מהדורת משפחת ברייטמן
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תמצית ערוך השולחן

TAMTZIS ARUCH HASHULCHAN

A Concise Summary of the Dinim of the Aruch HaShulchan

YOREH DEAH · VOLUME II · SIMANIM 203–403

Nedarim ◆ Shevuos ◆ Kibud Av v'Em ◆ Talmud Torah ◆ Tzedakah
Milah ◆ Geirus ◆ Sta"m ◆ Ma'akeh ◆ Chodosh ◆ Aveilus

Concise practical rulings, with source references and explanatory notes from the Chochmas Adam, Pischei Teshuva and later poskim

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הורינו היקרים



דבורה בת זוסיע ז״ל
דוב צבי בן יעקב הלוי ז״ל



משה אהרן ורעיתו פייגל ברייטמן

In everlasting memory of our dear parents
Devorah bas Zusya · Dov Tzvi ben Yaakov HaLevi

Dedicated by Moshe Aharon and Faigie Braitman



first enactment entirely, thinking the new enactment automatically nullified it — the matter stands: since they had the power to do so, the act (e.g., the document) is valid, though they should have explicitly stated they were nullifying the first. (AH §123; Rosh klal 7)

- Where they did not intend to nullify the first — either because they did not notice the second contradicts the first, or where a second decree conflicts with the first only upon examination — there the second is void, since they never meant to uproot the first. (AH §124; Rosh klal 7)
- Where a temporary emergency enactment was made under great duress, without intent to nullify the earlier one (as in selling synagogue seats to meet a sudden extortion), the second is void, since they themselves did not intend to nullify the first. (AH §125; Rosh klal 5)

The primary ruling is that where they did not intend to nullify the first, the second is void (the stringent view being merely a stringency); but where their intent was to nullify the first, the second stands and the first is void, provided they nullify the first explicitly. (AH §126; Rema)

Limits on Communal Enactments

Any enactment that runs against the law of the *Torah* is null and void, has no substance, and it is forbidden to follow it; likewise an enactment against the law of the kingdom is null and void, and Jews are not suspected of such, for they are faithful servants to the kingdom. (AH §127)

- Valid enactments cover only strengthening the faith, upholding the laws of the kingdom, monetary matters, charity, and all matters incumbent on the community — such as engaging the town's holy functionaries: a Rav, a *chazzan*, and beadles. (AH §127)

Releasing Vows to Perform a Mitzvah

One who vowed to go up to the Land of Israel may have it released like other vows. (AH §128; Beis Yosef)

One who vowed to fast or to give charity may have it released by opening and regret, provided the charity has not yet reached the collector's hand; and if he already gave part, he may seek release on the remainder. (AH §128; Beis Yosef)

- Even a *mitzvah* vow — to fast, to give charity, to go up to the Land of Israel, or even to bring an offering — may be released, since such a *mitzvah* was not imposed by the *Torah* but voluntarily accepted, so *hatarah* is effective for it as for optional vows, provided the *mitzvah* is not obligatory upon him by *Torah* or Rabbinic law. (AH §128; Rosh, Teshuvos klal 12)
- Even if he fulfilled half the *mitzvah*, there is release on the second half; but in such a case one releases only by an opening, not by regret. (AH §128)

Vows of Mitzvah Versus Vows of Choice

With a vow of choice, it is a *mitzvah* to seek its annulment; **with a vow of mitzvah**, it is a *mitzvah* to fulfill it, and one does not seek annulment except under pressure. (AH §129; Rambam, end of Hilchos Nedarim)

Even a vow of *mitzvah* is subject to annulment. (AH §129)

Charity and Hekdesh After They Reach Their Object

Once charity has reached the hand of the *gabbai*, it can no longer be annulled, since the poor have already acquired it — the *gabbai*'s hand is like their hand. (AH §130)

Vows of *hekdesh* are annulled only by means of a *pesach* [an opening], since this renders it like a mistaken vow, and not by *charatah* [regret alone]. (AH §130; Ran, *Nedarim* 29b)

Vows to Go to *Eretz Yisrael*

One who vows or swears to go up to *Eretz Yisrael* may have it annulled, and all the more so one dwelling in *Eretz Yisrael* who swore to go up to Jerusalem — this is a vow like any other. (AH §131)

If he vowed on the consent of the public [*al da'as rabbim*], it has no annulment. (AH §131)

If his wife cannot go up to Eretz Yisrael for some reason, or even can but does not wish to and he cannot compel her, he may be released even from a vow made *al da'as rabbim*, and even a vow made in a time of distress, and even without asking their consent — for such a *mitzvah* they surely agree. (AH §131; Shach)

