YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Gemara Shabbat**

**Shiur #02: *Akira* (Lifting) and *Hanacha* (Resting) (2b-3a)**

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Sources:

1. גמ' ב': "אמר ליה רב מתנה" עד ג'. שניים שעשאוה פטורין"

2. רש"י, תוס' ד"ה פטורי, רשב"א ד"ה פטורי.

3. פסחים פ"ה: "אמר רבי אמי ... עקירה והנחה", רש"י שם ד"ה דעבד, תוס' ד"ה הוצאה.

4. רש"י שבת ג': ד"ה ד"ה מבע"י.

 The Mishna is comprised of cases where the person bears a *chatat* responsibility ("*chayav*"); i.e, he has transgressed on a *d'oraita* level and other cases where he is exempt ("*patur*"). Rashi on the Mishna (2a, s.v. *u-shetayim*) writes:

… And two by rabbinic enactment, where the *melakha* is performed by two people, this one lifting [the object] and the other one resting it. *Lekhatchila* (*ab initio*) this is forbidden, but if he did it, he is exempt, as we learn in the Gemara: If two people did it [= the *melakha*], they are exempt.

 Later in the passage Rashi writes:

**If the poor man stretches** [his hand] – where he did the lifting and the owner of the house took it from [his hand] and rested it inside, so that the owner of the house performed the resting*.*

**Both are exempt** – for neither one performed a complete *melakha*, but they are forbidden to do so *lekhatchila*, lest each one come to perform a complete *melakha* on Shabbat.

In order to be liable, that is, in order to violate a Torah prohibition, a person must lift the object from one domain, transfer it to a different domain, and rest it there. Several *sugyot* that we will encounter in the future will deal with the question what is considered "lifting" (*akira*) and what is considered "resting" (*hanacha*). At this point, however, we do not need these more precise definitions.

Rashi explains that the term used by the Mishna in reference to these cases, *peturin*, "exempt," means that the parties are exempt, but nevertheless the action is forbidden, that is to say, there is a rabbinic prohibition. This is stated explicitly in our passage on p. 3a: "Everything taught as involving an exemption on Shabbat, involves an exemption, yet it is forbidden."

 The Gemara at the end of p. 2b relates to the discrepancy between the number appearing in the Mishna – eight – and the total number of cases in the Mishna, which is much greater. In the end the Gemara explains the matter as follows: "Exempt acts whereby one can come to the liability of a sin-offering are counted; those whereby one cannot come to the liability of a sin-offering are not counted" (3a). In other words, there are, indeed, more cases, but the number in the Mishna relates to only some of the cases, those "whereby one can come to the liability of a sin-offering."

 Rashi explains that the cases that are counted are the cases of *akira*, and not the cases of *hanacha*. He writes: "Exempt acts whereby one can come to the liability of a sin-offering – e.g., acts of *akira* which are the beginning of the *melakha*, where **there is reason** to forbid, lest he finish it [= the *melakha*]. But acts of *hanacha* cannot come to the liability of a sin-offering, for no act of *akira* was performed by that person."

The plain meaning of Rashi's comment implies that *akira* without *hanacha* is forbidden by rabbinic law, and the Rabbis forbade it because if the person continues in his action, his *akira* can lead to the violation of a Torah prohibition. This is not the case with respect to an act of *hanacha* that was not proceeded by an act of *akira*; since there is no concern about it leading to the violation of a Torah prohibition, there is no room for a rabbinic decree, and the act is not even forbidden by rabbinic law. For Rashi writes that with respect to acts of *akira*, "**there is reason to forbid**" – which is not the case with respect to acts of *hanacha.* The implication is that there is no reason to forbid in the case of *hanacha*, and it follows that there is no prohibition. According to many commentators, this conclusion is implausible, and therefore they explain that Rashi relates exclusively to the literary formulation in the mishna, why we **count** the acts of *akira*, but not the acts of *hanacha*. Both, however, are forbidden by rabbinic law. This reading, apart from the fact that it does not coincide with the plain meaning of Rashi's words, is also difficult, as it does not explain the logic of counting the acts of *akira*, which are forbidden by rabbinic law, lest a person come to complete the *melakha*, while not counting the acts of *hanacha*, which are also forbidden by rabbinic law, for some other reason (apparently, so that in other parallel situations a person not come to perform the entire *melakha*, from *akira* to *hanacha*).What is the logic of counting only the prohibitions of the first type, but not those of the second? But if we say that the second set of actions are not forbidden at all, not even by rabbinic law, it is clear why they are not included in the Mishna's count.

