

“מעמדך” – זה לקט שכחה ופאה.

יש יד לצדקה או אין יד לצדקה? היכי דמי? אילימא דאמר “הדין וזוהי לצדקה, והדין נמי” – ההוא צדקה עצמה היא! אלא, כגון דאמר “הדין” ולא אמר “נמי”, מאי? “הדין נמי צדקה” קאמר, או דלמא [מאי] “והדין” (נמי) לנפקותא בעלמא קאמר, ודבורא הוא דלא אסקיה?

מי אמרין: בין דאיתקש לקרבנות, דכתיב “בפיך” – זו צדקה, מה קרבנות יש להן יד – אף צדקה יש לה יד. או דלמא “בפיך תאחר” הוא דאיתקש?

יש יד להפקר או דלמא אין יד להפקר? היינו צדקה!

אם תמצא לומר קאמר, אם תמצא לומר יש יד לצדקה, דאין היקש למחצה – הפקר מי אמרין היינו צדקה, או דלמא שאני צדקה, דצדקה לא חזיא אלא לעניים, אבל הפקר – בין לעניים בין לעשירים?

בעי רבינא: יש יד לבית הכסא או לא? היכי דמי? אילימא דאמר “הדין ביתא ליהוי בית הכסא, והדין נמי” – ההוא בית הכסא נמי הוה! אלא, כגון דאמר “והדין”, ולא אמר “נמי”, מאי? “הדין” דאמר – “והדין נמי בית הכסא”, או דלמא מאי “והדין” – לתשמישא בעלמא קאמר?

מכלל דפשיטא ליה לרבינא דיש זימון לבית הכסא? והא מביעי ליה לרבינא: היינו לבית הכסא מהו? הומונו לבית המרחץ מהו? זימון מועיל או אין זימון מועיל?

The verse states with regard to offerings: “When you shall take a vow to the Lord your God, you shall not delay to pay it; for the Lord your God will surely require it of you” (Deuteronomy 23:22). With regard to the term “of you” the *baraita* states: This is a reference to gleanings,<sup>b</sup> forgotten sheaves,<sup>b</sup> and *pe’u*.

§ The Gemara asks: Is there intimation for charity or is there no intimation for charity?<sup>h</sup> The Gemara clarifies the question: What are the circumstances of such a case? If we say that it is a case where one said: This dinar is for charity and this also, that itself is an explicit statement of donating to charity. Rather, it is a case where he said: This, and did not say: Also. What is his intention? Is he understood to be saying: This is also charity, or perhaps what is the meaning of: And this? He is saying that this coin is merely for general use, and he did not complete his statement.

The Gemara explains the two sides of this dilemma: Do we say that since charity is juxtaposed to offerings, as it is written in a verse following the prohibition against delaying an offering: “That you have spoken with your mouth” (Deuteronomy 23:24) and the Sages expounded that this is a reference to charity, therefore, just as there is intimation, i.e., intimation is effective, with regard to offerings, so too, there is intimation with regard to charity? Or perhaps it is only with regard to the prohibition: You shall not delay, that it is juxtaposed, but not with regard to other *halakhot*?

The Gemara asks further: Is there intimation for rendering one’s property ownerless, or perhaps there is no intimation for rendering one’s property ownerless.<sup>h</sup> Does an incomplete expression employed by an owner to relinquish property take effect or not? The Gemara notes: This is the same as the previous question with regard to charity,<sup>n</sup> which is comparable to rendering one’s property ownerless for the benefit of the poor.

The Gemara responds: This question is stated in the style of: If you say, as follows: If you say there is intimation for charity, as there is no partial analogy based on juxtaposition, do we say that rendering one’s property ownerless is the same as charity; or perhaps charity is different, as charity is suitable only for the poor, but ownerless property is suitable for both the poor and the wealthy, and therefore it cannot be derived from the *halakha* with regard to charity.

Ravina raised another dilemma: Is there intimation for designating a location as a bathroom or not? The Gemara asks: What are the circumstances of the case? If we say that it is a case where one said: Let this structure be a bathroom and this one also, that second structure is certainly also a bathroom. Rather, it is a case where he said: And this, and he did not say: Also. What is his intention? Is the expression: And this, that he said, understood to mean: And this shall also be a bathroom? Or perhaps what is the meaning of: And this? He is saying that it is designated for general use rather than as a bathroom.

