

מתני' כל בינוי נדרים – בנדרים.

MISHNA When an individual takes a vow, he renders an object forbidden to himself or to others as though it were a sacrificial offering; this parallels the act of consecrating an offering, which also renders an item forbidden for personal use by means of a verbal declaration. The most direct expression of a vow is when an individual says: This object is forbidden to me, or to others, like an offering. Additionally, the mishna states that **all substitutes for the language of vows^N are like vows.**^H Consequently, if one states that an object is forbidden to him like a *konam* instead of like an offering [*korban*], the vow takes effect, as *konam* is a substitute term for the word *korban* (see 10a).

וחרמים – פתרמים, ושבועות – בשבועות, וניירות – בניירות.

Similarly, substitutes for the language of **dedications are like dedications**,^N substitutes for the language of **oaths are like oaths**,^H and substitutes for the language of **nazirite vows are like nazirite vows**.^H Therefore, if one declared a *herekh* instead of a dedication [*herem*], a *shevuta* instead of an oath [*shevua*], or proclaimed that he was becoming a *nazik* instead of a nazirite [*nazir*], his statement takes effect.

האומר לחברו "מודרני ממך", "מופרשני ממך", "מרוחקני ממך", "שאני אוכל לך", "שאני טועים לך" – אסור.

With regard to **one who says to another: I am avowed from you**,^H or: **I am separated from you**, or: **I am distanced from you**, and he then says: **That which I^N eat of yours**, or: **That which I taste of yours**, even though he did not explicitly state that he is taking a vow or specify the nature of the vow, the object of his vow is nevertheless **forbidden**. His intention is understood based on his incomplete statement, known as an intimation of a vow, and his vow therefore takes effect.

"מנודה אני לך" – רבי עקיבא היה חוכך בזה להחמיר.

However, if he says: **I am ostracized from you**, which does not clearly declare any matter to be prohibited, **Rabbi Akiva was uncertain^N about this halakha** but was inclined to **rule stringently about this** and consider it a vow prohibiting the speaker from deriving benefit from his fellow.

NOTES

Substitutes for the language of vows – בינוי נדרים: The commentaries, in discussing substitutes for the language of vows, address the basic question of how a vow takes effect. According to one opinion, a vow takes effect through a process called association [*hatpasa*], when an individual states that a particular object is considered for him or for someone else as though it were consecrated. The difference between actual consecration and vows is that an item that is actually consecrated is forbidden to all for personal use, whereas vows impose a prohibition only on specific individuals (Rabbi Avraham min HaHar; Meiri, citing Rashi). According to this opinion, any vow that is not expressed through *hatpasa* takes effect only as an intimation of a vow, rather than as an explicit declaration of a vow.

The Ran presents a different opinion in his commentary on this mishna, although later authorities have pointed out that he seems to contradict himself elsewhere. He writes that even if one simply states that a particular item is forbidden to him without saying that it is forbidden to him as though it were consecrated, he has uttered an explicit statement of a vow.

Substitutes for the language of dedications [haramim] are like dedications – חרמים פתרמים: The term *haramim* can refer to articles consecrated for use in the Temple or by the priests, and it can also refer to any item that one renders forbidden, in which case it is no different than any other vow. The Ran explains that the mishna here refers to this latter type of dedication. However, the Rosh indicates that the mishna's statement applies to both types of *haramim*.

That which I – שאני: The commentaries note that there are two versions of the text here: That which I [*she'ani*] eat of yours, and:

That I shall not [*she'eini*] eat of yours. The first expression, which appears in the version of the text here, appears to be preferable. This is because the subject is vows as opposed to oaths, and, as the Gemara will clarify (2b), vows declare an object forbidden to an individual, whereas an oath expresses an individual's acceptance of the obligation of or prohibition against performing a particular action. Consequently, the first version of the text would appear to be an example of a vow, whereas the second version is an example of an oath. However, some explain that even the latter version is acceptable, because in context it is clear that his intention is to declare the food forbidden to him, and therefore his statement has the status of a vow (*Tosafot*). The Ritva adds that this language can also take effect as an intimation of a vow, which is the subject of the mishna.

Uncertain [hokhekh] – חוכך: There are several opinions with regard to the precise meaning of this word. Some explain that the source of this word is *hikkukh*, rubbing, as in one who rubs against a wall because he is undecided and agitated (Ritva). Others explain, using the same etymology, that one rubs his lips together when he is hesitant with regard to whether or not to say something (Rabbi Ovadya Bartenura). Others maintain that it is based on the word *heikh*, palate; this is related to the practice of tasting an item in order to determine its character (Rabbi Natan bar Yosef). The *Arukh* bases it on the word *hikka*, waiting or anticipating. The meaning here is that Rabbi Akiva was exerting time and effort in finding a reason to interpret this statement stringently. The *Tiferet Yisrael* explains similarly that it is as one who is squeezed [*nidhak*] into a narrow place, as Rabbi Akiva insisted on ruling more stringently than the other Sages.

