

אי הכי מאי איריא שנגנב או שאבד? – אלא להודיעך כחו דרבי שמעון, דאף על גב דנגנב או שאבד – קסבר: מעייל איניש נפשיה לספיקא.

The Gemara asks: **If so, why is it specifically stated that the heap was stolen or that it was lost?** Even if it was still present and measured, the naziriteship would not have taken effect as it was conditioned and was not a clear expression. The Gemara answers: **Rather, that detail was established to convey the far-reaching nature of the opinion of Rabbi Shimon, that even if it is the case that it was stolen or that it was lost and consequently cannot be measured, nevertheless he holds that a person enters himself into uncertainty, and therefore the vow takes effect.**

”רבי יהודה אומר סתם תרומה ביהודה” כו. הא מכירין – אסורין. אלמא: ספיקא לחומר.

It is stated in the mishna that **Rabbi Yehuda says: Unspecified teruma in Judea is forbidden, but in the Galilee it is permitted,** as the people of the Galilee are unfamiliar with the collection of the Temple treasury chamber. The Gemara infers: **Where they are familiar with the collection of the chamber, it is forbidden. Apparently, uncertainty with regard to vows is treated stringently.**

אימא סיפא: סתם חרמים, ביהודה – מותרין, ובגליל – אסורין, שאין אנשי הגליל מכירין את חרמי הכהנים. הא מכירין – מותרין. אלמא ספיקא לקולא!

However, say the latter clause of the mishna: **Unspecified dedications in Judea are permitted, but in the Galilee they are forbidden, because the people of the Galilee are unfamiliar with dedications allotted to the priests. It may be inferred that where they are familiar with dedications allotted to the priests they are permitted, due to the uncertainty. Apparently, uncertainty with regard to vows is treated leniently.**

אמר אביי: סיפא רבי אלעזר ברבי צדוק היא. דתניא, רבי יהודה אומר: סתם תרומה ביהודה אסורה, רבי אלעזר ברבי צדוק אומר: סתם חרמים בגליל אסורין.

Abaye said: **The latter clause is the opinion of Rabbi Elazar, son of Rabbi Tzadok, not of Rabbi Yehuda, as it is taught in a baraita: Rabbi Yehuda says that unspecified teruma in Judea is forbidden. Rabbi Elazar, son of Rabbi Tzadok, says that unspecified dedications in the Galilee are forbidden.**

Perek II
Daf 20 Amud a

HALAKHA

One who took a vow by associating an item with a dedication [*herem*], etc. – נדר בהרם וכו': In the case of one who took a vow by associating an item with a dedication [*herem*], and afterward said that he was referring to a sea net [*hermo shel yam*], if he is a Torah scholar the vow does not take effect, and there is no need for him to request dissolution from a halakhic authority. If he is an ignoramus he is told that the vow takes effect and must be observed. However, a halakhic authority may dissolve it by suggesting a different extenuation (*Bah*, based on Rambam), or through regret. The same *halakha* applies to the other cases in the mishna here. The one who took the vow must also be reproached for taking such a vow and taught not to take vows lightly, as ruled by the Rabbis in the mishna (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 2:12; *Shulhan Arukh, Yoreh De'a* 208:2).

LANGUAGE

Sea net [*hermo shel yam*] – חרמו שלים: The word *herem*, in addition to meaning something that is dedicated, distanced, or forbidden, also carries an entirely different meaning: A fishing net. It is used in this context in the Bible as well (see Ezekiel 32:3). The *herem* was a special net which was not flat but shaped like a receptacle. At the bottom of the net was the likeness of a pocket, woven densely to catch the fish.

מתני' נדר בהרם, ואמר: לא נדרתי אלא בחרמו שלים. בקרבן ואמר: לא נדרתי אלא בקרבנות של מלכים.

MISHNA One who took a vow by associating an item with a dedication [*herem*],^h saying: This item is hereby forbidden to me like an item dedicated to the Temple, and then said: **I took a vow only with the intention that it would be like a sea net [*hermo shel yam*][†] that is used to catch fish; or one who took a vow by associating an item with an offering, and then said: **I took a vow only with reference to offerings to kings, i.e., a gift for a king, not an offering to God.****

”הרי עצמי קרבן”, ואמר: “לא נדרתי אלא בעצם שהנחת לי להיות נודר בו.” קונם אשתי נהנית לי, ואמר: לא נדרתי אלא באשתי הראשונה שגירשתי.

Or one who said: **I am hereby an offering myself [*atzmi*], and then said: **I took a vow only with reference to a bone [*etzem*] that I set aside for myself to vow with, as *atzmi* means both myself and my bone, i.e., he set aside a bone so as to pretend to take a vow upon himself; or one who said: **Deriving benefit from me is konam for my wife, and then said: I took a vow only with regard to my first wife whom I divorced, not with regard to my current wife.******

על כולן אין נשאלין להם, ואם נשאלו – עונשין אותן, ומחמירין עליהן, דברי רבי מאיר.

For all of the above vows, those who took them **do not** need to request of a halakhic authority to dissolve them, as the speaker interpreted the vows in a manner that caused them not to take effect at all. **However, if they requested** dissolution, apparently due to their being uncertain of their explanations, the court **punishes them and treats them stringently** and the vows are not dissolved. This is **the statement of Rabbi Meir.**

וחכמים אומרים: פותחין להן פתח ממקום אחר, ומלמדין אותן, כדי שלא ינהגו קלות ראש בנדורים.

And the Rabbis say: These vows are not treated stringently. Rather, dissolution is broached with them by suggesting a **different extenuation, i.e., the halakhic authority suggests extenuating circumstances that undermine the vow but do not pertain to its wording. And we teach them that they should not take this kind of vow in the future, in order that they will not take vows lightly.**

A Torah scholar etc. – תלמיד חכם וכו': Some commentaries explain that a Torah scholar is considered trustworthy, and if he says what his intention was he is deemed credible, whereas an ignoramus is not deemed credible in this case (Rashba; Rosh). Others explain that a Torah scholar is not treated stringently because he vows only occasionally, so there is no concern that he will develop a habit of taking vows and eventually transgressing them (Commentary on *Nedarim*; Ritva). The Rambam maintains that even a Torah scholar is taught not to take this kind of vow in the future.

