

תִּנְיָא בְּוִתִּיה דְּרַבִּי אָמִי? דְּקָתְנִי: בִּין שְׁעֵשָׂה בַּהּ מֵאָמֵר וּבִין שְׁלֵא עֲשָׂה בַּהּ מֵאָמֵר.

אִי נָמִי מִרִּישָׁא, דְּקָתְנִי: מִשְׁנֵבְנָסָה לְרִשְׁתּוֹ נִגְמָרָה לּוֹ. וְאִי דְלֵא קְדִישׁ – מֵאִי נִגְמָרָה לּוֹ? תַּפְּשׁוּט מִיְנִיה בְּשַׁעֲשָׂה בַּהּ מֵאָמֵר.

מֵאִי וּכְשָׁאָר דְּבָרִים בֵּין נְדָרִים? דְּקָתְנִי? אָמֵר רַבָּא, הֲכִי קָתְנִי: אִי אֵתָה מוֹדָה שְׂאִין תְּיַבֵּין סְקִילָה כְּנַעְרָה הַמְּאוֹרָסָה?

אָמֵר רַב אֲשִׁי: מִתְּנִיתִין נָמִי דִּיקָא: אִין יְבָמָה גְּמוּרָה לְאִישָׁה כְּשֵׁם שְׂאוּרָסָה גְּמוּרָה לְאִישָׁה.

מִתְּנִי הָאוֹמֵר לְאִשְׁתּוֹ "כָּל הַנְּדָרִים שְׂתַדּוּרִי מִכָּאֵן עַד שְׂאֵבֵא מִמָּקוֹם פְּלוֹנִי הָרִי הֵן קִיִּמִּין" – לֵא אָמֵר כְּלוּם. "הָרִי הֵן מוֹפְרִין", רַבִּי אֶלְיעֶזֶר אָמֵר: מוֹפֵר, וְחֻכְמִים אוֹמְרִים: אִינוּ מוֹפֵר. אָמֵר רַבִּי אֶלְיעֶזֶר: אִם הִפֵּר נְדָרִים שְׂבָאוּ לְכָלֵל אִיסוּר – לֵא יִפֵּר נְדָרִים שְׁלֵא בָּאוּ לְכָלֵל אִיסוּר?

is it taught in the *baraita* in accordance with the opinion of Rabbi Ami? The Gemara explains that support for Rabbi Ami's opinion is found in that which is taught in the *baraita*, as Rabbi Akiva mentions the following distinction: **Whether he performed levirate betrothal or whether he did not perform levirate betrothal.** This indicates that Rabbi Eliezer's statement is referring to a *yevama* with whom he performed levirate betrothal.

Alternatively, support can be derived from the first clause of the *baraita*, which teaches: **Once she enters his jurisdiction, she is fully under his authority. If the *baraita* is referring to a situation where he did not betroth her in levirate betrothal, in what sense is she fully under his authority? Deduce from it that the situation is one in which he has performed levirate betrothal.**

The Gemara then asks with regard to the *baraita* itself. **What is the meaning of the phrase: And just as in other matters there is no such distinction, so too with regard to vows, that Rabbi Akiva teaches in the *baraita*? Rava said: This is what Rabbi Akiva is teaching: Do you not concede^N that one is not liable to be punished with stoning^H for adulterous relations with a *yevama* as he would be if she were a betrothed young woman?^H The status of the relationship is inferior to proper marriage, as one who engages in sexual intercourse with a *yevama* does not incur the death penalty. Accordingly, the authority of the *yavam* with regard to vows is also inferior.**

Rav Ashi said: **The mishna (74a) is also precisely formulated^N to indicate this, as it teaches: A *yevama* is not her husband's full-fledged wife in the same manner that a betrothed woman is her husband's full-fledged wife.**

MISHNA One who says to his wife: All vows that you will vow^H from now until I arrive from such and such a place are hereby ratified,^N has not said anything, i.e., the vows are not ratified. However, if he states that all vows that she will take until then are hereby nullified, Rabbi Eliezer said: They are nullified, while the Rabbis say: They are not nullified. Rabbi Eliezer said in explanation: **If one can nullify vows that have reached the status of a prohibition,^N i.e., that have already taken effect, shall he not be able to nullify vows that have not reached the status of a prohibition?**

HALAKHA

That one is not liable to be punished with stoning – שְׂאִין תְּיַבֵּין סְקִילָה: Before the *yavam* engages in sexual intercourse with her or performs *halitza* with her, it is prohibited for the *yevama* to marry anyone else. If she engages in intercourse with someone other than the *yavam*, both she and her partner are flogged. If she marries someone else, he is required to divorce her (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 2:18).

