

תא שמע: אימתי אמרו מת הבעל נתרוקנה רשות לאב – בזמן שלא שמע הבעל, או שמע והפר, או שמע ושתיק ומת בו ביום. ואי אמרת גירושין בשתיקה דמו – ליתני נמי "או שמע וגירש"! מדלא תני הכי – שמע מינה גירושין בהקמה דמו.

אימא סיפא: אבל אם שמע וקיים, או שמע ושתיק ומת ביום של אחריו – אין יכול להפר. ואי אמרת גירושין בהקמה דמו – ליתני "ואם שמע וגירש"! אלא מדלא קתני הכי – שמע מינה גירושין בשתיקה דמו.

אלא, מהא ליכא למשמע מינה. אי רישא דוקא – נסיב סיפא משום רישא, אי סיפא דוקא – נסיב רישא משום סיפא.

תא שמע: נדרה והיא ארוסה, ונתגרשה ונתארסה בו ביום, אפילו למאה – אביה ובעלה האחרון מפירין נדריה. שמע מינה: גירושין בשתיקה דמו. דאי בהקמה דמו – מי מצי מיפר ארום אחרון נידרי דאוקים ארום ראשון?

Come and hear a resolution of the dilemma from the following *baraita*: **When did they say that if the husband died^H the authority to nullify a young woman's vows reverts to the father? When the husband did not hear the vow; or he heard the vow and nullified it; or heard it, and was silent, and died on that day. And if you say that divorce is like silence, let the *tanna* of the *baraita* also teach^N with regard to the husband: Or he heard the vow and divorced her. From the fact that he did not teach this case, learn from the *baraita* that divorce is like ratification.**

The Gemara rejects the proof from the *baraita*: **State the latter clause of the *baraita*: But if he heard it and ratified it; or he heard it, and was silent, and died on the following day, then the father cannot nullify the vow. But according to this clause, if you say that divorce is like ratification, let the *tanna* of the *baraita* also teach: And if he heard the vow and divorced her. Rather, from the fact that the *baraita* does not teach this, learn from the *baraita* that divorce is like silence.**

Rather, one cannot learn anything from this *baraita* about the effect of divorce on her vows. The Gemara explains that the discrepancy between the two clauses is stylistic and can be explained either way: **If the cases in the first clause are chosen precisely,^N allowing for the inference that divorce is like ratification, then one must say that the *tanna* formulates the last clause of the *baraita* as he does because of the first clause, i.e., in the same style, although it does not add anything. If the cases in the last clause are chosen precisely, allowing for the inference that divorce is like silence, then one must say that the *tanna* formulates the first clause of the *baraita* as he does because of the last clause, i.e., in the same style, although it does not add anything.**

Come and hear a *mishna* (71a): **If she took a vow while she was betrothed, and was divorced, and was betrothed again on the same day,^N even to one hundred men, her father and her final husband nullify her vows. Learn from this *mishna* that divorce is like silence, because if it were like ratification, could the final betrothed nullify vows that the first betrothed had already ratified?**

HALAKHA

When did they say that if the husband died, etc. – אימתי אמרו מת הבעל וכו': If a betrothed young woman took a vow and her husband did not hear of it, or he heard it and nullified it, or he heard it and remained silent, then he died on that same day; her father can nullify her vow on his own. However, if her betrothed heard the vow and ratified it, or if he heard it and remained silent and died the following day, her father cannot nullify the vow (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 11:16; *Shulhan Arukh*, *Yoreh De'a* 234:11).

NOTES

Let it also teach – ליתני נמי: The omission of a case from a *baraita* does not necessarily mean that the *halakha* mentioned does not apply to it, but here the *tanna* is attempting to list all situations in which the authority over the vows of a daughter reverts to her father. Under such circumstances, the omission of divorce from the list is presumably significant (Rosh).

