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***Is Divorce Akin to “a Silence” or “a Confirmation”?***

The *Gemora* had inquired: What does divorce do for any extant vows? Is it as if the husband merely said nothing, or is it as if the husband explicitly confirmed the vows? [The wife pronounced a vow, and the husband heard about it and divorced her. Do we say that since the arush knew that after the divorce he will not be able to revoke her vow, and he did not revoke it before the divorce, it is as if he upheld her vow – just as we say that if he didn’t revoke it on the day that he heard it, it is as if he upheld it, or is tantamount to silence?]

The *Gemora* noted that the practical difference between the two options would be in a case where she vowed, and her husband heard and divorced her, and then he proceeded to remarry her on that very day. If the master said that the divorce was akin to silence, he could still revoke the vow for her. If, however, the master said that it is akin to confirming the vow, he cannot revoke the vow for her.

The *Gemora* attempts to resolve this inquiry from the following *Baraisa*: When was it said that if the husband died, his authority to revoke her *nedarim* transfers to her father? It is in the case where her husband did not hear her *neder* before he died, or he heard it and revoked it, or he heard it and remained silent, and he died on that very same day. Now, if you will say that divorce is akin to silence, the *Baraisa* should also state: Or he heard and divorced her. Since the *Baraisa* did not state that case, it is a proof that divorce is regarded as confirming the vow.

The *Gemora* challenges the proof: Let us consider the last portion of the *Baraisa*: However, if the husband heard about her *neder* and he confirmed it, or he heard it and remained

silent, and he died on the following day, the father is unable to revoke this *neder*. Now, if you will say that divorce is regarded as a confirmation, the *Baraisa* should also state: Or he heard and divorced her. Since the *Baraisa* did not state that case, it is a proof that divorce is akin to silence.

Rather, it is clear that no proof can be brought from this *Baraisa*. For if the first part of the *Baraisa* is written precisely, the Tanna wrote the latter part (imprecisely) because of the similarity to the first part (and he wanted to parallel the cases). And if the latter part of the *Baraisa* is written precisely, the Tanna wrote the first part (imprecisely) because of the similarity to the last part (and he wanted to parallel the cases).

The *Gemora* attempts to resolve this inquiry from our *Mishnah*: If a woman makes a vow while she was an arushah (betrothed), and then proceeded to get divorced on that very same day, and then became betrothed to someone else on that very same day - even if this happens one hundred times, her father and current husband can revoke her vows of that day (for they can revoke vows made prior to her betrothal). It is evident that divorce is akin to silence, for if it would be regarded as a confirmation, how could the current husband revoke a vow that has been confirmed by the first one (*assuming that the first husband heard about the vow*)?

The *Gemora* answers: The *Mishnah* is referring to a case where the first husband did not hear about the vow (*and therefore, divorce is not regarded as a confirmation; for the logic that it should be a confirmation is that the husband knows that after the divorce, he will not be able to revoke her nedarim any longer, and from the fact that he did not revoke*

her *neder* beforehand; this indicates that he is, indeed, confirming it; this does not apply if he didn't hear about it).

The *Gemora* asks: If so, why did the *Mishnah* specify that she was divorced and betrothed on that same day? The same *halachah* would apply if it happened after a hundred days!

The *Gemora* answers: The husband did not hear about the *neder*, but the father did. If it is still on that day, the father can revoke her vow, but afterwards, he may not.

The *Gemora* attempts to resolve this inquiry from the following *Mishnah*: If she made a *neder* on the day she got married, and the husband divorced her and remarried her on that same day, he cannot revoke the vow. This would be a proof that divorce is regarded as a confirmation of her *neder*.

The *Gemora* deflects the proof: They said: The *Mishnah* is referring to a *nesuah*, and the reason that the husband cannot revoke her vow is because the *halachah* is that a husband cannot revoke his *nesuah's* prior vows.

#### **Ra"n Elucidated**

[The *Ra"n* explains that it can be referring to a *nesuah* either in the marriage preceding the divorce or the one that followed it. If she was an *arusah* by the first marriage and a *nesuah* at the end, he would not be able to revoke her *nedarim*, for the husband cannot revoke pre-existing *nedarim*. If she was a *nesuah* by the first marriage and an *arusah* at the end, he cannot revoke her *nedarim*, for once she is a *nesuah*, the father loses his rights over her, and the *arus* is not able to revoke her vows without the conjunction of her father.] [The *Gemora* leaves this question unresolved, and there is a discussion in the *Rishonim* regarding the practical ruling.] (71b1 – 72a2)

#### **Mishnah**

The *Mishnah* states: It was the custom of Torah scholars before their daughters would leave their authority, he (the

father) would say to her (his daughter): All *nedarim* that you made in my house are revoked. And similarly, the husband would say before she entered his authority: All *nedarim* that you made before you entered my authority are revoked. This is because once she enters into his authority (*as a nesuah*), he cannot revoke her vows (*that were made beforehand*). (72b1)

#### **Is Hearing Necessary?**

Rami bar Chama inquired: May a husband revoke her vow without hearing about it? Since the verse in the Torah states "And the husband heard," he cannot revoke unless he heard about it, or perhaps, those words were not meant to be specific (*and the Torah is just discussing the usual case*)?

Rava attempts to resolve this inquiry from our *Mishnah*: It was the custom of Torah scholars before their daughters would leave their authority, he would say to her: All *nedarim* that you made in my house are revoked. And here he is revoking her vows without even hearing it!

The *Gemora* rejects the proof: He actually revokes her vows when he hears about them.

