

HALAKHA

If her father heard and nullified the vow for her, etc. – שָׁמַע – שָׁמַע אֲבִיהָ וְהִפָּר לָהּ וְכִי אֲבִיהָ וְהִפָּר לָהּ וְכִי: If the woman's father heard and nullified her vow, but her betrothed died before he heard the vow, the father cannot nullify the betrothed's share. This ruling is in accordance with Beit Hillel's opinion, as explained by Rabbi Natan. The *Tur*, citing the Ramban, states that this applies only when the betrothed died after the day on which the father heard of the vow, but if he died on the day the father heard the vow, the father can nullify the entire vow (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 11:19; *Shulhan Arukh*, *Yoreh De'a* 234:16).

According to Beit Hillel, his nullification weakens – לְבֵית הִלֵּל – מְקַלֵּשׁ קְלִישׁ: If either the father or the husband nullified the woman's vow on his own, the vow is not nullified. However, the portion of the other one is weakened, which means that she is not liable to be flogged if she does not fulfill the vow, in accordance with Beit Hillel's opinion (*Shulhan Arukh*, *Yoreh De'a* 234:5).

שָׁמַע אֲבִיהָ וְהִפָּר לָהּ, וְלֹא הִסְפִּיק הַבַּעַל לְשַׁמּוֹעַ עַד שָׁמַת – חִזּוֹר הָאָב וּמִפָּר חֲלָקוֹ שֶׁל בַּעַל. אָמַר רַבִּי נָתָן: הֵן הֵן דְּבָרֵי בֵּית שַׁמַּי. בֵּית הִלֵּל אוֹמְרִים: אֵין יָכוֹל לְהִפָּר.

שָׁמַע מִיָּנָה: לְבֵית שַׁמַּי – מִיָּנָה גְּיִיז, לְבֵית הִלֵּל – מְקַלֵּשׁ קְלִישׁ. שָׁמַע מִיָּנָה.

If her father heard and nullified the vow for her,<sup>h</sup> and the husband did not manage to hear of the vow before he died, the father may go back and nullify<sup>n</sup> the husband's portion, and that will complete the nullification of her vow. Rabbi Natan said: This last ruling is the statement of Beit Shammai, but Beit Hillel<sup>p</sup> say that he cannot nullify<sup>n</sup> only the husband's share of the vow but must also nullify his own share again.

Having completed its citation of the *baraita*, the Gemara now states its proof: **Conclude from this that, according to the opinion of Beit Shammai**, whoever nullifies the vow first completely severs his half of the vow, and therefore the father needed only to nullify the part left by the husband. However, **according to the opinion of Beit Hillel**, his nullification weakens<sup>h</sup> the general force of the vow, so the father's subsequent nullification must address the whole vow. The Gemara rules: **Conclude from this *baraita*** that the husband's nullification weakens the general force of the vow, as the *halakha* is in accordance with Beit Hillel.

NOTES

The father may go back and nullify – חִזּוֹר הָאָב וּמִפָּר: The novelty in this clause of the *baraita* is that although the father has already nullified the vow, and one might have thought that he does not have the ability to complete the nullification on his own after the husband's death, he nevertheless may do so (Rosh).

He cannot nullify – אֵין יָכוֹל לְהִפָּר: There are two principal explanations of this ruling. The Commentary on *Nedarim* understands that according to Beit Hillel it is not sufficient for the father to nullify the husband's portion, but rather he must return and again nullify his own share as well. However, *Tosafot* understand that according to Beit Hillel the father cannot nullify this vow at all. Once the father has already nullified his share, the husband's share of the vow is weakened, and upon his death there is nothing substantial enough for the father to go back and nullify, although the obligation to fulfill the vow remains.

Some say that according to the explanation of *Tosafot*, Beit Hillel hold that in the earlier case, where the husband hears her vow, nullifies it, and dies, the father cannot nullify the vow for the same reason (see Rashba, citing Rambam). There is, however, room to differentiate between the two cases. When the husband performs the initial nullification and then dies, his nullification is canceled by his death, leaving a sufficiently substantial vow to be nullified by the father.

When the father performs the initial nullification and the husband dies without either joining in the nullification or ratifying the vow, the remnant of the vow that remains is too insubstantial for the father to nullify. The Rosh explains this distinction slightly differently: If the father initially nullifies the vow and the husband subsequently dies, the remnant of the vow that the husband could have nullified is too insubstantial to be passed over to the father. However, when the husband initially nullifies the vow and then dies, the father's portion of the vow remains, and when the father nullifies his portion, he can also nullify the remnant left by the husband.