Ultimately you will abuse oaths – למעול בשבועות: The Ran explains that he will eventually come to disregard even oaths, which are more stringent than vows, as it is written with regard to them: "The Lord will not hold guiltless" (Exodus 20:6; see 18a). The version of the Gemara found in the Commentary on *Nedarim* reads: Ultimately you will transgress vows, i.e., if he becomes accustomed to taking vows he will eventually come to violate them. This version is accepted in the *Hatam Sofer*, where it is asserted that violation of a vow is more grave than violation of an oath.

As it is situated opposite the heel – שהיא מכיון כנגד העקב: When a woman kneels, her intimate parts are situated opposite the heel (*Arukh*).

HALAKHA

One who vowed to be a nazirite and violated, etc. – מי ששָׁנַר וְעָבַר וכו': If one vowed to be a nazirite and violated his naziriteship due to his presumption that it did not take effect, and afterward consulted a halakhic authority who instructed him that it did take effect, by Torah law the term of naziriteship is counted from the time that the vow was taken. However, by rabbinic law he must observe naziriteship for an additional number of days corresponding to the term during which he violated his vow (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 4:13–14; *Shulhan Arukh*, *Yoreh De'a* 208:2).

However, in a long term of naziriteship – אָבַל בְּנִזְרוּת מְרֻבָּה: If one vowed to be a nazirite for an extended term and did not observe his naziriteship due to his presumption that it did not take effect, and he then consulted a halakhic authority who told him that the vow took effect, he is not obligated to observe the entire term of naziriteship from the beginning. Instead, he must observe only thirty days. This is in accordance with the opinion of Rabbi Yosef, following the principle that his opinion is accepted when he is in disagreement with other Sages. Other authorities rule in accordance with the opinion of Rabbi Yehuda, which states that even if the vow was for a long term of naziriteship it must be observed for an additional number of days equal to that for which he violated his vow (*Shakh*, citing Ra'avad, Rosh, and Rabbeinu Yeruham). According to the Ra'avad, if he does not observe this additional term of naziriteship he is not attended to further by a halakhic authority at all, and the vow is not dissolved (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 4:15; *Shulhan Arukh*, *Yoreh De'a* 208:3).

He is excommunicated – מִשְׁמַתִּינָה לִיָּה: A halakhic authority who dissolves the vow of one who did not observe his vow, or that instructs him to disregard the additional period that he must observe it, is excommunicated. This is in accordance with Rabbi Aḥa bar Yaakov, whose opinion is accepted because he lived after Rav Yosef (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 4:16).

Never be accustomed to taking vows – לְעוֹלָם אַל תְּהִי רִגִּיל: One should not even frequently take vows in order to encourage oneself to perform mitzvot, so that one should not become accustomed to taking vows (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 13:24; *Shulhan Arukh*, *Yoreh De'a* 203:1).

This relates to his wife when she has the status of a menstruating woman – וּבִאִשְׁתּוֹ נִדָּה: One is permitted to look at his wife when she has the status of a menstruating woman. The Ra'avad adds that one may not look at the parts of her body usually covered (Rambam *Sefer Kedusha*, *Hilkhot Issurei B'ia* 21:4; *Shulhan Arukh*, *Even HaEzer* 21:4).

GEMARA This matter is itself difficult. On the one hand, you said they do not need to request to dissolve them, and then it is taught that if they requested dissolution, the court punishes them and treats them stringently, i.e., the vows took effect and the vows are not dissolved.

Rav Yehuda said that this is what the mishna is teaching: All of these vows do not need a request. However, in what case is this statement said? In the case of a Torah scholar,ⁿ who knows that these vows do not take effect, and he obviously did not intend for them to take effect in the first place. However, in the case of an ignoramus who comes to request dissolution of the vow, the court punishes him and treats him stringently.

The Gemara asks: Granted, the court treats him stringently in that the halakhic authorities do not broach dissolution with him merely by means of regret; rather, extenuating circumstances must be found. However, what are the circumstances in which the court punishes him?

The Gemara answers that the circumstances are as it is taught in a *baraita*: With regard to one who vowed to be a nazirite and violated^h his naziriteship, the halakhic authority does not attend to him to dissolve his vow until he observes the prohibitions of naziriteship for the same number of days in which he behaved with permissiveness concerning the restrictions of a nazirite. This is the statement of Rabbi Yehuda. Rabbi Yosef said: In what case is this statement, that he must observe naziriteship for a period of time corresponding to his vow, said? It is said in the case of a short term of naziriteship, which is not longer than the minimum thirty days. However, in the case of a long term of naziriteship^h it is enough for him to observe it for thirty days, even if he violated it for a greater number of days. This explains the punishment mentioned in the mishna: An ignoramus who requests the dissolution of his vow must first observe the vow for a certain period of time.

Rav Yosef said: Since the Sages say that the halakhic authority does not attend to him, a court that does attend to him and dissolves his vow immediately is not acting properly. Rav Aḥa bar Yaakov says: A halakhic authority who dissolves the vow prematurely is excommunicated.^h

It is stated in the mishna that the Rabbis say: Dissolution is broached with him by suggesting a different extenuation, and he is taught not to take this kind of vow so that he will not take vows lightly. It is taught in a *baraita*: Never be accustomed to taking vows,^h because ultimately you will disregard them, and you will even abuse oaths,ⁿ which are more grave. And do not regularly be around an ignoramus, because ultimately he will feed you untithed produce, as he is not careful to tithe. Do not regularly be by an ignorant priest, because ultimately he will feed you *teruma* due to his close relationship with you, and *teruma* is forbidden to a non-priest. And do not talk extensively with a woman, because ultimately you will come to adultery.

