

**YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

TALMUDIC METHODOLOGY

By: Rav Moshe Taragin

This shiur is dedicated in memory of Israel Koschitzky zt"l, whose yahrzeit falls on the 19th of Kislev. May the worldwide dissemination of Torah through the VBM be a fitting tribute to a man whose lifetime achievements exemplified the love of Eretz Yisrael and Torat Yisrael.

**SHIUR #01:
THE MARITAL RELATIONSHIP OF *ISHUT* AND THE STATUS OF
*EISHET ISH***

In the process of Jewish divorce, a *get* both releases a woman from her marriage as well as eliminates her restraints against marrying another man. In other words, a *get* dismantles *ishut* (the state of being married) just as it alters the woman's status from that of an *eishet ish* (married woman) to a *penuya* (single woman). What is the relationship between these two dynamics? Is the dismantling of the *ishut* sufficient to remove the *eishet ish* status, or must that status be altered independently of the cancellation of *ishut*?

Obviously, this question stems from a larger issue. Are these two components of halakhic marriage interdependent or autonomous? Is the status of *eishet ish* which prohibits a woman from marrying another man a **derivative** of the *ishut* relationship between husband and wife? Indeed, the relationship of *ishut* dictates many *halakhot*, but is the status of *eishet ish* also an offshoot of *ishut*? Or is the status of *eishet ish* independent of the *ishut* in the same manner that *basar be-chalav* (meat cooked in milk) or *neveila* (an animal which dies without being slaughtered) is an objective status of *issur* unrelated to any other relationship.

This question emerges from an interesting comment of Tosafot in *Kiddushin* (2b) explaining a *gemara* which probes the language of *kiddushin*. The

term “*kiddushin*” doesn’t appear in the Torah, yet *Chazal* apply it to marriage. Defending this application, the Gemara asserts that a man “prohibits his wife from additional marriages in the same manner that *hekdesh* (donation to the Temple) creates lateral prohibitions to others.” As such, the term *kiddushin* — evocative of *hekdesh* — suits halakhic marriage. (They share the same root of *kodesh*, holy, but are different conjugations.)

Tosafot highlight the structural comparison between *kiddushin* and *hekdesh* — in each instance, the process creates a designation or an association: in the case of *hekdesh*, the item is associated with the *Beit Ha-mikdash*; in the case of *kiddushin*, a woman is associated with her husband. As a **consequence** of these relationships, each item becomes forbidden for general interactions: both the item designated for *hekdesh* and the woman become prohibited to others. In other words, Tosafot believe that the comparison between *kiddushin* and *hekdesh* is a very strong one, and the arc of *kiddushin* is identical to *hekdesh* in that the **issur** stems from the **relationship** created. Other Rishonim interpret the association between *kiddushin* and *hekdesh* less literally and do not define the *issur eishet ish* as stemming from the *ishut* relationship (see, for example, Tosafot Rid, *Kiddushin* 2b).

This question as to whether the status of *eishet ish* stems from the *ishut* or exists independently, appears to influence a *machaloket* about a self-terminating marriage. The Mishna in *Nedarim* (28a-b) asserts the validity of self-terminating *hekdesh*: a person may dedicate something to *hekdesh* and predetermine the automatic dissolution of this status after a certain period has expired.

The Gemara (29a), cites Rav Hamnuna who assumes that *kiddushin* is modeled after *hekdesh*, and since self-terminating *kiddushin* cannot be constructed, neither can self-terminating *hekdesh*. Rava responds that self-terminating *kiddushin* isn’t allowable because the status of *eishet ish* is a *kinyan ha-guf* and cannot automatically be dissolved without an actual *get*. Indeed the component of *ishut* can self-terminate but the status of *eishet ish* is unaffected without an actual *get*. Recognizing the autonomy of the *issur eishet ish*, Rava distinguishes between *hekdesh* which can self-terminate and marriage which cannot. Rav Hamnuna avoids this distinction, possibly because he equates *kiddushin* to *hekdesh*. In either case the **prohibition** is a result of the

relationship. Consequently, if marriage can't self-terminate, neither should *hekdesh*.

This question also informs an intriguing gemara in *Kiddushin* (13b) which probes the ability of a widow to remarry. Though her *ishut* has been dissolved (since she can't be married to someone who is dead), perhaps the prohibition of *eishet ish* continues undisrupted and she may not remarry! Unlike a situation of divorce, in the case of death, no distinct **action** has occurred to convert her status from *eishet ish* to *penuya*. Should the dissolution of the *ishut* be sufficient to remove her *eishet ish* status, which may be seen as a derivative of her *ishut*? The Gemara initially claims that the *heter* for a widow to remarry is intuitive, implying that indeed the *issur* stems from the *ishut*, and once the latter vanishes, the former dissolves as well. Subsequently, the Gemara suggests a source (an implied source) which may indicate a very different logic: indeed the *issur eishet ish* is autonomous and requires a direct action for its removal. However, the event of death is similar to the process of delivering a *get* in that it actively removes the *eishet ish* status.

Continuing the analysis, the Gemara concludes with an interesting phrase: "Just as *geirushin* permits her, similarly does her husband's death." The simple reading of this *gemara* implies that the *issur eishet ish* will not automatically vanish once the *ishut* is canceled but requires a direct rescinding similar to the delivery of a 'get.' However, death is an "event" equivalent to divorce in converting her status. As some note (see *Kovetz Shiurim*), a woman whose husband is dead without having undergone the act of dying may not be permitted to remarry. For example, the Prophet Eliyahu's wife (Eliyahu is no longer considered living even though he didn't die) no longer enjoys *ishut* but didn't experience the event of her husband's death to repeal her status as *eishet ish*!

This question may also inform a *machaloket* between the Chakhamim and Rabbi Eliezer about a divorce which doesn't completely allow her to marry any man of her choice.

The Mishna in *Gittin* (82a) describes a person who divorces his wife "*chutz mi-ploni*," stipulating that she can remarry anyone but a specific individual. The Chachamim disqualify this *get* since it isn't comprehensive. Since the Torah

qualifies the *get* as *sefer keritut* (a scroll of severance), a *get* must completely and definitively eliminate the *ishut*. As she still remains prohibited to the stipulated *ploni*, there is a residue of the original *ishut* and the condition of *keritut* hasn't been attained. Rabbi Eliezer argues and validates this type of *get*. Perhaps Rabbi Eliezer severs the status of *eishet ish* from the *ishut* relationship. Even though her status of *eishet ish* still lingers, it doesn't reflect a vestige of the original *ishut*. The status of *eishet ish* exists independent of the *ishut* and can be calibrated through the *geirushin* process. The retention of the *issur eishet ish* upon a certain *ploni* doesn't reflect a residue of the original *ishut* since the *issur* of *eishet ish* exists independent of the *ishut*.