A vow to *dwell* in *Eretz Yisrael* also has annulment; it is not treated as an obligatory *mitzvah* that would bar annulment. (AH §132; Radbaz II:115)

- Some hold that only a vow to *go up* has annulment, but a vow to *dwell* there does not; the *halacha* is not like this view. (AH §132; Pischei Teshuvah, in the name of the Rashbash)

A Vow to Study *Torah* Set Hours

If one vowed to learn a fixed number of hours daily for a year or more, and afterward saw that his livelihood will not permit it: if in the court's estimation he will be unable to support his wife and children as they were accustomed, annulment is effective, for one does not rely on a miracle. (AH §133)

- **But if it is possible to live even somewhat more meagerly** than until now, he must fulfill his vow and annulment is not effective. (AH §133)

One Who Places Himself Under Ban in the

World to Come

One should be careful not to place himself under a ban in the World to Come for anything. (AH §134)

If he already made such a vow, it is released only for the sake of a *mitzvah*, as with a vow made *al da'as rabbim*. (AH §134)

A Vow Made in a Time of Distress

A vow made in a time of distress is released only for the need of a *mitzvah* or a great need, like a vow *al da'as rabbim*. (AH §134)

If it was released *bedieved*, it is permitted. (AH §134)

A vow made in a time of distress is considerably lighter than a vow *al da'as rabbim*; one may rely on the *bedieved* release in any case. (AH §134)

A Vow Not to Act Without Another's Permission

One who vowed or swore not to do a thing without so-and-so's permission — once that person granted permission, it is released and no annulment is needed, for the vow's very purpose was fulfilled. (AH §135)

Even if the permission was not stated by mouth but written, it suffices, provided one recognizes it as that person's handwriting. (AH §135; Taz; Ramban)

If two valid witnesses testify that permission was granted, it is effective; but one witness, or invalid or related witnesses, do not suffice, even if held to be trustworthy — valid testimony as required by law is needed. (AH §135)

One who vowed or swore on another's consent [*al da'as chavero*] not to do a thing — even if that person grants permission, annulment is required, since he was made a partner in the essence of the vow. (AH §136)

- **Unless he stated that his intent was that the vow not take effect at all unless that person agrees** — then, since that person now does not agree, the vow never took effect. (AH §136; Siman 231)

A Vow to Pay by a Set Time

One who swore to pay a fellow by a set time — the creditor may release him without a sage, by declaring "It is as though I have received it": since the money is his own to waive, the debtor thereby stands by his oath. (AH §137)

But to extend the time while the debt remains in force is not within his power, unless he stipulated that he could extend it. (AH §137)[99]

The proper procedure to extend: he says "It is as though I received it, on condition that you swear to pay by another time," and the debtor swears anew. (AH §137; Taz)

Waiving a handshake-oath [*tekias kaf*] without waiving the debt does not help; one must proceed in the proper manner. (AH §137)

- Some hold that even waiving the *tekias kaf* alone helps; this is not the primary ruling. (AH §137; Noda BiYehudah §67)

The Scope of 'As Though I Have Received It'

"It is as though I have received it" helps only regarding something one is to receive; it does not apply to other conditions — such as a vow not to go to a certain place without permission, where one must either explicitly grant permission or annul the vow. (AH §138; Taz)

This declaration works even for a gift one has not yet acquired, not only for a debt already due. (AH §139; *Nedarim*, ch. 8)

A Vow Requiring Two Persons' Permission

A father who bound his son by oath not to borrow except with the permission of Shimon and Levi — the son may borrow with the permission of either one of them. (AH §140; Rashba; Siman 216:7)

The father's oath binds the son only if the son accepted it and answered *amen*; otherwise it is merely the father's wish and not an oath upon the son. (AH §141)

One Who Swore to Act by a Fixed Time and the Time Passed

One who swore to pay a fellow by a certain time, or to arrange his daughter's wedding by a certain time — he transgresses his oath each day after the time, since he was obligated even without the oath. (AH §143)

- Others — the Rashba and the Maharam Padua — hold that once the fixed day passes no oath-obligation survives, even for a debt, and one who was an *anus* or had nothing with which to pay is exempt going forward; the Taz and Shach both side with the Maharam Padua against the *Shulchan Aruch*. (AH §§142–143; Rashba; Maharam Padua; Taz s.k. 50; Shach s.k. 102)
- The *Aruch HaShulchan* decides between them: if the borrower was pressed into swearing — the lender pushed him — it counts as two undertakings and he remains bound by the oath each day after the time; but if he swore of his own will it is a single oath, and no oath-obligation survives the date. (AH §143)

But if he swore to do a thing on a certain day and was not otherwise obligated in it — once the day passed, no obligation of oath remains upon him; he is lashed for having transgressed his oath and is not bound to do the deed by force of the oath. (AH §143; Rashba)

- Some hold he is still bound to do it by force of the oath. (AH §143)

Notes

99. see *Tzemach Tzedek* YD 19, that per the Rashba, since we follow the vower's will as expressed in 'it is as though I received it,' he may thereby also gain an extension of time.

