

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY

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Shiur #7: *Yesh Lo Matirin* (Part 2)

The past shiur described two distinct explanations for the stringencies which a '*davar she-yesh lo matirin*' exhibits when inserted into a *ta'arovet*. Unlike standard forbidden foods, which can be overridden by a proportion of 1:60 of *issur* to *heter*, items which are only temporarily *assur* - *yesh lo matirin*, they will soon become permitted – are never canceled. Rashi in *Beitza* defined this strictness in practical terms: If the *ta'arovet* may eventually be eaten in a complete and unquestionable manner, halakha does not allow its consumption based on *ta'arovet* cancellation laws. Instead of relying on laws that allow for leniency, a person should wait until such items are halakhically permissible. The Ran suggested a different explanation for the lack of *bitul*, namely the lack of a *ta'arovet* cancellation process. *Bitul* operates through a clash created when permissible items encounter prohibited ones in a *ta'arovet*. Each item vies to impose its identity upon the other, and halakha provides exact ratios to determine which item will triumph. Items which are only temporarily forbidden do not create a direct clash, since all the items are fundamentally similar, and *bitul* cannot occur in the absence of this clash. This shiur will explore a number of ramifications of the argument between Rashi and the Ran about the essence of this exemption.

The gemara in *Beitza* appears to apply the *yesh lo matirin* stringency to all prohibitions - Biblical as well as Rabbinic. Some claim, however, that this issue is disputed, and that several Amoraim limit the stringency to Biblically prohibited substances. In fact, the gemara in *Beitza* at one point reads, "According to Rav Ashi, who claims that *yesh lo matirin* laws apply even regarding Rabbinic *issurim*..." inviting us to believe that others would assert that *yesh lo matirin* is limited to Biblical situations. The Pri Chadash, in his comments to Yoreh De'ah 110:46, suggests this reading. Clearly, Rashi's logic better supports this claim. Had the *bitul* impediment been based upon the lack of clash between the items, we would not distinguish formally between different levels of *issur*. Rashi's notion of 'waiting out' the *issur* until it fades rather than relying upon risky

ta'arovet leniencies would better accommodate a position which distinguished between varying levels of *issur*.

Perhaps the most famous and practically relevant *yesh lo matirin* question pertains to a *ta'arovet* of *min b'she'eino mino*. *Ta'arovet* typically comes in two varieties: *min b'mino* (mixtures of similar foods, for example, kosher and non-kosher chicken) and *min b'she'eino mino* (mixtures of dissimilar foods). Rabbi Yehuda puts forth the opinion that *bitul* only operates on the latter form of *ta'arovet*; *min b'mino*, however, is not *batel*. Though we rule against Rabbi Yehuda, and allow *bitul* of similar items as well, it is clear that *bitul* of dissimilar items is more powerful and effective. Would *yesh lo matirin* become *batel* in a *ta'arovet* of *min b'she'eino mino*? The Mishna in Challa (3:10) appears to allow this form of *bitul*, though both the Rif (in his comments on the 7th perek of *Chulin*) as well as Rabbeinu Tam (in his *Sefer Hayashar*, #501) claim that *bitul* does not work in this type of *ta'arovet*. Presumably, the mishna in Challah echoes the logic of the Ran. The general disqualification of *bitul* for *yesh lo matirin* stems from the lack of a clash. Since both items are inherently permissible, no contest occurs and no *bitul* ensues. *Ta'arovet* of *min b'she'eino mino*, however, witnesses a clash at a chemical level, since the items are physically different. This clash enables *bitul* to proceed. The Ran himself makes this point in his explanation of the nature of *bitul*. Rashi's logic for *yesh lo matirin* would apply equally to *min b'mino* and *min b'she'eino mino*. Presumably we would not distinguish between the two, and would disqualify *bitul* even for a *ta'arovet* of *min b'she'eino mino*. Alternatively, even if we accept the mishna's distinction and acknowledge the effectiveness of *bitul* for *min b'she'eino mino*, the difference could stem from our defining a *ta'arovet* of *min b'she'eino mino* as a completely unique form of mixture, whose *bitul* process is so powerful that even Rashi's recommendation of delaying would be inapplicable. The Rema – in his *Torat Chatat* 40:6 – perceives *min b'she'eino mino* in a manner which would even disable Rashi's definition of *yesh lo matirin*'s stringency.

The *Tzelach* (written by the author of the *Noda B'yehuda*, Rav Yechezkial Landau) offers an additional distinction which might highlight the difference between Rashi and the Ran. Would the stringency apply to items which may be used multiple times? For example would *yesh lo matirin* prevent *bitul* for *muktze* items whose general use is forbidden? What would happen if a *muktze* item fell into a *ta'arovet* of non-*muktze* items in a ratio greater than 1:60? Would *bitul* take place, thus enabling use of the entire mixture, or would we apply the non-*bitul yesh lo matirin* stringency? Typically the rule is thought to apply to foods, which may only be eaten once. Certainly Rashi may not demand the

classic delay which prevents employing *bitul*. Regarding food, which is ingested only once, he may recommend waiting until transient prohibitions have faded. After all, waiting to eat that food will generally not entail significant loss. The food item may only be eaten once so very little is lost by delaying its consumption. However, regarding re-usable items, delaying use would exact a heavier 'toll' since the use surrendered during the preliminary stage cannot be recovered. Using the item (or *ta'arovet*) tomorrow is a independent opportunity unrelated to the current ability. Perhaps in this instance Rashi's stringency would not apply. However, the Ran's understanding of *bitul* disqualification would still obtain since, fundamentally, *yesh lo matirin* does not 'clash' with *issur*, and no *bitul* commences. The *Tzelach* in Pesachim (9b) draws this distinction between Rashi's logic and the Ran's.