Rabbi Aḥa, son of Rabbi Yoshiya, says: Anyone who watches women will ultimately come to sin, and anyone who looks at the heel of a woman will have indecent children as a punishment. Rav Yosef said: And this relates to all women, including his wife when she has the status of a menstruating woman.^h Rabbi Shimon ben Lakish said: The heel of a woman that is mentioned is not the heel of the foot, but the place of uncleanness, i.e., the genitalia, and it is called a heel as a euphemism, as it is situated opposite the heel.ⁿ

גמ' הא גופא קשיא: אמת: אין נשאלין להן, והדר תני: אם נשאלו – עונשין אותן ומחמירין עליהן!

אמר רב יהודה, הכי קתני: וכולן אין צריכין שאלה, במה דברים אמורים – בתלמיד חכם, אבל בעם הארץ שבא לישאל – עונשין אותו ומחמירין עליו.

בשלמא מחמירין – דלא פתחינן ליה בחרטה. אלא עונשין היכי דמי?

כדתנא: מי ששָׁנַר וְעָבַר עַל נִזְרוּתוֹ – אין נזקקין לוֹ עַד שִׁנְהוּג בּוֹ אִיסוּר כְּיָמֵי שִׁנְהוּג בְּהוֹן הֵיטֵר, דְּבִרְבֵּי יְהוּדָה. אָמַר רַבִּי יוֹסֵף: בְּמַה דְּבָרִים אֲמֹרִים – בְּנִזְרוּת מוּעָטָה, אָבַל בְּנִזְרוּת מְרֻבָּה – דִּי שְׁלִשִׁים יוֹם.

אמר רב יוסף: הואיל ואמרי רבנן אין נזקקים לו, בי דינא דמזדקקי – לא עביד שפיר. רב אחא בר יעקב אומר: משמתנין ליה.

”וחכמים אומרים פותחין לו פתח” כו'. תנא: לעולם אל תהי רגיל בנדרים, שסופך למעול בשבועות. ואל תהי רגיל אצל עם הארץ, שסופך להאכילך טבילים. אל תהי רגיל אצל עם הארץ, שסופך להאכילך תרומה. ואל תרבה שיחה עם האשה, שסופך לבוא לידי גיבוי.

רבי אחא ברבי יאשיה אומר: כל הצופה בנשים סופו בא לידי עבירה, וכל המסתכל בעקבה של אשה – הויין לו בנים שאינן מהגנן. אמר רב יוסף: ובאשתו נדה. אמר רבי שמעון בן לקיש: עקבה דקתני – במקום הטנופת, שהיא מכיון כנגד העקב.

NOTES

That his forefathers did not stand at Mount Sinai – שׁוּלָא עֲמָדוּ אֲבוֹתָיו עַל הַר סִינַי: This means that his soul is not one of the souls of the Jewish people that stood at Mount Sinai (*Ben Yehoyada*).

Because their fathers overturn their tables – מִפְּנֵי שְׂהוּקָבִים אֶת שׁוּלְחָנָם: The meaning of this term is a subject of disagreement. One opinion is that it is referring to anal intercourse (*Tosafot*; *Rosh*). Others say that it is referring to sexual intercourse where the man is on the bottom and the woman is on top (*Commentary on Nedarim*; *Tosefot Rabbeinu Peretz*). Still others say that it is referring to sexual intercourse where the man faces the woman's back (*Rabbi Avraham min HaHar*).

Because their parents converse – מִפְּנֵי שְׂמֻסְפָּרִים: Several commentaries explain that while engaging in conversation, the husband begins to think about other women. Others explain that engaging in conversation leads to distraction, thereby preventing the husband from fully focusing on his wife. *Tosafot* explain that this is not referring to speaking per se, but of engaging in sexual intercourse in a manner which will be heard by others, which is immodest behavior. Others understand similarly, but explain that awareness that they are being heard will detract from their pleasure (*Tosafot Yeshanim*).

תַּנְיָא: "בַּעֲבוּר תְּהִיָּה יִרְאָתוֹ עַל פְּנֵיכֶם" – זוֹ בּוֹשָׁה: "לְבִלְתִּי תַחֲטְאוּ" – מִלְּמַד שְׂהִיבּוּשָׁה מִבִּינְיָא לְיַדִּי יִרְאָת חֲטָא. מִיִּכְן אָמְרוּ: סִימָן יָפֵה בְּאָדָם שְׂהוּא בִּישׁוֹן. אֲחֵרִים אָמְרִים: כָּל אָדָם הַמֵּתְבַיֵּשׁ – לֹא בְמַהֲרָה הוּא חוֹטֵא, וּמִי שְׂאִין לוֹ בּוֹשֶׁת פָּנִים – בְּדוּעַ שׁוּלָא עֲמָדוּ אֲבוֹתָיו עַל הַר סִינַי.

אָמַר רַבִּי יוֹחָנָן בֶּן דֵּהֲבַאי, אַרְבַּעַה דְּבָרִים סָחוּ לִי מִלְּאֲכִי הַשָּׂרָת: הִיגְרִין מִפְּנֵי מַה הָיוּיָן – מִפְּנֵי שְׂהוּקָבִים אֶת שׁוּלְחָנָם, אִילָמִים מִפְּנֵי מַה הָיוּיָן – מִפְּנֵי שְׂמֻסְפָּקִים עַל אוֹתוֹ מְקוֹם, הַרְשִׁים מִפְּנֵי מַה הָיוּיָן – מִפְּנֵי שְׂמֻסְפָּרִים בְּשַׁעַת תְּשׁוּמִישׁ, סוּמִין מִפְּנֵי מַה הָיוּיָן – מִפְּנֵי שְׂמֻסְתְּבָלִים בְּאוֹתוֹ מְקוֹם.