 We will return to this question below, but for now let us merely note that Rashi speaks of acts of *akira* and acts of *hanacha*. So too in the Mishna, as was cited above, Rashi speaks of lifting an object without resting it and resting the object without lifting it. The *Tosafot* (s.v. *patur*) raise several objections to Rashi. One of them is: "Lifting [an object] without moving [it to a different domain] (*hotza'a*) is mere movement, with no intimation of liability of a sin-offering whatsoever." The *Tosafot* clarify the fact that every complete act of *hotza'a* involves **three** components: *akira*, moving the object (or as the *Tosafot* call it: *hotza'a*), and *hanacha*. The *Tosafot* understand that according to Rashi, if one person lifted an object, and a second person both removed it to another domain and put it down to rest, the first person violated a rabbinic prohibition (in the Mishna, this is the law governing the owner of the house, in the case where the poor person stretches his hand inside and takes the object from the hand of the owner of the house [who already lifted it], and the poor person takes it out, and he is liable while the owner of the house is exempt). The *Tosafot* ask: How is it possible for the owner of the house to be subject to a rabbinic prohibition; surely he did nothing, and this is mere movement of the object, since the object does not leave the private domain by way of the owner of the house?

 The *Tosafot* assume that rabbinic prohibitions must mirror the Torah *melakha*, only that a certain technical component that is necessary for liability by Torah law is missing. It is clear from the *Tosafot's* wording that the element that defines the very essence of the *melakha* is ***hotza'a***, that is, crossing the boundary between the private domain and the public domain. This is what defines the act as the *melakha* of *hotza'a*. By Torah law there is also a need for both an act of *akira* in the private domain, and an act of *hanacha* in the public domain. Therefore, if a person performed *hotza'a* without lifting the object or resting it, he is not liable by Torah law, but there is nonetheless room to forbid this by rabbinic law. In the words of the *Tosafot* in the continuation (the view of the Riva): "The one who stretches out his hand, **and brings** the object **in** or **takes it out,** who in the parallel case in the first clause is liable for a sin-offering, here is exempt, since he did not perform the **entire** *melakha*, as **a small part** was missing, either *akira* or *hanacha*." *Akira* without *hotza'a* is nothing, and should not be subject to a rabbinic prohibition – "there is no risk of a sin-offering whatsoever." This is not the case with respect to *hotza'a* without *akira*, regarding which there is no liability for a sin-offering, but there is an "intimation" of liability of a sin-offering, and therefore there is a rabbinic prohibition, for essentially the person performed the *melakha*, only that "a **small part was missing**."

 It follows that according to the *Tosefot* (the Riva), the essence of the *melakha* is the *hotza'a*, that is, removing an object from one domain to another, from a private domain to a public domain (or vice versa, in which case it is called *hachnasa*, "bringing in"). The acts of *akira* and *hanacha* are not part of the essence of the *melakha*, but rather additional external conditions for liability, which by rabbinic law may be waived. If you ask: According to this, what is in fact the function of the *akira* and the *hanacha*, and why are they necessary for liability for performing the *melakha* by Torah law? – the answer is that they are like a measure (*shi'ur*)in the performance of the *melakha*. The essential forbidden act is the transfer from one domain to the other, but in order for the transfer to be significant and engender liability, the object must start "deep" inside the realm of the private domain, and reach "deep" into the realm of the public domain. Even without *akira* and *hanacha* you can transfer an object from one domain to the other (and therefore this is subject to a rabbinic prohibition), but in order to become liable by Torah law, you must transfer the object "a great deal," in a very significant manner. The essence of the *melakha* is transferring the object across the boundary between the two domains, and in the absence of such a transfer, there is no *melakha* whatsoever, and even by rabbinic law, this is not forbidden, or as the *Tosafot* formulate this: "This is mere movement, with no intimation of liability of a sin-offering whatsoever." But in the opposite case, where there is transfer across a boundary separating between two domains, but what is missing is *akira* or *hanacha* (and presumably also if even both are missing), the *melakha* itself was performed, only that an exemption applies by Torah law, and therefore it is reasonable that this should be forbidden by rabbinic law.

