

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY

By: Rav Moshe Taragin

SHIUR #21: SAFEK SAFEIKA (PART 2)

An interesting application of the theory of safek sefeika, which we introduced and discussed in the [last shiur](#), might be found in the comments of several Rishonim to Masekhet Beitza (3b). Generally, halakha suspends the application of leniencies when dealing with 'temporary' issurim. For example, even though we normally rule leniently when confronting a safek regarding an issur de-rabanan, if that issur is transitory, we will not apply a leniency. This rule is known as "davar she-yesh lo matirin" (a prohibition which anticipates a pending removal). Classic examples include mukzta, chametz on Pesach, and something forbidden through neder (which can be repealed through hatarat nedarim). Similarly, we will not allow these forbidden items to be 'cancelled out' (bittul) if they happen to fall into a mixture of heter. Even though normally issur is cancelled by permissible mixtures containing at least sixty times the forbidden food - this provision does not apply to a davar she-yesh lo matirin. As many Rishonim explain, "Ad she-tokhelenu be-issur tokhelenu be-heter." Since a person can merely wait for the issur to pass, why should he apply leniencies to allow early partaking of a potentially prohibited substance?

Yet, Rabenu Tam interprets a gemara in Beitza (3b) as yielding an astounding conclusion: a safek sefeika about a davar she-yesh lo matirin is permissible. If something which MIGHT be assur falls into a ta'arovet (mixture), since this situation is considered safek sefeika, no issur applies (see Tosefot Beitza 3b, Zevachim 72b and teshuvot Rabenu Tam #74). Even the intractable situation of davar she-yesh lo matirin, which generally allows no room for leniency, is permitted in an instance of safek sefeika. This lends greater credibility to the notion that safek sefeika is not an engine to help resolve a situation of safek, but rather a definition of the 'upper limits' of safek. When an item is forbidden only if two assumptions are taken simultaneously (safek

sefeika), then we do not even consider this a situation of safek, and hence no prohibition applies whatsoever.

A fourth and final indication that safek sefeika involves a redefinition of the terms of safek stems from an interesting ruling of the Ra'avad regarding the laws of bedikat chametz. The gemara in Pesachim (9-10) examines several situations in which uncertainties regarding bedikat chametz arise. What would happen if, after a house was checked, chametz was possibly reintroduced: would we require a second bedika? The Ra'avad (in his comments to the Rif) claims that even though bedikat chametz is only a mitzva de-rabanan (since on a Biblical level the bittul declaration suffices), these uncertainties cannot be dismissed by claiming safek de-rabanan le-kula. Since the entire institution of bedikat chametz was implemented to treat a case of 'safek chametz' (since no one is sure that he truly possesses chametz), one cannot advocate ignoring the possibility of chametz by applying halakhic leniencies. Most halakhot are products of definite knowledge, and safeikot must be clarified. In uncertainties regarding de-rabanan halakhot in the absence of definitive knowledge or other halakhic vehicles of resolution (rov, chazahka), we rule leniently. Bedikat chametz, however, was instituted to address the "potential" for chametz, and therefore, even situations of questionable possibilities must be acknowledged. However, even the Ra'avad admits that in a case of safek sefeika, no bedika would be necessary. For example, if a rodent took a piece of food into a checked house and a reasonable time period elapsed, no bedika would be necessary. Since the item may have been non-chametz, and even if it were chametz, the rodent might have eaten the entire piece and left nothing requiring a new bedika, this case qualifies as safek sefeika. According to the Ra'avad, even though normal vehicles for the resolution of uncertainties do not apply to bedikat chametz, a safek sefeika does, in fact, excuse one from the obligation of bedika. This Ra'avad provides further proof that safek sefeika is not defined by halakha as a normative safek at all. Since we consider a safek sefeika situation one where no safek issur has arisen at all, the leniency of safek sefeika applies even to bedikat chametz, where normally leniencies associated with safeik are ineffective.