According to the Ramban and the Ritva, the father can nullify the husband's portion, along with his own, on the day of the latter's death, despite the fact that he himself heard the vow earlier, as he is considered the heir of the husband's part and can therefore nullify the vow in his stead on the day he receives the authority to do so. The Ramban adds that this very issue is the subject of the dispute between Beit Shammai and Beit Hillel. Beit Shammai maintain that the father can always nullify the vow on the day of the husband's death, whereas Beit Hillel rule that he can do so only if he first heard the vow on the same day the husband died, in which case the father nullifies both their portions. See the Jerusalem Talmud for a very different rendering of the dispute between Beit Shammai and Beit Hillel.

PERSONALITIES

Beit Shammai and Beit Hillel – בֵּית שַׁמַּי וּבֵית הִלֵּל: These terms, literally meaning house of Shammai and house of Hillel, refer to the groups of disciples of these Sages. Although there are only three recorded matters of dispute between Hillel and Shammai themselves, their students were constant disputants who served together in the Sanhedrin at the end of the Second Temple period and after its destruction and disagreed about many points of *halakha*. With regard to the disagreements between these two groups, a mishna states (*Avot* 5:20): Any controversy waged for the sake of Heaven shall ultimately be of enduring value, but any that is

not waged for the sake of Heaven shall ultimately be of no enduring value. Which controversy was an example of one waged for the sake of Heaven? It is the controversy of Hillel and Shammai. And which was not for the sake of Heaven? It is the controversy of Korah and his company.

In general, Beit Shammai took a more stringent approach, while Beit Hillel took a more lenient one. The exceptional cases, in which Beit Shammai ruled more leniently than Beit Hillel, are listed in tractate *Eduyyot* (chapters 4–5). In most disputes between Beit Shammai and Beit Hillel, the *halakha* is in accordance with the opinion of Beit Hillel.

A halakhic authority may be requested to dissolve ratification, etc. – נשאלין על ההקם וכו': One who regrets ratification of his daughter's or wife's vow may request of a halakhic authority to dissolve this ratification. Once dissolution is granted, the father or husband can nullify the vow on that same day. According to some authorities, he can request dissolution of his ratification only on the day he heard the vow (Ran; Rabbeinu Yeruham; Smag). The Rema rules that one should be stringent, in accordance with this last opinion. In practice, if a young woman's father or husband nullified her vow after one of them had his ratification dissolved on a later day than the day he heard the vow, she should request dissolution of the vow from a halakhic authority (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 13:20; *Shulhan Arukh, Yoreh De'a* 234:49).

But may not be requested to dissolve nullification – ואין נשאלין על ההפר: One may not request that a halakhic authority dissolve his nullification, in accordance with Rabbi Yohanan's statement (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 13:20; *Shulhan Arukh, Yoreh De'a* 234:49).

The second oath goes into effect upon him – שניה חלה עליו: If a husband ratified his wife's oath or vow twice, and a halakhic authority dissolved the first ratification, the second ratification goes into effect, in accordance with Rava's opinion (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 13:22; *Shulhan Arukh, Yoreh De'a* 234:50).

בְּעֵי רַבָּא: יֵשׁ שְׂאֵלָה בְּהַקָּם אוֹ אִין שְׂאֵלָה בְּהַקָּם? אִם תִּמְצָא לֹמַר יֵשׁ שְׂאֵלָה בְּהַקָּם, יֵשׁ שְׂאֵלָה בְּהַפֵּר אוֹ אִין שְׂאֵלָה בְּהַפֵּר?

**S** Rava raises a dilemma: Is there the possibility of a request to a halakhic authority about dissolving the ratification of one's wife's vow,<sup>N</sup> or is there no possibility of a request to a halakhic authority about dissolving his ratification of one's wife's vow? One might seek to dissolve one's ratification if he now desires to nullify the vow. Furthermore, if you say that there is the possibility of a request to dissolve his ratification,<sup>N</sup> is there the possibility of a request to a halakhic authority about dissolving nullification<sup>N</sup> of his wife's vow, to allow him to ratify the vow in place of nullifying it? Or is there no possibility of a request to dissolve the nullification of his wife's vow?

תָּא שָׁמַע, דְּאָמַר רַבִּי יוֹחָנָן: נִשְׂאָלִין עַל הַהַקָּם, וְאִין נִשְׂאָלִין עַל הַהַפֵּר.

The Gemara answers: Come and hear that which Rabbi Yohanan says: A halakhic authority may be requested to dissolve ratification<sup>H</sup> of one's wife's vow but may not be requested to dissolve nullification.<sup>H</sup>

בְּעֵי רַבָּא: "קָיִים לִיכִי, קָיִים לִיכִי" וְנִשְׂאָל עַל הַקָּמָה רַאשׁוֹנָה, מֵהוּ?

