

TALMUDIC METHODOLOGY
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Shiur #07: The Mechanism of *Bitul Chametz*

The first *mishna* in *Pesachim* portrays *bedikat chametz* as a method of avoiding the prohibition of *bal yeiraeah*, but a second option – *bitul chametz* – provides a simpler solution. A subsequent *mishna* (*Pesachim* 49a) indeed mentions the possibility of *bitul*, and several *gemarot* (most notably 4b) similarly describe *bitul* as a comprehensive solution for *bal yeiraeah* concerns. How does *bitul* alleviate the prohibition of owning *chametz*? *Bedikat chametz* followed by *bi'ur* (physical destruction) eliminates the *chametz*; how does a verbal articulation of *bitul* avoid the strict prohibition of owning *chametz* on Pesach?

Tosafot (4b) s.v. m'de-oraita assert that *bitul* is not a new halakhic model, but is rather an adaptation of the already recognized halakhic mechanism of *hefker*. Halakha allows both transfer of ownership (*kinyan*) but also divestment of ownership (*hefker*). By articulating *bitul*, one is merely renouncing his ownership of the *chametz*. Since they no longer hold legal title over the *chametz*, the violation of *bal yeiraeah* is averted.

Although this logical position appears to solve the *bal yeiraeah* concern, there are several difficulties with the view of Tosafot. First, *bitul chametz* is not qualified by the rules that normally govern *hefker*. *Hefker* is a public transactional ceremony that must be verbally articulated in front of three people and is forbidden on Shabbat. According to most views, *bitul* can be rendered without speech and without onlookers, and it can be performed on Shabbat. In addition, the reference to the process as “*bitul*” implies a different mechanism. Were *bitul* simply an application of *hefker*, the *gemara* should not have generated an entirely new name or category.

Beyond these formal and linguistic concerns, the Ramban (4a) raises a more fundamental issue. Would *hefker* actually prevent the *issur* of *bal yeiraeah*? If the *issur* of *bal yeiraeah* is defined as formal ownership, the *hefker* process of dismantling that ownership would indeed negate any *bal yeiraeah* concerns. However, since *chametz* is *assur be-hana'ah* (forbidden to benefit from), it is

highly likely that it isn't owned even by its presumed owner. Thus, the prohibition of *bal yeirae* is not based on ownership, but rather on some non-monetary connection to the item. If this is true, a *hefker* renunciation of ownership would not resolve *bal yeirae* concerns.

The Ramban (4b) offers a different view of the mechanism of *bitul*. Indeed, a person does not enjoy legal ownership over *chametz*, since it is forbidden for any utility. Rather, the prohibition of *bal yeirae* stems from the attachment to, and engagement with, the *chametz* – as the Ramban refers to it, “*rotzeh be-kiyumo*.” It is this non-monetary association with *chametz* that is forbidden on Pesach. The prohibition of *bal yeirae* is not structured on classic patterns of ownership, since *chametz* cannot be owned on Pesach. If one cares about the *chametz* and is personally invested in it, he violates the prohibition of *bal yeirae*. By declaring disinterest through *bitul*, one has cancelled any interest in the *chametz* and no violation has been breached.

According to the Ramban, *bitul* does not formally renounce ownership of *chametz* in the manner that *hefker* does. In fact, *hefker* may be insufficient to avoid *bal yeirae*, since the prohibition isn't pivoted on ownership. Instead, *bitul* eliminates any personal interest in *chametz*.

The primary proof for the Ramban's position that *chametz* about which a person is disinterested does not constitute a *bal yeirae* violation stems from an interesting *gemara* in *Pesachim* (31b) about *chametz* upon which a building has collapsed (*nafla alav mapolet*). The simple reading of the *mishna* suggests that this *chametz* does not require any further attention to avoid *bal yeirae* – even though, legally, the *chametz* has not undergone a process of *hefker*. Rather, since the *chametz* is no longer “desirable” and the owner has given up any further interest in this unreachable *chametz*, no violation has occurred.

Although the Ramban and Tosafot disagree regarding the MECHANISM of *bitul chametz*, their views share one common element: The *bitul* process does not affect the actual *chametz*, but rather merely reconfigures the relationship between the person and the *chametz*. The Talmud Bavli does not present a text for *bitul chametz*, but several early *Geonim* do provide a *nusach*. Invariably, the term “*afar*” (dust) appears in the *bitul* proclamation. According to both Tosafot and the Ramban, however, the term *afar* is redundant and possibly misleading. *Hefker* as *bitul* does not affect the status of the *chametz* and according to the Ramban, *bitul* merely severs the personal interest!