אי – If the cases in the first clause are chosen precisely, etc. – רישא דוקא וכו': In other words, once it is clear that the two clauses of the *baraita* imply opposite conclusions, no inference can be drawn either way, and the question remains unresolved. However, since the inferences from the two clauses imply an internal contradiction, the Gemara clarifies that this is not an actual contradiction but merely a matter of style, and a practical ruling about the case of divorce simply cannot be derived from this *baraita*.

Some early authorities explain that the reason why the *baraita* does not simply record the *halakha* in cases of divorce is that the *tanna* wanted to keep the clauses balanced, and therefore he did not add a case into one clause that would not appear in the other clause (*Tosafot*; Ran).

ונתארסה בו ביום – And was betrothed again on the same day: The early commentaries point out that the use of the expression: On the same day, indicates that the vow was heard; otherwise, the betrothed man and the father could nullify the vow on whatever day they heard it. Initially, the Gemara postulated that it was heard by the betrothed, and that is why one can derive that divorce is equivalent to silence, as the vow can still be nullified on that day. By ultimately rejecting the proof from the *baraita*, the Gemara is supposing that it was heard by the father.

Even after one hundred days, etc. – אֶפְלוּ לְאַחַר מֵאָה – שָׁמַע אָרוֹס וְכוּ: If a betrothed young woman took a vow without her father or husband hearing her vow, and she was divorced and then betrothed to another man, even at a much later date, whenever they do hear of her vow, her father, together with the man to whom she is betrothed at the time, can nullify it (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 11:13; *Shulhan Arukh, Yoreh De'a* 234:19).

In which the betrothed man did not hear, etc. – כְּשֶׁלֹא שָׁמַע אָרוֹס וְכוּ: If a betrothed young woman took a vow, and her father heard but the betrothed man did not, and she was divorced and betrothed again on that same day, even one hundred times, her father and the final betrothed man can nullify her vows (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 11:11; *Shulhan Arukh, Yoreh De'a* 234:18).

BACKGROUND

We are dealing with a married woman – בְּנִשׁוּאָה: In *halakha*, the transition from being unmarried to becoming married occurs in two stages. Betrothal is the first stage of the marriage process, and it puts into effect the basic prohibitions associated with marriage. After betrothal, a woman requires a divorce before she can marry another man, and sexual intercourse with other men is adulterous and punishable by death. While betrothed, the couple may not yet live together as husband and wife, and most of their mutual obligations do not yet apply.

The second stage of the marriage process occurs when the bride and groom come under the bridal canopy. This immediately confers both the privileges and the responsibilities associated with marriage upon the newlywed couple. After this stage, if one spouse dies, all the *halakhot* of mourning for a close blood relation apply to the surviving spouse. If the wife of a priest dies, he is obligated to make himself ritually impure to bury her. All the monetary rights and obligations applying to married couples take effect after the second stage.

Today, both stages take place in a single ceremony, but in talmudic times there was usually a year-long gap between the two.

הָכָא בְּמֵאֵי עֶסְקִינָן – בְּשֶׁלֹא שָׁמַע אָרוֹס רָאשׁוֹן. אִי הָבֵי מֵאֵי אִירֵינָא בּוּ בַּיּוֹם? אֶפְלוּ לְאַחַר מֵאָה יָמִים גַּמְי!

כְּשֶׁלֹא שָׁמַע אָרוֹס וְשָׁמַע הָאָב, דְּבּוּ בַּיּוֹם – הוּא דְמַצֵּי מִיפְרָא, אֲבָל מִכָּאֵן וְאִילָךְ לֹא מְצִי מִיפְרָא.

תָּא שָׁמַע: נִדְרָה בּוּ בַּיּוֹם, גִּירְשָׁה וְהַחֲזִירָה בּוּ בַּיּוֹם – אֵין יָכוֹל לְהִפְרֹא. שָׁמַע מִינָה: גִּירוּשֵׁין בְּהַקְמָה דְּמוּ.

