

Practical ramifications

Making a furrow in the ground

Making a furrow
in a field or in a
house

One of the actions mentioned by the Gemara (73b) is “one who makes a furrow,” a rut in the ground. When performed outside, this act prepares the ground for sowing, and is prohibited by Torah law due to Plowing. By contrast, making a furrow in a house is generally prohibited only by rabbinic law, as this is considered a destructive act rather than an improvement. One who makes a furrow or depression in the floor in a house in order to use it for any purpose is liable due to Building (Rashi 73b, s.v. “*patur*,” based on the Gemara 102b).

It is permitted to
drag an item if one
does not intend to
make a furrow

Is it permitted to drag items on an untiled floor, where this is apt to create a furrow in the ground? Since in this case the person does not intend to make a furrow, the ruling depends on a dispute between *tanna'im* with regard to an unintentional act, i.e., a permitted action from which an unintended prohibited result ensues. In fact, this is exactly the case that the *tanna'im* discuss, as explained in the Mishna and Gemara on Beitza (23b):

Rabbi Yehuda says: No vessels may be dragged on the ground except for a wagon, which is permitted because its wheels do not

similar idea with regard to Sowing, as stated above (p. 586). The source of his statement is the *Or Zarua* (2:54), who in fact does not state “designated for plowing,” but “normally plowed,” which may mean merely that it is fit for plowing. The *Mishna Berura* possibly maintains in accordance with the opinion of the *Magen Avraham* mentioned here rather than that of the *Eglei Tal*; if so, there is more room for leniency in this regard.

However, the *Orehot Shabbat* (18, note 8) writes that it is possible to reconcile their opinions by distinguishing between different actions: Acts that are clearly forms of plowing, such as leveling a surface, are prohibited even in a field which is not designated for plowing, whereas irrigation, which is not a clear stage of plowing, is prohibited only in a field which is designated for plowing. This idea is somewhat innovative, but because the *Mishna Berura* does not explain himself clearly in the context of Plowing, and as there is room to distinguish between irrigation and plowing, we have ruled in accordance with the opinion of the *Eglei Tal*.

make a furrow in the ground but merely press the earth down... Rabbi Shimon says: A person may drag a bed, a chair, or a bench on the ground, provided that he does not intend to make a furrow.

As is well known, Rabbi Shimon's opinion is accepted as *halakha*: An unintentional act (*davar sheino mitkaven*) is permitted, and therefore one may drag items along the ground if there is no intention to make a furrow.

Notwithstanding the above, the **Gemara** notes on several occasions (e.g., 75a, 103a) that Rabbi Shimon concedes that an unintentional act of this kind is prohibited in a case of an inevitable consequence (*pesik reisha*), i.e., when there is no doubt that the act will bring about the prohibited result. Consequently, one may not drag items on the dirt if this will definitely make a furrow. The *Shulhan Arukh* rules accordingly (337:1):

An unintentional act is permitted provided that it is not an inevitable consequence. Therefore, a person may drag a bed, chair, or bench, whether large or small, on condition that there is no intent to make a furrow.

The *Magen Avraham* (337:1) notes that the lenient ruling of the *Shulhan Arukh*, that one may drag even large items, does not apply to especially heavy items, as these will certainly make a furrow in the ground. Thus, the *Mishna Berura* (337:4) states in his name:

The *Magen Avraham* writes that it is prohibited to drag the very largest items on the ground, because this is [a case of] an inevitable consequence, as they will certainly make a furrow.

It should be noted that making a furrow in this situation is not prohibited by Torah law, because it is not performed in the normal

It is prohibited to drag items when it will certainly make a furrow



Dragging items over dirt. If one does not intend to make a furrow and there is no certainty that a furrow will be the result of the action, it is permitted.

fashion, with a tool such as a hoe, but rather in a different, unusual, manner (**Rashi** 46b, s.v. *issura*). This is particularly true when the action is performed inside a house, as in that case it is considered a destructive rather than a constructive act (*Sefer HaYashar of Rabbeinu Tam* 233; *Shaar HaTziyun* 337:1). Yet, the principle that an inevitable consequence is prohibited applies even to labors that are prohibited only by rabbinical law (*Magen Avraham* 233:1), although some Sephardi authorities are lenient in those circumstances.⁴

Sitting on a chair
which makes a
furrow

One may sit on a chair that is on the ground even if there is a chance that the legs will make indentations in the earth. By contrast, it is prohibited to sit on such a chair if this will definitely make a furrow (for Sephardim there is room to be lenient, as stated above). All the more so, one may not deliberately insert an item into the ground, nor may one stick an item into the soil of a flowerpot (*Mishna Berura* 498:91).

