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TALMUDIC METHODOLOGY
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RABBI ELIEZER'S VIEW OF DIVORCE *ELA LI-FLONI*

The first mishna in the ninth *perek* of *Gittin* (82a) discusses a husband who drafts a *get* for his wife in which he limits her "release." In a classic *get* scenario, the divorced woman can marry any man she chooses - *"Harei at muteret le-khol adam."* In the instance of *geirushin chutz mi'floni* described in the mishna, the husband stipulates that she is released from the previous marriage but cannot marry a specific individual or individuals — *"Harei at muteret le-khol adam ela li-floni,"* "You are hereby permitted to anyone, excluding so-and-so." The Chakhamim disqualify this type of *get* since it contradicts the doctrine of *keritut* (severing)*,* which stipulates that a *get* must completely annul the entire relationship between the husband and wife; by retaining a residual prohibition to even one marriageable person, the *get* hasn't fully annulled the marriage. Rebbi Eliezer disagrees and validates *geirushin chutz mi'floni* where a residual prohibition remains.

This *shiur* will trace Rabbi Eliezer's possible responses to this issue. Perhaps Rabbi Eliezer questions the very principle of *keritut.* Perhaps a *get* **can** be partial, and one which retains *eishet ish* (married woman) limitations for a *ploni* is valid despite its lack of comprehensive scope. To be sure, an earlier gemara (*Gittin* 78b) describes a *get* which is delivered while still tethered to the husband (*get be-yada u-mshicha be-yado*) and invalidates it based on *keritut* concerns. However, that scenario reflects an imperfect **delivery** of the *get* or a concern of

keritut regarding the *ma'aseh netinat ha-get* (the act of delivering over the bill of divorce). Perhaps Rabbi Eliezer concedes that a non-definitive delivery would be disqualified based upon *keritut* issues. However, limiting the **scope** of the woman's halakhic release would not violate *keritut* and would not be disqualified based upon a failure to effect *keritut*.

A different approach to understanding Rabbi Eliezer's view would assert that he too disallows non-comprehensive *gittin* which do not fulfill the *keritut* requirements. In fact, a different *gemara* **does** appear to disqualify a *get* with limited halakhic scope based on the *keritut* doctrine **even** according to Rabbi Eliezer. The gemara in *Gittin* (83b) describes a *get* given for one day with the aim of allowing the marital status to automatically be resurrected after that day. At least according to the Rambam, this *get* fails the *keritut* requirement **even according to Rabbi Eliezer**. Evidently, Rabbi Eliezer also demands *keritut,* yet somehow allows sculpting a *get* while still retaining residual prohibitions for certain people or for ploni.

Even though Rebbi Eliezer admits to *keritut* concerns perhaps he disconnects the halakhic release of the woman and removal of her *eishet ish* status from the annulment of the *ishut* relationship. A *get* performs two **unrelated** halakhic functions: it cancels the relationship and independently it creates a *heter* (allowance) of marriage to another by cancelling the *eishet ish* status. In a [previous shiur](#), we elaborated upon these two components of halakhic marriage and explored the possibility that the status of *eishet ish* doesn't derive from the *ishut* relationship but is autonomous and autonomously removed in the *geirushin* process.

Rebbi Eliezer may claim that *keritut* only qualifies the relationship annulment or cancellation of *ishut.* Indeed, if the husband cancels the relationship for a day, he hasn't created full severance. However, if he **does** create full severance but independently limits the scope of the *heter eishet ish,* he hasn't violated *keritut* demands; in this instance of *chutz mi'floni* the entire *ishut* has been cancelled even though independently the woman remains prohibited to several people. Rabbi Eliezer adopts *keritut* concerns but develops a new paradigm for the functionality of a *get.* A *get* **independently** cancels the relationship between husband and wife and separately lifts the status of *eishet ish* which bans her from

marrying others. Delimiting the scope of the release toward others in no way compromises the *keritut* levels of the *get* or the degree to which the *ishut* has been entirely cancelled.