וּרְמִינָהּ: שְׁאֵלוּ אֶת אִימָא שְׁלוֹם: מִפְּנֵי מַה

It is taught in a *baraita*: "That His fear may be upon your faces" (Exodus 20:17); this is referring to shame, as shame causes one to blush. "That you not sin" (Exodus 20:17) teaches that shame leads to fear of sin. From here the Sages said: It is a good sign in a person that he is one who experiences shame. Others say: Any person who experiences shame will not quickly sin, and conversely, one who does not have the capacity to be shamefaced, it is known that his forefathers did not stand at Mount Sinai.^N

Rabbi Yohanan ben Dehavai^P said: The ministering angels told me four matters: For what reason do lame people come into existence? It is because their fathers overturn their tables,^N i.e., they engage in sexual intercourse in an atypical way. For what reason do mute people come into existence? It is because their fathers kiss that place of nakedness. For what reason do deaf people come into existence? It is because their parents converse^N while engaging in sexual intercourse. For what reason do blind people come into existence? It is because their fathers stare at that place.

And the Gemara raises a contradiction: Imma Shalom,^P the wife of Rabbi Eliezer ben Hyrcanus, was asked: For what reason

PERSONALITIES

Rabbi Yohanan ben Dehavai – רַבִּי יוֹחָנָן בֶּן דֵּהֲבַאי: This Sage, who is mentioned only in *baraitot*, apparently lived in the generation prior to the completion of the Mishna. He studied under the Sages of Yavne. Only a few of his statements in *halakha* and *aggada* remain.

Imma Shalom – אִימָא שְׁלוֹם: Imma Shalom was the wife of Rabbi Eliezer ben Hyrcanus. Imma was an honorary title used when

addressing older or distinguished women. Her name Shalom may be compared to the names Shelomith and Shelomtzion. She was the sister of Rabban Gamliel, head of the Sanhedrin at Yavne. It is recounted that when both were young, they were actively engaged in exposing the hypocrisy and corruption of the heretics. Several sources indicate that she was a wise and righteous woman who respected the greatness and piety of her husband.

Perek II
Daf 20 Amud b

HALAKHA

Rather at midnight – אֵלָא בְּחֻצוֹת הַלַּיְלָה: Engaging in sexual intercourse in the middle of the night, as Rabbi Eliezer did, is a holy manner of behavior (*Rambam Sefer HaMadda, Hilkhot Deot* 5:4 and *Sefer Kedusha, Hilkhot Issurei Bia* 21:10; *Shulhan Arukh, Oraḥ Ḥayyim* 240:7 and *Even HaEzer* 25:3).

And when he converses he reveals a handbreadth, etc. – וְכִשְׂהוּא מְסַפֵּר מְגַלֵּה טֶפַח וְכוּ': While engaging in sexual intercourse one should have an attitude of fear of Heaven, as Rabbi Eliezer did. There are different interpretations of the expression: Reveals a handbreadth and covers a handbreadth. The *Kaf HaḤayyim*, citing *Nezirut Shimshon*, says that not all of these interpretations are appropriate according to esoterica (*Rambam Sefer HaMadda, Hilkhot Deot* 5:4 and *Sefer Kedusha, Hilkhot Issurei Bia* 21:9; *Shulhan Arukh, Oraḥ Ḥayyim* 240:8 and *Even HaEzer* 25:2).

בְּנִיךְ יָפִיפִין בְּיוֹתֵר? אָמְרָה לֵהֶן: אֵינוּ מְסַפֵּר עִמּוֹ לֹא בְּתַחֲלִית הַלַּיְלָה וְלֹא בְּסוּף הַלַּיְלָה, אֵלָא בְּחֻצוֹת הַלַּיְלָה, וְכִשְׂהוּא מְסַפֵּר – מְגַלֵּה טֶפַח וּמְכַסֵּה טֶפַח, וְדוּמָה עָלָיו כְּמִי שֶׁכָּפָא שׂוֹד.

are your children so beautiful? She said to them: My husband does not converse with me while engaging in sexual intercourse, neither at the beginning of the night nor at the end of the night, but rather at midnight.^H And when he converses with me while engaging in sexual intercourse, he reveals a handbreadth^H of my body and covers a handbreadth,^N and he covers himself up as though he were being coerced by a demon^N and is covering himself out of fear.

NOTES

He reveals a handbreadth and covers a handbreadth – מְגַלֵּה טֶפַח וּמְכַסֵּה טֶפַח: There are different explanations of this expression. Some commentaries explain that after revealing each handbreadth of her body he would immediately cover it with his garment. They add that this was not to prevent himself from seeing her body since it was midnight in any case, but rather out of modesty and fear of Heaven (*Tosefot Rabbeinu Peretz*; *Rabbi Avraham min HaHar*). The Meiri holds that it was to avoid seeing her body, since he presumably had a candle lit at night in order to study; being a scholar, he was permitted to engage in sexual intercourse under his garment in a lit room (see *Nidda* 17a).

Others explain that he revealed only one of the two

handbreadths of the body that one may reveal while relieving himself (*Ran*). A third interpretation is that he did not fully expose his reproductive organ (*Rabbi Eliezer of Metz*; *Ritva*, cited in *Shita Mekubbetzet*).

As though he were being coerced by a demon – וְדוּמָה עָלָיו כְּמִי שֶׁכָּפָא שׂוֹד: The Commentary on *Nedarim* offers two explanations for this phrase: One is that he would engage in sexual intercourse as if he were compelled. The other is that he would cover himself up like one who is afraid of a demon. Others explain that he would perform the act quickly (*Ran*; *Rabbi Avraham min HaHar*).

What is the reason for this behavior – מה טעם: Rabbi Eliezer of Metz explains that her question was why he would engage in sexual intercourse with her so hastily. Other commentaries explain that she asked why he would cover her body. According to a third explanation she asked why he would engage in intercourse with her specifically at midnight. In any case, the answer is the same: He did not wish to allow other women to enter his mind, or to compare between his wife's looks and those of other women (*Shita Mekubbetzet*).