The Gemara comments: Can it be derived by inference that it is obvious to Ravina that there is designation for a bathroom,<sup>hn</sup> i.e., that if one explicitly designates a location as a bathroom, it attains that status even before it is used for that purpose, so that one may not bring sacred items to that location? Didn’t Ravina raise this as a dilemma? He asked: If one designated a particular location as a bathroom, what is the *halakha*? If one designated it as a bathhouse, what is the *halakha*? In other words, is designation effective to grant the location a particular status, or is designation not effective?

BACKGROUND

Gleanings – לקט: The Torah prohibits the owner of a field from gleaning individual stalks that have fallen during the harvest (Leviticus 19:9). Fewer than three stalks that fall in one place are deemed gleanings and are considered the property of the poor. The owner of the field is prohibited from taking them for his own use; he must leave them as one of the obligatory agricultural gifts to the poor.

Forgotten sheaves – שכחה: A farmer who forgot a sheaf in the field while harvesting his grain may not return to collect it. It must instead be left for the poor (Deuteronomy 24:19).

HALAKHA

Intimation for charity – יד לצדקה: If one puts aside a coin and says that it is for charity, and then with regard to another coin he says: And this, the second coin is also designated for charity. Although the question was not resolved in the Gemara, it is a case of uncertainty with regard to Torah law, and therefore one must be stringent (Rambam *Sefer Zera’im, Hilkhot Mattenot Aniyyim* 8:2; *Shulhan Arukh, Yoreh De’a* 258:2).

Intimation for rendering one’s property ownerless – יד להפקר: If one says: This is hereby ownerless, and this, it is questionable whether the second item is rendered ownerless. Consequently, it cannot be taken from the possession of the original owner (Rambam *Sefer Hafla’a, Hilkhot Nedarim* 2:16; *Shulhan Arukh, Hoshen Mishpat* 273:8 and *Sma* there, based on Ran).

Designation for a bathroom – זימון לבית הכסא: It is permitted to recite *Shema* opposite a place that was designated as a bathroom but has not yet been used for that purpose. However, one may not recite *Shema* within that room itself. Although the Gemara does not resolve this dilemma, the Rambam and many others rule that it is prohibited, due to the fact that the Gemara asks another question based on the possibility that it is prohibited (Rambam *Sefer Ahava, Hilkhot Keriat Shema* 3:3; *Shulhan Arukh, Oraḥ Hayyim* 83:3).

NOTES

This is the same as the question with regard to charity – היינו צדקה: *Tosafot* explain that one who declares property ownerless presumably intends it to be for the use of the needy. Based upon the Gemara’s statement equating the declaration of property as ownerless with charity, the Rambam derives that this declaration is comparable to a vow and cannot be reversed (see Meiri).

Designation for a bathroom, etc. – זימון לבית הכסא וכו’: This issue is a question of rabbinic law. By Torah law, one must refrain from reciting *Shema* and the like only where there is actual excrement. The discussion here is: If verbal designation is effective in establishing the legal status of a location, similar to a vow, which also establishes a legal status by verbal declaration, is it also similar to vows in that even intimation is effective?

Intimation for designating a location as a bathroom – דַּי לְבֵית הַכֶּסֶּא: If one says: This shall be a bathroom, and then says with reference to a different location: And this, it is questionable whether the second location has been designated as a bathroom. Consequently, one should not recite *Shema* in that location *ab initio*, but if he does, he has fulfilled his obligation to recite *Shema*. Although some permit one to recite *Shema* even *ab initio* due to the fact that the designation of a bathroom takes effect only by rabbinic law, and in this case it is questionable whether the second location was ever designated for this purpose, the Rambam nevertheless holds that one should not enter this state of uncertainty *ab initio* (*Beit Yosef*; Rambam *Sefer Ahava*, *Hilkhot Keriat Shema* 3:3; *Shulhan Arukh*, *Orah Hayyim* 83:3).

NOTES

The dilemma remains unresolved – תִּיבְעֵי לִיָּהּ: This comment pertains to all of the questions raised here. It is the same as the more common talmudic expression *teiku*, meaning: The dilemma shall stand unresolved. With regard to this change in language, the early commentaries have noted that the language used in tractate *Nedarim*, and to a certain extent in tractate *Nazir*, is different from the language employed in other tractates.

