YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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# THE LAWS OF SHABBAT

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Shiur #30:

*Choresh*, Part I

May children play in a sandbox on Shabbat? Is there any problem in pulling a wagon over dirt? May one sweep the floor of a house or a yard? May one wash a floor that has become dirty?

I) Defining the *Melakha*

The Mishna (73a) counts the *melakha* of *choresh* (plowing; the action is known as *charisha*) as one of the thirty-nine *melakhot*: “The primary labors are forty less one: sowing, plowing…” One would have thought that the order should have been reversed – first *choresh* and then *zoreia*, since plowing generally precedes sowing. The Gemara (73b) explains that the Mishna is dealing with the land of Israel, where the practice is to plow twice: once before sowing (*zeria*), and another time after sowing, in order to cover the seeds with dirt. The Mishna teaches us that even the *charisha* which comes after *zeria* is forbidden because of *choresh*.

The Gemara continues and says: “Plowing, digging, and trenching are all the same *melakha*.” Rashi explains: “All of them serve to soften the ground.” According to this explanation, *choresh* includes **every act which comes to loosen the soil and soften the ground;** consequently, digging and trenching, which also break up the ground, make one liable because of *choresh*.

It appears that Rashi derives this definition from the words of the Gemara in *Mo’ed Katan* (2b). In the Gemara there, Rabba determines that one who waters seeds on Shabbat is liable because of *choresh*: “Just as the way of plowing is to soften the ground, these too soften the ground.” According to him, the irrigation causes a loosening of the soil, and this is precisely the essence of *choresh*, to soften the ground. (Rav Yosef, on the other hand, argues and believes that one who waters is liable because of *zoreia*, since the irrigation promotes plant growth; see our series on the *melakha* of *zoreia*).

Later on in the passage in *Shabbat*, the Gemara states that the classification of removing a mound (a protrusion from the surface of the ground) varies: in a house (i.e., the dirt floor of a dwelling), one is liable for *boneh* (building); in a field, one is liable for *choresh*. Rashi explains here as well that one is liable for *choresh* in a field because this act softens the ground.

The continuation of the Gemara states that the classification of sealing a hole in the ground also varies: in a house, one is liable for *boneh*; in a field, one is liable for *choresh*. This apparently has no connection to softening the ground. Rashi explains:

If one has a hole and fills it with dirt, this is *choresh*, because the dirt with which one fills it is **loose and good for sowing**, and one smoothes the patch and makes it level with the ground which is to be sown in the field.

In other words, the essence of the *melakha* of *choresh* is **preparing the ground for sowing**, and the condition for this is that **the ground must be soft**, because only such ground accommodates sowing. Therefore, whether one makes the ground soft or whether one puts loose dirt into a hole in the ground, one is liable because of *choresh*.

Another approach to the definition of the *melakha* of *choresh* emerges from Rabbeinu Chananel (74a), based on the *Yerushalmi* (7:2). Rabbeinu Chananel writes as follows:

Plowing, trenching and digging are all the same *melakha*… **Anything which serves to improve the terrain in the field renders one liable because of *choresh*,** and anything which is done in the house in order to level [the floor] renders one liable because of *boneh*. [That which is done] in order to level the terrain of a field renders one liable because of *choresh*, as it says (*Yeshayahu* 28:25) “When he has leveled the surface…” **And anything which serves to benefit of the terrain renders one liable because of *choresh***, as is explicitly mentioned in the *Yerushalmi*. This is similar to what Rabba says about filling in a hole; this too is smoothing the surface of the ground.

According to this approach, the *melakha* of *choresh* does not relate specifically to softening and loosening the dirt, but rather **to every action which beautifies and improves the ground.**[[1]](#footnote-1)Filling a hole does not soften the ground, but it does cause the surface to be level, and this improves the terrain, as can be seen from the verses referenced from *Yeshayahu* (28:24-25): “When a farmer plows for planting, does he plow continually?… When he has leveled the surface, does he not sow caraway and scatter cumin?”

