

NOTES

If you wish, say that the mishna that begins: A grown woman, is actually the source for this *halakha* – Rabbi Avraham min HaHar explains that it is not assumed in this answer that the grown woman in the mishna is betrothed. It is simply stating that with regard to a grown woman, the husband's prerogative is greater because he can nullify his wife's vows even when she is a grown woman, whereas a father can no longer nullify his daughter's vows once she reaches majority. The Rambam's Commentary on the Mishna also appears to interpret the mishna in this straightforward manner.

הא גופא קשיא: אמרת הבוגרת ששהתה שנים עשר חדש – בבוגרת למה לי שנים עשר חדש? בוגרת בשלשים יום סגי לה! תני בוגרת וששהתה שנים עשר חדש.

The Gemara explains the cited mishna: **This cited mishna is itself difficult: You said that a grown woman who waited twelve months is entitled to support. With regard to a grown woman, why do I need a twelve-month waiting period before her betrothed is obligated to marry her? For a grown woman, thirty days suffice for her to prepare what she needs for her marriage after she is betrothed. The Gemara answers: The mishna should be revised. Teach the mishna: A grown woman who waited thirty days and a young woman who waited twelve months.**

מכל מקום קשיא! איבעית אימא: הכא דוקא, ובוגרת קתני התם – משום דבעי איפלוגי רבי אליעזר ורבנן.

The Gemara returns to the question: **In any case, the fact that the mishna here teaches a *halakha* that is addressed in a different mishna is difficult. The Gemara answers: If you wish, say that the mishna here is actually the primary source of this *halakha*, and the reference to a grown woman is taught there because it wants to present how Rabbi Eliezer and the Rabbis disagree.**

איבעית אימא: בוגרת דוקא, ואידי דנסיב רישא "בזה" – נסיב סיפא נמי "בזה".

Alternatively, **if you wish, say that the mishna that begins: A grown woman, is actually the source for this *halakha*.**ⁿ The mishna here repeats the *halakha* incidentally, **since it needs to cite the first clause: In this matter the power of the father is enhanced relative to the power of the husband, therefore the mishna cites the latter clause as well, by writing: In this other matter, the power of the husband is enhanced relative to the power of the father.**

Perek X
Daf 71 Amud a

HALAKHA

נדרה – If she took a vow as a betrothed woman, etc. – נדרה בו ביום, נתארסה בו ביום, אפילו למאה – אביה ובעלה האחרון מפירין נדריה. זה הכלל: כל שלא יצאה לרשות עצמה שעה אחת – אביה ובעלה האחרון מפירין נדריה.

מתני' נדרה והיא ארוסה, נתגרשה בו ביום, נתארסה בו ביום, אפילו למאה – אביה ובעלה האחרון מפירין נדריה. זה הכלל: כל שלא יצאה לרשות עצמה שעה אחת – אביה ובעלה האחרון מפירין נדריה.

MISHNA If she took a vow as a betrothed womanⁿ and then was divorced on the same day,ⁿ and she was again betrothed on the same dayⁿ to another man, or even to one hundred men, one after the other, on a single day, her father and her last husband nullify her vows. This is the principle: With regard to any young woman who has not left her father's jurisdiction and entered into her own jurisdiction for at least one moment, through full marriage or reaching majority, her father and her final husband nullify her vows.

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Was divorced on the same day – נתגרשה בו ביום: The early commentaries note that the mishna's emphasis on everything occurring on the same day indicates that the husband or the father must have heard the vow on that day. Consequently, if she is divorced only on the following day, the vow would be ratified, as silence on the day of the vow constitutes ratification, and the vow can no longer be nullified (*Tosafot*; Ran).

until three months have passed since the termination of her marriage applies even to one who was only betrothed. This is the accepted *halakha*. Rabbeinu Natan bar Yosef and the Ritva point out that the mishna here that discusses a woman who was divorced and remarried multiple times on the same day indicates that a woman who is betrothed again within the three-month period is not forced to get divorced. The Vilna Gaon suggests that perhaps this mishna follows those opinions that hold that the three-month waiting period is required only for women who had been married, and therefore may be pregnant, and is not required for those who had been only betrothed.