I am ostracized from you, etc. – מְנוּדָה אֲנִי לְךָ וכו': Some commentaries hold that this discussion must be understood based on the ruling of Shmuel (4b) that declarations such as these are effective only if one adds further clarification, as in: I am ostracized from that which I eat of yours (Ran). Others hold that the expression: I am ostracized from you, is sufficiently clear to be considered an intimation of a vow and nothing further is needed (*Tosafot*). The Rashba holds that according to this opinion, if one does add: From that which I eat of yours, even the Rabbis who disagree with Rabbi Akiva would rule stringently.

I am excommunicated [*meshamattena*] from you – מְשַׁמְתֵּנָא מִיְנְךָ: Although the term ostracized [*menudeh*] could connote either excommunication or a vow, the term *shamta* indicates only excommunication. Alternatively, although *menudeh* and *nadeina* can technically also refer to excommunication, the masses in Babylonia employed the term *shamta* to refer only to excommunication (Rosh).

רַבִּינָא חָדָא מְגוּ חָדָא קְמִיבְעֵנָא לִיָּהּ; זִמּוֹן מוּעִיל אִו אִין זִמּוֹן מוּעִיל. אִם תְּמַצָּא לְוִמְרֵי יֵשׁ זִמּוֹן – יֵשׁ יָד אִו אִין יָד? תִּיבְעֵי לִיָּהּ.

”מְנוּדָה אֲנִי לְךָ” וכו'. אָמַר אַבְיִי: מוּדָה רַבִּי עֲקִיבָא לְעֵגֶז מְלָקוֹת שְׂאִינוּ לְזָקָה, דְּאִם כֵּן נִתְּנִי: רַבִּי עֲקִיבָא מְחַמֵּיר.

אָמַר רַב פַּפָּא: בְּנִדְיָנָא מִיְנְךָ – דְּכוּלֵי עֲלָמָא לָא פְּלִיגֵי דְּאָסוּר: ”מְשַׁמְתֵּנָא מִיְנְךָ” – לְכוּלֵי עֲלָמָא שְׂרִי, בְּמַאי פְּלִיגֵי?

The Gemara answers: Ravina raised one dilemma within another dilemma: Is designation effective or is designation not effective? And if you say there is designation, i.e., designation is effective, is there intimation or is there not intimation,<sup>11</sup> i.e., is designation via intimation effective? The Gemara concludes: The dilemma remains unresolved.<sup>12</sup>

It was taught in the mishna that if one said: I am ostracized from you,<sup>13</sup> Rabbi Akiva was uncertain about the *halakha* but was inclined to rule stringently about this. Abaye said: Rabbi Akiva concedes with regard to flogging that one is not flogged if he violates a vow that was expressed in this way. As, if so, if Rabbi Akiva held that one is liable to be flogged, let the mishna teach: Rabbi Akiva is stringent. The fact that it states: Rabbi Akiva was uncertain but was inclined to rule stringently, indicates that although Rabbi Akiva holds that one may not violate this vow, he concedes that one is not liable to be flogged if he does violate the vow.

Rav Pappa said: With regard to a vow that one expressed with the phrase: I am distanced [*nadeina*] from you,<sup>14</sup> everyone agrees that he is prohibited from deriving benefit from the other individual, as this is an intimation of a vow. If he employs the expression: I am excommunicated [*meshamattena*]<sup>15</sup> from you<sup>16</sup> everyone agrees that he is permitted to derive benefit from the other person, even though he meant to distance himself from the other individual, because this is not the terminology of a vow. With regard to what do they disagree?

LANGUAGE

I am distanced [*nadeina*] from you – נִדְיָנָא מִיְנְךָ: This expression is interpreted to mean: I move [*nad ani*] away from you; in other words, I am taking a vow to distance myself from you. The novelty is that despite the possibility of interpreting this expression as indicating excommunication [*nidui*], which leads to a dispute between the *tanna'im* with regard to the similar term *menudeh*, the term *nadeina* has its own meaning and indicates a vow.

