



**Orla – ערלה**: It is prohibited to eat or derive benefit from the fruit that grows during the first three years after a tree has been planted (see Leviticus 19:23). This prohibition applies only to the fruit but not to the other parts of the tree. In addition, the prohibition does not apply to trees planted as a fence for property or as a wind buffer, rather than for their fruit.

**Diverse kinds planted in a vineyard – כלאי הכרם**: It is prohibited to plant or maintain other crops in a vineyard (Deuteronomy 22:9). In contrast to the prohibition of a mixture of diverse kinds, the other crop grown in a vineyard may not be eaten or used. It renders the entire vineyard forbidden, and all the produce must be burned.

האומר לאשתו "הרי את כאימא" כו'. ורמינהו: "הרי את עלי בבשר אימא" – "בבשר אחותי" כערלה וככלאי הכרם – לא אומר כלום!

**S** It is stated in the mishna that with regard to a man who says to his wife: **You are hereby to me like my mother**, dissolution is broached with him suggesting a different extenuation, i.e., by rabbinic law it is treated like an actual vow and it requires dissolution by a halakhic authority. The Gemara **raises a contradiction** from a *baraita* that states that if a man says to his wife: **You are hereby to me like the flesh of my mother**,<sup>H</sup> or **like the flesh of my sister**, or **like the fruit of a tree during the first three years after its planting [orla]**,<sup>B</sup> or **like forbidden mixtures of diverse kinds planted in a vineyard**,<sup>B</sup> all forbidden items, **he has said nothing**. This indicates that he does not even have to make a request to a halakhic authority.

אמר אביי: לא אומר כלום – מדאורייתא, וצריך שאלה – מדרבנן. רבא אמר: הא – בתלמידי חכמים, הא – בעם הארץ.

**Abaye said: He has said nothing by Torah law**, as the vow does not take effect. **However, he needs to make a request to a halakhic authority by rabbinic law**. **Rava said: That baraita is referring to Torah scholars**,<sup>N</sup> who are aware that this vow does not take effect. **This mishna, on the other hand, is referring to an ignoramus**, with regard to whom a rabbinic ordinance is necessary lest they take vows lightly.

והתניא: הנודר בתורה – לא אומר כלום, ואמר רבי יוחנן: וצריך שאלה לחכם, ואמר רב נחמן: ותלמיד חכם אינו צריך שאלה.

**The Gemara comments: And it is taught in a baraita: One who takes a vow by associating an item with a Torah scroll<sup>H</sup> has not said anything**, i.e., the vow does not take effect. **And Rabbi Yohanan said: But nevertheless, he needs to make a request to a halakhic authority** for dissolution of the vow. **And Rav Nahman said: And if he is a Torah scholar he does not need to make a request**.<sup>N</sup> The postulation of Rava, which states that with regard to some vows that do not take effect it is necessary to make a request to a halakhic authority only if they are taken by an ignoramus, can be seen from here.

## HALAKHA

**הרי – You are hereby to me like the flesh of my mother, etc.** – **את עלי בבשר אימא וכו'**: If a Torah scholar says to his wife: You are hereby to me like my mother, the vow does not take effect and the object of the vow is permitted. However, if the one who took the vow is an ignoramus, he must make a request to a halakhic authority for its dissolution. He is made to believe that the vow took effect, and an additional stringency is imposed on him that it is insufficient that he regret his vow. Rather, dissolution must be broached with him using a different extenuation. Only then is his vow dissolved, lest he take vows lightly. Some authorities (Rosh; Tur) maintain that this ordinance applies only in the case of a man who forbids himself to his wife, and not with regard to other vows (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 1:8, 1:27; *Shulhan Arukh*, *Yoreh De'a* 205:1).

The Rashba and the Rema rule that nowadays all people not known to be Torah scholars are considered ignoramuses in this regard, since most people are not knowledgeable in Torah laws.

**One who takes a vow by associating an item with a Torah scroll – הנודר בתורה**: If one takes a vow by associating an item with a Torah scroll, saying: These fruits are hereby to me like this, indicating a Torah scroll, his statement is meaningless, and he does not need to make a request to a halakhic authority for the dissolution of the vow. If he is an ignoramus, the vow requires dissolution by a halakhic authority, lest he take valid vows lightly (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 1:27; *Shulhan Arukh*, *Yoreh De'a* 212:1; see Rambam *Sefer Hafla'a*, *Hilkhot Shevuot* 12:5).

