week we have been learning about *beit din*'s treatment of capital cases and the four capital punishments. In one *Mishnah* (6:1) we learnt that once the accused was found guilty of a crime punishable by *skilah* (stoning), they took the criminal to the *beit ha'skilah* (the stoning place). The *Mishnah* teaches us that the *beit ha'skilah* was located outside or at a distance from *beit din*. It continues to explain that this is learnt from the *parasha* of the *mekalel* (the blasphemer), where *Moshe* was instructed to "take out the blasphemer" (*Vayikra* 24:14).

The *Mishnah* appears to be explaining that it is sufficient as long as the *beit ha'skilah* was not located on the same premises as the *beit din*. The *Gemara* (*Sanhedrin* 42b) immediately questions this assumption explaining that a *Beraitah* instructs that the *beit ha'skilah* must be located "outside the three camps". Let us first explain the question. The reference is to the three camps of the Jewish people in the desert - *machaneh Shechina* (location of the *Mishkan*), *machaneh Leviya* and *machaneh Yisrael*. Once settled in *Eretz Yisrael*, this means outside the city of *Yerushalaim*. *Tosfot* (*Sanhedrin* 42b, s.v. *beit*) explains that as each walled city has the status of *machaneh Yisrael*, "outside the three camps" also implies outside a walled city. Consequently the requirement on location of the *beit ha'skilah* is much more than just off-premises.

The *Gemara* answers that indeed the *beit ha'skilah* must be located outside the three camps. The *Mishnah*'s phrasing addresses if the *beit din* itself left the three camps. In such a case, the *beit ha'skilah* would nonetheless be located at a distance from the *beit din*. It appears then that the *Mishnah* and *Beraitah* combine to introduce two requirements on the *beit ha'skilah*'s location – outside the city and away from *beit din* – both of which derived from the *mekalel*.

Interestingly the *Gemara* continues to provide two reasons for these requirements. Firstly, distance is required so that the *beit din* do not appear to be murders (see *Rashi*). Alternatively, it provided time between passing judgment and execution, creating the opportunity for someone to supply new evidence that could reverse the decision.

The *Tosfot* (s.v. *ki*) question the necessity of this rationale; once the *pasukim* have stated the requirements there is no need! They explain that the *Mishnah* indeed teaches us that when the *beit ha'skilah* is situated outside the city the *beit ha'skilah* must be off-site. However how far away it must

situated is not addressed. This details is instead provided by the subsequent rationale. This is one reading of the *sugya*.

When the *Rambam* discusses this law he simply states as follows (*Sanhedrin* 12:3):

The location that *beit din* would execute him was outside *beit din* and far from *beit din*; as it states "take out the blasphemer to outside the camp". It appears to me that this was far, like six *mil*, as was the distance between the *beit din* of *Moshe Rabbeinu* that was in front of the *ohel moed* and [the end of] *machaneh Yisrael*.

The *Tiferet Yisrael* explains that since the entire encampment of *Am Yisrael* was twelve *mil* wide and the *beit din* was situated by its centre, *Moshe* was required to execute the *mekalel* at a distance of six *mil*. Based on our initial understanding of the *Gemara* the *Rambam* appears odd. Where is the distinction between if the *beit din* was located inside or outside the city? Also, granted that he quoted the *pasuk*, but above we also required the rationale to complete picture! Finally from where does he extract this fixed distance? To understand the *Rambam* we surely need to reread the *Gemara*.

The *Gemara* had question the *Mishnah*'s language that the *beit ha'skilah* had to be "outside" *beit din* by quoting the *Beraitah* that it must be located "outside the three camps". The *Gemara* then admitted that the *Beraitah* was correct, but question still remains what does the requirement "outside the three camps", as demanded by the *pasuk*, mean? We initially understood (like *Tosfot*) that this meant outside any location having the status of *machaneh Yisrael*. Alternatively the *pasuk* could be providing an objective distance as measured from the centre to outside the three camps in the desert. The practical difference or "*nafka minah*" (to use the language of the *Gemara*) between these two approaches is if (indeed) the *beit din* was located outside the city.

The *Gemara* is therefore not saying that the *Mishnah* and *Beraitah* provide too separate requirements. Instead, the *Gemara* is explaining that while the *Mishnah* agrees with the requirement of being "outside the three camps" had it used that terminology, it could have potentially been misunderstood. From where did the *Mishnah* know this was the correct meaning? Here enters the rationale, which reaffirms that the sole intention of the *pasuk* was to provide distance.

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**Revision Questions**

סנהדרין ה' א'-ז': ג'

- What are the seven *chakiroi*? (ה': א')
- How many *chakiroi* does R' Yosi require and what are they? (ה': א')
- What other questions were asked of the witnesses? (ה': א')
- What other questions were asked of witnesses in a case of idol worship? (ה': א')
- How many *bedikot* were performed? (ה': ב')
- What is the difference between *chakiroi* and *bedikot*? (ה': ב')
- If one witness said the incident occurred on the second of the month and the other witness said it occurred 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': ו')
  - Where was the location of the site? (ה': ב')
  - What would happen if someone discover 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': ה')
- 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': ח')
- Describe *chenek*? (ה': ח')

**Local Shiurim**

**Sunday -Thursday**  
Between mincha & ma'ariv  
Mizrachi Shul

**Friday & Shabbat**  
10 minutes before mincha  
Mizrachi Shul

**Audio Shiurim on-line!**

- [613.org/mishnah.html](http://613.org/mishnah.html)
- [www.shemayisrael.com/mishna/](http://www.shemayisrael.com/mishna/)

[www.mishnahyomit.com](http://www.mishnahyomit.com)

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

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
21 <sup>st</sup> October ט' חשוון	22 <sup>nd</sup> October י' חשוון	23 <sup>rd</sup> October י"א חשוון	24 <sup>th</sup> October י"ב חשוון	25 <sup>th</sup> October י"ג חשוון	26 <sup>th</sup> October י"ד חשוון	27 <sup>th</sup> October ט"ו חשוון
Sanhedrin 7:4-5	Sanhedrin 7:6-7	Sanhedrin 7:8-9	Sanhedrin 7:10-11	Sanhedrin 8:1-2	Sanhedrin 8:3-4	Sanhedrin 8:5-6