In other words, smoothing the surface of the ground is one of the actions of *charisha*, and afterwards it is possible to start the act of *zeria* and to scatter seeds (such as caraway and cumin) on the ground.[[2]](#footnote-2)

A similar approach emerges from the Rambam (8:1):

One who plows any amount is liable. One who weeds at the roots of trees… in order **to improve the terrain**, this is a subcategory of *choresh*… Similarly, one who levels the surface of a field by knocking down and smoothing out a hillock or filling up a dell is liable because of *choresh*.

In any case, according to Rabbeinu Chananel and the Rambam**,** it is clear that not every activity which improves the terrain is included in the prohibition of *choresh*, but only something which prepares the ground for *zeria*. The Or Zarua (Vol. II, Ch. 55) writes the same: “Anything which is for the benefit of the ground and improves it for the purposes of sowing renders one liable because of *choresh*,” and the *Acharonim* rule accordingly.

To sum up this section, according to Rashi**,** the definition of *charisha* is specifically **softening the ground to prepare it for *zeria***, while according to Rabbeinu Chananel and the Rambam**,** *charisha* includes any actions **which beautify and improve the terrain in preparation for *zeria*.**

**When One Does Not Intend to Sow**

Does the prohibition of *choresh* exist only when the person actually intends to sow in that ground? The Gemara simply states that “in a field, one is liable for *choresh*,” and it is implied that this matter does not depend on one’s intent. The **Chiddushim Ha-meyuchasim La-Ran** writes (ad loc.):

“If a person has a mound… in a field, one is liable for a *choresh*” — because many times a person plows with the sole intent of turning over the soil to improve the field, not for sowing. Thus, any improvement (*tikkun*) of the field is significant because of *choresh*.

However, if the terrain is **totally unfit for sowing,** the prohibition of *choresh* does not apply. The Gemara in *Pesachim* (47b) indicates that the prohibition of *choresh* is not applicable to rocky ground, which cannot be sown, and the Or Zarua (cited above) and others write the same.

What is the rule for ground which is fit for *zeria* if it **is not designated for sowing** and there is no intent to sow it (for example, regular dirt in public spaces)? The Gemara says, as we have noted, that one who levels the ground **in a field** is liable for *choresh*, while one who does so **in a house** is liable for *boneh*. From the words of the Magen Avraham (526:10), it appears that in a place which is neither a field nor a house there is no prohibition from the Torah of *choresh*. The Eglei Tal (*Choresh*, 16) believes that every place falls into the category of either “field” or “house:”

It is clear that the “house” is not a house per se, but any place of residence… The “field” denotes any place which is fit to be sown and is not designated as a residential area or a public thoroughfare. In an area which is designated for residence, one is not liable for *choresh*, because if one were to sow in it, one would negate its residential status… If so, it is not considered improvement to prepare the place for sowing, because if one sows there, it will ruin its current purpose… According to this, every place must necessarily be one of the two, house or field, that if it is a residential area or a public thoroughfare, it is considered a house, and one is liable for *boneh*; if it is not residential, one is liable for *choresh*.

According to him, if a tract of land is fit for *zeria*, even if it is not specifically designated as agricultural land, preparing it for *zeria* constitutes a *tikkun*, and such an act is included in the *melakha* of *choresh*. Only when the ground is designated for residential use do we say that there is no issue of *choresh* in making it ready for zeria, as it were, since this is an act of *kilkul* (ruination), as the *zeria* precludes any residential use. (Nevertheless, smoothing the surface of the ground is forbidden with this type of land as well because of *boneh*, since level ground is also better for residential purposes).

Halakhically, it makes sense to adopt the view of the Eglei Tal, that the prohibition of *choresh* applies also to ground which is not designated for *zeria*, because the *Rishonim* and *Acharonim* discuss various questions pertaining to incidental acts of *choresh* — e.g., dragging furniture, pulling wagons or playing marbles and the like, as we shall see below — but none of them notes that this *melakha* applies only to a field designated for agricultural use, which is not common in settled areas. This silence indicates that the prohibition is applicable to normal dirt in a public place as well, since it is fit for *zeria*, even if it is not designated for this.[[3]](#footnote-3)

II) Trenching

One of the actions mentioned by the Gemara (73b) is trenching, making a rut in the ground. This prepares the ground for sowing, and is forbidden by the Torah because of *choresh*. Making a furrow in a house’s dirt floor, on the other hand, is generally forbidden rabbinically, since this is considered *kilkul* and not *tikkun*. However, one who makes a rut or depression in the ground of the house in order to use it for any purpose is liable for *boneh* (Rashi, 73b, s.v. *Patur*, following the Gemara, 102b).