With regard to matters of sexual intercourse – במילי: Conversing about these matters is not considered a lack of holiness, because it prevents the husband from becoming distracted or from thinking about other women while engaging in sexual intercourse with his wife. Consequently, he is completely focused, and the children conceived from intercourse performed in this manner are physically and spiritually flawless (Meiri; Rabbi Avraham min HaHar). The Ran writes that this kind of conversation is permitted to him in order to entice her.

I set him a table and he turned it over – ערַבְתִּי לוֹ שׁוּלְחָן: This refers to sexual positions. See the *Shita Mekubbetzet* for the different opinions among the commentaries.

HALAKHA

What a man wishes to do, etc. – כָּל מֵה שֶׁאָדָם רוֹצֵה: A man's wife is permitted to him; therefore, he may do as he wishes with her. According to *halakha* he may engage in intercourse with her and kiss her anywhere on her body, as long as he does not emit semen for naught (Rema, citing Rabbi Yitzhak), in accordance with the opinion of Rabbi Yohanan in the name of the Rabbis. However, one who sanctifies himself by refraining from some actions which are permitted is considered holy (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 21:9; *Shulhan Arukh*, *Even HaEzer* 25:2).

A man should not drink from this cup, etc. – אַל יִשְׁתֶּה אֶדָם: The Sages stated that one should not engage in intercourse with his wife while thinking about another woman, even another wife of his, in accordance with the statement of Rabbi Yehuda HaNasi and the interpretation of Ravina (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 21:12; *Shulhan Arukh*, *Even HaEzer* 25:10).

LANGUAGE

Table – שׁוּלְחָן: Use of this noun with regard to sexual intercourse is similar to use of the verb eating as a euphemism for engaging in sexual intercourse, which is found in the Bible as well (e.g., Proverbs 30:20). The euphemism used here can be considered an elaboration of the biblical one.

Binnita – בנייתא: This is apparently referring to a specific species of fish, perhaps from the genus *Barbus*. In Arabic it is called *bunnā*.



Common barbel of the genus *Barbus*

וְאָמַרְתִּי לוֹ: מֵה טַעַם? וְאָמַר לוֹ: בְּדִי שֶׁלֹא אֶתֵּן אֶת עֵינַי בְּאִשָּׁה אַחֶרֶת, וְנִמְצְאוּ בְּנֵי בְּאִין לְיַדִּי מִמְּוֹרוֹת!

And I said to my husband: What is the reason for this behavior?ⁿ And he said to me: It is so that I will not set my eyes on another woman, i.e., think about another woman; if a man thinks about another woman during sexual intercourse with his wife, his children consequently come close to receiving a *mamzer* status, i.e., the nature of their souls is tantamount to that of a *mamzer*. Therefore I engage in sexual intercourse with you at an hour when there are no people in the street, and in this manner. In any event, it can be seen from her words that a Sage conversed with his wife while engaging in sexual intercourse with her.

לֹא קִשְׂיָא; הָא – בְּמִילֵי דְתַשְׁמִישׁ, הָא – בְּמִילֵי אַחֲרוּנֵיִתָּא.

The Gemara answers: This is not difficult. This permission to converse with her is with regard to matters of sexual intercourse,ⁿ whereas that restriction of conversation is with regard to other matters that are not related to sexual intercourse.

אָמַר רַבִּי יוֹחָנָן: זֶה דְּבָרֵי יוֹחָנָן בֶּן דֵּהבַּאִי, אָבֵל אָמְרוּ חֲכָמִים: אֵין הִלְכָה בְּיוֹחָנָן בֶּן דֵּהבַּאִי, אֲלֵא כָּל מֵה שֶׁאָדָם רוֹצֵה לַעֲשׂוֹת בְּאִשְׁתּוֹ – עוֹשֶׂה. מְשַׁל לְבִשְׁר הַבָּא מִבֵּית הַטְּבַח, רֹצֵה לְאָכְלוּ בְּמֶלַח – אוֹכְלוּ, צְלִי – אוֹכְלוּ, מְבוּשָׁל – אוֹכְלוּ, שְׁלוּק – אוֹכְלוּ, וְכֵן דָּג הַבָּא מִבֵּית הַצֵּיִד.

Rabbi Yohanan said: That is the statement of Yohanan ben Dehavai. However, the Rabbis said: The halakha is not in accordance with the opinion of Yohanan ben Dehavai. Rather, whatever a man wishes to doⁿ with his wife he may do. He may engage in sexual intercourse with her in any manner that he wishes, and need not concern himself with these restrictions. As an allegory, it is like meat that comes from the butcher. If he wants to eat it with salt, he may eat it that way. If he wants to eat it roasted, he may eat it roasted. If he wants to eat it cooked, he may eat it cooked. If he wants to eat it boiled, he may eat it boiled. And likewise with regard to fish that come from the fisherman.

אָמַר אַמֵּימָר: מֵאֵן מְלָאכֵי הַשָּׁרַת – רַבְנָן. דְּאֵי תִּימָא מְלָאכֵי הַשָּׁרַת מִמֶּשׁ – אַמֵּאֵי אָמַר רַבִּי יוֹחָנָן אֵין הִלְכָה בְּיוֹחָנָן בֶּן דֵּהבַּאִי? הָא אֵינְהוּ בְּקִיָּאֵי בְּצִוֵּת הַגִּלְד טַפְּסִי וְאַמֵּאֵי קָרוּ לְהוּ מְלָאכֵי הַשָּׁרַת – דְּמַצִּינֵי כְּמְלָאכֵי הַשָּׁרַת.

