

**TALMUDIC METHODOLOGY**  
**By Rav Moshe Taragin**

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**Shiur #24: The *Melakha* of *Kotzer***

The third *melakha* in the list of the 11 *melakhot* of the *sidura d'pat* (the *melakhot* sequence of producing bread) is the act of *kotzer*. Upon first glance, the act seems fairly straightforward, entailing harvesting living organisms by cutting or detaching them from the ground - their source of life. Presumably the MANNER of detachment influences whether a primary *av* or second level *tolada* has been violated. If harvesting is performed with an instrument, the classic activity has been performed and an *av* has been violated; if the removal is purely manual, perhaps it is ATYPICAL and constitutes a *tolada*. However, both *av* and *tolada* consist of an act of harvest.

Surprisingly, the Yerushalmi asserts a position that potentially alters the nature of the *melakha*; it claims that capturing fish constitutes a violation of the *melakha* of *kotzer*, as it is removed from the water, its source of life. Although we would more readily associate fishing with *tzeida*, hunting, the Yerushalmi connects it to the *melakha* of *kotzer*. Evidently, the Yerushalmi applies *kotzer* even to items that are not attached to the ground.

The question of whether or not *kotzer* applies to items that are not attached to the earth appears to be a *machloket Rishonim* between Rashi and Tosafot, who seem to agree that *kotzer* applies even to items that do not grow from the ground, and the Rambam and Rashba, who limit it solely to *gidulei karka*. (The *machloket* extends over several sources, which we will not discuss in the context of this *shiur*.) The Rambam's position is nuanced. He claims (based on the simple reading of *Shabbat* 106b) that removing a fetus from an animal's womb, or even detaching it from the placenta, violates *kotzer*, leading many to assume that he, like the Yerushalmi, extends *kotzer* even to non-attached items. However, the Rambam consistently defines animals as *gidulei karka*, items attached to the ground, since they graze on grass. Defining fetus removal as *kotzer* thus does not necessarily indicate that the Rambam would accept the Yerushalmi about removing fish from water. (See the *Minchat Chinukh* who advances this claim).

This basic *machloket* raises a central question regarding *kotzer*: Does the *melakha* consist of detaching living organisms, or is the act defined in more general terms of separating living items from their source of life? The most basic *nafka mina* would extend to fishing or removing a fetus (or even milking and performing *shechita* upon an animal), in which life has been terminated but no act of detachment has occurred.

As an aside, it should be noted that IF *kotzer* is defined as termination of life, a secondary question emerges – what is the difference between *kotzer* and *netilat neshama*? This question requires an assessment of the violation of *netilat neshama* (see for example Tosafot, *Ketuvot* 5b).

An additional question surrounds harvesting produce that may no longer be attached to its source of life. Is there an *issur* of *kotzer* for produce that has already become desiccated? The *gemara* in *Chullin* 127b cites an interesting discrepancy between the laws of *tuma* and the laws of *kotzer* on Shabbat of dried fruits. Since the fruits are dried and no longer receiving nutrition, they are considered “detached” and suitable for *tuma* transfer (which cannot occur with attached produce). This might have led to the conclusion that harvesting these fruits would be permitted on Shabbat, as they are not considered attached. Evidently they are considered detached from *tuma* laws but severing them would still violate *kotzer*. Does this discrepancy demonstrate that the violation of *kotzer* consists primarily of performing an ACT of harvest? If the primary prohibition surrounded separating from source of life (as the Yerushalmi clearly dictates), it would be difficult to apply *kotzer* to the harvesting of dried fruits, which are considered detached for all other intents and purposes. Would Shmuel essentially be arguing with the Yerushalmi which believed that *kotzer* entails separating an item from its source of life.

In truth, the *gemara's* statement MAY NOT be indicative that *kotzer* entails an act of detaching. First, many *Rishonim*, such as the Meiri, assert that if the fruits are so dry that the actual stems have wilted, no *kotzer* is violated. Perhaps the Meiri maintained that harvesting dried fruit still entails separating them from their source of life. Even though sustenance is not CURRENTLY being provided to the fruits, they are still being detached from their PREVIOUS source of life. Once the stems dry, the attachment is no longer CAPABLE of sustaining life and no *kotzer* exists. Thus, even if *kotzer* entails detaching from the source of life, AS THE Yerushalmi suggested we would forbid harvesting dry fruit on Shabbat. Although life isn't actually being provided to the dried fruit, the stem connecting the fruit to the tree is still a life sustainer.