Rashi appears to maintain the opposite opinion. His entire emphasis is on the acts of *akira* and *hanacha* (and regarding *hanacha* without *akira*, we already mentioned that the wording of Rashi implies that this is altogether permitted, but most commentators maintain that even *hanacha* alone is rabbinically forbidden, even though this case is not counted in the Mishna). The *melakha* of *hotza'a* is not the act of moving and transferring an object from one place to another, but rather establishing a location for an object, that is, bestowing a new identity upon the object by assigning a new location for it. The relationship here is the very opposite of that which defined the relationship according to the *Tosafot*. The acts of *akira* and *hanacha* are the essence of the *melakha*. *Akira*, in its literal sense – **uprooting** the object's old identity as belonging to a certain location – and *hanacha*, that is, bestowing a new identity upon the object by fixing it in a new location. The transfer/movement is merely a way for the *hanacha* to be in a **different** place than the *akira.* According to this, there is room to forbid by rabbinic law *akira* alone or *hanacha* alone, even without a transfer across a boundary, since the isolated action accomplishes half of the work of assigning an identity to the object as belonging to one place or another.

 In order to understand this matter better, let us consider the following case. What is the law if a person lifts up an object in a private domain, and holds it in his hand, and at the same time someone else demolishes the walls that define the place as a private domain, turning it thereby into part of the public domain, and then he rests the object **in the very same place** from which he lifted it up, without having moved it at all? According to the *Tosafot*, it is clear that he did nothing at all, since he did not transfer the object from one place to another. But according to Rashi, he assigns a new identity to the object by lifting it up in a private domain and setting it down in a public domain, even though the object did not actually move at all. Logically speaking, there is room to say that he would be **liable**in such a case, as there is *akira*, *hanacha*, and a change in the object from belonging to a private domain to belonging to the public domain. In actual practice, I assume that this is not the Halakha, because even according to Rashi, an **act** of *melakha* is necessary, and here he is not absolutely responsible for the change in the status of the domain. But this case demonstrates in principle the two positions and the difference between them.

 To summarize, we asked what is the definition of the *melakha* of *hotza'a.* Is it an act of moving and transferring an object from one place to another (from a private domain to a public domain, or vice versa)? Or is it an act of changing the status of the object, from belonging to one place to belonging to a different place? One practical ramification of this distinction is the reversal in the status of the *akira* and *hanacha* as opposed to the movement. According to the first position, which I attribute to the *Tosafot*, the essence is the movement, whereas the *akira* and the *hanacha* are merely measures in the act of the *melakha* and not part of the essence of the *melakha*. According to the second position, which I attribute to Rashi, the essence of the *melakha* is the *akira* and the *hanacha*, whereas the movement is merely a way that allows *hanacha* in a new place after the object was lifted up from its original place.