Stoning as for a betrothed young woman – כְּנַעְרָה הַמְּאוֹרָסָה: If a man engages in sexual intercourse with a betrothed young woman, they are both liable to be punished with stoning (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 3:4).

כל הנדרים שתדורי – כָּל הַנְּדָרִים שְׂתַדּוּרִי: If one says to his wife that all the vows that she will vow during a certain period are ratified, he has made a statement of no consequence and he may still nullify the vows. Similarly, if he tells her that he is nullifying any vow she utters from now onward, his nullification is invalid, in accordance with the opinion of the Rabbis (Rambam *Sefer Hafl'a'a*, *Hilkhot Nedarim* 13:9; *Shulhan Arukh*, *Yoreh De'a* 234:28).

NOTES

Do you not concede, etc. – אִי אֵתָה מוֹדָה וכו': The Gemara is assuming that a woman awaiting levirate marriage is not liable for stoning for engaging in sexual intercourse with someone other than her *yavam*, even if levirate betrothal had been performed. However, since Rabbi Eliezer maintains that levirate betrothal is a full-fledged acquisition, why does the Gemara assume that it is not considered to be like actual betrothal with regard to the punishment for adultery? It appears that since another brother of the deceased can still cause cancellation of this levirate betrothal, even Rabbi Eliezer agrees that the bond between the *yavam* and the *yevama* is not of the same severity as that of a regular betrothal. In the Jerusalem Talmud (see *Sheyarei Korban*), a statement of Rabbi Yehoshua to Rabbi Akiva is cited, that although his argument is valid according to the accepted *halakha*, it does not accord with the opinion of Rabbi Elazar ben Arakh, who holds that levirate betrothal is in fact completely equivalent to ordinary betrothal in all respects (see *Shalmei Nedarim*).

The mishna is also precisely formulated – מִתְּנִיתִין נָמִי דִּיקָא: The citation of the mishna from which Rav Ashi argues is different from the text of the mishna above. Rav Ashi's citation reads: A *yevama* is not her husband's full-fledged wife in the same manner that a betrothed woman is her husband's full-fledged wife, while in the mishna, the first mention of: Her husband, is replaced with: The *yavam*. Referring to the *yavam* as her husband provides support for Rabbi Ami's contention that the mishna is referring to a case in which there was a levirate betrothal, as otherwise there are no grounds for referring to him as her husband. Nevertheless, levirate betrothal is not considered a full-fledged betrothal, as is evident from the fact that adultery following levirate betrothal is not a capital crime (Commentary on *Nedarim*).

Are hereby ratified, etc. – הָרִי הֵן קִיִּמִּין וכו': The Commentary on *Nedarim* explains that the reason a husband cannot ratify vows that have not yet been uttered is that they are analogous

to an entity that has not yet come into existence, which cannot be acquired. Other commentaries explain that since there potentially could be vows that the husband would not want to ratify, his prior ratification is considered erroneous and is of no substance (Rosh; Meiri). The Ran points out that Rabbi Eliezer's logic which justifies preemptive nullification also explains why preemptive ratification is impossible: If it is easier to nullify vows before they come into existence, then it is likewise more difficult to ratify such vows.

That have reached the status of a prohibition – שְׂבָאוּ לְכָלֵל אִיסוּר: The Meiri notes that although the Rabbis rule that one cannot nullify vows that have not yet been taken, all agree that a husband can nullify vows before the prohibition deriving from them takes effect, such as a vow pending the fulfillment of a certain condition. Once the wife has uttered the vow, it is eligible for nullification.

