

Is the uprooting of one's body – עקירת גופו כעקירת חפץ דמי או לא – similar to the uprooting of an object; or not

OVERVIEW

רב posed the following query; what would be if a person was laden (by another person) with items in a רה"י and he walked out with them into a רה"ר; is the עקירת גופו when he walked out of the רה"י considered as if he made an עקירה on the items in the רה"י and would therefore be חייב, or not. תוספות discusses that the same query is applicable to הנחה and that neither query can be resolved from a משנה.

נראה לרבינו יצחק דהכי נמי מצי למיבעי לענין הנחה¹ –

It is the view of the ר"י that רב could have just as well posed this query regarding placing down (הנחה) the item -

– כגון שהוציא חפץ לרשות הרבים ועמד שם לפוש² ולא הניחו על גבי קרקע –

For instance, he took out an item into a רה"ר (with a regular עקירה in the רה"י) and he stood there (in the רה"ר) in order to rest, but he did not place the item on the ground; the query would be -

– אם הנחת גופו הוה כהנחת חפץ או לא –

Is the resting of his body considered as if he put down the item, or not.

תוספות anticipates that one may resolve this query and rejects this solution:

– וממתניתין דקתני או שנטל מתוכה והוציא העני חייב ליכא למיפשט –

And we cannot resolve the query from our משנה which states, 'or if the עני took from the hand of the בעה"ב and took it out into the רה"י, the עני is חייב.'³ Seemingly the עני is חייב by merely taking it out even if he did not put it down in the רה"ר. This would seemingly prove that הנחת גופו כהנחת חפץ דמי.³

תוספות rejects this resolution:

– דאיכא לאוקמא שהניחו על גבי קרקע –

¹ See marginal note (from תוספות ישנים): (תוספות לקמן (ד,ב): ורשב"א פירש שהנחה פשיטא ליה ואפ"ה בעי על עקירה כדפריך לקמן (ד,ב): דלמא הנחה לא בעי אבל עקירה בעי הנחת גופו כהנחת חפץ. The גמרא maintains that it was obvious to the רשב"א that the only query was regarding עקירה. See 'Thinking it over' # 2.

² The גמרא later (ה,ב) will distinguish between עמוד לפוש (where it is considered a הנחה) and עמד לכתף if he stopped to adjust the load (where it is not considered a הנחה).

³ The item in the hand of the עני is considered resting in the רה"ר, since the (entire) body of the עני is resting in the רה"ר.

for we can establish the משנה in a case **where** the עני **put down** the item **on the ground** of the רה"ר so there was a חפץ.

תוספות asks:

ואם תאמר⁴ ואמאי לא פשיט ממתניתין (דף יא,א) דקתני לא יצא החייט במחטו⁵ –

And if you will say, and why do we not resolve s'רב' query **from our משנה** later, **which states; 'a tailor should not go out with his needle** close to nightfall-

שמא ישכח ויצא –

Perhaps he will forget that it is שבת⁶ **and will go out'** to the רה"ר with the needle on שבת -

ואי עקירת גופו לאו כעקירת חפץ דמי אמאי לא יצא בה –

And if we will assume that עקירת גופו is not similar to עקירת חפץ, why should he not go out with it on שבת -

הא לא מצי למיתי לידי איסור דאורייתא⁷ –

Since he can never come to transgress an איסור דאורייתא

תוספות answers:

ויש לומר דאפילו הכי אסרו רבנן⁸:

And one can say that nevertheless the רבנן prohibited it even though it will not cause an איסור דאורייתא.

SUMMARY

The same query there is regarding עקירה can also be posed concerning הנחה, whether הנחה is חפץ דמי. The משנה of מתוכה והוציא can be understood to mean, he placed it on the ground.

THINKING IT OVER

1. How can we differentiate between the fact that an object in someone's

⁴ See 'Thinking it over # 3.

⁵ The גמרא discusses later (יא,ב) whether he is holding the מחט or it is stuck in his garment.

⁶ See תוספות יא,א ד"ה שמא.

⁷ The חייט has the מחט from before שבת. If we maintain that עקירת חפץ לא הוי כעקירת גופו then no עקירה was made on שבת. Therefore even if he will put down the מחט in the רה"ר on שבת there will be no איסור דאורייתא, since there was no עקירה. It will only be אסור מדרבנן (in order to prevent a case when he will make an עקירה). Why therefore did they prohibit the tailor from having the מחט in his possession if ער"ש עם חשיכה (עקירה). There is a rule that גזירה לגזירה לא גזרינן גזירה לגזירה. See לשון הזהב for an alternate explanation.

⁸ See תוה"ר who writes, that if something occurs commonly the רבנן were גוזר a גזירה לגזירה.

hand is definitely at rest,⁹ and nevertheless we can still query whether הנחת חפץ דמי is גופו?¹⁰

2. According to תוספות that the query is for הנחה (as well as for עקירה),¹¹ why indeed did רב ask concerning עקירה (which is an unusual case of הטעינו (חבירו), when he could have asked concerning הנחה (which is a more common case)?!¹²

3. Is there any connection between תוספות initial statement (that the same query applies to הנחה) and the subsequent question¹³ (from אל יצא החייט (במחטו)?¹⁴

⁹ This is evident since a הנחה (or עקירה) on (or from) a hand is a valid הנחה (or עקירה).

¹⁰ See מהרש"א א.

¹¹ See footnote # 1.

¹² See צל"ח.

¹³ See footnote # 4.

¹⁴ See מתק שפתים and לשון הזהב.