אָמְרִי: הָכָא בְּנִשׁוּאָה עֶסְקִינָן, וְהֵינּוּ טַעְמָא דְאֵין יָכוֹל לְהִפְרֹא – מִשּׁוּם דְאֵין הִבְעֵל מִיפְרָא בְּקוּדְמִין.

The Gemara rejects this proof: **With what are we dealing here?** We are dealing with a case in which the first betrothed man did not hear the vow, and for that reason his divorcing her does not constitute ratification. The Gemara then asks: **If so, why mention specifically that the divorce occurred on that day? The same would hold true even after one hundred days^H as well.** Since the first husband never heard the vow, the final husband can nullify it on whichever day he hears it.

The Gemara answers: It is referring to a situation in which the betrothed man did not hear^H the vow but the father heard it. As in that case, it is only on the same day that he can nullify^N the vow, but he cannot nullify it from this point forward. Once her father has already heard the vow, her betrothed cannot nullify it on a different day. Therefore, one cannot infer from the mishna that divorce is like silence.

Come and hear a resolution of the dilemma from a mishna (89a): If she took a vow on that day, and he divorced her and remarried her on the same day, he cannot nullify her vow. Learn from the mishna that divorce is like ratification.

The Gemara rejects this proof: **Say that here, i.e., in the mishna cited, we are dealing with a married woman,^B and that is the reason that he cannot^N nullify the vow.** It is not because it has been ratified by divorce but because the husband cannot nullify his wife's vows that precede their marriage.^N The dilemma remains unresolved.

NOTES

דְּבּוּ בַּיּוֹם הוּא דְמַצֵּי – מִיפְרָא: The later commentaries note that this fits well with the opinion of the Rambam, which is that if one of them heard the vow, then both the father and the betrothed man must nullify it on that very day. According to the opinion that if only one of them heard the vow then the other can nullify his share of the vow when he hears it on a later day, it is possible to understand the Gemara to be referring to a case where the father heard and nullified the vow, since then the vow cannot be nullified later, even if the betrothed then died.

וְהֵינּוּ טַעְמָא דְאֵין יָכוֹל וְכוּ: The Gemara does not resolve the issue of whether divorce is like ratification or like silence. Most authorities rule that this question remains an uncertainty concerning a Torah law, and therefore one must be stringent and treat divorce like ratification. However, the Rashba claims that the dilemma can be resolved: The *amora* Shmuel (71a) understands the mishna to be referring to a case where the first betrothed heard the vow and then divorced the young woman. Therefore, the ruling in the mishna that a new betrothed, together with the father, can

nullify her vows indicates that divorce is not like ratification but like silence. The Rashba explains that the Gemara did not cite Shmuel because it wanted to resolve the issue from a mishna or a *baraita*, rather than from the statement of an *amora*.

The husband cannot nullify his wife's vows that precede their marriage – דְאֵין הִבְעֵל מִיפְרָא בְּקוּדְמִין: The Rashash maintains that a husband cannot nullify the vows his wife took when she was betrothed to him only if divorce intervenes. However, if she took a vow while betrothed to him and then married him, he can nullify the vows she took during their period of betrothal. Yet the Rambam and the *Shulhan Arukh* appear to hold that after marriage, a husband can never nullify the vows his wife took while she was betrothed to him. The explanation for this is that a betrothed man's authority to nullify earlier vows derives from his partnership with the father, who has authority over vows that preceded her relationship with her betrothed. But once they are married, the husband's partnership with the father ends. As a husband, he can nullify only vows made subsequent to their marriage (*Shalmei Nedarim*).

מתני' דרך תלמידי חכמים, עד שלא היתה בתו יוצאה מאצלו אומר לה: כל נדרים שנדרת בתוך ביתי – הרי הן מופרין. וכן הבעל, עד שלא תכנס לרשותו אומר לה: כל נדרים שנדרת עד שלא תכנס לרשותי – הרי הן מופרין. שמשנתכנס לרשותו – אינו יכול להפיר.

