

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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SHIUR #22: KIBUD AV VE-EIM FOR A MARRIED WOMAN

The mishna in Kiddushin (29) lists the mitzvot 'of the father' incumbent upon the son, and claims that in this area men and women are equivalent. The subsequent gemara interprets this potentially ambiguous statement as referring to the mitzvot which a child must perform toward the parent – namely, kibbud av ve-eim. The gemara thus establishes that both women and men are equally included in this mitzva. This ruling is further supported by a beraita, which notes the term 'tira'u' ('you shall fear') employed by the Torah to describe the mitzva of kibbud av ve-eim. The term appears in plural form, thereby implying that both women and men are obligated to perform this mitzva.

Although, on a fundamental level, this obligation applies to women, the gemara does allow an exemption for married women. Since the Torah also employs a singular form in the context of this mitzva ('ish' – a man), which suggests a certain exclusivity with regard to this obligation, certain types of women are excluded. The gemara interprets this exclusion as referring to married women, who cannot perform the mitzva due to a situation described by the gemara as, "ein sipeik be-yada la'asot mipenei she-reshut acheirim aleha" (literally, "she does not have the ability to perform because other people's authority [namely, the husband] is upon her). According to the gemara, married women are legally exempted from kibbud av ve-eim since their primary obligations relate to their new family. Though, baruch Hashem, at a practical level, married women continue to perform the mitzva of kibbud av ve-eim (in most cases, one could claim, they excel in this area more than married men), from a purely legal standpoint, they are exempt.

One simple approach to understanding this principle is to view it as a practical conflict of interests. A married woman has certain responsibilities toward her husband which take priority over her obligations to her parents. The incessant nature of domestic obligations yields the married woman's exclusion from the mitzva of kibbud av ve-eim. According to this perspective, she does not lose her essential

mitzva, but rather defers its performance to execute responsibilities to which the Torah affords priority.

A different way of understanding this gemara might be to view the married woman's exemption as structural, rather than practical. Since, by marrying, she enters a different person's 'reshut,' or a different home, she no longer bears the responsibilities of her previous life. Unlike a man, who does not change the identity of his reshut when he marries, a woman does (as evidenced by several other halakhot), and she is therefore no longer obligated with regard to the mitzva of kibbud av ve-eim (again, on a strictly legal level). The gemara's formulation of the halakha allows both readings. Initially, the gemara provides a practical reasoning for the exemption: 'A man has the capacity to perform the mitzva, whereas a married woman does not (since her resources are dedicated elsewhere).' Subsequently, however, the gemara raises a very different reason: "Since other people's authority is upon her." The conclusion of the statement provides a more structural flavor - since she is in a different domain, she is not obligated to continue fulfilling the mitzva that had applied in her previous state.

A very logical nafka mina would arise in a case where she is relieved of her responsibilities to her husband. The Shakh (Y.D. 220:17) claims that if a husband excuses his wife from her domestic responsibilities, thus enabling her to perform kibbud av ve-eim, she is then required to do so. (Certainly in our era, given contemporary social norms, we would automatically expect such "generosity" on the part of a husband in allowing his wife to fulfill kibbud av ve-eim). Presumably, the Shakh viewed her exemption as purely practical. Essentially, she remains bound by the mitzva but must defer its fulfillment at a practical level. Once the husband waives his rights and she has the practical opportunity to perform kibbud av, she must now fulfill this obligation, since it had never been cancelled. If, however, her obligation were absolutely suspended during marriage, a simple waiver by the husband might not be sufficient to resuscitate her obligation. Obviously, if she later divorces and departs the husband's 'reshut,' her obligation returns (the gemara itself states this obvious halakha). But a married woman would not be obligated even if the husband were to waive his right. The Shakh's comments thus suggest that he viewed the halakha as purely practical.

Tosefot, too, appear to presume the practical understanding of this exemption, at least at one stage of their analysis. As stated earlier, the married woman's exclusion from this mitzva is based upon a pasuk (the singular term 'ish'). Tosefot question the logic of this exemption if, at a Biblical level, a woman is not

forced to surrender her income to her husband. The Halakha of 'ma'aseh yadayim' - the husband's rights to his wife's income (in exchange for marital support), is only a Rabbinic injunction (see Ketuvot 47b). If, at a Biblical level, she possesses independent monetary resources, why does the Torah exempt her from the mitzva of kibbud av ve-eim? Tosefot's question clearly works off the premise that we must view the married woman's exemption as practical in nature.

Their answer, however, is less explicit. The actual text of their answer reads: "Even though she indeed possesses monetary resources, since she isn't 'found' with her parents, but rather with her husband, she is still excused at a Biblical level." Do Tosefot intend to maintain their premise, that the exemption is purely practical, and explain that although she has monetary resources, since she spends her time in her new home she is inhibited practically from the performance of the mitzva and is therefore excluded? From this standpoint, even in their answer Tosefot assume that the exemption stems from practical considerations, but practical concerns can relate to time and not just finances. Or, do Tosefot, in their response, change the reasoning behind the exemption? Indeed, if this halakha were purely practical, then we would not exclude the woman since she possesses independent finances. The exemption, however, is fundamental – since she is in a different reshut, a different house, she does not retain the mitzvot relating to her membership in her previous family setting. Though Tosefot's question is clearly premised upon a particular understanding of this halakha, the answer is ambiguous.

Yet another fascinating question might be whether she is also exempt from the mitzva of yira. Kibbud av ve-eim divides into two categories of obligation: yira and kavod. Kavod, honoring, refers to the performance of basic needs and showing respect (e.g. rising in one's parent's presence). Yira, meaning fear, or reverence, is expressed by refraining from explicitly contradicting one's parent's words, sitting in a parent's seat without permission, and so on. Clearly, one can envision practical conflicts between kibbud and domestic responsibilities of a married woman. It would be difficult, however, to envision similar conflicts between yira and domestic responsibilities. Would a married woman be excluded from yira, despite the fact that its fulfillment has no practical effect on her marital duties? If we assume that her exemption is purely practical, we would not expect it to extend to yira. If, however, she is excluded from this entire category since she is in a different domain, she might be excluded from yira, as well. The Rishonim do not directly address this issue. From the Shulchan Arukh's statements in Y.D. 220:17 it appears that a married woman is excluded even from yira. From Rashi's comments (Kiddushin

30b s.v. nitgarsha), however, we might infer just the opposite - that a married woman remains obligated in yira even though the mitzva of kibbud does not apply.

Another interesting issue which we do not find directly addressed is the precise point at which the exemption commences. Presumably, if the exemption is purely practical in nature, it would take effect only at the point at which the woman begins living with her new husband and performing marital responsibilities. If, however, her exemption is more structural, then it might begin at the point at which she enters her husband's reshut – which, according to several gemarot, might actually precede her physical residence with her husband. (A woman might be considered as having entered her husband's reshut as soon as she is 'handed over' to her future husband's entourage to be transported to him for actual marriage.)