**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**Rabbinic Tales: In the Talmud and in *Chassidut***

**By Rav Dr. Yonatan Feintuch**

**Shiur #15:
The Talmudic *Chassid* and the Stone-Clearer, and Chassidic Tales (1)**

People have different attitudes toward their various belongings. Some people are strongly attached to aesthetic or sentimental items, for example, while others feel a more solid connection to practical objects. Some feel their ownership most powerfully with regard to portable things, while others are attached to the land, or to their home. Ultimately, each of us owns certain things toward which we feel more than just formal ownership. Our property – our house with its design and furnishings, for example, or our car – is sometimes part of our identity.

Our attachment to objects in this world, and the ways in which they are part of us and define us, is a topic that occupied *Chazal* as well as *Chassidut*. We will explore a few thought-provoking stories in this context.

For instance, the Gemara relates:

Our Sages taught: A person should not remove stones from his domain to the public domain.

A certain person was once removing stones from his domain to the public domain. A certain *chassid* came upon him and said to him, “Foolish one! Why are you removing stones from the domain that is not yours, to your domain?”

[The man] scorned him.

Some time later, the man was forced to sell his field,

As he walked about in that public domain and stumbled over those stones, he said, “That *chassid* was correct when he said to me, ‘Why are you removing stones from the domain that is not yours, to your domain?'” (*Bava Kama* 50b)

**The story of the *mesakkel***

The *chassid* rebukes a *mesakkel* – someone who is clearing stones from his field and discarding them in the public domain, thereby creating a public hazard. The sensitive reader will register surprise at the very outset, as the *chassid* addresses the man as “Foolish one (*reika*)!” We might have expected a different appellation – one that would imply a moral defect (rather than a lack of wisdom) in his callous attitude toward public safety and wellbeing. Moreover, the content of the *chassid’s* rebuke also seems strange, since its focus is not on the harm that the man is potentially causing to others. We will deal with this question later on.

The man dismisses the *chassid* scornfully, since his words seem disconnected from reality. It is only after the passage of time that the meaning of the rebuke becomes clear: at some point later on, the field is no longer in the possession of this man; it has indeed become a “domain that is not his,” while he now finds himself in the public domain, where he stumbles on the same stones that he had previously dumped there.

A simple reading of the story would view the owner of the field as arrogant and short-sighted, as opposed to the *chassid*, who understands the longer-term ramifications of actions in the present. When their conversation takes place, the field belongs to the *mesakkel*. The arrogance he demonstrates toward the *chassid* reflects the faith he places in his wealth, his economic status, and his ownership of his property. But the *chassid* knows that in the long term, the man may lose his wealth, and then the field will no longer belong to him. Perhaps, according to this reading, the story means to convey the importance of humility and caution. One can never know what will happen in the future, and therefore all sorts of scenarios should be taken into account. Dumping stones from my field into the public domain is clearly immoral behavior, since it causes harm to others. But it is also unwise – even from a selfish perspective – since in the future I may lose my wealth and the public domain will become my home.

Is this all that the story is telling us? It seems that the words of the *chassid* convey a deeper meaning, too. He is not only looking to the future, but also proposing a different view of the present. According to his message, the connection between a person and his private property is flimsier than one might believe – even now, in the present. The possible loss of the property in the future is merely an expression of that flimsiness. The fact that an item in my possession might not remain so forever says something about my relationship to it right now. The only property that a person is connected to with certainty, for the long term, is the public domain. His connection to the public domain and all it includes is not dependent on his own individual financial state and purchasing ability, but rather arises from the fact that he is part of the public – the community in which he lives, or more broadly, the human collective. This association will not change even if he ignores it temporarily, as the arrogant individual in the story chooses to do.

The *chassid's* words therefore convey a dual message: a message about consciousness, and a moral statement arising from it. On the level of consciousness, the individual is called upon to rethink the connection between himself and his property, and to realize that connection is weaker than it seems at any given moment. We take our connection with objects that we have acquired for granted. But each of us can think of things that we were very excited about and felt very possessive of when we acquired them, yet later, these same things ended up lying unused and forgotten at home, while we moved on to the next thing. This gives us a different perspective on recently purchased items with which we feel a closer connection. Our fixed and unchanging connection with the public domain, on the other hand, which someone with extensive personal property may regard as rather weak, turns out to be the more stable relationship.

On the moral or social level, we might say that on one hand, it is important that a person has his own personal space, a place of intimacy and protection, and that private objects likewise serve as anchors. Intimacy can be built only where there is privacy, and privacy exists inside four walls. On the other hand, a person's private property often creates barriers between him and the collective. This is especially conspicuous when it comes to a house or an estate. There is a difference between a private house and an apartment in a building, where the sense of togetherness is far more pronounced. In a similar vein, we might think of the difference between traveling in a private vehicle and the experience of sitting on a public bus. Once again – it is good and important that a person has his own private, safe space. But the *chassid* draws our attention to the other side of the equation: the danger of alienation that sometimes develops between the individual and the society around him, especially when he surrounds himself with larger expanses of private property, a private car, etc.