**Dragging Objects**

Is it permissible to drag objects on unpaved ground, which is likely to cause the creation of a trench in the dirt? Since in this situation the person does not intend to make a furrow, this depends on a Tannaitic dispute about whether an unintentional act (*davar she-eino mitkavven*) is permitted. In fact, this is exactly the situation of the Tannaitic dispute, as explained in the Mishna and Gemara, *Beitza* 23b:

Rabbi Yehuda says: “One may not drag any object, except for a wagon, because it compacts [the earth]…”

Rabbi Shimon says: “One may drag a bed, chair or bench, as long as one does intend to make a trench.”

Rabbi Shimon’s view is accepted halakhically: a *davar she-eino mitkavven* is allowed, and therefore one is allowed to drag objects on the ground, if one has no intention to make a trench.

However, the Gemara notes in a number of places (75a, 103a, et al.) that Rabbi Shimon concedes that such an act is forbidden in a case of *pesik reisha*, i.e., when there is certainty that the act done will bring about the result of a forbidden *melakha*. Therefore, one should not drag objects in the dirt if this will definitely cause the making of a rut in the dirt. This is how the Shulchan Arukh rules (337:1):

A *davar she-eino mitkavven* is allowed, as long as it is not a *pesik reisha*. Therefore, one may drag a bed, chair or bench, whether large or small, as long as one does not intend to make a trench.

TheMagen Avraham (ad loc., 1) points out that the allowance of the Shulchan Arukh to drag even large objects does not relate to particularly heavy objects, since these objects certainly make a trench in the ground. This is what the MishnaBerura (ad loc., 4) writes in his name:

The Magen Avraham writes that the especially large objects may not be dragged on the ground, because it is a *pesik reisha* — they will certainly create a trench.

One should note that making a trench in this situation is not forbidden on a Torah level, because it is not done normally, with a hoe and the like, but rather “backhandedly” (Rashi, 46b, s.v. *Issura*). This is particularly true when this is done in the house, because then the act is considered *kilkul* (Rabbeinu Tam, *Sefer Ha-yashar* 233; *Shaar Ha-tziyun* 337:1); however, the law of *pesik reisha* applies even to labors forbidden only rabbinically (Magen Avraham, ad loc. 1).

Similarly, one should not sit on a chair which stands on the ground if sitting on it will definitely cause the legs to make a trench in the ground. However, it is permissible **to remove an object which is stuck in the ground**, since the trench existed even before the removal of the object (Gemara, 113a; MishnaBerura 498:91).

**On Paved Ground**

Is one allowed to drag heavy objects on paved ground? From the words of the Gemara (29b), it would appear that dragging objects is even forbidden on such surfaces:

In an upper room with marble floors, Abin of Sepphoris dragged a bench before Rabbi Yitzchak ben Elazar, who said to him, “If I hold my peace… a disaster will result: there is a decree in a marble room because of an ordinary room.”

In other words, it is forbidden to drag heavy objects over a paved floor because of a rabbinical decree, lest one come to drag them over unpaved ground.[[4]](#footnote-4)

However, as we shall see at length in our next *shiur*,there is an argument among the *Rishonim* about whether this decree is applicable in a locale in which all of the houses have paved floors. According to Tosafot (29b, s.v. *Gezeira*), this decree only applies in a place where some houses are not paved, in which there is a concern that a person may come to drag objects even in these houses, but in a place in which all of the houses have paved floors, there is no reason to forbid it. On the other hand, the Ramban (95a, s.v. *Hakha*) rules that one should not distinguish between different locales.