Two or More Who Vowed to Act Together

When two vowed to do something together — such as to go together to *Eretz Yisrael*, or any other matter, *mitzvah* or optional — and set a time, if one is delayed, whether by force or willfully, the other bears no transgression of his vow, for he vowed only to act together with his fellow. (AH §144; Siman 236)

The same applies to three or more who vowed to act together and one is delayed — all are exempt; we do not say the majority remain bound. (AH §144)

A Vow Conditioned on Repaying a Loan

One who accepted by vow to be forbidden meat and wine if he did not repay a loan by a set time, and before the time became impoverished with no means to pay — remains forbidden meat and wine, for he is not under duress regarding meat and wine, and he tied the vow to repayment, not to ability. (AH §145; Maharit §1)

- Some hold he is permitted meat and wine, since he is under duress; this is not the primary ruling. (AH §145; Maharam Galanti)

A Betrothal-Related Oath and the Match's Corruption

One who swore to give his daughter in marriage by a set time, and within the time the intended groom corrupted his deeds — the one who swore is exempt from his oath. (AH §146)

The same applies if the intended groom's sister converted out of the faith. (AH §146)

Where it is self-evident that he would not have sworn under such circumstances, no annulment by a sage is even needed, for the oath never took effect, since this is plain to all. (AH §146; *Bava Kamma* 80a)

"Corrupted his deeds" means he became dissolute in immorality, drunkenness, or other sins; a single instance does not count as corruption. (AH §148)

Regarding the groom himself, mere corruption of deeds suffices to void the oath; **regarding his sister**, only her complete conversion out of the faith voids it, for one does not so mind about relatives. (AH §148)[100]

- The mention of the groom's sister is not exclusive — the same applies to his brother, and all the more his father. (AH §148; Rosh, Even HaEzer §50)
- The determination depends on the standing, place, situation, and lineage of the parties, in the court's estimation. (AH §148; Even HaEzer §50:36)

When the Corruption Is Repented

If the groom corrupted his deeds and then repented, and afterward the one who swore comes to court — annulment is required for his oath, since a doubt exists whether she minds the earlier corruption. (AH §150; Rema; Kesuvos 75a)

He is exempt from the monetary penalty [*kenas*] he obligated himself to pay, since monetary doubt is resolved leniently. (AH §150; Hagahos Mordechai, *Shevuos*, ch. 3)

But if he comes to court while the groom is still in his corruption and marriage to him is impossible — such as where the groom converted out — no annulment is even needed, and once it was permitted at that time it is permitted forever, even if he later reverts. (AH §149; Rema)

In practice, one is stringent as per the Rema in the matter of the oath [requiring annulment], but is exempt from the monetary penalty even for mere corruption of deeds. (AH §151)

Timing Terms in Vows of Payment

One who swore to pay on Rosh Chodesh Adar must pay on the first day of the new month; so too in any month whose *Rosh Chodesh* spans two days. (AH §152; Choshen Mishpat §73:13)

One who swore to pay in a certain month — his time is until the last day of the month. (AH §152)

One who swore to pay in the month of Shevat must pay by the eve of *Rosh Chodesh Adar*, but not on the first day of *Rosh Chodesh* even though it is the thirtieth of *Shevat*, since in common speech it is not called *Shevat*. (AH §152)

One who swore to pay this week — his time is until *Shabbos*; if he did not pay by *Shabbos*, he gives a pledge on *Shabbos*. (AH §152)

One who swore to pay on a certain day — his time is until the emergence of the stars. (AH §152)

One who swore to pay on Chanukah — his time is all of *Chanukah*. (AH §152)

One who swore to pay on Purim must settle by the night of *Shushan Purim*, but not after the day of *Purim*. (AH §152)

One who swore to pay on Chol HaMoed may settle even on the last day of *Chol HaMoed*, which is the eve of the final *Yom Tov*; and on *Sukkos* even *Hoshana Rabbah* counts, since it is known to be *Chol HaMoed*. (AH §152)

Sleeping Before a Vowed Nighttime Deed

One who vowed or swore to do a thing at midnight is not barred from napping [*shinas arai*] beforehand, since the sleep itself is not forbidden to him — only that he must do his deed at that time. (AH §153; Rashba and Ritva, *Sukkah* 26a)

- **To lie down for a set sleep**, where it is very likely he will not wake at midnight, is forbidden. (AH §153)

Notes

100. see *Pischei Teshuva*, citing the *Noda BiYehuda* (YD §69), that where the intended groom's sister actually apostatized even the Rema concedes no release is needed, being an obvious assessment.

