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**TALMUDIC METHODOLOGY**  
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**The Prohibition of *Bal Yeira'eh* and *Bal Yimatzei***

In addition to the Torah's prohibition of eating or deriving benefit from *chametz* on Pesach, there is an additional, two-part prohibition of "*bal yeira'eh*" ("*Lo yeira'eh lekha se'or be-khol gevulka*") and "*bal yimatzei*" ("*se'or lo yimatzei be-vateikhem*"). In this *shiur*, we will begin addressing the nature of this prohibition.

The *gemara* notes that the Torah commands, "*lo yeira'eh lekha chametz*," "You should not see *chametz* of YOURS." The *gemara* infers from the added word "*lekha*" that the prohibition of *bal yeira'eh* and *bal yimatzei* applies only to *chametz* which one owns or achieves ownership of, on Pesach. (Indeed, even partial ownership can violate the prohibition. This issue will be addressed in a forthcoming *shiur*.) Although the actual language of the Torah forbids SEEING *chametz*, one does not violate the prohibition by seeing *chametz* that belongs to another person. Ownership is necessary to entail a violation.

However, even though ownership is a likely precondition for the *issur*, the Torah clearly describes the prohibition with the word "*yeira'eh*," which implies that seeing the *chametz* plays SOME role in the *issur*. Similarly, when the Torah describes the companion *issur* of *lo yimatzei*, the Torah describes *chametz* in a HOUSE (*be-vateikhem*), suggesting that legal ownership may not be the ONLY CONDITION qualifying the *issur*. By describing *chametz* in a HOUSE, the Torah may be requiring domestic proximity, and not just legal title. Likewise by describing an *issur* to SEE *chametz*, the Torah may be requiring a form of optical contact and not just legal ownership. Are these descriptions of seeing *chametz* and possessing *chametz* in a house halakhic statements, or are they merely stylistic? Is the *issur* of possessing *chametz* defined PURELY by legal ownership or are there additional requirements or parameters?

The first indicator that these *issurim* are not defined purely by legal ownership stems from the comments of several *Rishonim* who note that only the *issur* of *lo yimatzei* is violated if one's *chametz* is hidden out of view. *Lo yimatzei* applies irrespective of whether "eye contact" has been established. The companion *issur* of *lo yeira'eh*, on the other hand, is only violated if the owner actually SEES the *chametz*. Rabbenu Dovid suggests this approach, the *Kesef Mishnah* applies it to the Rambam, and an intriguing comment of Rashi (*Pesachim* 6a) suggests it as well (see Rashi, s.v. *dechi*).

The Ritva cites his teacher, the Ra'ah, who expands this concept. If the *chametz* is visible, the prohibition of *lo yeira'eh* applies, no matter what the setting (as the *lo yeira'eh* prohibition is described as applying "*be-gevulka*"). If the *chametz* is not visible, but is located in a domestic setting, "*lo yimatzei be-vateikhem*," has been transgressed, as the *chametz* is "found," even though it cannot be seen. If, however, the hidden *chametz* is not located in a "home" setting, neither of the violations applies.

This position of the Ra'ah views the two *issurim* as COMPLETELY INDEPENDENT tracks- with each one defined by a unique parameter. *Lo Yimatzei* applies to domestic *chametz* regardless of its visibility while *lo yeira'eh* applies to visible *chametz* regardless of its location. Dislocated AND invisible *chametz* is not prohibited. Each *pasuk* slightly expands the scope of the *issur*, but there is a situation – non-visible *chametz* situated in a non-domestic setting – in which no prohibition has been violated. Thus, the Torah's descriptions of *chametz* at home (*be-vateikhem*) and *chametz* that is seen (*yeira'eh*) are not merely stylistic elements, but rather have halakhic implications.

The point articulated by the Ra'ah in the extreme, and the *Kesef Mishnah* and Rabbenu Dovid in a more moderate fashion leads to two interesting consequences.

First, these *Rishonim* assert that the two *issurim* are not overlapping prohibitions with identical scopes and prerequisites; it is NOT true that if you violate one prohibition you automatically violate the other. Rather, it is quite possible to violate only one of the *issurim* (when seeing your *chametz* outside of your home or possessing it in your home without seeing it), although they may overlap one another (when seeing your *chametz* in your home).

This understanding may have ramifications regarding how many *mitzvot* to count (see the Rambam, who counts them as two *mitzvot*), how many *malkot* to administer if the general prohibition has been actively violated (see the *Kesef Mishnah*), and whether this prohibition can be classified as a "*lav ha-nitak la-asei*" (see Tosafot, *Pesachim* 95a). If the two prohibitions overlap and are absolutely identical, perhaps they create a "super-lav," and perhaps their association with the *mitzvat ase* of destroying *chametz* (*tashbitu*) would not exempt the violator from *malkut*, as in ordinary cases of *lav ha-nitak le-asei*. If,

however, these are two independent prohibitions that many times incidentally overlap, each individual prohibition may be “*nitak*” by the same positive commandment to actively burn the *chametz*.

A different ramification may have even greater impact. As we noted, these *Rishonim* assume that that prohibitions of *bal yeira’eh* and *bal yimatzei* are not based solely on ownership, but rather demand additional factors – location and visibility. Once we assume that the Torah’s mentioning of these factors is more than literary, perhaps we can determine additional NON-OWNERSHIP based requirements for this prohibition.

Perhaps the most startling example is a statement of the Ramban based on a *Mechilta* that is not included in our version of the Mechilta. According to this text, the *Mechilta* expounds on the phrase “*be-veitekhem*,” although the Mechilta does not require a domestic setting as a precondition for the prohibition. Rather, the Mechilta requires a location comparable to a home setting: just as your home is in your *reshut*, your physical domain, a person only violates EITHER prohibition (*bal yeira’eh* OR *bal yimatzei*) if the *chametz* is in his physical possession ((*reshut*). If a Jew were to physically relocate his *chametz* to the physical possession of a Gentile without relinquishing any legal ownership, he would not violate ANY *issur*. (Subsequently, the Shaagat Aryeh and the Mekor Chaim debated the *halakha* about a Jew who relocated his *chametz* to a public *hefker* area without relinquishing any ownership. Would this physical relocation also eliminate the prohibition, or does the Ramban demand that the *chametz* must be placed into the zone of SOMEONE else?)

This Ramban lodges an astounding claim – full legal ownership IS NOT SUFFICIENT to entail violation. In addition, some physical proximity and interaction must exist. According to the Ramban, however, the aforementioned issues of the visibility of the *chametz* as well as the domestic setting are non-essential; full and dual violations apply even regarding hidden *chametz* in a non-domesticated setting. However, if the *chametz* is not in the physical zone of the owner at all, no violation results. This Ramban represents the most mainstream position to adopt the Torah’s unique formulation as a halakhic determinant and impose an ADDITIONAL condition to the *issur* beyond the ownership factor.