NOTES

The verse states, her husband, etc. – הָרִי הוּא אוֹמֵר אִישָׁהּ וְכוּ׃ The *Sifrei* offers another derivation alongside this one: The verse states: “But if her husband disallows her on the day that he hears it, and he nullifies her vow which is upon her” (Numbers 30:9). The husband can nullify only vows that are already “upon her,” but not vows that do not yet exist.

That which has reached the status of eligibility for ratification, etc. – אֵת שְׂבָא לְכַלֵּל הֶקֶם וְכוּ׃ Though Rabbi Eliezer’s argument is based on an *a fortiori* inference, it is overridden, according to the Rabbis, by the analogy based on the juxtaposition of ratification and nullification. Some later commentaries ask why the same analogy cannot be applied in the opposite direction, to allow not only preemptive nullification but also preemptive ratification (*Keren Ora*; Rabbi Akiva Eiger’s commentary on the Mishna). The most straightforward explanation offered is that there is a principle that the preferred interpretation of such analogies is in the direction of stringency (*Parashat Nedarim*).

Take effect momentarily and are then canceled immediately, etc. – מִיַּחַל חָלִין וּבִטְלִין וְכוּ׃ It is possible to understand this question as depending upon how to interpret the verse “But if her husband disallows her on the day that he hears it, and he nullifies her vow which is upon her” (Numbers 30:9). If one understands nullification as negating her ability to take an effective vow, then preemptive nullification should mean that the vow never takes effect at all. However, if nullification renders her vow void, it can do so only after the vow has taken effect.

אָמְרוּ לוֹ: הָרִי הוּא אוֹמֵר “אִישָׁהּ יְקוּמְנוּ וְאִישָׁהּ יִפְרְנוּ” אֵת שְׂבָא לְכַלֵּל הֶקֶם – בָּא לְכַלֵּל הֶפֶר, לֹא בָּא לְכַלֵּל הֶקֶם – לֹא בָּא לְכַלֵּל הֶפֶר.

גַּמְ' אֵיבְעִינָא לְהוּ: לְרַבִּי אֱלִיעֶזֶר, מִיַּחַל חָלִין וּבִטְלִין, אוֹ דְלִמָּא לֹא חָלִין כְּלָל? לְמַאי נִפְקָא מִיְנָה?

The Rabbis said to him in response: The verse states: “Every vow, and every binding oath to afflict the soul, **her husband^N may ratify it, or her husband may nullify it**” (Numbers 30:14). This teaches: **That which has reached the status of eligibility for ratification,^N i.e., a vow that she has already taken, has reached the status of eligibility for nullification.** However, a vow that **has not reached the status of eligibility for ratification has not reached the status of eligibility for nullification** either, and it cannot be nullified.

GEMARA A dilemma was raised before the Sages: According to Rabbi Eliezer, do the vows that the husband nullifies in advance **take effect momentarily and are then canceled immediately after?**^N Or perhaps they do not take effect at all. The Gemara inquires: **In what case is there a difference between these possibilities?**

Perek X
Daf 75 Amud b

NOTES

Where another associated his own vow with this vow – כְּגוֹן דְּאִתְפִּיס אַחֲרֵינָא בְּהָדִין נִדְרָא. אִי אִמְרַתְּ חָלִין – הָוִיא תְּפִיסוּתָא, אִי אִמְרַתְּ לֹא חָלִין – לֹא אִיבָא מִשְׂשָׂא.

Where he cannot nullify his own vows – שְׂאִין מִיַּפְר נְדָרֵי עֲצֻמוֹ – The Sages derived from the words “when a man takes a vow unto the Lord, or swears an oath to bind his soul with a bond, he shall not break his word” (Numbers 30:3) that one cannot nullify or dissolve his own vows, but a halakhic authority can dissolve his vow for him (see *Sifrei* there).

כְּגוֹן דְּאִתְפִּיס אַחֲרֵינָא בְּהָדִין נִדְרָא. אִי אִמְרַתְּ חָלִין – הָוִיא תְּפִיסוּתָא, אִי אִמְרַתְּ לֹא חָלִין – לֹא אִיבָא מִשְׂשָׂא.