I am excommunicated [*meshamattena*] – מְשַׁמְתֵּנָא: The Aramaic word *shamta* is the term for a general excommunication, and for a particular degree of excommunication between those of *nidui* and *herem*. The reason that there is no uncertainty about whether a statement employing this term prohibits the speaker from deriving benefit from the other person is because it refers to excommunication and implies a curse, but is not a term for a vow.

Perek I  
Daf 7 Amud b

בְּ”מְנוּדָה אֲנִי לְךָ”, דְּרַבִּי עֲקִיבָא סְבָר: לִישְׁנָא דְּנִידוּיָא הוּא, וְרַבְּנֵי סְבָרִי: לִישְׁנָא דְּמְשַׁמְתֵּנָא הוּא.

They disagree with regard to a case when the language one uses is: I am ostracized<sup>17</sup> from you, as Rabbi Akiva holds that it is a language of distancing and therefore expresses a vow, and the Rabbis hold that it is a language of excommunication, and not the terminology with which people express vows.

NOTES

Ostracism – נִידוּי: One who violates certain *halakhot* may be subjected to ostracism, either as a punishment or in order to compel him to alter his conduct. The Talmud specifies twenty-four transgressions that are punishable by ostracism, and any Jew is authorized to ostracize one guilty of these offenses. A Sage may also ostracize one who offended him and thereby denigrated his honor.  
One who is ostracized may not wear leather shoes or cut

his hair, and others must maintain a distance of at least four cubits from him. However, it is permitted to conduct business with him, study with him, and teach him.  
If one is ostracized and does not mend his ways, he may be subjected to an even more severe ban. The duration of the ostracism and the manner of its dissolution vary, depending on the cause of the ostracism and the identity of the one who imposed it (see Meiri).

ופליגא דרב חסדא; דהווא גברא דאמר  
 "משמתנא בנכסיה דבריה דרב ירמיה בר  
 אבא" אתא לקמיה דרב חסדא. אמר ליה:  
 לית דחש לה להא דרבי עקיבא. קסבר:  
 ב"משמתנא" פליגי.

The Gemara comments: **And Rav Pappa disagrees with the opinion of Rav Hisda,<sup>H</sup> as demonstrated in the following incident: There was a certain man who said: I am excommunicated from the property of the son of Rav Yirmeya bar Abba. He came before Rav Hisda to ask whether this statement was effective in generating a prohibition or not. Rav Hisda said to him: There is no one who, in practice, is concerned for that opinion of Rabbi Akiva. Apparently, Rav Hisda holds that they also disagree with regard to the phrase: I am excommunicated from you. This indicates that the dispute between the *tanna'im* is not with regard to specific terms but with regard to the more general question of whether terms of ostracism or excommunication are terms that can also express vows.**

אמר רבי אילא אמר רב: נדהו בפניו – אין  
 מתירין לו אלא בפניו. נדהו שלא בפניו –  
 מתירין לו בין בפניו בין שלא בפניו.

§ **Rabbi Ila said that Rav said: If one ostracized another individual in his presence,<sup>NH</sup> one may dissolve it for him only in his presence. If one ostracized him not in his presence, one may dissolve it for him in his presence or not in his presence.**

אמר רב חנין אמר רב: השומע הזכרת  
 השם מפי חברו – צריך לנדוהו, ואם לא  
 נדהו – הוא עצמו יהא בנדי. שכל מקום  
 שהזכרת השם מצויה שם עניות מצויה.

Rav Hanin said that Rav said: **One who hears mention of the name of God in vain<sup>H</sup> by another individual must ostracize him for doing so. And if he did not ostracize him, he himself, the listener, shall be ostracized,<sup>N</sup> as wherever mention of God's name in vain is common, poverty is also common there.<sup>N</sup>**

ועניות כמיתה, שנאמר "כי מתו כל  
 האנשים", ותנא: כל מקום שנתנו חכמים  
 עיניהם – או מיתה או עוני.

**And poverty is so harsh that it is considered like death, as it is stated: "For all the men are dead who sought your life" (Exodus 4:19). The Sages had a tradition that Dathan and Abiram had sought to have Moses killed in Egypt and that they were the men referred to in the quoted verse (see 64b). They were still alive at that time but had become impoverished. And additionally, it is taught in a *baraita*: Wherever it says that the Sages set their eyes on a particular individual, the result was either death or poverty. This also indicates that death and poverty are equivalent.**

אמר רבי אבא: הוה קאימנא קמיה דרב  
 הונא, שמעה להך איתתא דאפקה הזכרת  
 השם לבטלה, שמתה ושרא לה לאלתר  
 באפה. שמע מינה תלת; שמע מינה:  
 השומע הזכרת השם מפי חברו – צריך  
 לנדוהו, ושמע מינה: נדהו בפניו – אין  
 מתירין לו אלא בפניו, ושמע מינה: אין  
 בין נדוה להפרה ולא כלום.

