

TALMUDIC METHODOLOGY
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SHIUR #07: THE PROHIBITION OF *LO TITGODEDU* (PART 1)

In *Parashat Re'eh* (chapter 14) the Torah describes various prohibitions relating to *avoda zara*. Among them is the *issur* of *lo titgodedu*, excessive mourning for the dead through self-mutilation. Many ancient pagan cultures engaged in this mourning practice and it is therefore prohibited.

The *gemara* in *Yevamot* (13b) derives an additional (presumably unrelated) *issur* from this *pasuk* – “*lo ta'asu agudot agudot*” – which is commonly referred to as the *issur* of *lo titgodedu*. In broad terms, this *issur* relates to behaving in a deviant halakhic manner, “dividing into groups” that have differing halakhic practices. The prohibition appears to be aimed at guarding against the disintegration of accepted halakhic behavior or the splintering of *shemirat hamitzvot*. Given the robust role of *machloket* within our tradition, however, this *issur* of “dividing into groups” seems odd. Given that there are numerous acceptable halakhic practices, what is wrong with observing one which differs from that of others?

In his comments to the *gemara* in *Yevamot* (13b), Rashi claims that the *issur* prevents the development of multiple “*torot*.” Just as we assert the unity of *Ha-Kadosh Baruch Hu* Himself, we similarly maintain the oneness of His Torah; it was ALL delivered at Sinai as an indivisible corpus representing His will. Allowing different groups to practice divergent *halakhot* would suggest multiple *torot* and present theological confusion.

The Rambam in *Hilkhos Avoda Zara* (chapter 12), however, claims that the *issur* is meant to stem *machloket* and social dissent. Allowing diverse *halakhic*

practices would undoubtedly yield disunity and confrontation. While according to Rashi, the *issur* represents a theological agenda, according to the Rambam, it represents a social one.

Each position is rooted in the textual reference to this *issur*. The fact that the phrase “*lo titgodedu*” is positioned after a lengthy description of *avoda zara*-related *halakhot* would initially seem to support Rashi's view that the *issur* has a theological purpose. Alternatively, the preface of the *pasuk* containing the phrase *lo titgodedu* claims, “*Banim atem le-Hashem Elokeichem*,” “You are all children of God;” while this preface emphasizes the Jewish aversion to paganism, it also reinforces the importance of social unity. If we are truly one family, sons of the same father, solidarity is an asset worth protecting, and *lo titgodedu* and halakhic conformity may be part of that protection.

In fact several Amoraim limited this *issur* of *lo titgodedu* and their differing understandings of the nature of this halakha may be reflected in these limitations. The *gemara's* (only) discussion of the *issur* centers around the practice of differing *Megilla* readings; while those in most cities read on the 14th of Adar, those in walled cities read on the 15th. Reish Lakish questions why these divergent readings do not violate *lo titgodedu*. R. Yochanan is surprised at Reish Lakish's concern. After all, this is hardly the only example of differing *minhagim*. On *Erev Pesach*, some towns adopted a *minhag* of refraining from *melakha*, while other locations allowed it. Why was Reish Lakish so alarmed about different *Megilla* readings but undisturbed by differing *Erev Pesach* practices? R. Yochanan implies that neither situation violates the prohibition of *lo titgodedu*, a position later elaborated by Abbaye and Rava.

Reish Lakish attempts to respond to R. Yochanan's claim by differentiating between the two examples. Differing labor practices on *Erev Pesach* are clearly unrelated to *lo titgodedu*, as the differences are based PURELY upon *MINHAGIM* or customs; abstaining from *melakha* on *Erev Pesach* has no *halakhic* source. Discrepancies in *minhagim* certainly do not violate *lo titgodedu*! Reish Lakish was concerned about different *Megilla* reading schedules, however, as this is a discrepancy anchored in *HALAKHIC* factors.

Presumably (as reasoned by many *Acharonim*, including the *Keren Ora*), Reish Lakish would agree with Rashi's reasoning for the prohibition of *lo titgodedu*. According to the Rambam, *lo titgodedu* deters disputes and dissent, in which case there should be no difference between *minhag* and Halakha. In fact, people are often more passionate about their *minhagim* than they are about Halakha! Disputes are just as likely, if not more likely, to erupt as a result of *minhag* divergence as they are about halakhic differences, and *lo titgodedu* should be just as applicable in the former case. If Reish Lakish agrees in principle with Rashi, however, and *lo titgodedu* prevents the presentation of a splintered Divine Torah, we could easily envision the suspension of *lo titgodedu* in situations of *minhag*.

Ascribing Reish Lakish's position to Rashi's logic does not constitute a problem for the Rambam, as we may not ultimately accept Reish Lakish's position. Thus, his underlying logic may not represent the true essence of *lo titgodedu*. The question of whether to accept Reish Lakish's position and suspend *lo titgodedu* in situations of pure *minhag* was hotly debated by several *Acharonim*. This dispute has implications for numerous issues, such as divergent *nusach ha-tefilla*, differing schedules of mourning practices during *sefirat ha-omer*, and Medieval period fast days established on a local basis (such as 2 Sivan).

Subsequently the gemara (*Yevamot* 14a), provides an additional limitation of the prohibition of *lo titgodedu* in order to explain the differing *yibum* practices of *Beit Shammai* and *Beit Hillel* (recorded in the first *mishna* in *Yevamot*). Why didn't this discrepancy violate *lo titgodedu*? Rava and Abbaye each suggest answers which effectively limit the scope of the prohibition.

Rava claims that *lo titgodedu* would only apply if members of a split *Beit Din* continued practicing their *halakhic* opinion in defiance of the majority ruling of the *Beit Din*. Essentially, Rava radically changes the essence of *lo titgodedu*. We had previously assumed that this issue prevents splintered *halakhic* practice, intending either a social or theological agenda. According to Rava, however, *lo titgodedu* DOES NOT govern or limit halakhic pluralism at all; it merely limits behavior of outvoted *dayanim*. It is merely a judicial tool to ensure the authority of the *Beit Din*.

Abbaye is less constricting of *lo titgodedu*, but nonetheless imposes a limitation. In his view, the prohibition does not apply if the differing practices are spearheaded by different *batei dinim* located in different cities. Somehow, the distance between the two locales eliminates *lo titgodedu* concerns. The Rambam's logic appears to be a compelling explanation of this limitation of the *issur*. Since the entire concern was avoidance of social dissent, distancing the two parties avoids argument; the two different practices can coexist. In fact, the Rambam cites Abbaye's distinction as proof that *lo titgodedu* is entirely based upon concern of dispute. When these concerns are alleviated, *lo titgodedu* does not apply; the rule is proven by the exception (the situation of distant towns where the *issur* is suspended).

However, even Rashi could theoretically accept Abbaye's limitation. If the two practices are geographically distant from one another, differing practices do not apply splintered *torot*. Once an independent *Beit Din* establishes a tradition in a particular locale, it no longer constitutes a splintered tradition, but rather an autonomous, co-existent one. Halakha allows for parallel differing approaches; the Divine will is too infinite to be limited to one truth. WITHIN one tradition, however, Halakha does not tolerate splintered and multiple approaches. In the absence of a separate *Beit Din* and unique locale, the practice entails a deviance; anchored to a source of authority and locale, it becomes one version of the Divine will.

Thus, while Abbaye's assertion that distance circumvents *lo titgodedu* is easily understood according to the Rambam, it can also be shaped to fit Rashi's view.

The next *shiur* will further explore explanations of *lo titgodedu* advanced by the *Rishonim* within the context of Abbaye's *shitta*.