HALAKHA

All substitutes for the language of vows are like vows – כל בינוי נדרים כנדרים: Substitutes for the language of vows are like vows. Consequently, if one said that an item is forbidden to him like a *konam*, *konah*, or *konas*, instead of an offering [*korban*], the vow takes effect. Similarly, if one used the terms *herekh* or *heref* instead of dedication [*herem*], his statement is valid and the item becomes forbidden. Common custom is determinant; any term used in a particular locale to indicate a vow is considered a valid term for this purpose. Conversely, any term that is not commonly used to indicate a vow is not halakhically considered to express a vow, even if it is mentioned by the Sages as a valid term for a vow (Rema, based on the *Beit Yosef*). However, substitutes for substitute terms are too distant linguistically from the basic terms for vows, and one who uses them is not considered to have taken a vow (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 1:16; *Shulhan Arukh*, *Yoreh De'a* 207).

Substitutes for the language of oaths are like oaths – שבועות כשבועות: Substitute terms for oaths are like oaths. If one said *shevuta* or *shekuka* instead of oath [*shevua*], these are valid substitute terms for oaths, and his oath takes effect. All of these terms are dependent upon the terms used in the particular time and place (Rambam *Sefer Hafla'a*, *Hilkhot Shevuot* 2:5; *Shulhan Arukh*, *Yoreh De'a* 237:10).

And substitutes for the language of nazirite vows are like nazirite vows – וניירות כניירות: In locations where the terms *nazik*, *naziah*, or *paziah* are used to connote a nazirite [*nazir*], if one declares himself to be one of these terms, he becomes a nazirite (Rambam *Sefer Hafla'a*, *Hilkhot Nezirot* 1:8).

I am avowed from you – מודרני ממך: Intimations of vows are like vows. If one states an incomplete statement that indicates a vow, the vow takes effect despite the fact that he did not complete his statement. Consequently, if one says: I am avowed from you that I shall not eat of yours, or: I am separated from you that I shall not eat of yours, the other individual's food is forbidden to the one who made that statement. The Rema adds that some say that even if one said: I am avowed from you; that which I eat of yours, the vow takes effect. This opinion is in accordance with the version of the text of the mishna printed in the Vilna Talmud (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 1:23; *Shulhan Arukh*, *Yoreh De'a* 206:1, and in the comment of Rema).

Meal-offerings – מְנִחוֹת: These include all offerings of flour or bread brought in the Temple. Among the meal-offerings are the two loaves of bread brought on *Shavuot*, the Temple shewbread, the various types of voluntary meal-offerings, the sinner's meal-offering, the loaves of bread accompanying a thanks-offering, the meal-offerings that accompany libations, the meal-offering of a suspected adulteress, and the *omer* offering. Numerous complex *halakhot* apply to these meal-offerings, and most of tractate *Menahot* is devoted to a detailed discussion of them. Most of the meal-offerings are brought from unleavened wheat flour. Likewise, most of these offerings require taking a handful of the offering, an essential element in the sacrificial ceremony. Many types of meal-offerings have oil mixed with them or frankincense added to them at some stage of their preparation. The *halakhot* of meal-offerings parallel the *halakhot* of animal offerings in numerous respects, and many of the acts that render animal offerings unfit also render meal-offerings unfit.

LANGUAGE

Many [*avshu*] – אָוֶשׁוּ: Some explain that this word is derived from the root *alef, vav, shin*, which indicates the production of sound, as in the blowing [*neshiva*] of the wind. According to this explanation, the word has been adapted to mean many because where there are many people, there is a great deal of noise. Alternatively, it is possible to interpret this word as a variation on the word *efesh*, which means to add, increase.

NOTES

משום דאָוֶשׁוּ לִיה – Because there are many categories: Most commentaries explain, in accordance with the second explanation mentioned in the Commentary on *Nedarim*, that this means that since there are multiple categories, the first one will be forgotten if the mishna provides details of the last category first (Rosh; Meiri). Other commentaries agree with the first explanation mentioned in the Commentary on *Nedarim* that the first category itself has many details, and therefore the mishna addresses it first.

בְּמָה טוֹמְנִין וּבְמָה אֵין טוֹמְנִין? אֵין טוֹמְנִין כּו'. בְּמָה אֲשֶׁה יוֹצֵאָה וּבְמָה אֵינָה יוֹצֵאָה? לֹא תֵצֵא אִשָּׁה.