Rabba asks: If, after hearing one's wife or one's daughter's vow, one said: It is ratified for you, it is ratified for you,<sup>N</sup> and then a halakhic authority was requested about the first ratification and dissolved it, but one did not request dissolution of the second ratification, what is the halakha? Is the second ratification in force, or is it irrelevant, as it was performed on an vow that was already ratified and consequently never took effect?

תָּא שָׁמַע, דְּאָמַר רַבָּא: אִם נִשְׂאָל עַל הַרְאשׁוֹנָה – שְׁנֵיהּ חָלָה עָלָיו. בְּעֵי רַבָּא: "קָיִים לִיכִי וּמוֹפֵר לִיכִי, וְלֹא יִתְחַוֵּל הַקָּמָה אֶלָּא אִם בֵּן חָלָה הַפֵּרָה" מֵהוּ?

The Gemara answers: Come and hear that which Rava said with regard to one who said: I take an oath that I will not eat, I take an oath that I will not eat: If a halakhic authority was requested to dissolve the first oath and dissolved it, the second oath goes into effect for him.<sup>H</sup> Similarly, the second ratification goes into effect. Rabba further asks: If he said to her: The vow is ratified for you and nullified<sup>N</sup> for you, and the ratification will not take effect unless the nullification takes effect, what is the halakha?

NOTES

Is there the possibility of a request to a halakhic authority about dissolving the ratification of one's wife's vow – יֵשׁ שְׂאֵלָה בְּהַקָּם: Most commentaries explain this question as follows: Can one who ratifies a vow subsequently request of a halakhic authority to dissolve his ratification? Rabbeinu Eliezer of Metz cites an interpretation that the question is whether a woman can request the dissolution of her vow even after it was ratified. The question, then, is: Are the woman's vows dependent on her husband or father, and therefore they cannot be dissolved once they have been ratified? Or are her vows no different from other people's vows, with the proviso that they may also be nullified by her husband or her father? In that case, once they are ratified, they are no different from regular vows and they can be dissolved by a halakhic authority.

If you say that there is the possibility of a request to dissolve his ratification – אִם תִּמְצָא לֹמַר יֵשׁ שְׂאֵלָה בְּהַקָּם: The early commentaries explain that the reason that there may be a distinction between ratification and nullification with regard to whether it can be dissolved is because the possibility of dissolution of ratification of a vow is logical, since the ratification is itself a kind of vow. Nullification of a vow, by contrast, is not a vow, and perhaps dissolution does not apply to it. However, since the Torah juxtaposes the halakhot pertaining to the nullification of vows and the halakhot pertaining to their ratification, perhaps dissolution of nullification can be derived from dissolution of ratification (Ran).

Is there the possibility of a request about dissolving nullification – יֵשׁ שְׂאֵלָה בְּהַפֵּר: According to many commentaries, this question is simply whether the husband or father can request that a halakhic authority dissolve a nullification. However, the Commentary on *Nedarim* offers three other interpretations of this question. First, in a case of a young woman, who requires both her husband and her father to nullify her vows, when one ratifies the vow and the other nullifies it, can the one who

ratified the vow have his ratification dissolved by a halakhic authority, so that the vow can be nullified? Alternatively, the issue is whether dissolution of the vow's ratification would mean that the vow is nullified, or whether the father or the husband needs to nullify the vow explicitly after the ratification is dissolved. Or, the Gemara may be asking whether the father and husband's ability to nullify the woman's vows grants them the ability to request from a halakhic authority that the vow be dissolved. Since the woman herself could request dissolution of the vow, can her father or husband do so as well or is their authority limited to nullification?

קָיִים לִיכִי, קָיִים לִיכִי – קָיִים לִיכִי: The issue is whether or not the second ratification is of any substance. On the one hand, since the second ratification applied to nothing when it was stated, as the vow was already ratified, it is void and does not go into effect once the father or husband requests dissolution of the first ratification. On the other hand, the reason the second ratification had no force is that the first ratification was in effect, so once the first ratification is dissolved, perhaps the second one goes into effect (Ran).

קָיִים לִיכִי וּמוֹפֵר וכו' – קָיִים לִיכִי וּמוֹפֵר: The question arises only if the father or husband adds the qualification that the ratification will not take effect unless the nullification takes effect. If he says only: It is ratified for you and nullified for you, it is clear that the vow is ratified, as nullification is impossible after a vow has been ratified (*Tosafot*; Rosh).

