

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY

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Chatzi Shiur – Part 1

The gemara in Yoma (74) cites a fundamental machloket between Rabbi Yochanan and Reish Lakish regarding the consumption of less than the necessary shiur of a forbidden item. For example, most edible items possess a requisite shiur of ke-zayit in order to yield a punishment. Would consumption of less than a ke-zayit be Biblically prohibited – albeit without punishment, or would such a quantity be Biblically permissible, though prohibited at a Rabbinic level? Reish Lakish claims that minimal quantities are Biblically permissible, while Rabbi Yochanan asserts that chatzi shiur - less than a requisite shiur – is 'assur min ha-Torah' – Biblically forbidden. This series of shiurim will explore the basis of Rabbi Yochanan's position. If indeed less than a shiur does not yield a punishment, why should it be forbidden?

Perhaps Rabbi Yochanan's logic can best be grasped by exploring his source. The gemara itself in Yoma (74a) appears to provide multiple reasons for Rabbi Yochanan's law. At first, it poses a rationale based upon the concept of 'chazi le-itztarufi' – the minimal amount could potentially accumulate to a quantity possessing the requisite size. Subsequently, the gemara cites a beraita in which Rabbi Yochanan derives his position from an actual pasuk. Questioning his own willingness to establish a prohibition for less than a shiur even though such quantities would not yield punishment, Rabbi Yochanan justifies his claim by citing an extra word in the pasuk which bans cheilev (forbidden animal fat – Vayikra 7:23). By including the extra term 'KOL cheilev' ('ALL cheilev'), the Torah alludes to the fact that even a quantity less than a ke-zayit is Biblically prohibited. The gemara itself provides differing logic as to the true source of Rabbi Yochanan's halakha.

Perhaps these diverse sources represent different perspectives upon the halakha. Deriving an issur for chatzi shiur from the extra term 'kol cheilev' suggests that the Torah fundamentally equates quantities less than a ke-zayit with the amount of a ke-zayit or more. The term would seem to stretch the category of issur to include these lesser quantities. If, however, the logic of chazi le-itztarufi is responsible for chatzi shiur's prohibition, perhaps less than a kezayit is not inherently prohibited. It is not viewed by halakha as a prohibited item, because it doesn't possess sufficient mass. Rather, a secondary concern is responsible for its prohibition: if a person eats this quantity, he might mistakenly consume a full shiur, thereby violating a Biblical prohibition. Chatzi shiur might then be an example of a Biblically prescribed seyag - a

measure enacted to protect against violations of a more fundamental issur. By prohibiting a chatzi shiur, the Torah protects against the consumption of a full shiur. (For an extended discussion of the notion of a Biblically legislated seyag, see Rav Yosef Engel's comprehensive analysis in his sefer, "Lekach Tov.")

Interestingly, the Rishonim are split as to the actual mekor (source) of the prohibition of chatzi shiur. While Tosafot in Yoma (74a, s.v. kivan) point to the actual pasuk as the source of the issur, the Ritva suggests that chazi le-itzterufi is the true underlying reason behind the issur. This machloket could potentially reflect the essential nature of the prohibition: does Rabbi Yochanan regard chatzi shiur as a prohibited item per se, or does he allow a prohibition to help prevent the consumption of a full quantity?

Clearly, the most obvious method to prove this question would be to inspect the status of chatzi shiur in situations where the prospect of a complete shiur is not relevant. The Peri Megadim (65:4, s.v. nistapakti), for example, questions the applicability of Rabbi Yochanan's halakha to the prohibition of eiver min ha-chai (eating meat from a live animal). The gemara in Chulin (103b) cites an opinion that if a person divided a ke-zayit of eiver min hachai in two and consecutively consumed both quantities, he does not receive malkot (lashes). Generally, a person who eats a ke-zayit of forbidden food in smaller installments violates the given issur provided that the entire kezayit was ingested within an akhilat perat (the time required to eat a perat of food). Rashi explains that since eiver min ha-chai is an atypical issur (since it includes even inedible substances such as bones and sinews), we cannot apply classic terminology and are limited to the specific case outlined by the Torah. Hence, someone who simultaneously eats a ke-zayit of eiver min ha-chai would violate the issur, whereas someone who ingests smaller quantities, even if the process occurs within the period of akhilat perat - would not.