גמ' בעי רמי בר חמא: בעל, מהו שפיר בלא שמייעה? 'ושמע אישה' דוקא הוא, או לאו דוקא הוא?

אמר רבא, תא שמע: דרך תלמידי חכמים עד שלא יצאת בתו מאצלו אומר לה: כל נדרים שנדרת בתוך ביתי הרי הן מופרין. והא לא שמע!

לכי שמע הוא דמיפר. אם כן, כי לא שמע למה ליה למימר? הא קמשמע לן: אורחיה דצורבא מרבנן להדורי.

תא שמע מסיפא: וכן הבעל עד שלא תכנס לרשותו אומר לה. הכא נמי דאמר לה "לכי שמענא".

MISHNA The practice of Torah scholars^{HN} is to ensure that a woman about to be married should not be encumbered by any vows. A father, **before his daughter would leave him through marriage, would say to her: All vows that you vowed in my house are hereby nullified.** And similarly, the husband, before she would enter his jurisdiction, i.e., while they were still betrothed, would say to her: **All vows that you vowed before you entered my jurisdiction are hereby nullified.** This was necessary because once she enters his jurisdiction he cannot nullify the vows she made before that.

GEMARA Rami bar Hama asks: Concerning a husband, what is the *halakha* with regard to his nullifying^N a vow without hearing it?^N In other words, can a husband state a general nullification of his wife's vows without being aware of any particular vow? When the verse states: "And her husband hears it, on the day that he hears it, and holds his peace at her, then her vows shall be ratified" (Numbers 30:8), is that referring specifically^H to a situation where he actually heard of a vow, and only then he can nullify it? Or is it not specifically referring to such a situation, and the mention of hearing is merely because the ordinary situation is that the husband nullifies a vow once he hears it?

Rava said: Come and hear the mishna: The practice of Torah scholars is that a father, before his daughter would leave him through marriage, would say to her: All vows that you vowed in my house are hereby nullified. Rava points out: But the father did not hear her vows, so it must be that one can nullify vows without knowledge that they were actually made.

The Gemara rejects this conclusion: The mishna means that the father states a preemptive nullification that when he will hear a particular vow is when he nullifies it. The vow is not actually nullified until he hears it. The Gemara asks: If so, when he has not actually heard those vows yet, why is it necessary for him to state preemptively that the vows will be nullified; why not wait until he actually hears the vow? The Gemara answers: This teaches us that it is the practice of a Torah scholar to pursue^N such matters, in order to prompt his daughter or his betrothed to inform him of vows she took, which will then be nullified when he hears of them.

The Gemara suggests: Come and hear from the latter clause of the mishna: And similarly, the husband, before she would enter his jurisdiction, i.e., while they were still betrothed, would say to her: All vows that you vowed before you entered my jurisdiction are hereby nullified. This implies that he can nullify vows without hearing them. The Gemara responds: Here too, it means that he says to her: When I hear^N the particular vow, then it will be nullified.

HALAKHA

דרך תלמידי חכמים – דוקא אישה, דוקא הוא וכו' The practice of Torah scholars – דרך תלמידי חכמים – It is the practice of Torah scholars for a father to say to his daughter who is about to be married that all her vows are nullified. Similarly, before a betrothed man marries his betrothed, he says to her that all the vows she made during their betrothal period are nullified (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 11:20–21; *Shulhan Arukh, Yoreh De'a* 234:10).

And her husband hears, is that referring specifically, etc. – ושמע אישה, דוקא הוא וכו' If a husband or father nullified a vow that they did not hear, it is nullified, if they are of sound mind and are capable of hearing. This is the ruling of the Rambam, based on the Gemara on 73b (*Taz*). Others maintain that a husband or father cannot nullify vows he has not heard (Rosh). However, all agree that if one nullified a vow and later heard it, it is nullified (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 11:21, 12:13; *Shulhan Arukh, Yoreh De'a* 234:25).