Communal Enactments Under a Coercer

Where an oppressor was in the city and the community ordered that nothing be enacted without a certain person's permission, on pain of nullity, and they nonetheless acted without his consent — the enactment stands. (AH §154)

If they were compelled to transgress out of fear of the oppressor, there is no prohibition in the act, but the vow remains in force once the oppressor departs, and they must strive with all their might to have him revoke his order. (AH §154)

If the oppressor forced them to release the vow and they did so, it is nothing — just as a vow made under duress is nothing, so too its release under duress is nothing. (AH §154)

Annulling Several Vows Together

For one person, several distinct vows may be annulled with a single annulment; and several people may be annulled with a single annulment. (AH §155)

But one who swore on a single matter two or three times requires a separate annulment for each, for an oath does not take effect upon an oath — only after the first is released does the second take effect. (AH §155)

- With vows [as opposed to oaths], since a vow does take effect upon a vow, all took effect from the start and all may be annulled at once. (AH §155; Siman 215)

A Communal Fund Insufficient for Both Purposes

A community that enacted that money collected from a certain source be used to pay their debts and to build a synagogue, and now the collection does not suffice for either in full — half is given to each. (AH §156; Siman 216:40)

If they state that their intent was specifically only if it would suffice for both, and otherwise one purpose takes precedence — they are believed, since every one who vows is believed regarding himself, provided there is no open contradiction to his words. (AH §156; Taz)

Ambiguous Language in Communal Enactments

Any ambiguous language in a communal enactment is judged according to what the majority of the community says was their intent at the time of enactment. (AH §157)

If the enactment concerns money, one follows the majority of the money-contributors; in other matters, one follows the majority. (AH §157)

If they stipulated that ambiguous language be judged by a certain person, he may not judge by his own estimation but only according to what appears from the wording of the enactment. (AH §157)

Communal enactment language is interpreted according to the plain sense of the words as understood by all, not by ornate expression. (AH §157; Rosh, Responsa Klal 55:9)

If the city's rav says such was the intent, he is believed against all of them, just as one relies on him in every ruling. (AH §157)

An oral enactment [not written] in which doubts arose is likewise decided by the majority saying such was the enactment, and the *rav* is believed against all. (AH §157)

A community that decreed matters the community cannot uphold need not fulfill them. (AH §157; Rema)

- This applies where some among those enacted upon could not bear the enactment, or where over time it becomes impossible to uphold it. (AH §158; Terumas HaDeshen §251)
- **If even the majority enacted it, then erred and now see it cannot be upheld**, the enactment is void and they announce its nullification; and if it was a matter of *mitzvah*, annulment is required. (AH §158; §113)

229: When a Vow Partly Annulled Is Wholly Annulled

The Principle: Partly Annulled, Wholly Annulled

A vow partly annulled is wholly annulled — when it later emerges that part of the vow need not be kept, whether through a *pesach* [opening], or through an error obvious to all, we do not say the rest stands; the entire vow is void. (AH §1; *Nedarim* 66a)[101]

- There is no distinction between a vow and an oath in this regard. (AH §1)

The Sage Needs a Pesach for Only Part

When a sage seeks a *pesach* for the one who vowed, he need not find a *pesach* for the whole vow; if he finds one for part, the whole vow is released. (AH §2)

One who vowed to fast, or not to eat meat or drink wine, for a set span of time, may be given a *pesach* through the Sabbaths and festivals within that span, since it is improper to fast on them, and improper not to eat meat and drink wine on them; once the Sabbaths and festivals are released, all the days are released. (AH §2)[102]

Notes

101. see *Pischei Teshuva* 1, citing the *Shaar HaMelech*, who questions whether 'partly annulled is wholly annulled' even applies where the vow never took effect on the released part from the very start (e.g. a dedicated animal that proved blemished) — a dispute between the Ritva and the Ran.

102. see *Pischei Teshuva* 2, citing the *Chavos Yair*, that one released from a vow to fast recurring days does not forfeit the reward already earned and may continue the practice, though he should re-accept it going forward.