Ameimar said: Who are the ministering angels that Rabbi Yohanan ben Dehavai mentioned? He was referring to the Sages, for whom he employed the honorary title: Ministering angels. Because if you say that he was referring to actual ministering angels, why did Rabbi Yohanan say that the halakha is not in accordance with the opinion of Yohanan ben Dehavai? The ministering angels are more knowledgeable about the forming of the fetus than people are. Clearly, if the ministering angels were the source for the ruling of Rabbi Yohanan ben Dehavai it would have been imperative to heed his instructions. And why are the Sages called ministering angels? Because they stand out like ministering angels, as they are recognized by their clothing.⁸

הֵיאָה דְּאֵתַאֵי לְקַמֵּיה דְּרַבִּי, אָמְרָה לוֹ: רַבִּי, עֲרַבְתִּי לוֹ שׁוּלְחָן וְהִפְכּוֹ! אָמַר לָהּ: בְּתֵי, תוֹרָה הִתִּירְתְּךְ, וְאֵנִי מֵה אֶעֱשֶׂה לִיךְ? הֵיאָה דְּאֵתַאֵי לְקַמֵּיה דְּרַבִּי, אָמְרָה לוֹ: רַבִּי, עֲרַבְתִּי לוֹ שׁוּלְחָן וְהִפְכּוֹ! אָמַר: מֵאֵי שָׁנָא מִן בֵּינֵיתָא?

The Gemara relates: A certain woman, who came before Rabbi Yehuda HaNasi to complain about her husband, said to him: My teacher, I set him a table,^l using a euphemism to say that she lay before him during intimacy, and he turned it over.ⁿ Rabbi Yehuda HaNasi said to her: My daughter, the Torah permitted him to engage in sexual intercourse with you even in an atypical manner, and what can I do for you if he does so? Similarly, a certain woman who came before Rav said to him: My teacher, I set a table for him and he turned it over. He said to her: In what way is this case different from a fish [*binnita*]^l that one may eat any way he wishes?

״וְלֹא תִתּוֹרוּ אַחֲרַי לְבַבְכֶם״ מִכָּאֵן אָמַר רַבִּי: אַל יִשְׁתֶּה אֶדָם בְּכוֹס זֶה וְיִתֵּן עֵינָיו בְּכוֹס אַחֵר. אָמַר רַבִּינָא: לֹא נִצְרָא אֲלֵא דְאֶפְּלוּ שְׁתֵּי נָשִׁי.

S The verse states: “And that you not go about after your own heart” (Numbers 15:39). Rabbi Yehuda HaNasi said that it is derived from here that a man should not drink from this cup^h while setting his eyes on another cup, i.e., one should not engage in sexual intercourse with one woman while thinking about another woman. Ravina said: This statement is not necessary with regard to an unrelated woman. Rather, it is necessary only to state that even with regard to his own two wives, he should not engage in sexual intercourse with one while thinking about the other.

BACKGROUND

They stand out like ministering angels by their clothing – מַצִּינֵי כְּמְלָאכֵי הַשָּׁרַת: Several commentaries explain that Torah scholars would wear distinctive garb. This special attire was worn in Babylonia but not in Eretz Yisrael. Other commentaries, including the Commentary on *Nedarim*, explain that Torah

scholars wear ritual fringes on white garments. This causes them to look like angels, as in the book of Daniel an angel is referred to as “the man clothed in linen” (Daniel 12:7). This is understood to be referring to a white garment.

These are children of those who have nine traits – אלו בְּנֵי תִשְׁעַ מַדּוּת: Children of those who have the following nine traits are considered flawed. Although their halakhic status is not affected, sinners and those who rebel against God tend to come from them. They are children of a woman who was raped by her husband, or one who engaged in sexual intercourse with him out of fear (*Magen Avraham*); children of a hated woman; children of ostracism, i.e., one of the parents was ostracized at the time of conception; children of substitution, i.e., while engaging in intercourse with the woman, the man thought that she was another woman; children of a rebellious woman, meaning that she does not want her husband; children of drunkenness, meaning that at least one of the parents was drunk during intercourse; children of a woman who was divorced in the mind, i.e., the husband intended to divorce her but nevertheless engaged in intercourse with her; children of mixture, i.e., one of the parents was thinking about another person during intercourse; and children of a shameless woman, who demands of her husband that he engage in intercourse with her.

The *Peri Megadim* adds that these behaviors are considered improper even if the woman is incapable of conceiving due to pregnancy, age, or other factors. The *Mishna Berura* notes that if the woman entices her husband without an explicit demand, it is both unproblematic and a mitzva for him to engage in intercourse with her, and excellent children are conceived from such an act. In general, the proper manner in which a couple should engage in intercourse is with the willingness and pleasure of both the husband and the wife (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 21:12–13; *Shulhan Arukh, Oraḥ Hayyim* 240:3).

“וְכִרְוֹתֵי מִכָּם הַמְרִידִים וְהַפּוֹשְׁעִים בִּי”
אָמַר רַבִּי לִוִּי: אֵלּוּ בְּנֵי תִשְׁעַ מַדּוּת, בְּנֵי
אֲסֻנַּת מִשְׁנַעֲתָהּ.

בְּנֵי אֵימָה, בְּנֵי אֲנוּסָה, בְּנֵי שְׁנוּאָה,
בְּנֵי נִדּוּי, בְּנֵי תַמּוּרָה, בְּנֵי מְרִיבָה, בְּנֵי
שְׁכָרוּת, בְּנֵי גְרוּשַׁת הַלֵּב, בְּנֵי עֲרֻבוּבָיָא,
בְּנֵי חֲצוּפָה.

אֵינִי? וְהָאֵמַר רַבִּי שְׁמוּאֵל בַּר נַחֲמָנִי
אָמַר רַבִּי יוֹנָתָן: כָּל אָדָם שֶׁאֶשְׁתּוֹ
תּוֹבַעְתּוֹ – הָיוּ לוֹ בָּנִים שֶׁאֶמְלִילוּ בְּדוֹרוֹ
שֶׁל מֹשֶׁה רַבֵּינוּ לֹא הָיוּ כְּמוֹתָם, שֶׁנֶּאֱמַר
“הָבּוּ לָכֶם אֲנָשִׁים חֲכָמִים וְנִבְנִים”
וְכָתִיב “וְאָקַח אֶת רְאִשֵׁי שְׁבִטֵיכֶם”
וְלֹא כָתִיב נְבוֹנִים,

The verse states: “And I will purge out from among you the rebels, and those that transgress^N against Me” (Ezekiel 20:38). Rabbi Levi said: These are children of those who have nine traits,^H who are defective from their conception and from whom rebels and transgressors emerge. The mnemonic for these nine traits is children of the acronym *aleph, samekh, nun, tav, mem, shin, gimmel, ayin, het*.