NOTES

The practice of Torah scholars – דרך תלמידי חכמים: As well as behaving properly themselves, scholars do all they can to prevent others from sinning. Therefore, they take measures to help members of their household avoid sins stemming from vows (Rabbeinu Eliezer of Metz).

Concerning a husband, what is the *halakha* with regard to his nullifying, etc. – בעל, מהו שפיר וכו': All of the early commentaries appear to be in consensus that the question applies equally to a father and a betrothed. The Maharshah and the *Perisha* claim that, according to the Rambam, only the father is required to hear a vow in order to nullify it, but many later commentaries raise difficulties with this interpretation.

Without hearing – בלא שמייעה: The early commentaries explain that this is referring to a situation where the husband says to his wife: If you have taken a vow, your vow is nullified. As will become clear from the Gemara later on, he does not need to actually hear the vow. The question is whether he requires definitive knowledge of his wife's vow in order to nullify it.

To pursue – להדורי: The Ran points out that in order to reject this proof, the Gemara does not utilize the argument that it is a case in which the vow will be nullified when the father hears it, as it does later with regard to the husband. That is because his daughter is leaving his jurisdiction and he does not have the power to nullify vows that he learns about afterward.

When I hear – לכי שמענא: Most early commentaries understand that the nullification can be stated before the husband hears the vow, and the question is only if he wants the nullification to go into effect without his hearing it all. According to *Tosafot*, he must explicitly state that his nullification will go into effect when he hears the vow. The *Rid* holds that if he eventually hears the vow, the prior nullification goes into effect, even if he did not say so explicitly. The question is only with regard to cases where he never hears the vow. Some early commentaries cite an opinion that the question is about the validity of prior nullification, and the case referred to by the Gemara with the words: When I hear, involves him explicitly nullifying the vows subsequent to hearing them (Rashba).

HALAKHA

האומר לאפוטרופוס וכו' – One who says to a steward, etc. – One may not appoint an agent for the nullification of a vow or for the ratification of it, in accordance with Rabbi Yoshiya's opinion that this is a Torah edict (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 13:9; *Shulhan Arukh, Yoreh De'a* 234:30).

The legal status of a person's agent is like that of himself – **שְׁלוּחוֹ שֶׁל אָדָם כְּמוֹתוֹ**: The legal status of one's agent is generally considered like that of himself. However, he cannot appoint an agent to perform a mitzva that requires use of his body, and there is no agency for the performance of a transgression (Rambam *Sefer Kinyan, Hilkhot Sheluḥin VeShutafin* 1:1; *Shulhan Arukh, Hoshen Mishpat* 182:1).

LANGUAGE

Steward [*apotropos*] – **אֲפוֹטְרוֹפוֹס**: From the Greek *ἐπίτροπος*, *epitropos*, meaning a trustee. It generally refers to anyone who has the right to manage the properties or affairs of another.

תָּא שְׁמַע, האומר לאשתו "כל נדרים שתדורי עד שאבא ממקום פלוני הרי הן קנימין" – לא אמר כלום. הרי הן מופרין, רבי אליעזר אומר: מופר. והיא לא שָׁמְעָה!

הבא נמי דאמר "לבי שמענא". ולמה לי מן השתא? לבי שמע ליפר לה! קסבר: דלמא מטרידנא ההיא שעתא.

תָּא שְׁמַע: האומר לאפוטרופוס "כל נדרים שנודרת אשתי מכאן ועד שאבא ממקום פלוני – הפר" והפר לה, יכול יהו מופרין – תלמוד לומר "אישה יקימנו ואישה יפרנו", דברי רבי יאשיה.

אמר לו רבי יונתן: מצנינו בכל התורה בולה שלוחו של אדם כמותו.