If, indeed, Rabbi Eliezer develops a new mapping of the execution of a *get,* we might expect additional novel *halakhot* highlighting the independence of these two components namely the *ishut* relationship and the prohibition to marry others. For example, *Gittin* (82b) implies that a husband can divorce his wife while not releasing her to any additional marriages. By stipulating that she should remain prohibited to all other men, the husband seeks to annul their relationship without lifting the *issur eishet ish* at all. According to Rashi and the Tosafot Rosh, this is effective and she is defined as a divorcee (*gerusha*) and cannot marry a *Kohen*. This would indicate that Rabbi Eliezer completely severs the *issur* component from the status of *eishet ish*; the former can be relieved even without affecting the latter. Tosafot (82b) s.v. *Afilu* disagree, possibly because they cannot accept a complete separation between the *ishut* and the status of *eishet ish,* even according to Rabbi Eliezer. Perhaps Rabbi Eliezer is just arguing that *geirushin* doesn't require complete *keritut*.

A reverse scenario would concern a person who delivers a *get ela li-floni* with residual prohibitions for certain people, which again is a valid *get* according to Rabbi Eliezer. The first *get* completely cancels the *ishut* relationship but sustains prohibitions for certain individuals. Subsequently, the original husband delivers a second *get* to lift the prohibition from the people who weren't included in the first *get*. Abbayei (*Gittin* 82b-83a) poses this question and implies that fundamentally this process would be legitimate. The second *get* merely removes residual *eishet ish* prohibitions but doesn't cancel any *ishut*, since that has been completely dismantled by the first get. Presumably, these two components are completely distinct and a typical *get* **both** cancels *ishut* as well as **independently** removes the *eishet ish* limitations. According to Rabbi Eliezer, a *get* may be calibrated to achieve only one of its separate and autonomous functions. By contrast, Rashi's comments to that *gemara* may indicate that he disagrees with this dual-process *get*, perhaps because the second *get* doesn't cancel any *ishut* and cannot be considered a halakhic *get*.

Perhaps understanding Rabbi Eliezer's logic may assist in better appreciating an intriguing derivative halakha. What would occur if the woman previously divorced through a *get ela li-floni* were to remarry someone else who was included in the original *geirushin* only to be divorced (again) or widowed from this second husband. May she then circle back and marry a person who **wasn't** included in the original *get*? Rabbi Eliezer claims that she may, which incites the opposition of Rabbi Shimon ben Elazar, who questions (*Gittin* 83b): "*Heikhan matzinu she-zeh oser ve-zeh matir?*" "Where have we found that this one prohibits and that one permits?" It is inconceivable that the original husband creates the initial *issur* of *eishet ish* (through their initial marriage) and the second husband creates a subsequent *heter* (through his divorce or death).

Perhaps Rabbi Eliezer disagrees with Rabbi Shimon ben Elazar's entire premise: the *issur* of *eishet ish* doesn't stem from any particular person's relationship of *ishut* with a woman. It is an independent objective status which devolves upon a married woman much the way the status of *basar be-chalav* devolves upon meat and cheese which come in "cooked" contact - independent of how that contact is created. If a person cooks *basar be-chalav,* we would not identify the status and the prohibition as **belonging** to **that** person; similarly we would not identify a woman's *eishet ish* status as a **personal** *issur* created by the launch of *ishut* in her initial marriage. In theory, the second husband — through divorcing the woman — can lift as residual *issur* created by someone else's marriage (which was never fully removed by the original limited *get ela li-floni* from the first husband).