The Gemara answers: There is a difference in a case **where another person associated his own vow with this vow.**^N If someone else heard her vow and declared his vow to be like hers, the status of his vow depends on this question. **If you say that such vows take effect, then the association of the other person’s vow takes effect.** **If you say that such vows do not take effect at all, then the vow of the other person has no substance, as the vow with which he associated it never existed.**

מַאי? תָּא שְׂמַע, אָמַר רַבִּי אֱלִיעֶזֶר: אִם הֶפֶר נִדְרִים שְׂבָאוּ לְכַלֵּל אִיסוּר – לֹא יִפְר נְדָרִים שְׂלֵא בָּאוּ לְכַלֵּל אִיסוּר? שְׂמַע מִיְנָה: לֹא חָלִין.

What, then, is Rabbi Eliezer’s opinion? **Come and hear the mishna: Rabbi Eliezer said: If one can nullify vows that have reached the status of a prohibition, shall he not nullify vows that have not reached the status of a prohibition? Learn from it that such vows do not take effect at all, as they are described as not having reached the status of a prohibition.**

מִי קִתְּנִי “שְׂאִינָן בָּאִין”? “שְׂלֵא בָּאוּ” קִתְּנִי, עַדִּין לֹא בָּאוּ.

The Gemara rejects this conclusion: **Does the mishna teach using the words: That do not reach the status of a prohibition? It teaches: That have not reached the status of a prohibition, which could mean that they have not yet reached the status of a prohibition, but they may take effect, momentarily, when she actually takes the vow.**

HALAKHA

Where he cannot nullify his own vows – שְׂאִין מִיַּפְר נְדָרֵי עֲצֻמוֹ – One cannot dissolve his own oath or vow (Rambam *Sefer Hafla’a*, *Hilkhot Shevuot* 6:3; *Shulhan Arukh*, *Yoreh De’a* 228:1).

He can nullify his own vows before he vows – מִיַּפְר נְדָרֵי עֲצֻמוֹ – With regard to one who stipulates that all the vows he makes until a particular time should be void, if he makes a vow during that period without remembering his stipulation, his vows are void. However, if he recalls the condition and makes a vow regardless, his vow is valid, as he has thereby negated his stipulation (*Shulhan Arukh*, *Yoreh De’a* 211:2).

תָּא שְׂמַע: אָמַר רַבִּי אֱלִיעֶזֶר: וּמַה בְּמִקּוּם שְׂאִין מִיַּפְר נְדָרֵי עֲצֻמוֹ מִשְׁנַד – מִיַּפְר נְדָרֵי עֲצֻמוֹ עַד שְׂלֵא יְדוּר, מִקּוּם שְׂמַפְר נְדָרֵי אִשְׁתּוּ מִשְׁתַּדּוּר – אֵינּוּ דִין שְׂיַפְר נְדָרֵי אִשְׁתּוּ עַד שְׂלֵא תְדוּרוּ?

Come and hear a *baraita* from the *Tosefta* (*Nedarim* 6:5): **Rabbi Eliezer said to them: And just as in a situation where he cannot nullify his own vows^{NH} once he has vowed, he can nullify his own vows before he vows^H by stipulating beforehand that the vows he takes should not take effect, all the more so in a situation where he can nullify his wife’s vows even after she vows, is it not logical that he should be able to nullify his wife’s vows before she vows?**

Ritual bath – מקוה: The Torah states: “Nevertheless a fountain or a cistern wherein is a gathering of water shall be clean; but he who touches their carcass shall be unclean” (Leviticus 11:36), for purposes of purifying an individual. *Mikve*, the Hebrew word for a collection of water, is the word used for a ritual bath. A ritual bath must contain minimally forty *se’a*, or three cubic cubits, of water that has not been drawn into vessels but has collected by itself. After that minimum quantity is present, drawn water may be added to it. If three *log* of drawn water are added to a ritual bath that does not have the requisite forty *se’a*, the whole ritual bath is disqualified. The *halakhot* of ritual baths are detailed in tractate *Mikvaot* in the Mishna.



Ritual bath excavated at Qumran, Israel

מאי לאו דאשתו דומיא דיליה, מה [הוא] – דלא חיילין, אף אשתו נמי – דלא חיילין? לא, הא בדאיתא והא בדאיתא.