## NOTES

**הא בתלמידי חכמים וכו'**: The reason for this distinction is that unlike ignoramuses, Torah scholars do not habitually make vows. Therefore, there is no concern that they will come to treat with contempt vows that took effect (Rosh).

**And if he is a Torah scholar he does not need to make a request – ותלמיד חכם אינו צריך שאלה**: As mentioned above, the Rambam derives a principle from this distinction that the vows of an ignoramus that do not take effect require dissolution. The Rosh disagrees, arguing that this ruling merely demonstrates that sometimes ignoramuses need to make a request for the dissolution of vows that do not take effect, while Torah scholars

do not. In his opinion, the Sages issued the ordinance only in the case of a husband who forbids himself to his wife and in the case of an association with a Torah scroll.

The reason for the decree is different in the two cases. In the former case, the decree is necessary because strife between a husband and wife is common and can easily lead an ignoramus to vow. Therefore, there is concern that if the objects of his vows that did not take effect are permitted, he will take valid vows lightly as well. In the latter case, the concern is that he may not understand the nuanced distinction, made by the Gemara later on, between a vow taken by associating an item with a Torah scroll itself and one taken by associating an item with the names of God that appear therein.

HALAKHA

One who takes a vow by associating an item with a Torah scroll – הַגִּדֵּר בַּתּוֹרָה: If one vows, associating an item with a Torah scroll, e.g., saying: These fruits will be to me like a Torah scroll, the object of the vow is permitted. If he vows saying: Like what is written in the Torah, the object is forbidden, as the vow takes effect. Similarly, if one takes a Torah scroll in his hands and vows, associating an item with it, it is considered as though he associates the item with what is written in it, and dissolution is therefore required for this vow. This is in accordance with the Gemara's final interpretation of the *baraita* (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 1:27 and *Hilkhot Shevuot* 12:5; *Shulhan Arukh, Yoreh De'a* 212:1).

תַּנְיָא: הַגִּדֵּר בַּתּוֹרָה – לֹא אָמַר כְּלוּם, בְּמַה שֶּׁכָּתוּב בָּהּ – דְּבָרָיו קְיָיְמִין, בָּהּ וּבְמַה שֶּׁכָּתוּב בָּהּ – דְּבָרָיו קְיָיְמִין.

קִתְּנִי: "בְּמַה שֶּׁכָּתוּב בָּהּ" – דְּבָרָיו קְיָיְמִין; "בָּהּ וּבְמַה שֶּׁכָּתוּב בָּהּ" צָרִיךְ לְמִימַר?

אָמַר רַב נַחֲמָן: לֹא קִשְׂיָא; הָא – דְּמַחֲתָא אֲוֵרִייתָא אֲאָרְעָא, הָא – דְּנִקִּיט לָהּ בִּידֵיהּ; מַחֲתָא עַל אֲרְעָא – דְּעֵתִיחַ אֲגוּלִי, נִקִּט לָהּ בִּידֵיהּ – דְּעֵתִיחַ עַל הָאֲזְכָּרוֹת שֶׁבָּהּ.

וְאִיבְעִית אֵימָא: דְּמַחֲתָא עַל אֲרְעָא, וְהָא קָא מְשַׁמַּע לָן: דָּאף עַל גַּב דְּמַחֲתָא עַל אֲרְעָא, בֵּין דָּאמַר "בְּמַה שֶּׁכָּתוּב בָּהּ" – מִהֲגֵי, וְזוּ וְאִין צָרִיךְ לומר זוּ קִתְּנִי.

וְאִי בְעִית אֵימָא: כּוּלָּהּ מְצִיעֵתָא נִמִּי דְּנִקִּיט לָיָהּ בִּידֵיהּ, וְהָא קָא מְשַׁמַּע לָן: בֵּין דְּנִקִּיט לָיָהּ בִּידֵיהּ, אִף עַל גַּב דְּלֹא אָמַר אֶלְא "בָּהּ", כְּמַאן דָּאמַר "בְּמַה שֶּׁכָּתוּב בָּהּ" דְּמִי.

It is taught in a *baraita*: One who takes a vow by associating an item with a Torah scroll<sup>HN</sup> has not said anything, and the vow does not take effect. However, he associates the item with what is written in the Torah scroll, his statement is upheld. Since the name of God is written in the Torah, he has invoked God's name in his vow. If he associates the item with it and with what is written in it, his statement is upheld.

The Gemara asks: It is taught that if he associates the item with what is written in the Torah scroll, his statement is upheld. Need it be said that the *halakha* is the same if he associates the item with it and with what is written in it? That is obvious.