Based upon this Rashi, the Peri Megadim wonders whether the chatzi shiur prohibition of Rabbi Yochanan would apply to eiver min ha-chai – or, for that matter, to gid ha-nasheh, which he views as equally anomalous as eiver min ha-chai. The gemara refers to the gid ha-nasheh as a "strip of tasteless wood," and yet it is assur - seemingly confirming its equivalent status to eiver min ha-chai. Having established that smaller quantities of eiver min ha-chai or gid ha-nasheh will not accumulate to form a larger ke-zayit, the Peri Megadim wonders whether chatzi shiur is prohibited. If a person eats a chatzi shiur of eiver min ha-chai or gid ha-nasheh, there is no manner by which further consumption will yield a complete shiur. Chatzi shiur, he argues, is prohibited solely due to chazi le-itzterufi and the possibility of the initial consumption leading to that of a complete ke-zayit; in situations where the initial installment cannot progress any further, perhaps there is no Biblical prohibition (albeit a Rabbinic one) for chatzi shiur!! The Minchat Chinukh extends this question to a nazir's consumption of pits of grapes. Since pits do not possess classic properties of food, the prohibition for a nazir to partake of them should be viewed as a chiddush - similar to the prohibitions of eiver min ha-chai and gid ha-nasheh. Consequently, if a nazir eats an entire ke-zayit all at once, he is in violation of the issur, whereas smaller quantities would not accumulate. Perhaps, chatzi shiur should not be Biblically prohibited in such a case.

Of course, the Peri Megadim himself is aware of a different manner of articulating the chazi le-itzterufi logic - one which would obtain even to eiver min ha-chai. Indeed, if chazi le-itzterufi represents the concern that a person will continue eating beyond the chatzi shiur and incrementally eat an entire shiur, such worry would not apply to situations where small quantities cannot accumulate. If, however, chazi le-itzterufi is lodged out of concern that, having eaten a permitted chatzi shiur, a person will negligently, in some other context, consume an entire shiur, this concern would apply to eiver min ha-chai, as well. If a partial shiur of eiver would be permitted, perhaps, in other contexts, one might partake of an entire shiur all at once. Hence, all chatzi shiurs – even of eiver, gid ha-nasheh and grape pits – should be Biblically prohibited.

In one of his teshvuot (154), Rabbi Akiva Eiger constructs a similar scenario to the one developed by the Minchat Chinukh: a person takes an oath not to ingest a particular item of food, and subsequently part of that food is lost, leaving only a chatzi shiur. Would eating that chatzi shiur render him in violation of Rabbi Yochanan's principle of chatzi shiur assur min ha-Torah? In this situation, too, the prospect of chazi le-itzterufi does not apply. There is no longer any quantity of food which could potentially combine with the ingested chatzi shiur to form a ke-zayit, since all the remaining prohibited food has been lost. This scenario is structurally similar to the cases suggested by the Peri Megadim and Minchat Chinukh, where current 'accumulation' is non-existent, but concern for future hazard still applies. It should be noted, however, that the status of chatzi shiur regarding items which were rendered assur through shevua is far from obvious. Rabbi Akiva Eiger's position presumes that, indeed, the notion of chatzi shiur WILL apply to items prohibited through oaths. This assumption can be debated, but this issue requires independent treatment, beyond the scope of our discussion.

An additional example of a situation where the original chatzi shiur cannot possibly lead to a complete shiur is suggested by both the Noda Bi-yehuda (O.C. tinyana 53) and the Chatam Sofer. Would a person violate Rabbi Yochanan's halakha if he were to eat a chatzi shiur of chametz immediately prior to the conclusion of Pesach, or consumes a chatzi shiur of food just as Yom Kippur was ending? In each scenario, future eating would not combine with the original phase, and perhaps chazi le-itzterufi would not apply.

What is striking about all these positions is the confidence they suggest that the issur of chatzi shiur stems solely from the logic of chazi le-itzterufi. Indeed, if chazi le-itzterufi is the ultimate foundation, its terms must be carefully examined, and perhaps the absence of pending hazard will eliminate a potential issur. However, if the chatzi shiur prohibition is based upon a more inherent concern - that even lesser quantities are inherently forbidden (without punishment), the entire dilemma of the Peri Megadim and the associated cases becomes irrelevant. One may not eat chatzi shiur of any forbidden item because even lesser quantities are forbidden – regardless of the possibility of current accumulation to a complete shiur.