



The Base Neder

Masechet Nedarim opens by discussing *nidrei issur* - a type of *neder* (vow) through which an object become prohibited to oneself or another. The *Mishnah* explains that *kinuyei nedarim* and *yadot nedarim* are treated the same as *nedarim*. Broadly speaking *kineui nedarim* are when a different term is used when articulating the vow that the *Chachamim* understood as have the same meaning as a *neder* (see 1:2). *Yadot Nedarim* refer to cases where the vow was partially articulated, but enough was said such that the full *neder* was understood. One however should ask, what is the basic *neder*?

The *Mishneh LeMelech* explains that this question is the subject of debate. He cites the *Ran* who explains that the base *neder* can be made in one of two ways. Either by stating that an object is prohibited. Alternatively, when making a *neder* one can associate the item with an object when prohibiting it (*hatpasa*). He adds however, that when associating with another object, it must be an item that is voluntarily offered (e.g. a *korban*) and not simply another prohibited object (e.g. non-kosher food).

The *Mishneh LeMelech* however cites the *Tosfot* who explains that the base *neder* is only through *hatpasa*. The *Ritva* similarly explains that the base *neder* is where one says, e.g. this object is prohibited to me like a *korban* or like *hekdesch*. In the absence of *hatpasa* the *neder* would only be binding if considered a *yad neder*. The *Ran* (*Shevuot* 8a) explains this position is based on the fact that one normally cannot make items prohibited. It is only in the world of *hekdesch* where one can take a permissible item and exchange it for a sanctified one thereby making it prohibited. Consequently, only a *neder* through *hatpasa* that is connected to that world can be effective.¹

Note that according to the second understanding, there is only one type of *neder* and that is through *hatpasa*. Anything that appears different would need to be defined as a *yad* or *kinui*. According to the first understanding, it is possible that there are two type of *nedarim*, with and without *hatpasa*. Is there a difference?

The *Mishneh LeMelech* cites the *Rosh* (*Teshuva* 12:4) who explains that if one made a *neder* to prohibit his wine to others, he does not make it *assur* to them. The difficulty is that when one makes a *neder* he can make it *assur* to others. The *Mishneh LeMelech* cites the *Shach* who explains that in the case of the *Rosh* he was making his wine *assur* like *yayin nesech*. As we explained previously, for a *neder* to be valid he must associate it with a *korban* or *hekdesch*. In this case it is being associated with a prohibited substance so the *neder* is not valid. The *Mishneh LeMelech* believes that this is the accurate understanding of the *Rosh*.

Nevertheless, before bringing the *Shach*'s explanation, he cites the *Taz* who explains that in this case the *neder* was not done through *hatpasa*. The *neder* was only making the wine *assur*. In that case, the wine can only be made *assur* to the person making the *neder*. A *neder* made with *hatpasa* however, by making it like a *korban*, would make the wine *assur* to everyone (much like a *korban*). The *Mishneh LeMelech* however argues that according to *halacha* in both cases, the wine would be *assur* to everyone.

Despite the *Mishneh LeMelech*'s conclusion, we find grounds for the distinction between these two different base types of *Nedarim*. The *Grach* (stencil 296) explains that the *Sifri Zuta* cites the verse, "everything that come from your mouth you shall do" as the basis of an object of a *neder* becoming forbidden to others. The *Grach* explains that a *neder* by way of *hatpasa* does not need a *pasuk*. The *pasuk* is only needed for a *neder* that is made without *hatpasa*.

The *Grach* continues that according to those opinions that the base *neder* is only through *hatpasa*, the derivation of the *Sifri Zuta* is not only unnecessary but not learnt. This is important because if the derivation of the *Sifri Zuta* is learnt, then it would equally apply to the world of *Shevuot*. For example, one can prohibit another of from entering his house by way of a *shevua*. The *Grach* uses this to explain why the *Rambam* rules such a *shevua* would work. Since he holds that the base *shevua* is even without *hatpasa*, the derivation of the *Sifri Zuta* applies to such *nedarim* and consequently to *shevuot* as well.

Yisrael Bankier

¹ Note that the *Ran* in *Shevuot* appears to take this second position whereas in our *Gemara* he takes the first. The *Chatam Sofer*

(*Nedarim* 12a) explains that the *Ran* in *Shevuot* is only explaining the position of the *Rif*.

Revision Questions

יבמות י"ב: ג' – י"ג: י"א

- What is the law regarding an *almanah* that does not want to leave her late husband's house? (י"ב: ג')
- What is the law regarding an *almanah* that returns to her father's house? (י"ב: ג')
- Explain the debate regarding the time within which an *almanah* can collect her *ketubah* if: (י"ב: ד')
 - She is living in her late husband's house.
 - She is living in her father's house.
- What were the two *halachot* that were disputed between *Chanan ben Avishalom* and the *bonei kohanim gedolim*? With whom did *Rabbi Yochanan Ben Zakkai* side? (י"ג: א'-ב')
- Explain the debate regarding how the sons and daughters are supported when there is a very small *yerusha*? (י"ג: ג')
- Explain the debate between *Admon* and the *Chachamim* regarding a case where:
 - One party claims he is owed jugs of oil and the other party admits he only owes him empty jugs. (י"ג: ד')
 - The father reneges on his promise for a dowry just prior to *nisuin*. (י"ג: ה')
 - One party claims that his field was stolen from him yet his own signature is on the sale contract that is in the hands of the other party. (י"ג: ו')
 - A person returns from an extended period overseas to find that the access path to his property through another's field has disappeared and he does not remember where it was. (י"ג: ז')
 - One party presents a loan contract and the other party presents a sale document (dated after the loan contract) stating that he purchased land from the first party. (י"ג: ח')
 - Two parties each produce loan documents trying to claim money from each other. (י"ג: ט')
- What are the three regions in *Eretz Yisrael* for *nisuin* and why are they important? (י"ג: י')
- Can one force the members of his household to move to Israel? (י"ג: י"א)
- If a couple marries in Israel and divorce outside Israel, in what currency must the *ketubah* be paid? (י"ג: י"א)

נדרים א' א'

- Is the following a valid *nedar*: "מפרשני ממך שאיני אוכל לך" (א': א')
- Is it a valid *nedar* if a person adds the phrase: (א': א')
 - כנדרי רשעים?
 - כנדרי כשרים?

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

ONLINE SHIURIM

Yisrael Bankier
mishnahyomit.com/shiurim

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
27 May י"ג סיון	28 May י"ד סיון	29 May ט"ו סיון	30 May ט"ז סיון	31 May י"ז סיון	1 June י"ח סיון	2 June י"ט סיון
Nedarim 1:2-3	Nedarim 1:4-2:1	Nedarim 2:2-3	Nedarim 2:4-5	Nedarim 3:1-2	Nedarim 3:3-4	Nedarim 3:5-6