This formulation of *bitul chametz*, as well as other factors, invite a completely different approach toward understanding *bitul*.

The Rambam (*Chametz U-Matza* 2:2) and Rashi (4a, sv. *chovat ha-dar*) endorse the reference to “*afar*,” explaining that by proclaiming *bitul*, one renders the *chametz* as “dust” and no longer prohibited to own. It is not altogether clear, however, how literal to read the term “*afar*.”

A looser interpretation would suggest that *bitul* eliminates the status of *ochel*, and bread that is not considered food is not considered *chametz*. The prohibition of *chametz* does not apply simply to anything that chemically resembles leavened bread; it must also be considered food. For example, the *gemara* in *Pesachim* (45b) discusses the case of a large block of yeast that has been repurposed as a chair. Although this material is classic *chametz*, its designation as a chair eliminates its status as food and removes any prohibition. Similarly, the *gemara* in *Pesachim* (21b) discusses the case of a loaf of bread that has intentionally been singed in an oven but is still edible (at least according to the interpretation of the Michtam and Me’iri). By “charring” the bread, one has indicated that the *chametz* is no longer considered food, and no violation entails. According to this approach, the term “*afar*” is not to be taken literally; rather, by declaring that the *chametz* is “*afar*,” one has verbally designated the *chametz* as halakhic non-food, and *bal yeiraeah* violation therefore does not apply.

A different view of suggests that *chametz* is only forbidden if it is “important” food, such as bread. Bread is not simply a combination of ingredients prepared in a certain fashion; it is the centerpiece of a meal, with iconic value far beyond the actual ingredients. Without this status, of bread, even if the *chametz* is chemically identical to bread, it is not forbidden. For this reason, according to some authorities, the prohibition of *bal yeiraeah* does not apply to a quantity of *chametz* smaller than a *kezayit*, even though prohibited items of less than a *kezayit* are generally biblically forbidden. *Chametz* is not simply a material, but also an “important” element of a *seuda*, and less than a *kezayit* of bread may not be considered significant *chametz* and is therefore completely permissible. According to this approach, *bitul* eliminates the importance of the *chametz* by declassifying it through verbal dismissal, thereby eliminating the status of *chametz* even without changing its chemical composition.

There are several important differences between the first approaches that we discussed and this final approach that *bitul* changes the status of the actual *chametz* (either by eliminating the status of food or by declassifying the *chametz*

and rendering it insignificant). One important difference concerns the possibility of eating *chametz* after *bitul*. The Michtam (6b) cites positions that permit consuming *chametz* after *bitul*. Although this an extremely bizarre scenario – and one that is roundly rejected – it stems from this final view of *bitul*. If *bitul* transforms the *chametz* into a non-food or into non-significant food, it has removed the *chametz* status, rather than just unlinking the person from his *chametz*. Once the status of *chametz* has been removed, the impact far exceeds the avoidance of *bal yeiraeah*. The food – which is halakhically viewed as non-*chametz* – may be ingested!

A second interesting implication is the possible ineffectiveness of *bitul* on known *chametz*. This notion – popularized by the Kesef Mishna in his comments on the Rambam (*Chametz U-Matza* 2:2) – strictly limits *bitul* to unknown *chametz*; *bitul* is ineffective on *chametz* that one is aware of. If *bitul* affects the relationship between the owner and his *chametz*, it is difficult to limit *bitul* only to unknown *chametz*. However, if *bitul* declassifies the *chametz* by eliminating its importance, perhaps it cannot operate upon known *chametz*. The virtual reality – that this *chametz* is “*afar*” – is contradicted by the actual reality – that despite knowledge of the presence of the *chametz*, no steps are taken for its removal. This passivity undermines the integrity of the *bitul*. *Chametz* of unknown location can be verbally designated as “*afar*”; were its location known, it would be physically destroyed, but since its location cannot be determined, verbal declassification is sufficient. By contrast, *chametz* that is “known” cannot be verbally declassified, since the lack of effort at physical removal undermines this definition.