

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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Shiur #16: *Akira* and *Hanacha*

A previous *shiur* probed the nature of the *issur* of *hotza'a* (relocating items from private domains to public ones) on Shabbat. As the activity imposes no appreciable change upon the item, it may be aptly defined as an 'inferior *melakha*,' a status yielding notable halakhic consequences. Alternatively, we might claim that by prohibiting this act, the Torah is effectively recognizing change in location as a significant change in the item and classifying *hotza'a* as a typical *melakha*. Perhaps we require a special *pasuk* to notify us that location change is consequential. Unlike other *melakhot*, whose impact is obvious and evident, *hotza'a* does not impart a physical change. We would not have intuited this *melakha* by virtue of its having been performed in the *mishkan*, because we only derive 'significant' *melakhot* which alter a given item. However, AFTER a specific *pasuk* was dedicated to *hotza'a*, we might concede that it, too, produces a significant *halakhic* change, and hence *hotza'a* should, indeed, be classified as a conventional *melakha*.

This issue may prompt an interesting, related question. Anatomically, *hotza'a* is structured upon two components: the bookends of removal and redeposit, which frame the actual transport. The *melakha* begins with an item's physical removal from *reshut ha-yachid* (*akira*), continues with the act of movement across the boundary between *reshut ha-yachid* and *reshut ha-rabim* (*hilukh*), and concludes with the item's re-placement in *reshut ha-rabim* (*hanacha*). Is *hotza'a* essentially reduced to *akira* and *hanacha*, conditioned upon the re-depositing occurring in *reshut ha-rabim*? For this contingency to be met, a person must walk to a new location to enable deposit elsewhere. However, the activity of walking is peripheral to the actual *melakha*, which consists solely of removal and redeposit. Or, is the act of walking through the boundary itself the basis of the *melakha*, and *akira* and *hanacha* merely frame THAT act, commencing and terminating it with a distinct launch and a discernible terminus? This issue, regarding the true anatomy of *hotza'a* (which yields multiple *halakhic* issues), in many ways stems from the previous discussion. If *hotza'a* is classified as 'conventional' because its geographic change is of import, perhaps the activities which directly impart that change (*akira* from *reshut ha-yachid*, and *hanacha* in *reshut ha-rabim*) are to be seen as primary, and the act of walking as tangential. If, however, *hotza'a* remains an inferior *melakha* because it imparts no considerable change, then perhaps the removal and deposit are less crucial, but the actual movement across the boundary entails the principal *melakha*. *Hotza'a* does not dictate change, and the bookends of *akira* and *hanacha*, which are the greatest agents of 'change,' are not consequential.

To assess this theory, we should inspect several *gemarot* which address a number of interesting varieties of *akira* and *hanacha*. Perhaps the most compelling 'proof' concerns a gemara which considered entirely eliminating the need for a formal *akira*. The gemara in *Shabbat* (3a) questions a situation in which someone loaded items on another's back and the second individual removed the items into *reshut ha-rabim*. Even though no formal removal occurred, perhaps the 'metered' movements should constitute an *akira*. Perhaps - as the gemara questions - *akirat gufu ke-akirat chefetz mi-mekomo dami* - moving one's body is comparable to moving an item. What the gemara might really be addressing is the role of *akira* (and, by extension, *hanacha* – see Tosafot 3a, s.v. *akirat*). If *akira* entails the essence of *hotza'a*, perhaps we could not dispense with it in our scenario. However, if *akira* merely signals the launch of the *hotza'a* process, then perhaps in our situation, the process is framed by the start of motion occurring subsequent to the loading of goods, and *hotza'a* can begin without a formal *akira*.