The children of nine traits are as follows: Children of fear [*eima*], i.e., where the wife was afraid of her husband and engaged in sexual intercourse with him out of fear; children of a woman who was raped [*anusa*];^N children of a hated woman [*senua*], i.e., a woman who was hated by her husband; children of ostracism [*niddui*],^N i.e., one of the parents was ostracized by the court; children of substitution [*temura*], i.e., while engaging in intercourse with the woman, the man thought that she was another woman; children of strife [*meriva*],^N i.e., the parents engaged in intercourse while they were quarreling; children of drunkenness [*shikhrut*], i.e., the parents engaged in intercourse while they were drunk; children of a woman who was divorced in the heart [*gerushat halev*], i.e., the husband had already decided to divorce her when they engaged in intercourse; children of mixture [*irbuveya*],^N i.e., the man did not know with which woman he was engaging in intercourse; children of a shameless woman [*hatzufa*] who demands of her husband that he engage in intercourse with her.

The Gemara asks: Is that so? But didn’t Rabbi Shmuel bar Nahmani say that Rabbi Yonatan said: Any man whose wife demands of him that he engage in sexual intercourse with her will have children the likes of whom did not exist even in the generation of Moses our teacher? As it is stated: “Get you wise men, and understanding, and well known from each one of your tribes, and I will make them head over you” (Deuteronomy 1:13); and it is written subsequently: “So I took the heads of your tribes, wise men, and well known” (Deuteronomy 1:15). And it does not say that they were understanding. Evidently, even Moses could not find understanding men in his generation.

NOTES

הַמְרִידִים וְהַפּוֹשְׁעִים: The rebels and those that transgress – Most commentaries indicate that this description is referring to children conceived from intercourse performed in the manner described by the subsequent mnemonic. Although they do not belong to an inferior class of lineage, their souls are affected by the improper way they were conceived, and that causes them to eventually become rebels and transgressors. By contrast, the Ra’avad indicates that this description is referring to the parents, who are called rebels and transgressors due to their inappropriate behavior.

בְּנֵי אֲנוּסָה – Children of a woman who was raped – It makes no difference whether she was an unmarried woman who was raped or a married woman raped by her husband. The Ran, noting that there are in fact ten categories in the list, while Rabbi Levi mentions only nine traits, asserts that the categories of children of fear and children of a woman who was raped are one and the same, with the only difference being that in the former case the woman engaged in sexual intercourse out of fear, whereas in the latter case she was physically forced. According to other versions of the text, either the phrase children of fear or the phrase children of a woman who was raped is omitted. This explains the number nine.

בְּנֵי נִדּוּי – Children of ostracism – It is prohibited for one who is ostracized to engage in sexual intercourse. This prohibition applies to a mourner and a leper as well (*Tosefot Rabbeinu Peretz; Talmidei Rabbeinu Peretz*). A different version of the text lists children of a menstruating woman [*nidda*]. Although they do not belong to an inferior class of lineage, they have a spiritual flaw.

בְּנֵי מְרִיבָה – Children of strife – According to the version of Rabbi Yitzhak Tzarfati, the text reads: Children of a rebellious woman [*moredet*].

בְּנֵי עֲרֻבוּבָיָא – Children of mixture – The Commentary on *Nedarim* and other commentaries provide several interpretations of this expression. One interpretation is that a man engaged in sexual intercourse with one of his wives and did not know which one. Another explanation is that the woman was not married, and she engaged in intercourse with several men and does not know who the father is. A third explanation is that a widow remarried shortly after the death of her husband, and it is not known whether the first or the second husband is the father.

Who entices – דְּמַרְצִיא אֶרְצוּי: Most commentaries explain that this woman does not demand intercourse explicitly but rather hints at it. The wording Leah used was: “You must come in to me” (Genesis 30:16), which indicated that she wanted to engage in intercourse with him. Some commentaries interpret this enticing to mean that the intention of the wife is to appease her husband and to give him peace of mind (*Tosafot Yeshanim*).

וּכְתִיב “יִשְׁשַׁכֵּר חֲמֹר גָּרָם” וּכְתִיב “מִבְּנֵי יִשְׁשַׁכֵּר יוֹדְעֵי בִינָה לְעֵתִים!”

And by contrast, it is written: “Issachar is a large-boned donkey” (Genesis 49:14). The Sages transmitted a tradition that this is an allusion to the incident when Jacob came in from the field riding on a donkey, and Leah went out to greet him, saying: “You must come in to me; for I have hired you with my son’s mandrakes” (Genesis 30:16). Issachar was conceived from their subsequent sexual intercourse. **And it is written: “And of the children of Issachar, men that had understanding of the times”** (1 Chronicles 12:33). The descendants of Issachar were understanding men. It is derived from here that a woman who demands from her husband that he engage in sexual intercourse with her has a positive effect on their children.

הָיָא דְּמַרְצִיא אֶרְצוּי.

The Gemara answers: **That baraita** is not referring to a woman who demands intercourse explicitly, but rather to one **who entices**^N her husband, so that he understands that she wants to engage in sexual intercourse with him. They consequently have excellent children.

הדרן עלך ואלו מותרין

מתני' ארבעה נדרים התירו חכמים: נדרי זרוזין, ונדרי הבאי, ונדרי שגגות, ונדרי אונסין. נדרי זרוזין כיצד? הנה מוכר חפץ ואמר "קונם שאיני פוחת לך מן הסלע" והלה אומר "קונם שאיני מוסיף לך על השקל".