 In the [previous *shiur*](http://etzion.org.il/en/melakha-hotzaa)we dealt with the definition of *hotza'a* as a "deficient *melakha*." We suggested this to mean that in *hotza'a* there is no change in the status of the object, there is no real **creative act,** as we find in every other *melakha*. The question that remains is: What is the conclusion? After the Torah defines *hotza'a* as a *melakha*, how do we define its character? One possibility is to say that even according to the conclusion, *hotza'a* does not meet the definition of a *melakha*, and the Torah only **calls it** a *melakha* for the purpose of imposing liability for it on Shabbat, despite the fact that it does not meet the definition of *melakha*. The strongest expression of this conclusion is the position of the *Tosafot Rosh* that the fact that *hotza'a* is a deficient *melakha* explains why there is no prohibition of *hotza'a* on a Festival, since "it is not a *melakha* and with respect to a Festival it is written: 'You shall not do a *melakha*'" (*Tosafot ha-Rosh* 2a, s.v. *yetzi'ot*). This implies that every other *melakha* is a *melakha* because of the result, the creative act in it, but *hotza'a* is designated a *melakha* because of the action, even without any results. This accords with the position that I attribute to the *Tosafot* in our passage, that *hotza'a* is defined as movement, the transfer of an object from one domain to another. But the position that I attribute to Rashi will explain that by including *hotza'a* in the list of *melakhot* the Torah teaches that even a change in location is a change in the status of an object; that is to say, that the location of an object is a component in the very definition and identity of the object. According to this, *hotza'a* is a *melakha* of changing the identity of an object, from an object that belongs to a certain place (a private domain) to an object that belongs and is defined by its being found in a different place (a public domain), just as grinding is a *melakha* of changing the identity of an object from one solid block to powder, and the like, and so too all the other *melakhot*.

Returning to our *sugya*: Rashi, in accordance with his opinion, asserts that *akira* alone, even without *hanacha* (and without a transfer from one domain to the other), is subject to a rabbinic prohibition. That is to say, the change in the object's identity begins already when it is being lifted up, as that cancels its previous identity. The Gemara states that the Mishna counts only the acts of *akira*, but not the acts of *hanacha*. At the beginning of this *shiur*, we inferred from a close reading of Rashi that acts of *akira* are forbidden by rabbinic law, but acts of *hanacha* are permitted. See the Rashba (s.v. *patur*), who after citing the opinion of Rashi writes: "And some explain in the opposite manner that [the Mishna] counts the acts of *hanacha* because through them the *melakha* is completed, and it is the essence of the *melakha*, for it is by way of *hanacha* that a person generally becomes liable for a sin-offering, but with an *akira* [alone] he has done nothing. This seems to be correct." (The Rashba's words here are based on those of the Ramban.) It would appear that the Rashba understood Rashi as we have explained, but he argues that if we are already prohibiting by rabbinic decree either *akira* or *hanacha*, the logical candidate is *hanacha*, and not *akira.* The reason is clear: *Akira*, according to Rashi, cancels the old identity; *hanacha* determines a new identity. *Hanacha*, then, is the essence of the *melakha*, that is, the essence of the creation of something new, which is the definition of a *melakha* on Shabbat. Rashi explained the preference of *akira* over *hanacha* with an incidental reason – that a person who lifts up an object can, if he continues, come to violate a Torah prohibition. The Rashba, however, prefers the fundamental reason – the person who sets the object down creates a new identity, which is not the case with the person who lifts the object up. (The wording of the Rashba indicates that he maintains that the component that is not included in the count – in his opinion, the *akira* – is not only not counted, but even **permitted,** for regarding *akira* he writes: "He has done nothing," implying that there is no reason whatsoever to prohibit this.)

See *Pesachim* 85b: There is a prohibition to remove the meat of a Paschal-offering from the house in which it had been set to be eaten ("You shall not take [*totzi*] any of the meat outside, out of the house"; *Shemot* 12:46). The Gemara says that in order to become liable for the violation of this prohibition, there must be *akira* and *hanacha*. It explains: "*Hotza'a* is written in connection with it, as [in connection with] Shabbat; just as [in the case of] Shabbat, [he is not culpable] unless he performs *akira* and *hanacha*, so too here [he is not culpable] unless he performs *akira* and *hanacha*." Rashi there writes (s.v. *de'avad*):

Just as [in the case of] Shabbat – that we need *akira* and *hanacha*, for until he sets it down the *melakha* has not been completed, and regarding Shabbat and all instances of liability for a sin-offering it is written: "When he does it" (*Vayikra* 4:27) – one who does all of it, and not one who does part of it. And this one too, even though he is not liable to a sin-offering, we need *hotza'a* like there.