The Ran explains Rabba's question as follows: It is clear to Rabba that under these circumstances, the ratification does not take effect, as it is contradicted by the nullification. The question is whether the vow is nullified. On the one hand, he first ratified the vow, which undermines the nullification. On the other hand, it is clear that his main intent is to nullify the vow, and for that reason he made the ratification conditional on the nullification.

NOTES

**A substitute for a burnt-offering** – תַּמְוֵרַת עֹלָה: The *halakhot* of substitution appear in the Torah (Leviticus 27:33), and tractate *Temura* is dedicated to their elucidation. A substitution is effected when one says with regard to any animal, unblemished or blemished, that it substitutes for an animal already consecrated as an offering. The Torah states that whoever intentionally performs substitution for a consecrated animal transgresses a prohibition and is liable to be flogged. The result of the substitution is that the substitute animal is consecrated and the original animal remains sanctified. In tractate *Temura*, the *halakhot* of the second animal are discussed. In some cases, that animal is sacrificed as well, while in other cases it must be left until it develops a blemish, after which it is redeemed.

**It becomes a substitute only for a burnt-offering, this is the statement of Rabbi Meir** – דְּבָרֵי רַבִּי מֵאִיר: According to Rabbi Meir, one's addition of a conflicting statement to his initial one presumably indicates his intention to retract his initial statement. However, as substitutions are a type of consecration, they cannot be retracted, unlike other sorts of legal transfers of title, even if one attempts to do so immediately following the consecration (see 87a).

**His statement is effective** – דְּבָרָיו קַיָּמִין: Although this animal cannot itself be sacrificed as an offering, his intent is that it should be sold, with half of the proceeds used for the purchase of a burnt-offering and the other half for the purchase of a peace-offering. In this manner, his statement is realized in its entirety.

**That the nullification takes effect** – דִּהְפָּרָה חֲלָה: According to *Tosafot*, since he insisted that the nullification apply, this is understood to be his main intention, and the vow is completely nullified. The Rosh cites an alternative interpretation: Both the ratification and the nullification take effect, and therefore this is treated as a case of uncertainty.

**That one is not able to implement sequentially** – שְׂאִינוֹ בִּזְמַן אֶחָד יָהּ: If it were not for this principle, one might have thought that the status of the vow should be regarded as a case of uncertainty.

**It is ratified for you today** – קַיָּמִין לְיָכִי הַיּוֹם: *Tosafot* ask: Since he has ratified the vow on the day he heard it, what difference does it make that he seeks to nullify it the following day? They explain that the implication of his time-bound ratification is that the vow is ratified only today, and that the nullification should start today and take effect tomorrow. Consequently, the nullification also begins on the day he heard the vow.

תָּא שְׂמַע מִפְּלוּגְתָּא דְּרַבִּי מֵאִיר וְרַבִּי יוֹסֵי. דְּתַנְּן: "הָרִי זֶה תְּמוּרַת עֹלָה תְּמוּרַת שְׁלָמִים" – הָרִי זֶה תְּמוּרַת עֹלָה, דְּבָרֵי רַבִּי מֵאִיר. וְרַבִּי יוֹסֵי אָמַר: אִם לָכֵן נִתְּפוּיָן מִתְּחִלָּה, הֲוֵאִיל וְאִי אֶפְשָׁר לְקָרוֹת שְׁנֵי שִׁמּוֹת בְּאֶחָד – דְּבָרָיו קַיָּמִין.

וְאֶפְלוּ רַבִּי מֵאִיר לָא קִיאָמַר דְּלֵא אָמַר "לָא תִּיחַוֵּל זֶה אֶלָּא אִם בְּן חֲלָה זֶה", אֲבָל הָכֵא, דְּאָמַר "לָא תִּיחַוֵּל הַקְּמָה אֶלָּא אִם בְּן חֲלָה הִפְרָה" – רַבִּי מֵאִיר נִמְי מוֹדָה דִּהְפָּרָה חֲלָה.

בְּעֵי רַבָּה: "קַיָּמִין וּמוֹפָר לְיָכִי בְּבַת אַחַת", מַהוּ? תָּא שְׂמַע, דְּאָמַר רַבָּה: כֹּל דְּבָר שְׂאִינוֹ בִּזְמַן אֶחָד זֶה – אֶפְלוּ בְּבַת אַחַת אִינוּ.

בְּעֵי רַבָּה: "קַיָּמִין לְיָכִי הַיּוֹם" מַהוּ? מִי אֶמְרִינָן: בְּמֵאן דְּאָמַר לָהּ "מוֹפָר לְיָכִי לְמַחֲרָה", אוּ דְלִמָּא הָא לָא אָמַר לָהּ?