4. **Rav Ovadia Yosef** (*Leviyat Hen* 106) claims that the source of the ruling of the *Magen Avraham* is the *Roke'ah* (58). The author of the *Shulhan Arukh*, Rabbi Yosef Karo, cites this statement in his *Beit Yosef* (337, s.v. *uMa Shekatav, Hilakha*), and yet he does not write it as *halakha* in the *Shulhan Arukh* itself, which implies that he does not accept the ruling. According to his opinion, even when one drags a heavy item it is not inevitable that it will make a furrow, and even if it is, this is an undesired inevitable consequence (or at least, it is a result about which one is indifferent, which carries the same *halakha*; see *Beur Halakha* 120:18, s.v. *deLo*). In addition, there are two mitigating factors that reduce the severity of the act to the level of rabbinic law: it is a destructive act and it is performed in an unusual manner. See also the *Or LeTziyon* (1, *Orah Hayim*, end of 25), who infers that even according to the opinion of the *Shulhan Arukh*, that one should be stringent in a case of an inevitable consequence notwithstanding that there are two mitigating factors, one may be lenient when it is a destructive act.

Yet, the fact that the *Shulhan Arukh* does not state otherwise implies that he permits dragging items only if the making of the furrow is not an inevitable consequence, but if it is an inevitable consequence, he would prohibit it despite all the aforementioned claims to the contrary. Therefore, we rule that it is prohibited. Nevertheless, there is room for Sephardim to be lenient in this matter, in accordance with the opinion of the *Or LeTziyon* and Rav Ovadia Yosef (see also *Responsa Yabia Omer* 10, *Orah Hayim* 28).

With that said, it is permitted to **remove an item that is stuck in the ground of a field or in a flowerpot**, as this furrow had existed before the removal of the item. Nevertheless, one may not remove an item **that is stuck in the floor of a house**, lest one ultimately fill in the hole (*Shabbat* 113b; *Mishna Berura* 498:91).

Removing an item that is stuck in the ground

May one drag heavy items on a tiled floor? A statement of the **Gemara** (29b) implies that dragging items is prohibited even on such surfaces:

It is prohibited to drag heavy items along a tiled floor

Avin from the city of Tzipori dragged a bench in an upper story, whose floor was made of marble, in the presence of Rabbi Yitzhak ben Elazar. Rabbi Yitzhak ben Elazar said to him: If I remain silent... damage will result, as the Sages issued a decree on a marble-floored upper story due to a standard upper story with an earthen floor.

In other words, it is prohibited to drag heavy items even over a tiled floor, due to a decree lest one ultimately drag them over a dirt floor.⁵

Yet, we will see below (p. 625) that there is a dispute among the *Rishonim* as to whether this decree applies in a location where the houses do not have dirt floors. According to *Tosafot* (29b, s.v. *gezeira*), this decree applies only in a place where there are some houses whose floors are not tiled, as there is a concern that one might drag items even in these houses. But if none of the houses in locale have dirt floors, there is no reason to prohibit it. By contrast, the **Ramban** (95a, s.v. *hakha*) maintains that there is no distinction between different locations.

When all the houses in a locale are tiled, there is a dispute among the *Rishonim*

The *Mishna Berura* (*Shaar HaTziyun* 337:2) rules in accordance with the opinion of *Tosafot*, claiming that there are additional factors that favor this lenient opinion:

Mishna Berura: As a matter of practical *halakha* one may be lenient

5. In fact, although the Gemara is addressing the opinion of Rabbi Yehuda, who prohibits an unintentional act, the same should apply to the opinion of Rabbi Shimon with regard to heavy items, since if such an item is dragged over untiled ground the furrow is an inevitable consequence. Indeed, the *Magen Avraham* (337:1) and the *Mishna Berura* (337:4) rule accordingly.

It stands to reason that if the entire town is paved with stone or paneled with wood, one may be lenient in this regard... as even when it is not paved, there is no prohibition by Torah law for several reasons. First, the furrow that one will make is caused only through digging in an unusual manner. Furthermore, one damages the house by making furrows in it; one does not improve it. Above all, one has no intention to produce this result, and it is merely an undesired unintended consequence... And it is explained above on 316:3 that the Rema generally maintains that in a case where there are two mitigating factors, each of which reduces the prohibited act to the level of rabbinic law, an undesired unintended consequence is permitted, even though here [with regard to dragging items in general] we are stringent... In any case, if the whole town is tiled, one may add the opinion of *Tosafot* as well... that [the Sages] do not decree in such a case due to untiled floors.

The *Mishna Berura* claims that since there is room to be lenient even with regard to a dirt floor, as this is an undesired unintended consequence, and there are two mitigating factors that reduce the severity of the act to the level of rabbinic law (i.e., it is performed in an unusual manner and it is a destructive act), consequently, one may rely on the opinion of *Tosafot* and be lenient with regard to dragging heavy items in a house with a tiled floor in a place where all the houses are tiled, despite the fact that we generally rule stringently in cases involving such floors.

