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TALMUDIC METHODOLOGY
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Shiur #09: The Prohibition of "*Bittul Kli Mei-Heichano*"

The *mishna* in *Shabbat* (42b) describes a Shabbat prohibition to place a vessel under oil that is dripping from a lit lantern. The *mishna* does not define the reason for this prohibition. Subsequently, the *gemara* cites R. Chisda, who both extends the prohibition and delimits it. Just as a vessel cannot be placed to collect oil from a lantern it similarly cannot be placed to collect a newly hatched egg. However, a vessel CAN be employed to cover an egg and prevent it from moving or being damaged. Although R. Chisda explores the scope of the *mishna's* prohibition, he does not provide an explanation for it. R. Yosef does offer an explanation: a usable vessel cannot be rendered unusable by placing it under *muktzeh* items. The *Chakhamim* established a prohibition of *Ein Mevatlin Kli Mei-Heichano*, prohibiting positioning a vessel so that *muktzeh* will fall upon the vessel and immobilize it. What R. Yosef does not explain is the rationale for this prohibition.

In two other locations in *Shabbat* (128b and 154b), Rashi claims that the Rabbinic prohibition is based upon the Biblical prohibition of *soter*. Just as dismantling a structure is forbidden, divesting a utensil of its utility by placing *muktzeh* upon it is similarly forbidden (Rabbinically). Interestingly, in his comments to the original *gemara* (*Shabbat* 42b), Rashi suggests a different paradigm for the prohibition. By immobilizing the vessel, the person has converted an otherwise portable item into an immovable part of the landscape. This activity is similar to CONSTRUCTION or *boneh* and is forbidden. Setting aside for the moment the apparent contradiction in Rashi, two different models of this *issur* emerge. It may be Rabbinically forbidden because it resembles *soter*, dismantling, or it may be Rabbinically forbidden because it resembles *boneh*, construction.

Several intriguing *nafka minot* emerge from this structural question. For example, would the prohibition apply to immobilizing items that are not classified as halakhic utensils or *keilim*? The *gemara* (43a) speaks of a possible prohibition against using bedposts or benches to support cross beams that are at risk of falling. By reinforcing the beams, the benches are immobilized for Shabbat and have been *batel mei-heichano*. Would the same prohibition apply if limbs of a tree were employed to strengthen the falling beams? Raw tree limbs are not halakhically considered vessels. If the prohibition consists in decommissioning a vessel similar to *soter*, it would be permissible to employ tree limbs; as they aren't vessels *soter* hasn't occurred. If, however, the prohibition stems from the similarity to *boneh*, any immobilization of ANY material would resemble construction and would be forbidden.

The Magen Avraham (OC 313:14) prohibits the use of tree limbs, but the Sha'ar Tziyon cites the Eliyahu Rabba, who permits it.

An interesting test case pertains to items that can be moved but will not be used for non-*muktzeh* related reasons. Would placing items in these situations violate this prohibition? The *gemara* alludes to a prohibition of placing a vessel to collect dirty and potentially foul smelling rain water. The Beit Yosef (OC 338) questions this application since halakhically the vessel CAN be moved. Even though the undrinkable water is *muktzeh*, it can be removed from residential settings if its presence causes unusual discomfort (an exception to the prohibition of *muktzeh* known as *graf shel re'i*). The Beit Yosef answers that the *gemara* was merely prohibiting the collection of water in a NON-RESIDENTIAL situation, in which *muktzeh* would apply. In such a case, the water cannot be moved and the vessel is effectively immobilized.

A different solution would suggest that although halakhically *muktzeh* does not apply to the water and the *kli* CAN be moved, it WON'T be USED because the foul water will ruin any other substance. The vessel CAN be MOVED, but it WON'T be USED. If the prohibition is based on *soter*, any decommissioning of use – even if caused by non-halachic factors – would be forbidden. Even if the water is collected in residential settings and Halakha allows its removal, its collection has denatured the *kli* and resembles *soter*. If, however, the prohibition stems from *boneh*, only IMMOBILIZATION would cause an *issur*. Since halakhically the vessel CAN be moved, no *issur* has been committed. Perhaps the Beit Yosef viewed the *issur* as based on *boneh*; since water in residential settings can be moved, no construction-like immobilization has occurred. Our alternate interpretation suggest that even though halakhically the vessel can be moved, since it won't it has been immobilized and *boneh* has been performed.

Although the *Rishonim* do not address many issues regarding this prohibition, one major question emerges from a debate between the Ba'al Ha-Ma'or and the Rashbah in their comments to the *gemara* in *Shabbat* (154b). If a *kli* is TEMPORARILY decommissioned, would the violation entail? The simple reading of the *gemara* in *Shabbat* (43a) suggests that no violation exists. The *gemara* cites an example of placing a vessel underneath a newly hatched chick, which is *muktze*. Unlike an egg, which, once placed upon the *kli*, cannot dislodge itself, the chick will probably reposition itself. Since the decommissioning is only temporary, no *issur* has been committed. Similar conclusions emerge from the *gemara* in *Shabbat* (154b) allowing the placement of cushions underneath small *muktzeh* glass items to break their fall and prevent their shattering. Since the pillows can subsequently be dislodged and moved without breaking the *muktzeh* glass, only temporary decommissioning has occurred and no *issur* exists. This is indeed the ruling of the Ba'al Ha-Ma'or. The Rashbah disagrees and is forced to reconfigure these two *gemarot*. He concludes that even TEMPORARY decommissioning would violate the prohibition of *ein mevatlin kli mei-heichano*.

The Ba'al Ha-Ma'or and the Rashbah may be debating the nature of the prohibition. If the *issur* resembles *soter*, even temporary denaturing of the *kli* would be forbidden, as the Rashbah claims. However, if the *issur* stems from the similarity

with *boneh*, perhaps only permanently immobilized objects qualify as construction, but not items which have been temporarily immobilized.

Perhaps these two models and the differences in their application can solve the apparent contradiction in Rashi. In his comments to the *gemara* in *Shabbat* 42b describing the decommissioning of a *kli*, he bases the *issur* on *boneh*; in his comments to *Shabbat* 128b and 154b regarding the use of pillows (to prevent shattering glass or serve as resting areas for injured animals), Rashi invokes *soter* as the source for the prohibition. The Pnei Yehoshua claims that utensils which are discussed by the *gemara* in *Shabbat* (43a) are not really candidates for *SOTER*, even if *muktzeh* is deposited on them. The *kli* is not really being decommissioned; it is being COMMISSIONED to contain an item! In fact, nothing prevents the deposit of an additional item into the *kli*. Of course, the UTILITY of the *kli* is somewhat limited since the vessel cannot be moved to an alternate location, but the notion of denaturing a vessel of its utility or *soter* does not apply. However, the concept of immobilizing a *kli* and performing a *boneh*-like activity does pertain, and Rashi therefore writes that *boneh* is the source of the prohibition. In contrast, the subsequent *gemarot* (128b), 154b) describe pillows, which are generally not used in construction, and the concept of *boneh* therefore does not apply. However, since the glass instruments or the animal are firmly placed upon the pillow, it cannot be used for its standard function. The prohibition of *soter* has been violated, and Rashi therefore notes this *issur* and not the prohibition of *boneh*.