The *Gemora* asks: If so, why does he make this declaration before he hears about them?

The *Gemora* answers: It was customary for the Torah scholars to find out if their daughters made any *nedarim* (*and when they hear about them, they will revoke them*).

The *Gemora* attempts to resolve the inquiry from the last part of the *Mishnah*: And similarly, the husband would say before she entered his authority: All *nedarim* that you made before you entered my authority are revoked.

The *Gemora* deflects this proof as well, by saying that the *Mishnah* means that he will revoke her vows after he hears them.



The Gemora attempts to resolve this inquiry from the following Mishnah: One who says to his wife, "All nedarim which you will make until I come back from Such-and-such a place shall be confirmed," he has said nothing (for these nedarim are not in existence yet). If, however, he said, "they shall be revoked," Rabbi Eliezer said: They are revoked. And here he is revoking her vows without even hearing it!

The Gemora rejects the proof: He means that they should be revoked when he hears about them.

The Gemora asks: So why does he make that declaration? Let him revoke the vows when he hears them.

The Gemora answers: He is worried that he will become preoccupied with other matters at that time (and he will forget to revoke them).

The Gemora attempts to resolve this inquiry from the following Baraisa: One who says to guardian (one who will be taking care of his property in order to sustain his wife and children while he is away), "All nedarim that my wife will make from now until I return from Such-and-such a place, you shall revoke." If the guardian went and revoked them, you might think that her vows are indeed revoked. The Torah teaches us: Her husband will confirm them and her husband will revoke them. These are the words of Rabbi Yoshiyah. Rabbi Yonasan said to him: Throughout the Torah, we find that an agent of a person is just like himself (and therefore, the guardian may revoke her vows for the husband).

And even Rabbi Yoshiyah only disagreed because of the Scriptural verse, but otherwise, they would all agree that the agent can revoke her nedarim. But the husband never heard the neder (this would prove that he can revoke her nedarim without hearing them first)!

#### **Ra"n Elucidated**

[The Ra"n asks: Perhaps, hearing is necessary, but here it is different, because the hearing of the guardian, who is the representative of the husband is just like him, and it is as if

the husband heard himself? Tosfos answers: If it is true that hearing is necessary, is there anything that the husband cannot do, yet he can appoint an agent to do that for him? This is a rule by all agents. One cannot appoint an agent to do something that he himself cannot do.]

The Gemora rejects this proof as well: The Baraisa is referring to a case where the husband told the guardian, "When I hear about the vows, revoke them for me."

The Gemora asks: Why can't the husband revoke them himself?

The Gemora answers: He is worried that he will become preoccupied with other matters at that time (and he will forget to revoke them). (72b1 – 73a1)

#### **INSIGHTS TO THE DAF**

##### ***Pre-existing Conditions***

The Gemora stated that the Mishnah is referring to a nesuah, and the reason that the husband cannot revoke her vow is because the halachah is that a husband cannot revoke his nesuah's prior vows.

The Ra"n explains that it can be referring to a nesuah either in the marriage preceding the divorce or the one that followed it. If she was an arusah by the first marriage and a nesuah at the end, he would not be able to revoke her nedarim, for the husband cannot revoke pre-existing nedarim. If she was a nesuah by the first marriage and an arusah at the end, he cannot revoke her nedarim, for once she is a nesuah, the father loses his rights over her, and the arus is not able to revoke her vows without the conjunction of her father.

The Reshah notes that it would seem from this Ra"n that a husband after nisuin can indeed revoke the nedarim that his wife made while she was an arusah. For otherwise, the Mishnah did not have to mention that he divorced her and



then remarried her. He cites the Rambam's opinion that the husband may not revoke the *nedarim* that his wife made while she was an *arusah*.

There are those that explain the argument as follows: Does the husband have authority over his wife's *nedarim*, while she is an *arusah*? If you say that the husband has no authority then; it is only in conjunction with her father that he may revoke her *nedarim*, we can explain the Rambam's opinion. Once they perform *nisuin*, the husband acquires the authority to revoke her *nedarim*, but he can only use this authority on *nedarim* that his wife makes from now on. However, if you will say that the husband does have authority to revoke her vows even during the *erusin*, except that this authority is limited in the fact that he may only revoke her *nedarim* in conjunction with her father, we can understand the Ra"n's opinion. The husband may revoke the *nedarim* that his wife made during *erusin*, for this is not regarded as a pre-existing *neder*, since he had the authority to revoke this *neder* even beforehand.

#### DAILY MASHAL

##### ***Man Speaks; God Fulfills***

It is written: *If a man vows a neder to Hashem, or swears an oath, to forbid a prohibition upon himself, he shall not (yachel) desecrate his word; according to whatever comes from his mouth shall he do.*

Rashi writes (explaining the word 'yachel'): He shall not make his words chullin – non-sacred.

When man was created, the Torah writes: *And He blew into his nostrils the soul of life.* Onkelos explains this to mean the power of speech.

The Zohar writes that the Holy One, Blessed be He, blew into man the power of speech which is holy, and that is why the Torah states: *the voice is the voice of Yaakov.* This explains how man can consecrate an animal, and the holiness spreads

throughout the animal. It is also why the words of Torah, which is recited by a person, may sway him and move him closer to Hashem.

We are commanded to recite shema twice daily, study Torah, recite blessings and prayers, but on the condition that we do not desecrate our words. A person who guards his power of speech and does not desecrate it will merit that "*according to whatever comes from his mouth shall He do.*" The Holy One, Blessed be He, will do whatever it is that comes out from such a person's mouth – He will listen to his prayers and requests.