A second example pertains to a situation where an item has not yet landed. Rabbi Akiva developed a landmark opinion which stated that '*keluta ke-mi she-huncha dami*' – meaning, at least for Shabbat purposes, once a thrown item reaches the airspace of a given domain, it is considered as having landed and the *melakha* has culminated. He does not require actual placement on the ground of the intended *reshut*. One way of understanding Rabbi Akiva is to assume that he defined airspace as an extension of the ground, such that items passing through airspace are considered grounded (see Methodology Shiur #14 for an elaboration of this theme). Alternatively, Rabbi Akiva may not have been reorienting spatial definitions, but rather informing us that *hotza'a* does not require a physical deposit. Once movement across boundaries has occurred, a *melakha* has been violated, independent of actual landing. Once an item is associated with the next *reshut*, the *melakha* has been executed. Perhaps Rabbi Akiva's position represents a corollary to the previous example of *akirat gufo*. If we decide (as the gemara does) that actual *akira* is unnecessary, perhaps actual *hanacha* is unnecessary, as well. Of course, Rabbi Akiva extends the logic to a far greater extent, as one could have easily argued on behalf of virtual *akira* but real *hanacha*. In the previous scenario, the real and physical *akira* performed by the non-carrier launches the act, whereas in Rabbi Akiva's situation, no actual landing has occurred. However, once the role of *akira* and *hanacha* is decentralized, recognizing within the actual transport the essence of the *issur*, we can easily detect the common logic between the gemara's example of *akirat gufo* and Rabbi Akiva's example of *keluta*.

A more moderate application of Rabbi Akiva's principle might be displayed by a gemara in *Shabbat* (5a), which claims that once an item is within three *tefachim* of the ground, *hanacha* has occurred. The gemara addresses a situation in which a person physically received an item by hand, but his hand was not large enough to constitute a *halakhic hanacha* (four-by-four *tefachim*). Even though physical receipt occurred, *halakhic hanacha* hasn't. Yet, the gemara claims that if the receiving hand was positioned within three *tefachim* of the ground, it does constitute *hanacha*, since it is so proximate to the ground, which is at least four by four. Typically, areas less than three *tefachim* long are subject to the principle of '*lavud*' – a spatial rule delivered to Moshe at

Har Sinai which determines that *halakha* ignores spaces of less than three *tefachim*. One may have reasoned that the same rule is in effect in this gemara: if a person's hand is placed within three *tefachim* of the ground, *lavud* dictates that the hand is considered lying on the ground (by eliminating the empty space), and thus a platform of four-by-four (the ground with a hand on top) has participated in a *hanacha*. However, the gemara does not explicitly mention the term *lavud* (as it typically does when applying the principle), raising some doubt as to whether the rule is actually in effect. Furthermore, one may question the applicability of *lavud* in this context, where the open space between the item and the ground is disrupted by the depositing person's hand. In fact, a very famous dispute between Rashi and many other Rishonim may have surrounded this issue. Rashi claimed that *kinyan hagbaha* (attempting to acquire ownership through the symbolic act of lifting) must be performed beyond a three-*tefach* area above the ground. Presumably, if an item is not lifted higher than three *tefachim*, *lavud* determines that the item is still placed on the ground, nullifying the effects of *hagbaha*. Others disagreed with Rashi, in part claiming that *lavud* does not apply to occupied spaces. If a person's hand grasping the item occupies the three-*tefach* area, we may not consider it adjacent to the land. If so, then *lavud* should not apply in our Gemara (*Shabbat* 5a), thus challenging us to explain the waiving of the four-by-four clause when the depositing hand is within three *tefachim* of the ground. Once *lavud* cannot explain this *halakha*, some other basis for this extraordinary ruling must be provided.

Perhaps the gemara is suggesting a different logic. As we discussed, Rabbi Akiva believed that once an item enters an airspace, it is considered 'grounded' – even before actually landing. This position is quite extreme, and might not be universally adopted (see *Tosafot, Bava Kama* 70b). But even if we do not admit Rabbi Akiva's application, we might still apply similar logic once an item has reached an area within three *tefachim* of the ground. Even though *lavud* in the strict and formal sense may not apply, and we do not consider this object as lying upon the ground, we may still consider it 'grounded' or associated with the ground below, and thus acknowledge the conclusion of the *hotza'a* process. Deemphasizing the importance of *akirah* and *hanacha* (while stressing the centrality of the actual transport) may allow for less than actual forms of deposit to constitute the conclusion of the *hotza'a* process.