ואפילו רבי יאשיה לא קאמר אלא משום דגזירת הכתוב הוא "אישה יקימנו ואישה יפרנו", אבל דבולי עלמא – שלוחו של אדם כמותו. והיא לא שָׁמְעָה ליה!

Come and hear another mishna to answer the question (*Nedarim* 75a): **One who says to his wife: All vows that you vow until I arrive from such and such a place are hereby ratified, has not said anything**,^N i.e., the vows are not ratified. If he says: All vows that you vow until then are hereby nullified, Rabbi Eliezer says: They are nullified. The Gemara comments: **But he did not actually hear**^N the particular vows, so one can infer from this that he need not hear her vows in order to nullify them.

The Gemara rejects this suggestion: **Here too**, one can understand the situation to be that **he says: When I hear** the particular vow, it will be nullified. The Gemara asks: **But if so, why do I need**, i.e., why must the husband state his nullification, **from now; let him nullify them for her when he actually hears** them. The Gemara answers: **He reasons: Perhaps I will be preoccupied at that moment** and will forget to nullify them. He therefore nullifies the vows beforehand, so that the nullification will take effect automatically when he hears them.

Come and hear a *baraita*: In the case of **one who says to a steward** [*apotropos*]^{HL} appointed to manage his affairs in his absence: **All vows that my wife vows from now until I arrive from such and such a place you should nullify, and the steward nullified the vows for her, one might have thought that they would be nullified**. Therefore, **the verse states: "Her husband may ratify it, or her husband may nullify it"** (Numbers 30:14). The repetition of "her husband" teaches that it is the husband alone who may nullify his wife's vows; this is **the statement of Rabbi Yoshiya**.

Rabbi Yonatan said to him: **We have found everywhere in the Torah that the legal status of a person's agent is like that of himself**.^H Therefore, a steward can nullify the vows on the husband's behalf.

The Gemara points out: **And even Rabbi Yoshiya says** that a steward cannot nullify the wife's vows **only because it is a Torah edict**, based upon the words **"her husband may ratify it, or her husband may nullify it"** (Numbers 30:14). **But according to everyone**, the principle that the legal status of a **person's agent is like that of himself** is generally valid. The only objection to the steward nullifying the vows is the Torah edict. The Gemara asks: **But these vows were not heard by the steward?**^N This indicates that not having heard the vows is not an obstacle to nullification.

NOTES

הרי הן – They are hereby ratified, he has not said anything – This is because one cannot ratify a vow not yet in existence (Commentary on *Nedarim*). Some commentaries explain that such a global ratification is unreasonable, as the husband is likely to be displeased with at least some of her future vows, so that this is considered a mistaken ratification, which is invalid (*Tosafot*; Rosh). Some explain that a global ratification of this sort is of no consequence, as he need not say anything at all in order to ratify all her vows; all he has to do is remain silent, and they will be ratified automatically (*Shita Mekubbetzet*). The *Hatam Sofer* maintains that ratification is fundamentally different from nullification. He does not have to hear her vows in order to nullify them, but he can ratify only vows that he has actually heard.

והיא לא שָׁמְעָה – The Ran points out that the proof is valid according to the opinion of the Rabbis as

well as that of Rabbi Eliezer. They disagree only with regard to nullifications that precede the actual taking of the vow, but they agree that the nullification can precede hearing about the vow.

והיא לא שָׁמְעָה ליה – The early commentaries ask: Given the principle that the legal status of a person's agent is like that of himself, why can't the steward hearing the vow be tantamount to the husband hearing the vow? Many commentaries explain that since the one who appointed the agent is unable to hear the vow at the time it occurs, he cannot appoint someone else to perform something he himself is unable to perform (*Tosafot*; Ran; Rabbi Avraham min HaHar). Others maintain that although he appointed the steward to be his agent for nullification, he did not make him an agent for hearing (Rashba; Meiri). The Rosh explains that, in general, one cannot appoint an agent for a matter that is not an action but merely happens on its own accord, e.g., hearing.