



т"оэ Intro

Today we will Be"H learn מסכת נדרים of דף פ"ה. Some of the topics we will learn about include:

טובת הנאה ממון

The Gemara continues its discussion whether the right to distribute תרומה ומעשר, thereby earning the benefit of gratitude from the recipient, has actual monetary value.

קונם שאני עושה לפיך

A woman cannot make a נדר forbidding her husband to benefit from her, since there are various household duties that is she obligated to perform. The Mishnah records several opinions whether it is still worthwhile for the husband to be מפר this נדר to avoid other concerns.



דבר שלא בא לעולם

The Gemara discusses whether one can be מקדיש something which does not yet exist or that he does not presently own, and compares this to a נדר forbidding another's possessions, since there too, one is affecting something that he does not own.

Through its discussion, the Gemara references the following important ideas:

מעשה ידים, מותר, העדפה

If a husband supports his wife, giving her מזונות, he receives in exchange מעשה ידיה, her regular earnings. If he gives her an additional מעה כסף, he is also entitled to מותר, whatever she earns over the usual expected wages. It is a אחלוקת whether העדפה על ידי הדחק, extra income that she earns by exerting herself beyond the norm, belongs to the husband or the wife.









So let's review...
Zugt di Mishnah

בעקנ מדי איז אוואוו קונם שאיני עושה על פי אבא ועל פי אביך ועל פי אחיך If a woman made a נדר forbidding various relatives from

benefiting from anything she produces,

אינו יכול להפר

Her husband cannot be מנוי נפש א, since there is no ענוי נפש or מנוי נפש involved - and the Neder is effective, because she's under no obligation to those people. However,

שאיני עושה על פיך

אינו צריך להפר

If she forbade her husband from benefiting from what she produces, he does not NEED to be מפר. The Neder is NOT effective, since she is required to perform various household chores, and her נדר cannot override this obligation.

The Mishnah now records several opinions that it's advisable that he SHOULD be פר the זנדר:

רבי עקיבא אומר יפר

שמא תעדיף עליו יותר מן הראוי לו

רבי עקיבא says that he should be מפר the גדר, because היא היא

She is not obligated to give him anything she earns over her usual income by exerting herself. Therefore, the Neder IS effective regarding these extra earnings, and he would become אסור in them.

The תנא קמא disagrees, and maintains that העדפה דידיה הוי

The בעל IS entitled to the העדפה as well. Therefore, there's no need for הפרה.

רבי יוחנן בן נורי אומר

יפר שמא יגרשנה ותהי אסורה עליו

בעל agrees with the תנא קמא that the רבי יוחנן בן נורי agrees with the should be מפר מפר for a different reason, so that the ידר should not take effect if and when they get divorced. He would subsequently be forbidden to remarry her, since he will almost certainly violate the ידר, because he cannot avoid benefiting from the basic household duties that she performs. He should therefore revoke the ידר, which would be effective הלכי מגרש לה יפקמא, on the other hand, holds that

כיון דהשתא לא חייל

לקמיה נמי לא חייל

A אדו that is not immediately effective will NOT take effect after a divorce either. Alternately, the Tanna Kamma agrees that the אינו would take effect, but holds that a הפרה while they are married cannot be effective לכי הואס, for after a divorce.

The Gemara explains that רבי יוחנן בן נורי, who says that she CAN make a נדר that will only take effect at a future date, must similarly hold

אדם מקדיש דבר שלא בא לעולם

A person can be מקדיש something that he does not yet own. Accordingly, שמואל, who says

הלכה כרבי יוחנן בן נורי

Must also hold

אדם מקדיש דבר שלא בא לעולם











3 However, this contradicts שמואל's comment on the following Mishnah in מסכת כתובות:

המקדיש מעשה ידי אשתו הרי זו עושה ואוכלת

One cannot be מקדיש his wife's handiwork. Even though a husband is usually entitled to מעשה ידיה, which should give him the ability to be מסכת them, the Gemara in מסכת explains that we are either discussing a case of שאין מעלה לה מזונות

Where he is not supporting his wife, and her handiwork is therefore her own; or a case where she said איני ניזונת ואיני עושה

She decided on her own not to accept his support, and keep her earnings for herself.

