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Intro

Today we will Be"H learn מסכת גיטין 1 קר ל"ה. Some of the topics we will learn about today include:

פרעון מנכסי יתומים

Creditors, including widows who claim their כתובה, must swear to their claims before they collect from an estate. However.

נמנעו מלהשביע

The חכמים stopped administering such oaths to אלמנות. It is a אחלוקת whether this applies only

בב"ד

Or even

חוץ לבית דין

To oaths made outside of court as well.

Perhaps, בית דין would NOT administer an oath in בית דין which is איט which is אסדאורייתא, because such as oath is made while holding a ספר תורה and using the השם ', and its violation carries a severe penalty. However, בית דין WOULD administer a simple oath uttered outside of בית דין which is מדרבנן, and subject only to a relatively minor curse.

The Gemara also differentiates between גרושה and אלמנה, in that a divorcee may swear and collect her כתובה.

נודרת ליתומים

In place of this oath, רבן גמליאל instituted that the widow should accept a difficult vow conditional on her having benefited from her בתובה. The Gemara brings a אחלוקת whether this applies only if

לא ניסח

The widow has not yet remarried. Otherwise, we suspect that her husband will revoke the vow.

The Gemara discusses several Halachos regarding a חכם annulling vows, including:

נדר שהודר ברבים

A vow made publically, in front of ten people;

פרעון מנכסי יתומים

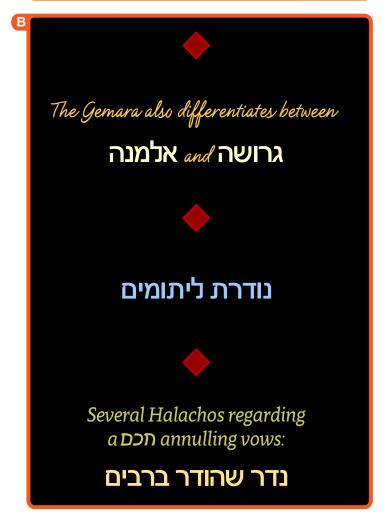
Widows who claim their כתובה must swear to their claims before they collect from an estate

However,

נמנעו מלהשביע

It is a אחלוקת whether this applies

Only Or even
חוץ לבית דין בבית דין









בים A v

נדר על דעת רבים

A vow made subject to the public's approval; and צריך לפרוט הגדר

Whether the הכם must be told the circumstances surrounding the vow's acceptance









So let's review...

The Mishnah continues to list תקנות enacted by רבן גמליאל

Zugt di Mishnah

אין אלמנה נפרעת מנכסי יתומים

אלא בשבועה

After her husband's death, a widow must swear that she has not yet received her כתובה in order to collect from the orphans.

The Gemara points out הבא ליפרע מנכסי יתומין לא יפרע אלא בשבועה ANYONE who wants to collect a debt from orphans is

required to swear, not only a widow?

Nevertheless, the Mishnah specifically mentions widows, so that we should not erroneously reason משום חינא

אקילו רבנן גבה

We might think that the חכמים waived the required oath regarding כתובה, to encourage women to marry. The Mishnah therefore teaches that widows are also required to swear.









The Mishnah continues however; נמנעו מלהשביעה

The חכמים stopped administering oaths to widows, thereby causing them to forfeit their כתובה, because

בההיא הנאה דקא טרחה קמי דיתמי

אתיא לאורויי היתרא

She may rationalize that she is entitled to payment for any efforts she may have expended on the orphan's behalf, and she may swear falsely.

The Gemara points out that consequently,

גרושה

משביעין אותה

They DID administer oaths to divorcees, because she has no basis for such rationalization, and her oath IS believed.



The Gemara debates another possible method of swearing:
רב ושמואל דאמרי תרווייהו
לא שנו אלא בב"ד
לא שנו אלא בב"ד
לא שנו אלא בב"ד
אבל חוץ לב"ד אותה
משביעין אותה
And as Rashi explains;
ששבועת הדיינין של תורה היא...ועונשה מרובה
וחוץ לב"ד שבועה דרבנן...ואין עונשה כל כך
Therefore, מדאורייתא would NOT administer this oath in which is מדאורייתא, because such as oath is made whil

וחוץ לב"ד שבועור דריצון...ואין עונשה כל כך וחוץ לב"ד שבועה דרבנן...ואין עונשה כל כך וחוץ לב"ד שבועה דרבנן...ואין עונשה כל כך would NOT administer this oath in court which is בית דין, because such as oath is made while holding a ספר תורה and using the הישם, and its violation carries a severe penalty. However, בית דין WOULD administer a simple oath uttered outside of בית דין which is מדרבנן, and subject only to a relatively minor curse.









However, the Gemara brings an alternate version where בד argues with this ruling:

איכא דמתני רב אמר אפילו חוץ לבית דין אין משביעין אותה

בית דין would NOT administer this oath even outside of the court.

This version is supported by a report that רב לא מגבי כתובה לארמלתא יכתובה לארמלתה on behalf of widows, because he was unwilling to administer this oath.

However, the Gemara adds the following caveat: מודה רב בקופצת

מב agrees that if she made an oath on her own initiative, the oath IS effective.