Rav Nahman said: This is not difficult. This case, in which the item is associated with it and with what is written in it, is referring to where the Torah scroll is placed on the ground,<sup>N</sup> while that case, in which the item is associated with what is written in it, is referring to where he is holding it in his hands. If it is placed on the ground, whether one mentions the Torah scroll or what is written in it, his thoughts are concerning the parchment, i.e., the physical scroll, as he naturally assumes that since the scroll is placed on the ground, the parchment must be blank. Therefore, the vow takes effect only if he mentions both it and what is written in it, indicating that he is aware that it is a Torah scroll. However, where he is holding it in his hands and associates the item with what is written in it, his thoughts are concerning the mentions [*azkarot*] of the name of God that are in it,<sup>N</sup> and the vow takes effect.

And if you wish, say instead that the entire *baraita* is referring to a case where it is placed on the ground, and this middle clause of: With what is written in the Torah scroll, teaches us that even though it is placed on the ground, since he said: With what is written in it, it is an effective vow, as he was clearly referring to the names of God. And the *tanna* of the *baraita* teaches employing the style: This, and it is unnecessary to say that. The *baraita* teaches the *halakha* where he said: What is written in it, which has a novel element, and then states a more obvious ruling, i.e., it goes without saying that if he associates the item with it and with what is written in it, the vow takes effect.

And if you wish, say instead that the entire middle clause, i.e., the latter clause, where he associates the item with it and with what is written in it, is referring to a case where he is holding the Torah scroll in his hands. And the *baraita* teaches us this: Since he is holding it in his hands, even though he said only: With the Torah scroll, and did not explicitly state: With what is written in it, he is considered to be like one who said: With what is written in it. Therefore, the item is prohibited.

NOTES

One who takes a vow by associating an item with a Torah scroll – הַגִּדֵּר בַּתּוֹרָה: The commentaries disagree with regard to whether the *baraita* is referring to an actual vow or to an oath. The Ra'avad maintains that the phrase should be understood literally, i.e., one who renders a particular item forbidden to himself by saying that it will be to him like a Torah scroll. However, the Rosh and the Ran question this interpretation, as a Torah scroll is not forbidden at all. Therefore, they claim that the *baraita* is referring to a case of one who takes an oath on a Torah scroll. They clarify that the Gemara refers to oaths as vows several times in the tractate.

Where the Torah scroll is placed on the ground – דְּמַחֲתָא: אֲוֵרִייתָא אֲאָרְעָא: According to several commentaries, Rav Nahman did not mean that the Torah scroll is literally placed

on the ground, but rather that it is located elsewhere, so the vow or oath is understood as referring not to a specific object but to the general concept of a Torah scroll. By contrast, when one is holding a Torah scroll, it is assumed that he is referring to the content of the Torah, or is taking an oath on the Torah scroll, as is sometimes required in court. The Commentary on *Nedarim* explains that because the Torah scroll is lying on the ground, the one making the vow apparently assumes that it is just blank parchment, which is not consecrated at all, and therefore no prohibition can be created by invoking it.

His thoughts are concerning the mentions [*azkarot*] of the name of God that are in it – דְּעֵתִיחַ עַל הָאֲזְכָּרוֹת שֶׁבָּהּ: The mentions of the name of God in a Torah scroll are not items forbidden by means of a vow. How, then, can one take a vow by

associating an item with them? According to the commentaries that hold that the *baraita* is referring not to a vow but to an oath, the oath takes effect because the person essentially took an oath in the name of God. The Ra'avad, who maintains that the *baraita* is referring to a vow, explains that the mentions of the name of God in a Torah scroll are considered to be items forbidden by means of a vow, as their sanctity stems from the intention of the scribe to sanctify them.

In the Jerusalem Talmud it is suggested that if the prohibition is associated with what is written in the Torah, the vow takes effect due to the offerings mentioned in the Torah, i.e., the prohibition is associated with the offerings, as it is considered as if he mentioned them explicitly.



Sleeping is forbidden for me as if it were an offering [konam] – קוֹנָם שְׂאֲנִי יִשׁוֹן – Vows do not take effect with regard to matters that do not have actual substance. Therefore, if one says: Sleeping is *konam* for me, or: Walking is *konam* for me, the vow does not take effect. Similarly, if one says: My speech will be forbidden to you, or: Your speech will be forbidden to me, the vow does not take effect. However, by rabbinic law a request must be made to a halakhic authority for dissolution of the vow in these cases as well. Dissolution is broached with the one who vowed using a different extenuation (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 3:10; *Shulhan Arukh*, *Yoreh De'a* 213:1).

