

The teaching of תורה - מבטלין תלמוד תורה להוצאת המת - is disrupted in order to take out the dead for burial

OVERVIEW

The תורה teaches us that we disrupt the learning of תורה in order to pay our respects at the funeral of a deceased person. This indicates that to partake in a funeral even as a spectator takes priority over ת"ת. Our תוספות resolves a contradictory ruling.

תוספות asks a question:

וקשה (דבהלכות¹) [דבמסכת] דרך ארץ [זוטא (פ"ה)] -

And there is a difficulty; for in [מסכת] דרך ארץ [זוטא] we have learnt that –

אמר רבי עקיבא תחלת תשמישי לפני חכמים² -

ר"ע said my initial training before the sages was in the following episode –

פעם אחת הייתי מהלך בדרך ומצאתי מת מצוה ונטפתי בו ד' מילין³ -

one time I was traveling on a road and I found a dead person, on whom there was a מצוה to bury him⁴ and I was occupied with him, carrying him a distance of four מילין -

עד שהבאתיו לבית הקברות וקברתי -

Until I brought him to a cemetery where I buried him –

וכשבאתי והרציתי דברי לפני רבי אלעזר ורבי יהושע -

And when I came and presented my story before ר"א ור"י (these were the ר"ע of רביים) –

אמרו לי על כל פסיעה ופסיעה כאילו שפכת דם נקי -

They said to me for every single footstep that you took in carrying this מת for ד' מילין it is as if you have spilled innocent blood (each time you took an additional footstep). תוספות is presently assuming that ר"ע told them this story (perhaps) to explain his tardiness in coming to the בית המדרש. Seemingly their response was that this is no excuse. The מצוה of תלמוד תורה is greater than burying the dead (even a מצוה). Therefore for every step that you took in burying this מת, which caused ביטול תורה, you are מחויב מיתה⁵. Based on this assumption תוספות raises the contradiction between our גמרא which states that ת"ת להוצאת המת (even not for a מצוה) and the story in ד"א

¹ The parenthesized word is omitted and the text reads according to the bracketed inserts.

² The following episode caused ר"ע to be more careful in ת"ת שימוש.

³ A מיל is two thousand אמות (approximately 3,000 feet).

⁴ A מצוה מת refers to anyone who dies and there are no people who are taking the responsibility to bury them. It is incumbent upon whoever comes in contact with this מת (כהן גדול) to bury him.

⁵ The punishment for ביטול תורה is כרת as indicated in זטא, סנהדרין (see לקו"א פ"א).

which seems to imply that ת"ת is far greater than even burying a מצוה (and certainly greater than the הוצאה of a 'regular' מת).

answers: תוספות

ויש לומר דהתם לאו משום ביטול תורה -

And one can say that there by the story of ר"ע it was not on account of תורה ביטול that ר"א or ר"י admonished ר"ע, for as the גמרא states here on the contrary that – מת מצוה and certainly for the burial of a ת"ת להוצאת המת –

אלא משום דמת מצוה קנה מקומו⁶ והיה לו לקבורו במקום שמצאו -

But rather the reason they admonished him so harshly was **because a מת מצוה acquired 'ownership' of his place** where he died, **and ר"ע should have buried this מת מצוה in the place where he found him;** and not transport him four מיל to a בית הקברות. This is what they meant that for every step that you removed him from his proper burial place; it is considered as if you were נקי דם נקי.⁷

offers an additional proof to the previous interpretation of the story with ר"ע תוספות

וכן משמע במסכת שמחות⁸ (פרק ד') דקאמר⁹ מת מצוה קנה מקומו -

And this is also indicated in מסכת שמחות where it is stated that a מת מצוה acquired his place –

והעובר על דברי חכמים מחוייב מיתה¹⁰ וכן אמר רבי עקיבא תחלת תשמישי כולי -

And he who transgresses the words of the sages (יהושע בן נון), who instituted this right for the מת מצוה) is liable for the death penalty. The פרק there concludes:¹¹ **and so too said ר"ע; the beginning of my training, etc.**

It then cites the entire previous story. Since the story of ר"ע follows the הלכות of מת מצוה it is evident that the story is cited to prove the הלכות of מת מצוה. One; that a מת מצוה is קונה מקומו; and should be buried where he was found. In addition, if one does not fulfill this, he is מחוייב מיתה. Both these points are brought out in the story of ר"ע as explained in answer. If however ר"ע's wrongdoing was on account of ביטול תורה it would not have been cited in מסכת שמחות (in conjunction with the laws of a מת מצוה).

⁶ The ברייתא in פא,א דף ב"ק states that this is one of the ten conditions that יהושע בן נון instituted when he divided א"י for the שבטים.

⁷ The reason is explained shortly.

⁸ מסכת עבו"ז (מסכת דרך ארץ כו' after) and is usually found (together with מסכת קטנות) and is euphemistically named שמחות. It deals primarily with עניני אבלות and is שמחות. In our texts of שמחות it does not state (clearly) that מת מצוה קנה מקומו and certainly not that מת מצוה חייב מיתה (See however פ"ה זוטא פ"ה). It also does not state 'תחלת תשמישי' (merely) אמר (וכן אמר ר"ע תחלת תשמישי').

⁹ This may be derived from what is written there in הלכה לג.

¹⁰ This is stated in ב,ד ברכות דף ד,ב.

¹¹ הלכה לד.

offers a different resolution to his original question:

והרב רבי יהודה מקורבי"ל תירץ -

And the ר"י מקורבי"ל answered that there is no contradiction between our גמרא which requires הוצאת המת for ביטול תורה, and the admonishment of ר"ע for his tarrying with the מצוה –

דהתם משום דביטל עצמו משימוש תלמידי חכמים קאמר דגדול שימושה יותר מלימודה:
For there the reason he was admonished was because he hindered himself from serving ת"ה; that is what they meant when they admonished him, **for serving ת"ה is greater than learning** the תורה.¹² Therefore even though we are on account of לימוד התורה; however שימוש ת"ה takes priority even over a מצוה.

SUMMARY

A מצוה is to be buried in the place where he is found. If one moves him, every step taken away from his original resting place is considered שפיכת דם. נקי. The ר"י מקורבי"ל maintains that for laxity in שימוש ת"ה one is מחוייב מיתה.

THINKING IT OVER

1. Why did תוספות originally assume that ר"ע was נקי דם שופך דם on account of ביטול תורה, and not because a מצוה is מקומו (as תוספות concludes)?
2. What is the view of the ר"י מקורבי"ל concerning burying a מצוה in his place?¹³ If he agrees with תוספות, why is there a need for a different answer?

¹² מסכת ד"א זוטא ספ"ח. שימוש ת"ה since he has lax in מיתה. ברכות ז, ב.

¹³ See הפלאה and שטמ"ק in שיטה ישנה.