

If a man will have a wayward and rebellious son. (21:18)

In the *Talmud Rosh Hashanah* 16b, *Chazal* teach, “A person is judged only in accordance with his actions/behavior at that moment, as it is written (concerning Yishmael), ‘For G-d has heeded the cry of the youth – *ba’asher hu shum* – in his present state’” (*Bereishis* 21:17). The *Midrash Bereishis* adds: *Afilu hu asid l’harshia l’achar z’man*, “Even if he will act wicked after time.” *Chazal* refer to the dialogue between the ministering angels and the Almighty as Yishmael lay sick with thirst. “*Ribono Shel Olam!*” the angels declared. “To one whose descendants will kill Your children with thirst, You give a well?” He (Hashem) said to them (the angels), “Right now – is he a *tzaddik*, righteous person, or a *rasha*, evil person?” They replied, “Now, he is a *tzaddik*.” He said, “*Ba’asher hu shum*, I judge a person only according to what he is at the present.”

The angels were referring to the tragic period in history when *Klal Yisrael* was exiled to Babylon. The Jews asked their Babylonian captors to take them by way of their “cousins” the *Yishmaelim*. Perhaps they would give them food and drink. The Babylonians acceded to their request. The evil *Yishmaelim*, following a long “hallowed” tradition, which has become a way of life for them, gave the Jews salty food to make them thirsty.

When their throats were considerably parched, such that they were hysterical for water, the *Yishmaelim* refused to help them, accelerating their premature demise.

In his super-commentary to *Rashi*, the *Mizrachi* asks why the rule, *ba’asher hu shum*, does not apply to the *ben sorer u’moreh*, wayward and rebellious son? This incorrigible boy receives the harshest punishment for what seems to be the actions of a spoiled, unruly, narcissistic child. *Chazal* explain that the Torah looks deep and hard at the boy’s present actions and how his rebellious nature will play itself out over time, deducing that this boy is on a path to murder – if his lusts are not satisfied. He either gets his way – or he kills. Thus the Torah said: *Yamus zakai v’al yamus chayov*, “Let him die while yet innocent, rather than have to execute him for an action that warrants his death.” Why should the rule which spared Yishmael not apply to the *ben sorer u’moreh*?

The *Mizrachi* explains that Yishmael had done nothing wrong and, for all intents and purposes, he was not culpable for any wrongdoing – neither presently or in the future. His descendants were evil – an attribute that might be attributed to his DNA – but, after all is said and done, Yishmael himself was innocent. The rebellious son is much different. He has demonstrated an insatiable lust for meat and wine. When the money runs out, he will be “forced” to kill to gratify himself. Rather than let him continue on the road to total infamy, his life is placed on “hold.”

In his *Gur Aryeh* commentary, the *Maharal* observes that the *Talmud Rosh Hashanah* does not seem to distinguish between one who takes his first steps on a nefarious journey of sin and one who is yet innocent. The question is simple: Is one judged in accordance with the future – or not? We see conflicting rulings concerning Yishmael and the *ben sorer u’moreh*.

Horav Aryeh Leib Heyman, zl, offers an alternative explanation to resolve the disparity between these two matters. When one analyzes *Chazal's* statement concerning Yishmael, we note that the angels' "protest" was not about why Hashem was saving Yishmael. They did not say that, since his descendants would one day cause *Klal Yisrael* to perish from thirst, so Yishmael should fare no differently; he should also die of thirst. They understood that at that point in their exile, the Jews were quite blameworthy. Otherwise, Nevuchadnezer would not have been able to exile them. The *Yishmaelim* were Hashem's agents to continue the Jewish People's punishment. The angels' grievance was concerning the **manner** in which Hashem was saving Yishmael: a well of fresh water to quench his thirst. True, Yishmael did not deserve to die, but to be saved by the very means that his descendants would one day use to kill the Jews, they felt was too much. Hashem judges man *middah k'neged middah*, measure for measure. So it seemed inappropriate that he would be saved specifically through the medium that Yishmael's descendants would use to kill Jews.

Rav Heyman draws support for his exegesis from an incident recorded in the *Talmud Yevamos* 121b. The daughter of Rabbi Nechuniah *ben Dosa* fell into a pit filled with water. They feared for her life, as they tried to save her. After a few hours, Rabbi Nechuniah declared that she had risen from the pit. They asked him, "Are you a *Navi*, prophet, that you are aware of this (without actually being there to witness it)?" Rabbi Nechuniah replied, "I am neither a prophet nor the son of a prophet. I do know that specifically that area wherein a righteous man toils could not be used as a stumbling block for his children." By way of explanation, Rabbi Nechuniah would dig wells, so that the *olei Regel*, Jewish pilgrims, who ascended to Yerushalayim for the Three Festivals would have water. This was a great *mitzvah* and noble act of *chesed*, kindness. The great sage felt that Hashem would protect him in this area, never permitting his child to suffer as a result of a "well" accident. Likewise, Yishmael should not have been saved by a well, when, in fact, his descendants killed Jews through the medium of water.

Hashem replied to the angels. "You are correct, but with regard to saving someone, the rule of *ba'asher hu shum* prevails. One deserves to be spared as a result of his **present** innocence. While it is true that Yishmael's descendants had sinned against the Jews in a most heinous manner, their action does not **presently** impact upon Yishmael, since he had done nothing wrong.

The above thesis presents us with an important principle. The idea that a person is judged only according to his present actions applies only in a situation in which one's life is in danger, and the *Satan* seeks to condemn him based upon negative **future** behavior, then we do not listen to the *Satan*. We are concerned with the present, and if his present does not warrant death, he will live. The *ben sorer u'moreh*, however, has crossed the line. It is not about saving him. It is about prosecuting him for future sinful behavior. The *ben sorer u'moreh* gets what he deserves. To recap: Concerning Yishmael, it is about saving him. Concerning the *ben sorer u'moreh*, it is NOT about saving him. Future evil does not play a role in diminishing the present merits that one has. On the other hand, the individual whose future actions will be heinous, with his present not much better, will be punished in consonance with the future.

The angels who prosecuted Yishmael agreed with this. Their only complaint was about saving him through the medium of a well. The *ben sorer u'moreh*, regrettably, has distanced himself from the moral life, having charted for himself a life of lust, theft and eventually murder. He has no mitigating reason to be saved. In contrast, Yishmael did.