The Gemara answers: **Come and hear a resolution of this dilemma from the dispute between Rabbi Meir and Rabbi Yosei, as we learned in a mishna (*Temura* 25b):** If one said about an animal: **This is hereby a substitute for a burnt-offering,<sup>N</sup> a substitute for a peace-offering,<sup>H</sup> the *halakha* is that it becomes a substitute only for a burnt-offering; this is the statement of Rabbi Meir,<sup>N</sup> who holds that one's initial statement is determinative. **And Rabbi Yosei says: If this is what he intended from the outset, that it should be a substitute for both a burnt-offering and a peace-offering, then since it is impossible to give it two names at once and he could not have said burnt-offering and peace-offering simultaneously, his statement is effective,<sup>N</sup> and the animal is a substitute for both of them at once.** Similarly, it is possible for him to intend to both ratify and nullify the vow and the vow is nullified, despite the fact that his first statement was to ratify it.**

The Gemara adds: **And even Rabbi Meir says that the first part of one's statement is determinative only where he did not state: This will not take effect unless this also takes effect. Here, however, where he expressly said: The ratification of the vow will not take effect unless the nullification takes effect, even Rabbi Meir concedes that the nullification takes effect.<sup>NH</sup>**

Rabba further asks: **If he said: It is ratified and nullified for you simultaneously,<sup>H</sup> what is the *halakha*?** The Gemara answers: **Come and hear that which Rabba himself said: Any two halakhic statuses that one is not able to implement sequentially<sup>NH</sup> are not realized even when one attempts to bring them about simultaneously.** Since one cannot ratify a vow and subsequently nullify it, one can also not ratify and nullify a vow simultaneously.

Rabba raises another dilemma: **If one says to his wife or daughter: Your vow is ratified for you today,<sup>NH</sup> what is the *halakha*? Do we say that he is like one who said to her: It is nullified for you tomorrow? Or perhaps, since he did not explicitly say to her that the vow is nullified, it remains in force.**

HALAKHA

**A substitute for a burnt-offering, a substitute for a peace-offering** – תַּמְוֵרַת עֹלָה תְּמוּרַת שְׁלָמִים: When one says about an animal: This is hereby a substitute for a burnt-offering and a peace-offering, if his initial intention was that the animal should substitute for both of them, then his intention prevails, as the *halakha* follows Rabbi Yosei in his disputes with Rabbi Meir. However, if his initial intention was that it should simply be a substitute for a burnt-offering, and he subsequently changed his mind and called it a substitute for a peace-offering, then even if he retracted immediately, which in other cases is usually considered a valid retraction, his retraction is not valid and only his initial statement takes effect (Rambam *Sefer Korbanot, Hilkhot Temura* 2:4).

**That the nullification takes effect** – דִּהְפָּרָה חֲלָה: If a man said to his wife or daughter: The vow is ratified for you and nullified for you, and the ratification will not take effect unless the nullification takes effect, then the vow is nullified. The Rema mentions an opinion cited by the Rosh that it is considered uncertain whether the vow is ratified or nullified (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 13:22; *Shulhan Arukh, Yoreh De'a* 234:43).

**It is ratified and nullified for you simultaneously** – קַיָּמִין אַחַת וּמוֹפָר לְיָכִי בְּבַת אַחַת: If one says: The vow is ratified for you and

nullified for you, he has neither ratified nor nullified the vow, in accordance with Rabba's opinion. The *Shakh* adds that he may then nullify or ratify the vow until the end of the day he heard it (*Shulhan Arukh, Yoreh De'a* 234:44; Rambam *Sefer Hafla'a, Hilkhot Nedarim* 13:22).

**Any halakhic statuses that one is not able to implement sequentially, etc.** – כֹּל דְּבָר שְׂאִינוֹ בִּזְמַן אֶחָד יָהּ וְכוּ': Any legal statuses that cannot be implemented in sequence cannot be realized simultaneously either. Consequently, if one simultaneously betroths two women whom he cannot marry one after the other, e.g., the women are sisters, neither of them is betrothed to him, in accordance with Rabba's opinion (*Shulhan Arukh, Even HaEzer* 41:2).

**It is ratified for you today** – קַיָּמִין לְיָכִי הַיּוֹם: The Rambam rules that if he said: It is ratified for you today, her vow is permanently ratified, following his principle that the *halakha* is in accordance with the option chosen as the underlying assumption of a question of the Gemara that is introduced with the phrase: If you say. The Rosh rules that the Gemara is inconclusive and that all these questions are unresolved. For this reason, one should be stringent, as this is a case of uncertainty about Torah law (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 13:22; *Shulhan Arukh, Yoreh De'a* 234:45).