In both cases his הקדש is not effective, because מעשה ידיה do not belong to him.



The Mishnah there continues:

If he attempted to be מקדיש any extra income she may earn;

רבי מאיר אומר הקדש

רבי יוחנן הסנדלר אומר חולין

שמואל there explains that we are discussing a case of באין מעלה לה מעה כסף

Where the husband is not entitled to the extra income during his wife's lifetime, because he does not give her that extra spending money; rather, he intends for his הקדש to take effect מותר, after his wife dies and he inherits her. As such, the מותר is presently a

דבר שלא בא לעולם, something that does not yet exist; And ר' מאיר holds it IS effective, while יוחנן holds it is NOT effective.

שמואל there says הלכה כרבי יוחנן הסנדלר

Indicating that he holds

אין אדם מקדיש דבר שלא בא לעולם

However, here in our Gemara שמואל says

הלכה כרבי יוחנן בן נורי

That

אדם מקדיש דבר שלא בא לעולם









ב יוסף at first answers

שאני קונמות

נדרים may be different and in this sense stronger than הקדש, because

הואיל ואדם אוסר פירות חבירו עליו

Since a person CAN make a Neder to forbid somebody else's belongings to himself, although he cannot be מקדיש someone else's belongings;

אוסר נמי דבר שלא בא לעולם עליו

So too, one can forbid with a Neder a דבר שלא בא לעולם, even though he cannot be מקדיש it.

As the Ran explains; דהא פירות חבירו לדידיה כדבר שלא בא לעולם דמי דלית ליה בהו מידי

To the נודר, somebody else's belongings are equivalent to a בא לעולם.

However, אביי points out an important distinction: בשלמא אדם אוסר פירות חבירו עליו

שהרי אדם אוסר פירותיו על חבירו

You can forbid another person's belongings to yourself, just as you can forbid your own possessions to someone else, because, as the Ran explains, in both cases there is at least one aspect that is ברשותו.

You can forbid someone else's object - which for you is אל כאלום - on YOURSELF, because הופו מיהא ברשותו הוא - on Yourself, because אופו מיהא ברשותו - on you can forbid someone else - over whom you don't have authority - to benefit from YOUR object, כיון שהפירות ברשותו -, since you control the פירות פירות -. However,

אין אדם אוסר פירות חבירו על חבירו

You cannot forbid someone else to benefit from HIS OWN belongings, because, both the object being forbidden, and the subject of the דר, are not ברשותו, not under your control. Similarly, in our case,

אין אדם אוסר דבר שלא בא לעולם על חבירו

The wife should not be able to forbid her husband to benefit from her future earnings.





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רב יהושע therefore answers ביה דרב יהושע באומר באומר באומרת באומרת באומרת באומרת באומרת יקדשו ידי לעושיהן

דידים הא איתנהו בעולם

ורי יוחנן בן נורי is speaking of where she said that her hands shall be קונם regarding their work, and even though her future earnings a דבר שלא בא לעולם, but her hands ARE a דבר שבא לעולם.

And the Gemara adds that since

משתעבדין ידיה לבעלה

Since her hands are presently obligated to work for her husband, which would prevent the Neder from taking effect, we must add that she also said לכי מגרשה

The נדר should take effect after their divorce, when her husband no longer has rights to her handiwork.

However, the Gemara asks

וממאי דכי אמרה הכי מהניא

How can this be effective? Her future earnings are a דבר שלא בא לעולם? And we're back to the original קשיא?

The Gemara in the next Daf will compare this case to many similar scenarios to determine if it is indeed a דבר דבר שלא בא לעולם.





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