MISHNA The Sages dissolved four types of vows^H without the requirement of a request to a halakhic authority: **Vows of exhortation, vows of exaggeration, vows that are unintentional, and vows whose fulfillment is impeded by circumstances beyond one's control.** The mishna explains: **Vows of exhortation** are those by which one encourages another using vow terminology that is exaggerated. **How so? One was selling^N an item and said:^H I will not lower the price for you to less than a sela, as that is konam,^N forbidden as if it were an offering, for me. And the other one, the buyer, says: I will not raise my payment to you to more than a shekel,^B as that is konam for me.**

NOTES

One was selling, etc. – הנה מוכר וכו': The reason for dissolving this type of vow is because his verbal declaration and his intent are not identical: Although he verbally vows that he will not lower or raise the price, he does not mean what he says, as he expects that a compromise will be reached (Rabbeinu Tam, in *Sefer HaYashar*). Although there is a principle that unspoken intentions do not have significance, it was clear to the Sages that in this case it is customary for people to speak in this manner, without true intent (Ritva; Rosh). According to this understanding, the statement in the Jerusalem Talmud that the vow is binding if the individual firmly maintains his commitment, meaning

he stubbornly holds his position and refuses to waive the vow, is understandable.

I will not lower the price for you...that is konam, etc. – קונם – שאיני פוחת לך וכו': Some interpret *konam* here to be an abbreviated phrase, and the seller is declaring that a certain item should be *konam* for him if he reduces the price (Rosh), while the buyer declares that the merchandise be *konam* for him if he increases the price (Ran). Others say that this *konam* refers to the dinar, that the seller declares that if he reduces the price the dinar he receives shall be *konam* for him.

BACKGROUND

Sela and shekel – סלע ושקל – Apparently, the source of using the term *sela* to refer to a coin is similar to the expansion of the word stone to refer to a measurement of weight. *Sela*, too, denotes a certain weight of an expensive metal. The value of a *sela* was four silver dinars, and it was generally the most valuable silver coin that was used in commerce. Of commonly used coins, the

sela was second in value only to the gold dinar. The shekel coin was worth two dinars, i.e., half a *sela*. It was apparently given that name since it was the fixed amount that was given each year for the upkeep of the Temple. This shekel was of equivalent value to the half-shekel mentioned in the Torah, while a whole biblical shekel is valued at four dinars.

HALAKHA

The Sages dissolved four types of vows – ארבעה נדרים – התיירו חכמים: Vows of exhortation, vows of exaggeration, inadvertent vows, and vows whose fulfillment is impeded by circumstances beyond one's control (Rambam *Sefer Hafla'a*, *Hilkhot Shevuot* 3:1, 5 and *Hilkhot Nedarim* 4:1–3; *Shulhan Arukh*, *Yoreh De'a* 232:1).

One was selling an item and said, etc. – הנה מוכר חפץ ואמר וכו': If one is selling an item to another and vows not to lower the price below four dinars, and the buyer vows not to raise his offer above two dinars, and they compromise at around three dinars (Ran), no prohibition takes effect due to either vow. This is because that is the way people transact business, and the parties did not intend to take a vow. Some say that the seller may not sell it at the exact price that the buyer desired or vice versa, and if one of them did so his vow takes effect. Others are lenient in this case as well, and that is the accepted custom (*Bah*).

This principle applies only when they ultimately compromised and did not firmly stand by their words. But if they did not compromise and the sale was not completed, and one of them later reneged and settled for the price of the other, his vow takes effect. All of these principles apply in a case where they did not say explicitly that they were taking a vow; if they stated that they intended their words to be a vow, then they have taken a vow (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 4:3; *Shulhan Arukh*, *Yoreh De'a* 232:2).

שניהם רוצין בשלשה דינרין.

In this case, one may assume that **both want to complete the deal at three dinars,^N and they did not intend to vow but only exaggerated for purposes of bargaining.**

גמ' "ארבעה נדרים התירו חכמים" כו. אמר ליה רבי אבא בר ממל לרבי אמי: אמרת לן משמיה דרבי יהודה נשיאה: מאן תנא ארבעה נדרים – רבי יהודה היא דאמר משום רבי טרפון: לעולם אין אחד מהן נזיר, לפי שלא ניתנה נזירות אלא להפלאה.

GEMARA The mishna states: **The Sages dissolved four types of vows. Rabbi Abba bar Memel said to Rabbi Ami: You said to us in the name of Rabbi Yehuda Nesia: Who is the tanna who taught this mishna of four vows? It is the opinion of Rabbi Yehuda, who said in the name of Rabbi Tarfon: With regard to two people who entered into a wager, and each declared that he would become a nazirite if the other was right, then actually neither of them becomes a nazirite, because naziriteship is determined only by explicitness^N of intent. One cannot become a nazirite unless he vows clearly and with certitude. Here too, since the intent of the wagering parties was not actually to vow, the halakha is that the vow is invalid.**

NOTES

Only by explicitness – אלא להפלאה – Some later authorities question why the Gemara links this topic and that of vows of exhortation. While vows of exhortation are dissolved because the intent is not the same as the verbal declaration, in the case of vows of naziriteship he is not a nazirite because he took the vow without a definite decision (*Meromei Sadeh*). This can be

resolved by the interpretation of the Rid, who writes that even in the case of vows of exhortation, neither side knows whether the other will change his fixed price or not. Therefore, these vows also are not completely certain and lack precisely the same element as the naziriteship case.

NOTES

Both want the deal at three dinars – שניהם רוצין בשלשה דינרין – From the language of the mishna, it appears that the reason the vows do not take effect is that each of them intended to pay the average price from the outset. The commentaries ask: What happens if ultimately one side accepts the price that the other fixed? The Ran holds that while it is true that each took the vow in order to encourage the other to arrive at a compromise price, they also each intended to state, by taking a vow, that they will not pay the price the other is currently demanding. Therefore, if one does pay the initial price demanded by the other, his vow does take effect. By contrast, other early commentaries hold that any vow taken in the context of business negotiations is considered to be an exhortation vow alone, and even if one waives his demands totally, the vow does not take effect (Ritva; Ra'ah).