The Gemara brings an example of such an oath: After being refused her כתובה, a widow argued מידי הוי טעמא

אלא דלמא נקיטנא מידי

You are concerned that I may have already received partial payment;

חי ה' צבקות

אם נהנתי מכתובתי כלום

I swear that I have not benefited at all from the כתובה. In this case, where the widow was קופצת, she receives her כתובה.









The Gemara records another incident where a widow was refused her רב, in accordance with ירב's ruling; where-upon she requested

הב לי מזוני

At least, continue my support from the estate.

However, she was told

התובעת כתובתה בב"ד

אין לה מזונות

שמואל says that once a widow demands her בית דין in בית דין she loses her rights to support, because, as רש"י explains, her כתובה stipulates that she is to be supported

כל ימי מיגר ארמלותיך בביתי

בשביל כבודו

for the duration of her widowhood 'in his home' - which means, in her widowhood in his honor. Therefore, when she seeks her מזוונות she loses her מזוונות.

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Another incident

A widow was refused her התובה whereupon she requested

הב לי מזוני

However, she was told

דאין לה מזונות

Because, her אין לה מזונות

Because, her און לה מזונות

אין לי איז אלוותיק בבית

ליאי איז אלאותיק בבית

באביל בבודו

Therefore, when she seeks her אפונות

she loses her אפונות

The Mishnah continues:
In place of the customary oath,
התקין ר"ג הזקן
שתהא נודרת ליתומים כל מה שירצו
וגובה כתובתה

רבן גמליאל instituted that the widow accept a difficult vow conditional on her having benefited from her בתובה. This is the equivalent of an oath, and she may then collect her כתובה.

Nevertheless, as the **G**emara said earlier, רב לא מגבי כתובה לארמלתא would not collect the כתובה on behalf of widows, because

בשני דרב קילי נדרי

During the era of Rav, people were lax with נדרים, and so בית דין, could no longer rely on them.









The Gemara qualifies the use of נדרים:

לא שנו

אלא בשלא ניסת

אבל ניסת

אין מדירין אותה

We only rely on נדרים if she is not married, because אין הבעל מיפר בקודמין

When she marries, her husband cannot revoke נדרים made before their marriage.

However, if she is already married, we do NOT rely on נדרים to pay her כתובה, because

מיפר לה בעל

She will readily accept any נדר, relying on her husband to revoke it.

The Gemara asks that even when she's not married אזלה לגבי חכם ושרי לה

Let us be concerned that she will have a דכם annul her זנדר? The Gemara answers

צריך לפרט את הנדר

The Halachah requires that she delineate the circumstances under which she accepted the נדר. Therefore, the חכם will refuse to annul a נדר that she used to collect her כתובה.



However, ר' נחמן disagrees אפילו ניסת

We MAY rely on a married woman's נדר, דמדרינן לה ברבים

We have her accept the vow in front of ten people, and her husband cannot revoke a public vow.

The Gemara points out that this is actually a מחלוקת: נדר שהודר ברבים

יש לו הפרה

או איז לו הפרה

Some say that a public נדר CAN be revoked, while others maintain that it CANNOT.









9 The Gemara now cites a מחלוקת whether it is necessary to be מפרט הנדר:

ר' נחמן אמר

אין צריך

דאי אמרת צריך

זימנין דגייז ליה לדיבוריה

וחכם מאי דשמע מיפר

ר' נחמן maintains that one does NOT delineate the circumstances behind the גדר, because he may not describe it fully, and the חכם's annulment, which is based solely on what he hears, will be invalid.

רב פפא אמר

צריך

משום מילתא דאיסורא

We need to give the חכם the necessary background information to determine if the נדר should be revoked, in case it was undertaken as a deterrent, such as in our case regarding the כתובה.

ר' נחמון, on the other hand, addresses this concern דמדרינן ליה ברבים

by requiring a public נדר in such situations.

Although we have explained that this is subject to a מחלוקת?

מדרינן ליה

על דעת רבים

It is possible to make a vow subject to the public's agreement, because

אפילו למאן דאמר

. נדר שהודר ברבים

יש לו הפרה

על דעת רבים

אין לו הפרה

Everyone agrees that such a נדר cannot be annulled.











However, the Gemara qualifies this Halachah:

הני מילי

לדבר רשות

אבל לדבר מצוה

יש לו הפרה

A public vow cannot be annulled for an optional purpose. However, ALL נדרים can be annulled for the purpose of a Mitzvah, as illustrated in the following anecdote:

ההוא מקרי דרדקי

דאדריה רב אחא

דהוה פשע בינוקי

There was a teacher who beat the children excessively, and אות 'ה' made him accept a vow causing him to refrain from teaching. Nevertheless,

ואהדריה רבינא

דלא אישתכח דדייק כוותיה

מחווו annulled the vow and reinstated him, because they could not find another teacher with his expertise.

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ההוא מקרי דרדקי דאדריה רב אחא דהוה פשע בינוקי

A teacher beat the children excessively and ר' אתא made him accept a vow causing him to refrain from teaching



מכינא annulled the vow and reinstated him because they could not find another teacher with his expertise