**קוֹנָם עֵינַי בְּשִׁנְיָהּ** – Sleeping is *konam* for my eyes today, etc. – הַיּוֹם וְכוּ: If one said: Sleeping is *konam* for my eyes today if I sleep tomorrow, he should not sleep today lest he forget and sleep tomorrow. The opinion of Rav Yehuda is accepted, in accordance with the principle concerning disagreements between Rav Yehuda and Rav Nahman with regard to prohibitions (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 4:14; *Shulhan Arukh*, *Yoreh De'a* 213:3).

**קוֹנָם עֵינַי** – Sleeping is *konam* for my eyes tomorrow, etc. – בְּשִׁנְיָהּ לְמָחָר וְכוּ: If one said: Sleeping is *konam* for my eyes tomorrow if I sleep today, he may sleep today, as there is no concern that he will violate tomorrow's prohibition. Even Rav Yehuda concedes that this is the *halakha* (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 4:15; *Shulhan Arukh*, *Yoreh De'a* 213:3).

**מתני'** "קוֹנָם שְׂאֲנִי יִשׁוֹן" "שְׂאֲנִי מְדַבֵּר" "שְׂאֲנִי מְהַלֵּךְ", הָאֹמֵר לְאִשָּׁה "קוֹנָם שְׂאֲנִי מִשְׁמִשְׁךְ" – הֲרִי זֶה בְּלֹא יַחַל דְּבָרוֹ.

**MISHNA** With regard to one who says: **Sleeping is forbidden for me as if it were an offering** [konam],<sup>H</sup> thereby prohibiting himself from sleeping; or: **Speaking is konam for me**; or: **Walking is konam for me**; or **one who says to his wife: Engaging in sexual intercourse with you is konam for me**, if he violates the vow **he is in violation of the prohibition "He shall not profane his word"** (Numbers 30:3).

גמי איתמר: "קוֹנָם עֵינַי בְּשִׁנְיָהּ הַיּוֹם אִם אֵינִי לְמָחָר" אָמַר רַב יְהוּדָה אָמַר רַב: אֵל יִשׁוֹן הַיּוֹם, שְׂמָא יִשׁוֹן לְמָחָר. וְרַב נַחְמָן אָמַר: יִשׁוֹן הַיּוֹם, וְלֹא תִּישְׁיֵנָּה שְׂמָא יִשׁוֹן לְמָחָר. וּמִוֹדָה רַב יְהוּדָה בְּאֹמְרָא "קוֹנָם עֵינַי בְּשִׁנְיָהּ לְמָחָר אִם אֵינִי לְמָחָר" – שְׂיִשְׁן הַיּוֹם.

**GEMARA** It was stated that with regard to one who says: **Sleeping is konam for my eyes today**<sup>H</sup> if I will sleep tomorrow, Rav Yehuda said that Rav said: **He may not sleep today, lest he sleep tomorrow** and thereby cause the vow to have been violated today, retroactively. **And Rav Nahman said: He may sleep today**, as there is currently no prohibition, **and we are not concerned that he will perhaps sleep tomorrow**, as he will be careful not to sleep. **And Rav Yehuda concedes that in a case where he says: Sleeping is konam for my eyes tomorrow**<sup>H</sup> if I sleep today, **he may sleep today**.

## Perek II

## Daf 15 Amud a

מִי לֹא מְוַדְהִיר – בְּתַנְאָה, אֲבָל בְּאִיסוּרָא – מְוַדְהִיר.

Sleeping today is not prohibited for him. Rather, it causes sleeping to be prohibited for him tomorrow, because **when one is not careful, it is only with regard to a condition**. In the former case, sleeping on the second day merely fulfills the condition on which the prohibition was based, causing it to take effect retroactively. Therefore, there is concern that he will not be careful and retroactively cause a violation. **However, one is careful with regard to a prohibition**. In the latter case, sleeping on the second day is directly prohibited. Therefore, there is no concern that he will violate the prohibition.