Similarly, another mishna (*Shabbat* 47b) states: **In what may one insulate a pot of cooked food on Shabbat eve, and in what may one not insulate it? One may not insulate it, etc.** A third example of this style is in the following mishna (*Shabbat* 57a): **With what items may a woman go out into the public domain on Shabbat and with what items may she not go out? A woman may not go out with strings of wool and other adornments that she may take off and carry.**

וְכָל הַיְכָא דְפִתַּח לֹא מְפָרֵשׁ בְּרִישָׁא? וְהִתְנַן: "יֵשׁ נוֹחֲלִין וּמְנַחֲלִין, נוֹחֲלִין וְלֹא מְנַחֲלִין, וְאֵלוּ נוֹחֲלִין וּמְנַחֲלִין".

The Gemara challenges this explanation: **And is it true that wherever it begins, i.e., whichever topic the mishna mentions first, it does not explain first? But didn't we learn in a mishna (Bava Batra 108a): There are some relatives who inherit and bequeath, e.g., a father and a son, who inherit property from each other, and there are those who inherit but do not bequeath, e.g., a son and his mother; and these are the ones who inherit and bequeath, etc.** This mishna provides examples of the opening line of the introductory statement before providing examples of the concluding line of the introductory statement.

"יֵשׁ מוֹתְרוֹת לְבַעֲלֵיהֶן וְאִסּוּרוֹת לְיְבָמֵיהֶן, מוֹתְרוֹת לְיְבָמֵיהֶן וְאִסּוּרוֹת לְבַעֲלֵיהֶן, וְאֵלוּ מוֹתְרוֹת לְבַעֲלֵיהֶן וְאִסּוּרוֹת לְיְבָמֵיהֶן".

Similarly, another mishna (*Yevamot* 84a) states: **There are some women who are permitted to their husbands and forbidden to their yevamin, i.e., their husband's brothers if their husbands die childless. These cases include one where the yavam is the High Priest, who is prohibited from marrying a widow. There are other women who are permitted to their yevamin if their husbands die childless but forbidden to their husbands, e.g., if a High Priest betrothed a widow and his brother is a common priest. The mishna immediately provides the details of the first principle: And these are the women who are permitted to their husbands and forbidden to their yevamin.**

"יֵשׁ טְעוֹנוֹת שְׁמֵן וּלְבוֹנָה, שְׁמֵן וְלֹא לְבוֹנָה, וְאֵלוּ טְעוֹנוֹת שְׁמֵן וּלְבוֹנָה". "יֵשׁ טְעוֹנוֹת הַגִּישָׁה וְאֵין טְעוֹנוֹת תְּנוּפָה, תְּנוּפָה וְלֹא הַגִּישָׁה, וְאֵלוּ טְעוֹנוֹת הַגִּישָׁה".

Similarly, another mishna (*Menahot* 59a) states with regard to meal-offerings: **There are some meal-offerings^b that require oil and frankincense and some that require oil but not frankincense.** The mishna continues: **And these are the ones that require oil and frankincense.** Yet another mishna (*Menahot* 60a) states: **There are meal-offerings that require bringing near, a ritual where the priests were required to carry the offering in their hands and bring it near the altar, and they do not require waving; other meal-offerings require waving but not bringing near. And these are the meal-offerings that require bringing near.**

"יֵשׁ בְּכוֹר לְנַחֲלָה וְאֵין בְּכוֹר לְכֹהֵן, בְּכוֹר לְכֹהֵן וְאֵין בְּכוֹר לְנַחֲלָה, וְאֵיזֵהוּ בְּכוֹר לְנַחֲלָה וְאֵין בְּכוֹר לְכֹהֵן!"

Another mishna (*Bekhorot* 46a) states: **There are some who are considered a firstborn with regard to receiving a double portion of inheritance, as they are the firstborn of their fathers, and they are not considered a firstborn with regard to a priest, i.e., with regard to the mitzva of redemption of the firstborn, which applies only to a woman's firstborn son. There are others who are considered a firstborn with regard to a priest and are not considered a firstborn with regard to inheritance. And who is considered a firstborn with regard to inheritance who is not a firstborn with regard to a priest?** In each of these five cases, the mishna first explains the opening portion of its introductory statement and only then explains the second part of its introductory statement.

הֲלִין, מִשּׁוּם דְּאָוֶשׁוּ לִיה – מְפָרֵשׁ הֵהוּא דְפִתַּח בְּרִישָׁא.

The Gemara explains: In these cases, **because there are many [*avshu*]^l categories,ⁿ the mishna explains the statement with which it began first.** However, when there are only two categories, the mishna first provides detail for the latter part of its opening statement.

וְהָא "בְּמָה בְּהֵמָה יוֹצֵאָה וּבְמָה אֵינָה יוֹצֵאָה" דְּלֹא אָוֶשׁוּ, וְקָתַנּוּ "יוֹצֵא גַמְלִי!"

The Gemara asks: **Didn't the mishna (Shabbat 51b) state: With what may an animal go out into the public domain on Shabbat and with what may it not go out? This is a case that does not have many categories, and yet the mishna teaches: A camel may go out on Shabbat with an *afsar*, etc., which clarifies the opening portion of the mishna's introductory statement.**