Perhaps the question of how to understand Rabbi Eliezer's *shita* which validates *geirushin chutz mi'floni* is raised by Rabbi Abba when he considers (*Gittin* 82b) *kiddushin ela li-floni* according to Rabbi Eliezer. Would Rabbi Eliezer similarly validate a *kiddushin* which **prohibits** a woman but excludes individuals who may still marry her? If Rabbi Eliezer completely disconnects *ishut* from the *eishet ish* status, he should equally validate limited-scope *geirushin* and limited-scope *kiddushin*. The status of *eishet ish* is a completely autonomous status which can be calibrated during *kiddushin* and *geirushin*, independent of the separate creation (*kiddushin*) or disruption (*geirushin*) of *ishut*.

However, if his approval of a *get ela li-floni* is based upon his rejection of *keritut* as a condition for *geirushin*, *kiddushin* is different and certain unique factors may demand that it be comprehensive. As Rabbi Abba implies, the *kinyan* factor within *kiddushin* may demand that the acquisition be comprehensive. According to this second model, Rabbi Eliezer agrees in general that *eishet ish* stems from the *ishut,* but he isn't concerned about a partial get. If *kiddushin* (unlike *geirushin*) **must** be comprehensive and *eishet ish* derives from *ishut,* Rabbi Eliezer may claim that *kiddushin ela li-floni* may be invalid despite the validity of *geirushin ela li-floni*.

Having established two different models toward understanding Rabbi Eliezer perhaps the differing logics may be discerned in the various *pesukim* cited (*ibid.*) as sources for his novel position. Rabbi Yannai cites the phrase describing a *get* as permitting a woman to marry a different man ("*vehayeta le-ish acher,*" *Devarim* 24:2) implying that even a *get* which only permits her to marry **one** person is legitimate. This verse may telegraph that halakha isn't concerned with *keritut*. Indeed, the release of *eishet ish* stems from the cancelation of *ishut,* but that cancellation may be limited and not comprehensive — even for **one** man. By contrast, Rabbi Yochanan cites *Vayikra* 21:7, which designates a woman as a divorcee (and prohibited to marry a *Kohen*) even if she is only "*gerusha mei-isha,*" "divorced from her husband [alone]." This phrase doesn't highlight the limited *heter* but rather the independence of the *ishut* cancellation. A divorce can address the *ishut* while totally ignoring any attempt to repeal an *issur eishet ish*, because the two components are completely independent.

Finally, questioning whether Rabbi Eliezer agrees to a concern of *keritut* (but merely disconnects *ishut* from the status of *eishet ish*) or completely ignores the *keritut* condition (as it applies to the scope of a *get*) will determine whether Rabbi Eliezer can accept other forms of *keritut*-based disqualifications. The original subject of the dispute between Rabbi Eliezer and the Chakhamim concerns a situation in which a man divorces his wife but retains residual *issurim* for certain individuals. *Gittin* 85a explores multiple forms of *geirushin* which fail because they don't eliminate critical parts of the *ishut* relationship. What if the (ex-) husband retains the right to cancel the woman's vows? What if the ex-husband retains the right to inherit the woman's property upon her death? What if she retains the right to eat *teruma* by virtue of her ex-husband's being a Kohen? Would any of these *gittin* fail because of the lack of definitive *keritut*?

The Gemara explores these options, and it is unclear whether the possible failure of these *gittin* is an issue only according to Chakhamim or even according to Rabbi Eliezer. If Rabbi Eliezer validates a *get ela li-floni* because he rejects *keritut* as a governing factor in the scope of a *get,* he would not consider these possible failures. A *get* doesn't require *keritut*; just as a *get* can retain certain prohibitions to specific men it can also retain certain marital rights for the husband. If, however, Rabbi Eliezer validates a *get ela li-floni* because he views the *issur* of *eishet ish* as independent of *ishut* (so that its retention wouldn't be a residue of the *ishut*) perhaps he, as well, may invalidate these *gittin*. The right to inherit and the right to cancel vows — unlike the *issur eishet ish* — may be considered derivative elements of the *ishut*. Therefore, their retention may constitute a flaw of *keritut*.