The Gemara explains the proof: **What, is it not referring to where his wife's vows are similar to his own in that just as his vows, which were nullified in advance, do not take effect at all, so too the vows of his wife do not take effect at all when nullified in advance?** The Gemara rejects this: **No, this case of his nullifying his own vows prior to taking them is as it is, and that case of his nullifying her vows prior to her taking them is as it is;** the similarity between the two cases is sufficient for an *a fortiori* inference, but they are not similar in all respects.

תא שמע: אמרו לו לרבי אליעזר: ומה מקוה שמעלה את הטמאין מטומאתן – אין מציל על הטמאין מליטמא, אדם שאין מעלה את הטמאין מטומאתן אינו דין הוא שלא יציל על הטמאין מליטמא?

Come and hear a baraita: They said to Rabbi Eliezer: Your a fortiori inference is flawed, as can be seen from this example: And just as with regard to a ritual bath,^b which elevatesⁿ the impure from their ritual impurity when they immerse in it but does not save the pure from becoming impure if they come into contact with impurity after immersion, so too, with regard to a person, who does not elevateⁿ the impure from their impurity, e.g., when a person swallows a ritually impure object and then immerses in a ritual bath, the object remains impure, is it not logical that he should not saveⁿ pure items from becoming impure? When one who has swallowed a ritually pure object comes into contact with impurity, the object he has swallowed should also become impure. This is not the case, as a swallowed object does not become impure when the person who swallowed it does. Therefore the *a fortiori* argument is flawed, and one cannot derive from the ability to change a status, like the husband's ability to nullify his wife's vows or the ability of the ritual bath to render something ritually pure, that that the source of the change can also prevent a change of status or preserve that status.

שמע מינה: לא חיילין.

However, **learn from this baraita** that, according to Rabbi Eliezer, vows nullified by the husband from the outset **do not take effect at all**, as the Rabbis' objection presumes that according to Rabbi Eliezer, the vows do not take effect at all. Their argument is based on the analogy between preemptive nullification and preemptive prevention of impurity. Preemptive prevention of impurity is understood to be saving an item from ever becoming impure and analogously, preemptive nullification is understood to be preventing a vow from ever taking effect.

NOTES

מה – Just as with regard to a ritual bath, which elevates, etc. – מקוה שמעלה וכו': The Commentary on *Nedarim* offers three different explanations of the first part of this argument. The first explanation points out that while a ritual bath does purify a person from ritual impurity, it does not prevent that person from becoming impure afterward. Therefore, by extension, in the case of a person, who does not elevate the impure from their impurity, is it not logical that he should not save pure items from becoming impure? The problem with this explanation is that it suggests that it is conceivable that a ritual bath would prevent a person from subsequently becoming impure, and there is no precedent whatsoever for that (see *Hiddushei Batra*).

The second explanation is that while a ritual bath purifies, it does not prevent one from becoming impure by ritual impurity imparted through contact with an impure item, even while still immersed. Therefore, by extension, with regard to a person, who does not elevate the impure from their impurity, it is not logical that he should save pure items from becoming impure.

The last possibility understands the ritual bath to be a metaphor for a halakhic authority and his ability to dissolve vows: Although a halakhic authority can dissolve a person's vow, including a vow ratified by a husband, he cannot preemptively

render it impossible for someone to take a vow in the first place. Analogously, although a husband can nullify his wife's vow, he cannot preemptively nullify his wife's vows.

אדם שאין מעלה וכו' – A person, who does not elevate, etc. – This line is omitted in many manuscripts of the Gemara, including those that served as the text for various early commentaries (see *Ran*). The argument does not require the comparison to a person, as the argument from the ritual bath can stand on its own.

אינו דין הוא שלא יציל – Is it not logical that he should not save – This is referring to the *halakhot* concerning the ritual purity of an object that is inside a person's body. The basic principle is that a swallowed object is not considered part of a person's body, and its status as ritually pure or impure is independent of that of the person who swallowed it. Furthermore, the object is not considered to be in contact with the person for the purposes of impurity by contact, as it is touching a concealed part of his body. Therefore, if the person purifies himself, the ritually impure swallowed object remains impure, and if a person contracts ritual impurity, a pure object he swallows remains pure (see *Hullin* 71a–b).