Betrothed on the same day – נתארסה בו ביום: An unattributed mishna (*Yevamot* 41a) states that the *halakha* that a divorced or widowed woman may not become betrothed to another man

שמע אביה והפר וכו' – שְׁמַע אֲבִיהָ וְהִפְרָוּ וְכוּ'. If a betrothed young woman took a vow, and her father heard and nullified it, and her betrothed died before he heard the vow, and she became betrothed again on that same day, then even if the first betrothed man died after the day on which the father heard or was made aware of the vow, the father may go back and nullify it together with the final betrothed man. This ruling is in accordance with the first interpretation mentioned by the Ran, that Beit Hillel agree with the ruling in the first section of the *baraita*.

There are also opinions that the father cannot go back and nullify the vow with the final betrothed man (*Tosafot*; *Rosh*), in accordance with the second interpretation mentioned by the Ran, that Beit Hillel disagree with the ruling in the first section as well (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 11:14; *Shulhan Arukh*, *Yoreh De'a* 234:16).

גמ' מנלן דארום אחרון מיפר נדרים שגראו לארום ראשון? אמר שמואל: אמר קרא "ואם היו תהיה לאיש ונדריה עליה" – נדרים שהיו עליה כבר. דלמא הני מילי שלא נראו לארום ראשון, אבל נדרים שגראו לארום ראשון – לא מצי מיפר ארום אחרון!

"עליה" קרא יתירא הוא.

תנא כוותיה דשמואל: נערה המאורסה – אביה ובעלה מפירין נדריה, ביצד? שמע אביה והפר לה, ולא הספיק הבעל לשמוע עד שמת, ונתארסה בו ביום, ואפילו מאה פעמים – אביה ובעלה האחרון מפירין נדריה. שמע בעלה והפר לה, ולא הספיק האב לשמוע עד שמת הבעל – חזר האב ומפר חלקו של בעל.

אמר רבי נתן: הן הן דברי בית שמאי, אבל בית הלל אומרים: אין יכול להפר. במאי פליגי?

GEMARA From where do we derive that her final betrothed can nullify her vows that were disclosed to the first betrothed? Shmuel said that the verse states: "And if she be to a husband and her vows are upon her... and he nullifies her vow" (Numbers 30:7-9), indicating that he can nullify vows that were upon her already. The Gemara asks: Perhaps this statement applies only to vows that were not discerned by the first betrothed, but vows that were discerned by the first betrothed, the final betrothed cannot nullify.

The Gemara answers: The phrase "upon her" is a superfluous part of the verse. One can derive from it that all her vows, including those of which an earlier betrothed had been aware, can be nullified by the final betrothed.

It is taught in a *baraita* in accordance with the opinion of Shmuel:^N With regard to a betrothed young woman, her father and her husband together nullify her vows. How so? If her father heard and nullified^{NH} the vow for her, and the husband did not manage to hear it before he died, and she was betrothed on the same day^N to another man, or even one hundred times on the same day, her father and her final husband nullify her vows. If her husband heard and nullified the vow for her, and the father did not manage to hear it before the husband died, the father may go back and nullify^N the husband's portion.

Rabbi Natan said: This is the statement of Beit Shammai, that each of them nullifies half of the betrothed young woman's vow. However, Beit Hillel say that the father cannot nullify the vow on his own. The Gemara asks: About what do Beit Shammai and Beit Hillel disagree?

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תנא – שמואל – It is taught in accordance with the opinion of Shmuel – **כוותיה דשמואל**: It would appear that the mishna itself could serve as support for Shmuel's *halakha*. The early commentaries note that the mishna does not offer conclusive proof, since it can be interpreted as referring to a situation where the father heard the vow but the husband did not hear it at all, and Shmuel takes pains to emphasize that even if a previous husband was made aware of the vow before divorcing her, the final husband can nullify the vow together with the father.

שמע אביה והפר וכו' – שמואל: Some early commentaries hold that there is no dispute about this section of the *baraita*, and even Rabbi Natan concurs that Beit Shammai and Beit Hillel are in agreement that when the father heard the vow, he and the final betrothed can nullify the vow together. The Ran asks: Beit Hillel rule that if the husband nullifies the vow, it is weakened and the father cannot nullify it after the husband's death. How then can the final betrothed join with the father to nullify it after the first husband's death? He answers that the final betrothed serves as a substitute for the first one, and all of the first one's authority is taken by the final one.

The Rid also holds that there is no dispute about this section of the *baraita*, but in his version of the text the father does not nullify the vow. This makes the difference between the cases clear: This vow has not been nullified at all, so that, upon the husband's death, his authority over vows reverts to the father, who nullifies it together with the daughter's new betrothed.

Other early commentaries understand Rabbi Natan's remarks to refer to the entire *baraita*. Consequently, according to Rabbi Natan, Beit Hillel and Beit Shammai disagree in both clauses (*Tosafot*; *Rosh*).