Rabbi Abba said: **I was standing before Rav Huna, and he heard a certain woman utter a mention of the name of God in vain. He excommunicated her and immediately dissolved the excommunication for her in her presence. The Gemara comments: Learn three things from this. Learn from this that one who hears mention of the name of God in vain by another individual must ostracize him; and learn from this that if one ostracized another in his presence,<sup>N</sup> one may dissolve it for him only in his presence; and learn from this that there is nothing, i.e., no minimum time that must pass, between ostracism and nullification<sup>H</sup> of the ostracism.**

#### HALAKHA

And he disagrees with Rav Hisda – ופליגא דרב חסדא: The author of the *Shulhan Arukh* rules that if one says: I am ostracized from you, or: I am excommunicated from you, and then adds: That I will not eat of yours, it is not a vow, and everything is permitted. If he did not add to his original statement, it is prohibited for him to stand within four cubits of the other individual. This is in accordance with the opinion of the Sages. If the individual says: I am distanced from you, and concludes by saying: That I will not eat of yours, he is prohibited from eating anything belonging to the other person. If he does not add to his original statement, he is prohibited from deriving any benefit from the other individual. This is in accordance with the opinion of the Rambam (see *Shakh*, who challenges this opinion). The Rema writes that there are those who disagree (Rosh) and hold that provided that one does not conclude by saying: That I will not eat of yours, it is as if he said nothing and there is no concern whatsoever that a vow takes effect (Rambam *Sefer Hafa'a*, *Hilkhot Nedarim* 1:24; *Shulhan Arukh*, *Yoreh De'a* 206:3, and in the comment of Rema).

If one ostracized another individual in his presence, etc. – נדהו: בפניו וכו': If one ostracized another individual in the presence of that individual, he can dissolve the ostracism only in his presence. If the individual was not present when he was ostracized, the

ostracism may be dissolved when he is not present as well. This is in accordance with the opinion of Rav. The Rema writes that there are those who hold that even with regard to someone who is ostracized while he is present, if the ostracism was dissolved in his absence, the dissolution is nevertheless effective after the fact (Rambam *Sefer HaMadda*, *Hilkhot Talmud Torah* 7:13; *Shulhan Arukh*, *Yoreh De'a* 334:29 and see *Shakh* there).

**One who hears mention of the name of God in vain – השומע הזכרת השם:** One who hears another individual mention the name of God in vain, take a false oath in God's name, or say an unnecessary blessing, is obligated to ostracize that individual. If he does not do so, he himself is liable to be ostracized. However, one must immediately dissolve this ostracism so that others do not transgress, as they might not know about the ostracism. This is in accordance with the opinions of Rav and Rabbi Abba (Rambam *Sefer Hafa'a*, *Hilkhot Shevuot* 12:9; *Shulhan Arukh*, *Yoreh De'a* 334:37).

**There is nothing between ostracism and nullification – אין בין נדוה להפרה:** There is no minimum amount of time that must pass between ostracism and nullification; one may ostracize another and then a moment later nullify the ostracism if the ostracized person has repented (Rambam *Sefer HaMadda*, *Hilkhot Talmud Torah* 7:13; *Shulhan Arukh*, *Yoreh De'a* 334:31).

**נדהו – יחדו:** If one ostracized another in his presence, etc. – נדהו: בפניו וכו': This *halakha* has been interpreted by the commentaries in various ways. Some explain that if one ostracizes another in his presence and that individual does not immediately repent, his sin is more brazen, and therefore his ostracism may be dissolved only in his presence, in order to subject him to embarrassment (*Tosafot Yeshanim*; *Talmidei Rabbeinu Peretz*). Others hold that ostracism must always be dissolved in the same way that it was generated (see *Tosafot*); however, most early commentaries reject this interpretation.