The moral message is not stated explicitly, but it accompanies and is the corollary of the statement of consciousness, concerning the way in which a person perceives his property and his connection with the collective. Someone who sees himself as part of society, and not as an “island entire of itself,” will be more careful and sensitive regarding the public sphere and its condition. This says something more profound than the more direct, self-evident injunction against creating an environmental hazard that could harm people, or the awareness that someone who creates a hazard may himself come to be harmed by it in an unexpected way. The fact that the individual is part of the collective is fixed and permanent, even if he chooses to ignore it and to try to live as though there were no connection.

As a first step, the *chassid* tries to convey this idea to the owner of the field by means of his verbal rebuke. Had the *mesakkel* listened and taken this rebuke to heart, perhaps he could have been spared the financial decline. However, out of arrogance – and perhaps also as a result of his turning his back on the collective – he refuses to take heed. He ends up learning the lesson the hard way, when the wheel of fortune brings him unwillingly face to face with the reality that he is part of the collective, and that the public domain is his domain. He belongs there as part of the same collective that he had previously scorned and viewed as separate from him. The stone that eventually causes him to stumble was previously, in his mind, a danger only to others; he had not considered himself part of that population.

**Context within the *sugya***

This story appears in the fifth chapter of Bava Kama, which is a rather curious location. While some of the *mishnayot* in this chapter do deal with damages belonging to the category of the “*bor*” (a pit in the public domain – one of the four major categories of damages), they address only instances of an actual pit. Hazards of other types arising from objects placed in the public domain are discussed at the beginning of Chapter 3, which deals with damages in the public domain. For the purposes of comparison, it is worth noting that the Tosefta (Chapter 2) contains a parallel story in the context of a discussion of damages in the public domain. The sequence in the Tosefta makes sense, since the *halakha* that precedes the story deals with different ways in which a person might clear stones from a field or a road, and his legal status and liability in these instances:

*Halakha* 12:

Rocks may be removed by way of the public domain, according to R. Yehoshua…

If one removes rocks, he must bring them out to the sea, or to a river, or to a quarry…

One who removes rocks must take them from the middle, and place them on the sides. If another person comes by and is injured by them, the *mesakkel* is liable, even though they said that he is like one who removes rocks from in front of animals, and places them in front of people…

If one removes rocks from his own field and dumps them in the public domain, then if someone else comes by and is injured by them, the *mesakkel* is liable, even though they said that he is like one who removes rocks from that which is not his private domain to that which is his private domain.

*Halakha* 13:

It once happened that a certain person was removing rocks from his field into the public domain. A *chassid* pursued him…

In the Tosefta, the story comes to illuminate the closing statement of the *halakha* that precedes it: “even though they said that he is like one who removes rocks from that which is not his private domain to that which is his private domain.” When one reads only the sequence of *halakhot* in the Tosefta, the statement makes little sense; one is held accountable if he moves something from his domain into what is not his domain, not the other way around. After reading the story, our confusion clears: we understand why the *beraita* is formulated as it is. The story then serves as a narrative conclusion to the entire topic of damages in the public domain. (In the next chapter, the Tosefta addresses damages under the category of “*shor.*”)

We might explain the connection between the *beraita* of the *mesakkel* and the *sugya* in Chapter 5 of the Gemara by viewing damages in the public domain as a sub-category of the damages belonging to “*bor*.” Indeed, this concept is mentioned in a different chapter, without attribution (*stam gemara*), and it may reflect the position of the redactors of the *sugya* in which the story appears. On the other hand, it must be noted that the *beraita* of the *mesakkel* is the only instance of damage arising in the public domain in all the *sugyot* relating to the category of “*bor*” in Chapter 5. We shall return to this question further on.

**Comparison with the parallel in the Tosefta**

The version of the story in the Tosefta is very similar to the one that appears in the *Bavli*. The differences between them seem minor and without practical significance regarding the essence of the story and its message. But if we look at these slight differences in the context of the *sugya* of the “*bor*” in the *Bavli*, we see that at least some of them are not random semantic differences. Some of the terms that are unique to the version in the *Bavli* are central, key words in the *sugya*. One has the impression that the story as it appears here is the product of a careful editing and reworking of the version in the Tosefta, or some other Tannaitic source, adapting it to the *sugya*. This is demonstrated clearly in the following table:

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| ***Tosefta Bava Kama* 2:13** | ***Bavli, Bava Kama* 50b** |
| A certain person was once removing stones from his field, placing them in the public domain.A certain *chassid* pursued him and said to him, “Why do you remove stones from that which is not yours and place them in that which is yours?”[The man] laughed at him.After some time, that man had to sell his field. As he walked in that **place**, he tripped. He then said: “It was not for nothing that that man said to me, ‘You are removing stones from that which is not yours, into that which is yours!’” | Our Sages taught: A person should not remove stones from his domain to the public domain.A certain person was once removing stones **from his domain to the public domain**.A certain *chassid* came upon himand said to him, “Foolish one! Why are you removing stones from the **domain** that is not yours, to your **domain**?”[The man] scoffed at him.Some time later, the man was forced to sell his field.As he walked about in that **public domain**, he stumbled over those stones.He said, “That *chassid* was correct when he said to me, ‘Why are you removing stones from the **domain** that is not yours, to your **domain**?'” |