The aforementioned mishna in *Beitza* states that although Rabbi Yehuda prohibits dragging items despite the fact that there is no certainty that this act will make a furrow, as he holds that an unintentional act is prohibited, he concedes that it is permitted to drag a wagon over dirt, “as it presses [the earth].” In other words, the wagon does not create a furrow by moving the dirt aside, as does the leg of a chair or a table. Rather, it presses and consolidates the earth under it. Creating a furrow in such a manner is not prohibited due to Plowing.

The prohibition of Plowing does not apply to a wagon that presses down the earth underneath it

What is the significance of the manner in which a furrow is formed? According to the explanation of Rashi, the reason is clear. As stated above, **Rashi** maintains that the labor of Plowing is defined as **softening the ground**. Therefore, when one digs in the ground and moves the dirt to the side, the dirt crumbles and softens, but when one compresses the dirt, there is no softening of the ground at all.

According to the explanation of the **Rambam**, the reason is apparently that since the normal preparation of ground for sowing is by digging, making a furrow by pressing is not the normal manner of plowing. Furthermore, the tracks formed are unlike a standard furrow or ditch. Consequently, this act is not included in the labor of Plowing, particularly in a case where one is indifferent to the making of the furrow.

It should be noted that the **Gemara** (*Beitza* 23b) implies that this case of pulling a wagon on top of dirt is subject to a tannaitic dispute: Some say that Rabbi Yehuda permits dragging a wagon on dirt because it presses the earth, but others maintain that Rabbi Yehuda is stringent in this case. According to **Rashi** on *Beitza* 23b (s.v. *trei tanna'ei*), this dispute involves a side issue:

One [*tanna*] maintains that a wagon is like any other item, as it makes a furrow when dragged, since sometimes the wheels do not turn and it is dragged and digs [up the earth]. The other [*tanna*] maintains that [such a situation] is uncommon; rather, it merely presses [the earth] as it rolls.

In other words, according to all opinions, making a furrow by pressing is not prohibited due to Plowing, and the dispute is whether there is a concern that the wheels of the wagon might become stuck and make a furrow in the manner of digging.



Leading a stroller over dirt is permitted even if it will definitely make a furrow.

It is permitted to lead a wagon over dirt even when it will certainly make a furrow

This statement of Rashi is very significant with regard to the practical *halakha*. As mentioned, we rule in accordance with the opinion of Rabbi Shimon that an unintentional act is permitted, and therefore we prohibit the dragging of items only if it is certain that this will make a furrow. Is it permitted to move a heavy wagon over dirt, when this will definitely create a furrow in the ground? In light of Rashi's statement, this should be permitted, as all agree that making a trench by pressing is not prohibited due to Plowing. The dispute between the *tanna'im* with regard to the opinion of Rabbi Yehuda refers specifically to a concern that the wagon might make a furrow in the manner of digging. Since this concern is in the category of an unintended consequence, then it is not taken into account with regard to the *halakha*, in accordance with the opinion of Rabbi Shimon.

Indeed, several halakhic authorities rule in accordance with this opinion (*Kaf HaHayim* 337:4; *Hut Shani* I, p. 95, citing the *Hazon Ish*): It is permitted to move a heavy wagon over dirt, as the wagon does not dig into the dirt but merely presses it, and this is not prohibited due to Plowing. This lenient opinion can be accepted as the practical *halakha*, especially in light of the fact that in any case this is at worst a prohibition by rabbinic law, since the plowing is performed in an unusual manner, and it can generally be categorized as a destructive act.⁶

Children may play in a sandbox, as the sand is designated for playing and is not *muktze* (*Shulhan Arukh* 308:38). They are not permitted to play with sand on the beach or at a construction site and the like, as such sand is *muktze* (*Mishna Berura* 308:144).

One should warn children not to build or dig in the sand, as this would be considered Building or Plowing. But if the sand is very

6. The *Az Nidberu* (5:21) writes that even if the wagon for some reason digs up the ground instead of pressing on it, one may lead it over roads, sidewalks, etc., as nowadays the entire city or locale is paved, and therefore there is no reason to be stringent with regard to tiled ground, as the *Mishna Berura* rules above.

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soft, to the extent that if one were to dig a hole the sand would fall back in and fill that hole, there is no prohibition against building with such sand (*Mishna Berura* 308:144, based on *Tosafot* 39a, s.v. *ikka*). In any case, one should warn children not to add water to a sandbox, as this might lead to a problem of Kneading (see below, p. 1032). Moreover, wet sand is more stable and less likely to collapse, which would mean that playing with it would be prohibited due to Building or Plowing.

These *halakhot* also apply to a sandbox that is inside another container, as the prohibition against filling a hole applies equally to dirt that is detached from the ground and is in a vessel (*Mishna Berura* 498:91).



It is permitted to play in a sandbox, but not to build or dig, unless the sand is very soft.