Halakhically, the MishnaBerura rules (*Shaar Ha-tziyun* 337:2) leniently in accordance with the view of Tosafot, taking into account additional factors that favor this leniency:

It makes sense that if the entire town is paved with stone or paneled with wood, one should be lenient about this… bearing in mind that even when it is not paved, there is no true dragging on a Torah level for many reasons. First, the trench that one will make in this is digging backhandedly. Furthermore, one damages the house by making ruts in it; one does not improve it. Above all, one has no intention for this, and it is only an unwanted *pesik reisha*… As is explained above in the gloss to 316:3, the view of the Rema is clear: he holds, generally, that with regard to a doubly rabbinic prohibition [two mitigating factors that would each reduce the severity to rabbinic], an unwanted *pesik reisha* is allowed, even though here we are stringent about this…. In any case, if the whole town is paved, one should enlist the view of the Tosafot as well… that we do not make a decree in such a case because of that which is not paved…

His reasoning is as follows: Logically, one should have been lenient even in a case of unpaved ground, since this is an unwanted *pesik reisha* at the confluence of two mitigating factors that would reduce the severity of the act to a rabbinic prohibition (backhanded acts and acts of *kilkul*). Though generally in such a case we are stringent, this confluence makes room to rely on Tosafot and to be lenient in a place that all of the houses are paved.

**Dragging a Wagon over Dirt**

From the abovementioned Mishna in *Beitza*, it is clear that, even according to Rabbi Yehuda, who forbids dragging objects even if there is no certainty that this act will make a ditch (since a *davar she-eino mitkavven* is forbidden), it is permitted to drag a wagon over dirt, “because it compacts [the earth]”. This is because the wagon does not create a ditch by moving the dirt to the side, like the leg of a chair or a table; rather, it compresses and consolidates the earth under it. Creating a rut in such a way is not forbidden because of *choresh*.

What is the significance of the manner in which a trench is formed? According to Rashi’s approach, this is easily explained. As cited above, Rashi explains that the basis of the *melakha* of *choresh* is **softening the ground.** Thus, when one digs in the ground and moves the dirt to the side, the dirt crumbles and becomes soft; however, when one compacts and compresses the dirt below, there is no softening of the ground.

The explanation of the Rambam’s view seems to be that since the normal way of preparing the ground for *zeria* is by digging, the making of a trench by compaction is not *derekh* *charisha*, the normal way of plowing. As such, the tracks created bear no similarity to the standard furrow or ditch, and this is not included in the *melakha* of *choresh*, particularly when a person is not at all interested in the creation of a trench.

However, the Gemara indicates that this rule of pulling a wagon on top of dirt is subject to a later Tannaitic dispute: there are those who say that Rabbi Yehuda allows dragging a wagon on dirt because it compacts the earth, but there are those who say that Rabbi Yehuda is stringent about this. However, according to Rashi ibid. (s.v. *Trei*), the dispute relates to a side question:

One believes that the wagon is like any other object in that one may make a trench by dragging it, as sometimes the wheels do not turn, and it is dragged and digs [into the ground]. The other one believe that this is uncommon, and it only compacts [the earth] as it rolls.

In other words, according to all views, the making of a trench through compaction is not forbidden because of *choresh*, and the dispute is about the question of whether one must be concerned about a situation in which the wheels of the wagon will become stuck and will make a rut in the manner of digging.

This statement of Rashi is very significant. As mentioned, the halakhic consensus follows the view of Rabbi Shimon**,** that a *davar she-eino mitkavven* is allowed, and we do not forbid the dragging of objects unless there is certainty that they will make a trench. Is it permitted to move a heavy wagon through dirt, when it is certain that this will create tracks in the ground? In light of this Rashi, this should be permitted, as according to all views, making a trench by way of compaction is not forbidden because of *choresh*. The Tannaitic dispute in the view of Rabbi Yehuda relates to a concern that the wagon will make a rut in the way of digging, and since this concern is not in the category of a *pesik reisha*, then halakhically, in accordance with the view of Rabbi Shimon, we need pay no attention to it.