ונתארסה בו ביום – שמואל: The early commentaries ask: If the first betrothed never heard the vow, why is it necessary for her new betrothal to take place on the same day? Whenever she is betrothed again, the new betrothed can nullify the vow on the day he hears it. *Tosafot* explain that that the *baraita* teaches its clauses disjunctively: Either the husband died before he managed to hear it, or even if he heard it, if she was betrothed on the same day, then the final betrothed can nullify her vows together with her father. The Rashba explains that once the father has nullified the vow, the nullification must be completed on that day. If the first husband dies without nullifying his share, the vow can be nullified only if she is betrothed on that same day and the new betrothed joins in the nullification.

חזר האב והאב ומפר וכו' – שמואל: According to the Rashba, although it is not stated explicitly, this ruling also applies to a case where the woman was betrothed again. Although the woman now has a new betrothed, since the first betrothed already nullified his share, upon that death the authority reverts fully to the father, who can now nullify a vow on his own without the participation of the new betrothed.

HALAKHA

Is divorce considered like silence, etc. – גירושין – בשתיקה דמיא וכו'. If the betrothed man heard her vow, did not nullify it, and then divorced her, the father can no longer nullify it for her. Even if she became betrothed again, the second betrothed man cannot nullify it for her, as this problem was left unresolved by the Gemara and the ruling is stringent with regard to uncertain situations pertaining to Torah law (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 1:17; *Shulhan Arukh*, *Yoreh De'a* 234:20).

בית שמאי סברי: נדרים נמי שראוי לארוס לתרוקנה רשות לאב, ומיגו גייו. בית הלל סברי: אביה ובעלה אחיו מפירין נדריה, ולא מיגו גייו.

The Gemara answers: **Beit Shammai hold: Even with regard to vows^N that were disclosed to the betrothed, in the event of his death, his authority reverts to the father.** In addition, when the father or husband of a young woman nullifies her vow, **he severs his portion of it, enabling the father to nullify her vow on his own after the death of the betrothed. Beit Hillel hold that her father and her final husband together nullify her vows, and he who nullifies her vow does not sever it, but rather weakens its force.** Even if the first betrothed was aware of the vow before his death, the father can nullify it in conjunction with another betrothed. This ruling is in accordance with the ruling of Shmuel that her final betrothed can nullify even those vows that she took while betrothed to the first man.

איבעיא להו: גירושין בשתיקה דמיא או בהקמה דמיא?

S A dilemma was raised before the Sages: Is a husband's divorce of his wife after she took a vow considered like silence,^H or is it considered like ratification^N of the vow?

למאי נפקא מינה? כגון שנדרה ושמע בעלה וגרשה, ואהדרה ביומיה. אי אמר מר בשתיקה דמי – מצוי מיפר לה, ואי אמר מר בהקמה דמי – לא מצוי מיפר לה.

The Gemara asks: **What is the difference between the two possibilities?** In any case, he did not nullify her vow before the divorce, and once he has divorced her he can no longer do so. The Gemara answers: **There is a difference in a case where she took a vow, and her husband heard the vow, and divorced her,^N and he remarried her on the same day.^N If the Master says that divorce is like silence, the husband can now nullify the vow for her,^N since it is the same day. But if the Master says that divorce is like ratification, he cannot nullify the vow for her, as he has ratified it by divorcing her.**

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Even with regard to vows, etc. – נדרים נמי וכו'. The early commentaries discuss the relationship between this *baraita* and the one cited in 68a–69a, in which Rabbi Natan attributes a similar opinion to Beit Shammai and claims that according to Beit Hillel the father cannot nullify his daughter's vows by himself after the husband's death. There too, the Gemara explains the dispute about the nature of the way that the husband's authority reverts to the father as a function of whether the husband's nullification is severing his portion or weakening the entire vow. If it is severed, the father can nullify his portion on his own. If the husband's nullification weakens the vow, then the father cannot simply nullify what is left. He must address the whole vow, in partnership with the new betrothed, if there is one.

The Commentary on *Nedarim* points out that the main difference between the *baraita* here and the one on 68a–69a is that the earlier *baraita* addresses the dispute in a case where the vow has not been brought to the attention of the husband: When the father has nullified his share of the vow and the husband was not aware of the vow before he dies, Beit Shammai hold that since the authority reverts to the father, and whatever was nullified is severed, he needs to merely nullify the husband's share and the vow is fully nullified. Beit Hillel hold that the father's nullification weakens the whole vow rather than severing half of it, and therefore the father cannot merely nullify the husband's portion but must go back and nullify the whole vow, although he himself had nullified his portion previously.