תַּנְּנָן: "קוֹנָם שְׂאֲנִי יִשׁוֹן" "שְׂאֲנִי מְהַלֵּךְ" "שְׂאֲנִי מְדַבֵּר" וְכוּ. הֵיכִי דְּמִי? אֵילִמָּא בְּדַקְתָּמִי – "שְׂאֲנִי יִשׁוֹן" מִי הוּוּ נִדְרָא? וְהַתְּנָן: חֹמֶר בְּשִׁבּוּעוֹת, שְׁהַשְּׁבוּעוֹת חָלוּת עַל דְּבַר שִׁישׁ בּוּ מִמֶּשׁ וְעַל דְּבַר שְׂאֲנִי בּוּ מִמֶּשׁ, מַה שְׂאֲנִי בֵּן בְּנִדְרִים. וְשִׁינְיָהּ דְּבַר שְׂאֲנִי בּוּ מִמֶּשׁ הוּוּ! אֵלָּא דְּאָמַר: "קוֹנָם עֵינַי בְּשִׁנְיָהּ".

The Gemara raises a difficulty with regard to the opinion of Rav Yehuda: **We learned in the mishna that one who says: Sleeping is konam for me, or: Walking is konam for me, or: Speaking is konam for me, may not violate his vow. What are the circumstances? If we say that the wording of the vow is precisely as the mishna teaches, is the vow: Sleeping is konam for me, a valid vow? But didn't we learn in a baraita: There is stringency with regard to oaths vis-à-vis vows, in that oaths apply to something that has actual substance and to something that does not have actual substance, which is not the case with regard to vows. And sleep is something that does not have actual substance, so how can a vow apply to sleep? Rather, the mishna must be referring to a case where he said: Sleeping is konam for my eyes.**

וְאִי דְּלֹא יְהִיב שְׂעוּרָא – מִי שְׂבָקִינָן לֵיהּ עַד דְּעֵבֶר אִיסוּר "בֵּל יַחַל"? וְהָאָמַר רַבִּי יוֹחָנָן: "שְׂבוּעָה שְׂלֵשָׁה אִישׁוֹן שְׂלֵשָׁה יָמִים" – מְלָקִין אוֹתוֹ, וְיִשְׁן לְאַחֲרָי!

The Gemara questions this interpretation: **And if he did not give a measurement to the prohibition created by the vow, but rather prohibited himself from sleeping for an unlimited period of time, do we let him be until he inevitably transgresses<sup>N</sup> the prohibition: He shall not profane, by falling asleep? But didn't Rabbi Yohanan say that if one says: I hereby take an oath that I will not sleep for three days,<sup>HB</sup> the court flogs him for taking an oath in vain, and he may sleep immediately,<sup>N</sup> as he is incapable of fulfilling his oath? Here too, if the prohibition has no time frame, the vow should not take effect.**

## NOTES

**מִי שְׂבָקִינָן לֵיהּ** – Do we let him be until he transgresses, etc. – עַד דְּעֵבֶר וְכוּ: *Tosafot* (*Shevuot* 29a) derive from here that not only with regard to oaths, but with regard to vows as well, one who takes a vow that he cannot fulfill is liable to be flogged, as he is in violation of the prohibition: He shall not profane his word. However, other commentaries maintain that since the vow does not take effect, he is not in transgression of the prohibition. As opposed to taking an oath in vain, which is explicitly prohibited by the Torah, there is no prohibition against taking a vow in vain. According to this opinion, Rabbi Yohanan is quoted only analogously, in order to emphasize that this kind of vow does not take effect (*Tosafot Yeshanim*; Rashba; Meiri).

**וְיִשְׁן לְאַחֲרָי** – And he may sleep immediately – According to the Ritva, the word: Immediately, refers not to his permission to sleep but to his being flogged. However, the Ran holds that since the oath is rendered an oath taken in vain, it does not take effect, and he may therefore sleep whenever he wishes.

## HALAKHA

**שְׂבוּעָה** – An oath that I will not sleep for three days, etc. – שְׂלֵשָׁה אִישׁוֹן שְׂלֵשָׁה יָמִים וְכוּ: If one takes an oath that cannot be fulfilled, e.g., an oath not to sleep for three days, it is an oath in vain. He is flogged, and he may sleep whenever he wishes, as ruled by Rabbi Yohanan. Rabbeinu Yeruham and the Rema rule that if one takes an oath not to eat or to sleep without setting a time frame, it is considered an oath that he will never fulfill and therefore an oath taken in vain (Rambam *Sefer Hafla'a*, *Hilkhot Shevuot* 5:20; *Shulhan Arukh*, *Yoreh De'a* 236:4).

## BACKGROUND

**לֹא אִישׁוֹן שְׂלֵשָׁה יָמִים** – I will not sleep for three days – Although it is possible for someone to be prevented from sleeping for more than three days, this is only when other people keep him awake. In addition, lack of sleep for such an extended period can cause severe, irreparable physical and mental damage.