What about a reverse situation – would *kotzer* be forbidden if an item were detached from its source of life even if a formal act of harvest was not performed? This scenario may be described in a *gemara* in *Shabbat* (81b) that addresses the case of someone who removes an *atzitz nakuv*, a potted plant, from the ground. Halakha considers a potted plant with a hole to be attached to

the ground, since it draws nutrition from the ground. Logically, then, if someone were to fully remove an *atzitz nakuv* from the ground and place it on a table (so that it no longer draws nutrition from the ground), he would be in violation of *kotzer*. Indeed, the simple reading of the *gemara* and the Rambam confirms this conclusion. However, based on internal dynamics of the *gemara* (which allows this action for the sake of *kavod ha-briyot*), most *Rishonim* reinterpret the *gemara* to suggest that no biblical prohibition of *kotzer* is violated by removing the *atzitz nakuv* from the ground. If an *atzitz nakuv* is considered legally attached to the ground and actually derives nourishment from the ground, why shouldn't its removal be considered *kotzer*?

Perhaps our earlier comments would help explain this anomaly. If *kotzer* entails separating items from their life source, this would indeed be a classic instance of *kotzer*; anytime items are detached from their source of life, *kotzer* occurs, regardless of how the detachment occurs and independent of which source of life the item is severed from. The Yerushalmi forbade fishing as *kotzer*, even though no ACT of detaching occurs and the water is an atypical source of life. Even if we reject the Yerushalmi and limit *kotzer* only to 'land-based' situations, *kotzer* may still be defined as severing life. Fundamentally however *kotzer* is violated anytime land based life support is discontinued, regardless of the manner. Removing a potted plant from its base of life should constitute *kotzer*, as the simple reading of *Shabbat* (81) implies.

Those *Rishonim* who do NOT apply *kotzer* in this case may have viewed the prohibition as one of HARVESTING, not severing from life. Harvesting demands a certain FORMAL act of cutting or physical detachment. Moving a plant – although automatically discontinuing nutrition – is not enough of a PHYSICAL severance to entail *kotzer*.

It should be noted that some *Rishonim* advanced a very different solution as to why *kotzer* is not violated by removing a potted plant from the ground. The Hagahot Ha-Ashri (*Shabbat* 81b) cites an opinion that the potted plant was only removed from physical contiguity, but was still in direct vector with the land below (hovering above or placed on stilts above the ground). Hence, it STILL RECEIVES SOME nutrition (as *Chazal* recognized airborne transfer as halachikally significant). Since the life source continues to flow, no *kotzer* has been violated. This explanation assumes that *kotzer* WOULD be violated ANYTIME COMPLETE DISCONTINUATION does occur, even if no formal act of harvest ensues. This approach, however, is not the simplest reading of the *gemara* in *Shabbat* (81b).

A final *nafka mina* of this question may be an interesting and very radical position asserted by Tosafot in *Shabbat* (73b). Typically, *melakhot* which do not yield direct needed benefit are considered “*eina tzricha le-gufo*” and are the source of a *machloket* between R. Shimon (who permits them, at least biblically) and R. Yehuda (who forbids them). For example, removal of a dead person to

aerate a home only provides benefit for the home and not for the body, and is thus not a classic *melakha*.

Astonishingly (and with little source) Tosafot claim that if someone cuts trees without any need for the wood, *kotzer* would not be violated. Even if, in general, *melakhot* without need for the consequent benefit (*eina tzricha le-gufo*) are forbidden (as argued by R. Yehuda), this situation would be universally permitted. Tosafot offer an ambiguous explanation.

Perhaps Tosafot felt that *kotzer* DOES NOT entail severance from life sources, but rather a formal act of harvest and cutting. As trees and vegetation are sometimes cleared for roads and dwellings, such actions cannot be considered acts of HARVEST, which typically detach items for utility. Perhaps Tosafot distinguished between different acts of harvest – those that aim to collect the harvested items and those that merely clear space. This distinction would only be relevant if *kotzer* entailed an act of harvest and cutting, and not mere discontinuation of life. If the latter element defined *kotzer*, the question of WHY the items were harvested would be irrelevant, as, regardless of the aim, the plant is detached from its source of life.