Yet others have suggested a completely different interpretation: Since he embarrassed the person by imposing the ostracism in his presence, he must honor him at the time of the dissolution by dissolving the ostracism in his presence (*Tosafot*; Rosh). According to this interpretation, the individual who was ostracized is entitled to waive this particular requirement of dissolution.

Others have explained that the primary reason for this requirement is the possibility that if the dissolution is not made in his presence, he will not know that the ostracism was dissolved and will think that the original ostracism was meaningless because he sees that people are not careful about implementing it. According to this explanation, it is permitted to dissolve the ostracism even if the individual who was ostracized is not present, provided he is notified of the proceedings (Ran).

**הוא עצמו יהא בנדי – He himself shall be ostracized:** Most commentaries explain that this does not mean that the listener is automatically ostracized, but that he is deserving of ostracism (see Ran). However, others say it means he is automatically ostracized (see *Iyyun Ya'akov*, citing Rambam). Another interpretation is that the matter is so severe that it is as though he is ostracized in the eyes of God (*Shita Mekubbetzet*, citing Ritva).

**שם עניות מצויה – Poverty is also common there:** The Ran offers two sources for this statement. One is the verse "In every place where I cause My name to be mentioned I will come to you and bless you" (Exodus 20:20), which implies that just as mentioning the name of God properly brings blessing, improper mention of the name of God causes poverty. Alternatively, the Gemara (*Temura* 3b) compares mentioning the name of God in vain to taking a false oath, and a verse in Zechariah (5:4) indicates that taking a false oath brings poverty. Others say that this statement is based upon an oral tradition rather than a biblical verse (Rabbi Avraham min HaHar).

**Learn from this that if one ostracized another in his presence, etc. – שמע מינה: נדהו בפניו וכו':** It was for this reason that Rav Huna immediately dissolved the excommunication, so that there would be no need to bring the woman back to him to dissolve it (Rivan).

NOTES

A Torah scholar can ostracize himself, and he can nullify the ostracism for himself – תלמיד חכם מנדה... The Rashba interprets this as referring only to a case where he did not truly deserve to be ostracized and yet ostracized himself for another reason, as in the case of Mar Zutra Ḥasida. However, if he deserved to be ostracized, he cannot dissolve his own ostracism. In contrast, the Rambam holds that a Torah scholar can dissolve his own ostracism in all cases.

He would first excommunicate himself – משמיט – נפשית ברישא: Some have explained that the reason for this is the honor of the Torah; since he needed to demean the honor of a Torah student, he felt compelled to ostracize himself (Rosh). Alternatively, his motivation was to gain atonement for himself. Others have explained that he wished to partake of the suffering that this Torah student would need to experience. Consequently, he punished himself as well. Tosafot states in the name of Rabbeinu Tam that Mar Zutra Ḥasida did this so as not to forget to dissolve the excommunication of the Torah scholar. Once he excommunicated himself, he kept all of the applicable halakhot pertaining to those who have been excommunicated, including not standing within four cubits of other people (Rivan).

אמר רב גידל אמר רב: תלמיד חכם מנדה לעצמו ומיפר לעצמו. פשיטא! מהו דתימא: אין חבוש מתיר עצמו מבית האסורין, קא משמע לן.

היכי דמי – כי הא דמר וזטרא חסידיא, בי מחיב בר בי רב שמתא – משמית נפשית ברישא, והדר משמית בר בי רב. וכי עייל לביתייה – שרי לנפשיה, והדר שרי ליה.

ואמר רב גידל אמר רב:

Rav Giddel said that Rav said: A Torah scholar can ostracize himself, and he can nullify the ostracism for himself.<sup>NH</sup> The Gemara asks: Isn't it obvious that he can nullify the ostracism for himself, just as he is able to do for others? The Gemara answers: It states this lest you say, as per the popular maxim: A prisoner cannot free himself from prison, and since he is ostracized he cannot dissolve the ostracism for himself; therefore it teaches us that he can do so.

The Gemara asks: What are the circumstances where a Torah scholar might ostracize himself? It is like that case involving Mar Zutra Ḥasida.<sup>P</sup> When a student in the academy was liable to receive excommunication, Mar Zutra Ḥasida would first excommunicate himself<sup>N</sup> and then he would excommunicate the student of Torah. And when he would enter his home, he would dissolve the excommunication for himself and then dissolve the excommunication for the student.