Indeed a number of halakhic authorities have ruled in accordance with this approach (Kaf Ha-chayim 337:4; Chut Shani, Vol. I, p. 95, in the name of the Chazon Ish): one may move a heavy wagon over unpaved ground, since the wagon does not excavate the dirt but merely compacts it, and there is no act of *choresh* in this. This lenient view can be taken as authoritative, especially given that this is, in any case, a rabbinic prohibition, since the *charisha* is backhanded, and generally also falls into the category of *kilkul*.[[5]](#footnote-5)

**A Sandbox**

Unlike normal rocks, twigs or dirt, which would have the status of *muktze* and a rabbinic ban against moving them on Shabbat, the sand in a sandbox is not *muktze*, as this is designated for child’s play. (Nevertheless, beach sand or construction sand and the like are forbidden because of *muktze*.) However, one should warn children not to build or dig in the sand, as this would fall under *boneh* or *choresh* respectively.

If the sand is very soft, so much so that if one digs a hole, the sand falls back into it and fills it, there is no prohibition to build in it (MishnaBerura 308:143, following Tosafot 39a, s.v. *Ikka*). In any case, one should warn children not to add water to a sandbox, since there may then be a problem of kneading. Moreover, this will help stabilize the sand and prevent it from collapsing, and as such playing with it would then be forbidden because of *boneh* or *choresh*.

These laws apply equally to a sandbox which has a solid bottom and is thus not attached to the ground, since the prohibition of making a depression applies equally to dirt detached from the ground and in a vessel (MishnaBerura 498:91).

1. This approach finds support in the Gemara’s ruling (103a) that one who plucks endives is liable even for a small quantity, if one intends **to improve the terrain.** While the Ramban (111a) raises the possibility that the liability there is for harvesting, not for plowing, nevertheless, in his conclusion, he writes, following the *Tosefta*, that the liability is also because of *choresh*. This is what the Me’iri (103a) writes as well. [↑](#footnote-ref-1)
2. The *Yerushalmi* (7:2) counts many other acts which improve the terrain as forbidden because of *choresh*: fertilizing the ground, removing stones from it, etc. [↑](#footnote-ref-2)
3. Nevertheless, the Mishna Berura indicates otherwise. In the *Shaar Ha-tziyun* (336:18), he rules that it is forbidden to pour water only in a field which is designated for *charisha*, implying that if it is not designated for *charisha*, the prohibition of *choresh* is not applicable. We have cited this in his name about *zoreia* as well. (The source is the words of the Or Zarua, Vol. II, Ch. 54; however he does not say “designated for plowing”, but rather “normally plowed”, and his intent may be that it is fit for plowing).

   It may be that the Mishna Berura follows the view of the Magen Avraham mentioned here, not the view of the Eglei Tal; if so, there is more room for leniency in this regard.

   However, the Orechot Shabbat (Ch. 18, n. 8) writes that it may be possible to integrate their views by distinguishing between different acts: acts which are characteristically part of *charisha*, such as leveling the surface, are forbidden even in a field which is not designated for *charisha*, while irrigation, which is not characteristically associated with *charisha*, is forbidden only in a field which is designated for *charisha*. This answer is somewhat innovative, but because the Mishna Berura does not explain himself in the context of *choresh*, and since one may distinguish between irrigation and plowing, we have brought here the words of the Eglei Tal for the practical ruling. [↑](#footnote-ref-3)
4. In fact, while the Gemara addresses the view of Rabbi Yehuda, who forbids a *davar she-eino mitkavven*, the same should apply according to the view of Rabbi Shimon regarding heavy objects since there is a *pesik reisha* of making a groove if it is dragged over unpaved ground. Indeed the Magen Avraham (337:1) and the Mishna Berura (337:4) rule accordingly. [↑](#footnote-ref-4)
5. The Az Nidberu (Vol. V, Ch. 21) writes that even if the wagon for some reason digs up the ground instead of flattening it, it is permissible to move it over roads, sidewalks, etc., since in our time the entire town is paved, and therefore one has no reason to be stringent about paved ground, as the Mishna Berura rules above. [↑](#footnote-ref-5)