Some of the differences: In the Tosefta, the man removes stones from “his field” into “the public domain (*reshut ha-rabbim*),” while in the Gemara, he moves them from “his domain (*reshuto*)” to the “public domain” and the *chassid* rebukes him for moving them “from the domain that is not yours, to your domain.”  This formulation in the *Bavli* serves to reinforce a linguistic connection to the Mishna (“One who digs… in the private domain, and opens it to the public domain”). It also highlights the existence of two distinct domains, which is the subject of the *sugya*: in the wake of the Mishna, the *sugya* discusses various conditions in which a “*bor*” can exist in different domains. Further on, the man “walks about in that public domain,” once again emphasizing the domain, and he “stumbles over those stones” (as opposed to the simpler formulation of the Tosefta: “he collided/tripped.”

The *Bavli* uses the word “stumbled” (*nichshal*) instead of the word “collided” (*nitkal*) in the Tosefta, and this does not seem to be by chance; the word “stumbled” has already appeared in the *sugya* in the Bavli, in the story of Nechunya the trench-digger. In that story, the word “stumbled” helps mold a situation that is “measure for measure”: Nechunya’s daughter ends up falling into a cistern of the sort that her father would regularly dig in the public domain. The question then arises: “The very area in which that pious man labored – shall his descendants then stumble in it?” Throughout the rest of the *massekhet*, however, the verb that is used for harm caused in the public domain is “*nitkal*,” which also appears in the Tosefta. This suggests that the use of the word “*nichshal*” in the *Bavli* is not arbitrary; it is meant to anchor the story more firmly within the context of the *sugya*.

**The story of the *mesakkel* and the halakhic discussion in the *sugya***

As mentioned, the key word “domain” (*reshut*), with its various declinations, in the story of the *mesakkel*, also plays a central thematic role in the Mishna upon which the discussion in the *sugya* is based. The crux of the discussion concerns the status of pits in the public domain. Thus, this key word creates a significant connection between the story and the *sugya*. The scope of this *shiur* does not allow for a review of the entire halakhic discussion, but I will try to address it and its connection to the story.

As I proposed above, the story examines a person’s attitude with regard to the different domains – his own private domain, and the public domain. The halakhic portion of the *sugya* also examines a person’s connection to the different domains, in the context of a pit that is left exposed and causes damage. There, obviously, the question is approached from the legal angle: one of the parameters determining a person’s legal responsibility for damages caused by a pit that he left exposed is his ownership of that pit. Some opinions in the halakhic discussion – both in this *sugya* and elsewhere – exempt a person who dug a pit in the public domain from paying damages since the element of ownership of the pit does not apply. For example, a *beraita* cited at the beginning of the *sugya* cites two Tannaitic opinions that both, within the context of responsibility for damages relating to the “*bor*,” present instances in which the pit is, one way or another, owned by the person who dug it:

Our Sages taught: One who digs a pit in his private domain, and opens it to the public domain, is liable [for damages], and this is the “pit” referred to in the Torah – according to R. Yishmael. [But] R. Akiva says: A situation where he renounced ownership of his domain but did not renounce ownership of the pit – that is the “pit” referred to in the Torah.

According to both R. Yishmael and R. Akiva in this *beraita*, the classic pit discussed in the Torah is one that was dug on private property, by the owner. However, in order for him to be liable for damage to property belonging to someone else who falls into the pit, it must be open and freely accessible to everyone. The different scenarios they describe are therefore suggestions of instances where this could in fact occur.

This halakhic position (which is admittedly not the only one that appears in the tractate) may create a situation in which a person digs or exposes a pit but the *beit din* exempts him formally from paying damages caused to someone else as a result of the pit because the criterion of ownership of the pit does not apply. Obviously, such a situation seems problematic from the moral perspective.

If we look at the whole *sugya* as a unit, it seems that the story of the *mesakkel* comes to address this moral problem, filling the “lacuna” of the formal legal position with a response on the moral / ethical / spiritual level. The story discusses a person’s placing of obstacles in the public domain, which is not owned by him, and it highlights the ethical aspects of such behavior. The story also hints to the retribution that may be meted out to such a person through the wondrous ways of Heaven, and this may be understood as coming to fill in and make up for the constraints that apply to the human *beit din*.

On a more profound level, the story suggests that the conceptual basis for an ethical discussion of such obstacles is not just the moral failing of creating obstacles that may cause harm to others – although that is certainly part of it. It goes deeper, and pertains to the spiritual perception of the concept of property and domain: what is truly in my domain and what is not; what is my connection with the public domain, and with the public altogether.

In the next *shiur* we will continue our exploration of this concept of ownership and the relationship with one’s property by looking at some Chassidic stories and sources that shed new light on the rabbinical narrative.

(Translated by Kaeren Fish)