By contrast, the *baraita* here addresses the situation where the deceased husband was aware of the vow and nullified his share. If he dies before the father has been made aware of the vow, Beit Shammai hold that the father cannot merely nullify his share, but must nullify the whole vow. This is because the authority reverts to the father, and therefore the husband's original nullification is void. Beit Hillel hold that in this case, the husband's original nullification is not canceled by his death, and therefore the father cannot nullify the vow on his own but only in conjunction with a new betrothed.

The Ran explains this passage at great length. He asks: According to Beit Shammai, who hold that nullification by one side severs that side of the vow, why is there a difference between when the father dies and when the husband dies?

Regardless, only half of the vow is left for the other to nullify. The Ran explains that the implication of Beit Shammai's opinion that each side severs his portion of the vow is that when the husband dies, his relevance to the vow becomes null and void. Since authority over nullification reverts to the father, the father can then nullify the vow. However, when the father dies, authority does not revert to the husband, so he cannot nullify the vow. Accordingly, in the *baraita* on 68a–69a, which discusses the case in which the father nullified his share and the husband was not made aware of the vow before his death, Beit Shammai rule that the father needs to nullify merely the husband's remaining portion of the vow, as he had previously nullified his own. In the case of this *baraita*, where the husband nullifies his share and then dies, the father's nullification is simply an instance of the authority reverting to the father.

Beit Hillel, however, who hold that the one side's nullification weakens the vow without severing a portion of it, maintain that the husband's relevance to the vow remains even after his death. When the *baraita* says that authority reverts to the father, that means that the husband's nullification is null and void at his death, yet his connection to it remains. Therefore, when the husband nullifies his portion of the vow and then dies, the father alone cannot nullify the vow. However, if there is a new husband, he inherits the original husband's connection to the vow and he and the father can nullify it.

Like ratification – כהקמה דמיא. The Ran explains that according to this possibility, divorce is comparable to the husband remaining silent until the end of the day that he hears the vow, which is considered to be a ratification of it. Similarly, once they are divorced he will no longer be able to nullify the vow, so from that point forward it is automatically ratified. Another suggestion is that since he is divorcing her, he presumably dislikes her and would not mind that her vows cause her anguish (*Hever ben Hayyim*).

She took a vow and her husband heard and divorced her – שנדרה ושמע בעלה וגרשה. The early commentaries explain that this must refer to a betrothed and not fully married couple, as the vows of a woman who was fully married and then divorced can no longer be nullified; she is granted full authority over her

own vows once she is divorced. Furthermore, a husband cannot nullify vows that preceded his present marriage, and therefore he has no authority over vows from her first marriage, even if he was her first husband as well.

And he remarried her on the same day – ואהדרה ביומיה. The Rosh notes that the practical difference would arise even if her betrothed did not remarry her: If divorce is like silence, then once she returns to her father's jurisdiction, he can nullify her vow. If divorce is like ratification of the vow, the father cannot nullify it. The Rosh explains that the mention of his remarrying her on the same day serves to emphasize that he can nullify the vow only on that day, but not after that day has passed. He claims that although that is the consensus in the Babylonian Talmud, in the Jerusalem Talmud there is a dispute about the case where a husband is unable to nullify a vow due to an external factor. There, Rabbi Yosei, son of Rabbi Yehuda, disagrees with the Rabbis with regard to a case where a man lost the ability to nullify vows because he became mute.

The Rosh claims that the same reasoning applies to a case of divorce and remarriage: According to Rabbi Yosei, son of Rabbi Yehuda, the father or husband is allotted twenty-four hours to nullify the young woman's vows, not counting the time in which he was unable to nullify them. According to the Rabbis, if his ability to nullify was interrupted before the end of the day that he heard the vow, he is allotted until the end of whatever day in which his ability to nullify is restored.

The Ritva explains the emphasis on the remarriage occurring on the very same day in a different way. He claims that it teaches that a husband may remarry his own divorcée immediately, without waiting the three months between marriages required when she marries any other man.

He can nullify the vow for her – מצוי מיפר לה. This phrase does not explicitly mention which man can nullify the vow, indicating that if she was not betrothed to another man, her father can nullify the vow on his own, and if she did become betrothed again, her final betrothed can nullify it together with the father (Meiri).