There is room to ask: If the need for *akira* and *hanacha* on Shabbat stems from the definition of the *melakha* of *hotza'a* as a new creation, as we have proposed for Rashi in tractate *Shabbat*, why should *akira* and *hanacha* be necessary in the case of the Paschal-offering, where there is no need for a *melakha* or a creative act?

We must say that we learn from the case of Shabbat the **meaning** of the word *hotza'a*. Since with respect to Shabbat we need *akira* and *hanacha*, we learn that *hotza'a* does not denote mere movement, but the designation of a new place – a place outside – for an object that previously had been defined as having a place inside. Since the term *hotza'a* is also used with respect to the Paschal-offering, we learn that with respect to that law as well, the prohibition is not to move the meat, but to change its special identity and define it as **belonging** outside. Thus *akira* and *hanacha* are needed, for only with *akira* and *hanacha* is the meat endowed with the status of belonging now outside, and no longer belonging inside. On the contrary, the position of *Tosafot* requires explanation, for if *akira* and *hanacha* are not part of the definition of *hotza'a*, but only a measure in the action with regard to the prohibition of Shabbat, by what reason do we require the same measure with regard to the Paschal-offering? We must say that according to the *Tosafot* the Gemara in *Pesachim* describes a Scriptural decree, sort of a *gezera shava* (verbal analogy). Since the Torah uses the same word in connection with both the meat of the Paschal-offering and Shabbat (and as the *Tosafot* in *Pesachim* emphasize, the prohibition on Shabbat is learned from the verse: "Let no man go out (*yetze*) of his place" (*Shemot* 16:29), i.e., let him not take out (*yotzi*), we learn that the laws of *hotza'a* on Shabbat (the need for *akira* and *hanacha*) apply also to the Paschal-offering.

Lastly, let us return to a point that was raised at the beginning of this *shiur.* We argued that the plain meaning of the words of Rashi implies that *hanacha* without *akira* is permitted outright, and not forbidden even by rabbinic decree. Many commentators do not accept this conclusion, and argue that Rashi speaks only of the count in the Mishna, but *hanacha* without *akira* is indeed forbidden by rabbinic decree. They adduce proof from Rashi's explicit words on p. 3b (s.v. *mi-be'od yom*), that if a person stretched out his hand with an object in it before Shabbat, and then rested the object in a public domain on Shabbat, there is no liability, "as there was no *akira* on Shabbat, but only *hanacha*, and regarding this there is a rabbinic prohibition, as he performed part [of the *melakha*]." Rashi explicitly writes that *hanacha* without *akira* is considered like performing part of the *melakha*, for which he is exempt, but it is nevertheless forbidden. This is indeed a cogent proof, but it should be noted that we can easily distinguish between the case where one person lifts the object up and the other puts it down, and the case on p. 3b, where a person lifts an object up on Friday afternoon and he himself puts it down on Shabbat. It might be that in the case where the person performing the *hanacha* did not do any *akira*, his *hanacha* is not considered as setting a new identity for the object, since the object in question came to him without any spatial identity. But if he himself lifted up the object, even before Shabbat, and he later set it down on Shabbat, it turns out that he gave the object a new spatial identity, and **he did so on Shabbat**, since it is the *hanacha* that completes this determination, and the conclusion is the determining factor. Therefore, the question regarding Rashi's position in the case where one person lifts the object up and another sets it down, whether the person performing the *hanacha* transgresses a rabbinic prohibition, still requires further examination.

(Translated by David Strauss)

Sources for the next *shiur*: *Akirat Gufot*

1. גמ' ג. "בעי מינוה רב מרבי" עד ג.' "...כרה"י לא דמיא מידו דבעה"ב". רש"י.

2. תוס' ד"ה עקירת וד"ה מאי, תוס' הרא"ש ד"ה מי וד"ה מ"ט.

3. חי' הרמב"ן ג'. ד"ה ה'ג בפר"ח ידו לא נייח (במהדורות חדשות של חי' הרמב"ן).

4. חי' הרשב"א ד"ה ה"ג ר"ח, חי' הר"ן ד"ה ידו.

5. חי' הרשב"א דף ה'. ד"ה הא, באמצע "ואינו נראה בעיני ... למעלה מעשרה פטור".