



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Nedarim Daf Chuf Zayin

MISHNA

- The case of a neder of oneis would be as follows. If a person made a neder making his friend assur to benefit from him unless he comes to eat by him, and the friend doesn't go to eat by him because he became sick, or his son became sick, or because he couldn't cross an overflowing river, this is called a neder of oneis and the neder is therefore not effective.

GEMARA

- There was a person who said that if he does not return to Beis Din within 30 days, he will waive his rights to a property. He did not show up within the 30 days, because of an oneis. **R' Huna** said, he did not show up and therefore has waived his rights. **Rava** said to him, he was an oneis, and therefore did not waive his rights, because we see in our Mishna that the excuse of oneis is even accepted in monetary matters.
 - **Q:** According to **Rava** why is this case different than the case of where one gives a get to his wife and says it should be effective today if I don't return within 12 months, and he dies within those 12 months, in which case the Halacha is that it is a valid get even though his not showing up was an oneis!? **A:** It may be that that case is different, because had he known that he would die he would have given the get unconditionally immediately (so that she not become subject to yibum).
 - **Q:** Why is this case different than the case of where one gives his wife a get and says it should be effective today if I don't return within 30 days, and at the end of the 30 days he is prevented from crossing the river to come, because the ferry is not there, and he stands at the other side and yells "I am here, I am here!", in which case **Shmuel** said, it is as if he did not show up!? **A:** It may be that the absence of a ferry is a foreseeable event, and is therefore not considered to be an oneis altogether.
 - **Q:** According to **R' Huna**, why has he waived his rights by not showing up? This is a case of "asmachta" (someone who gives up a right on a condition that he thinks will never happen, and he will therefore never have to give up the right), and **R' Huna** himself holds that one is not koneh in a case of asmachta. Therefore, the rights should not be waived!? **A:** In the case above, he took his rights that were written in a document and deposited them with the court until he returns. That giving of the document makes it more than just an asmachta.
 - **Q:** We learn from **Rav's** explanation of a Mishna that even when the document is deposited with a third party it is still considered to be an asmachta!? **A:** In the case above, he has said that he will waive his rights. Asmachta is not effective to make someone be koneh a property, but waiving of rights is not making a kinyan on a property. Therefore, an asmachta would be enough to have someone waive his rights.
 - The Gemara paskens that an asmachta can be koneh, as long as the person was not prevented from fulfilling the condition based on an oneis, and as long as the kinyan was made in a prestigious Beis Din.