And Rav Giddel said that Rav said:

HALAKHA

A Torah scholar can ostracize himself and he can nullify for himself – תלמיד חכם מנדה לעצמו ומיפר לעצמו: A Torah scholar who ostracized himself can dissolve the ostracism for himself, even if he performs the ostracism on another's behalf, and even if it is a case where ostracism is obligatory. This is in accordance with the opinion of Rav, as understood by the Rambam and the Ran.

However, the Rashba holds that if the ostracism is obligatory he cannot dissolve it himself. The Rosh writes in a responsum that if the ostracism is imposed by means of an oath, he cannot dissolve it for himself (Rambam Sefer HaMadda, Hilkhhot Talmud Torah 7:11; Shulḥan Arukh, Yoreh De'a 334:33).

PERSONALITIES

Mar Zutra Ḥasida – מר זוטרא חסידיא: This Sage is mentioned several times in the Talmud. No halakhic rulings are cited in his name, but stories are recorded that relate his good deeds and praise his humility and his careful treatment of the money and dignity of others. The title Master [Mar] that precedes his name indicates that

he was a member of the family of the Exilarch. This is also evident from the fact that it is told that he was carried on a palanquin when he came to the lecture that was given by the Exilarch or another member of his family on a Festival. Some claim that he was himself the Exilarch.

Perek I

Daf 8 Amud a

HALAKHA

One may take an oath to fulfill a mitzva – נשבעין: It is permitted to take an oath to perform a mitzva in order to motivate oneself to do so, despite the fact that he is already required to perform the mitzva (Rambam Sefer Hafla'a, Hilkhhot Shevuot 11:3; Shulḥan Arukh, Yoreh De'a 203:6).

One who says: I will rise early and study this chapter – האומר אשכים ואשנה פרק זה: It is permitted to take an oath to study a particular chapter of Torah as a method of motivating oneself to do so (Rambam Sefer Hafla'a, Hilkhhot Shevuot 11:3; Shulḥan Arukh, Yoreh De'a 203:6).

מנין שנשבעין לקיים את המצוה – שנאמר "נשבעתי ואקימה לשמור משפטי צדקך".

From where is it derived that one may take an oath to fulfill a mitzva?<sup>H</sup> It is as it is stated: "I have sworn and I have confirmed it, to observe Your righteous ordinances" (Psalms 119:106).

והלא מושבע ועומד מזה סני הוא! אלא הא קא משמע לן: דשרי ליה לאיניש לזרוזי נפשיה.

The Gemara asks: Is he not already under oath from when each Jew took an oath at Mount Sinai to fulfill all the mitzvot? An oath cannot take effect if one is already bound by a different oath. Rather, it teaches us this: It is permitted for a man<sup>N</sup> to motivate himself to fulfill the mitzvot in this manner, although the oath is not technically valid.

ואמר רב גידל אמר רב: האומר "אשכים ואשנה פרק זה" "אשנה מסכתא זו" – נדר גדול נדר לאלהי ישראל. והלא מושבע ועומד הוא, ואין שבועה חלה על שבועה! מאי קא משמע לן – דאפילו זרוזי בעלמא? היינו דרב גידל קמיינתא!

And Rav Giddel said that Rav said: One who says: I will rise early and study this chapter,<sup>H</sup> or: I will study this tractate, has taken a great vow to the God of Israel. This clearly indicates that the vow takes effect. The Gemara asks: Is he not already under oath due to the general obligation to study Torah? And an oath does not take effect upon a preexisting oath. What is he teaching us? If one claims that Rav Giddel is teaching that such a vow may be made even merely to motivate oneself to study, this is the same as the first statement of Rav Giddel.

NOTES

It is permitted for a man, etc. – דשרי ליה לאיניש וכו': Many early commentaries hold that this oath is invalid, as an oath to fulfill or to violate a mitzva does not take effect. Nevertheless, it is permitted to take such an oath, even if one mentions the name of God, because it is permitted to motivate oneself to fulfill mitzvot by

taking an oath (see Tosafot and Rosh). However, some early commentaries hold that the oath does take effect partially. Although one would not be liable to bring an offering for violating the oath, he would be violating the prohibition against profanation (see Rashba and Ran).