- This *pesach* applies even where he vowed off other foods and drinks. (AH §2; Bach)

Applying the Principle to Multiple People or Items

Just as the principle applies to the *quality* of a vow, so it applies to its *quantity*: when one vowed regarding several people and one of them was released, all are released. (AH §3)

If one said "I will derive no benefit from all of you (*kulchem*)" and was released regarding one, all are released. (AH §3; Rambam, Hilchos *Nedarim*, ch. 4)

Per Rambam, **if one said** "...from this one, and this one, and this one" (with connective *vav*): if the first is released, all are released; if the last is released, the last is permitted but the rest remain forbidden. (AH §3; Rambam, Hilchos *Nedarim*, ch. 4)

- Per Rambam, if the middle one is released, from it downward is permitted and from it upward is forbidden. (AH §5; Rambam, Hilchos *Nedarim*, ch. 4)

Per Rambam, **if one said** "...from this one; from this one; from this one" (each stated separately, without the connective), each is a separate vow, and release of one does not release the others. (AH §3; Rambam, Hilchos *Nedarim*, ch. 4)

The Dispute Over the Connective Form

Rambam holds that only *kulchem* is a general expression; "to this and to this" (with *vav*) links the later to the earlier as though he said "let it be like so-and-so," while "to this, to this" (without *vav*) is entirely separate vows. (AH §5; *Nedarim* 26b)

The Tur and *Shulchan Aruch* hold that even "to this, to this" without any connective is a general expression like *kulchem*, so that release of one releases all — all the more so with the connective form; only where he stated *konam* separately upon each is it treated as separate vows. (AH §6)

Rambam rules like R' Yehudah; the Tur, *Shulchan Aruch*, and most poskim rule like R' Shimon. (AH §7)

The *Aruch HaShulchan* explains that Rambam's ruling is grounded in the *Yerushalmi*: "to this and to this" is closer to a particularizing sense, but need not be so read; hence in *kiddushin*, where a man knows one cannot betroth with less than a *perutah*, his intent is general. This resolves the poskim's objection to Rambam from his own ruling in Hilchos Ishus. (AH §8; *Kiddushin* 50b)

An Erroneous Vow From the Outset

Where one forbade fruit upon a group and only afterward saw his father and brother among them — whom he did not wish to include — the vow is mistaken from the outset, needs no formal release, and is void for all under this principle. (AH §9; Siman 232)

- This applies only where he *changes* his words ("had I known, I would have said so-and-so is forbidden but my father and brother permitted"), so that nothing of his vow's wording remains; but where he *upholds* his words ("had I known, I would have said all of you are forbidden except my father and brother"), the others are not released. (AH §9)

Where a vow is released by a sage through a *pesach*, some hold that the distinction between one who upholds and one who changes his words applies here too. (AH §10; Ramban and Ran)

- Others hold that where the sage uproots the vow, there is no distinction between upholding and changing his words; and this is the accepted view. (AH §10; Rema, Darchei Moshe; Bach and Shach)

Even according to the view that a vow requiring a sage's release admits no such distinction, this applies only to a full vow that became like an erroneous vow through the *pesach* or regret; but where the vow was mistaken from the very start — such as vowing off meat and wine for a long span without noticing the Sabbaths and festivals within it, or vowing off a basket of fruit not realizing it contained *benos shuach* — even though it requires release, the distinction between upholding and changing his words does apply, since the error is plainly visible. (AH §11; *Nedarim* 27a)

If one vowed concerning two animals as offerings and one proved blemished or non-kosher, the vow is void as to both. This is stronger than the rule that a vow partly annulled is wholly annulled, since the vow was mistaken from its root; the *Aruch HaShulchan* rules like the Ritva. (AH §19; Ritva)

When the Principle Applies and When It Does Not

In two entirely separate matters the principle does not apply — such as one who vowed not to eat grapes and not to wear silk garments; release regarding one does not release the other. (AH §12; Rivash §291)

The general rule: wherever one would be liable twice for transgressing, we do not say partly annulled is wholly annulled; and wherever a *pesach* is required for each separately, he is liable twice for transgressing them. (AH §12; Rivash)

If he said "*konam* figs upon me, *konam* grapes upon me," he is liable twice by all views, and the principle does not apply. (AH §12)

If he swore not to eat figs and grapes, or not to drink wine, milk, and honey, the principle applies, since he is liable only once. (AH §12)

If he swore not to eat figs and not [to eat] grapes, it depends on the dispute above. (AH §12)

Whether the Persons or Items Stand Be-

fore Him

If one vowed off benefit from people not before him — "I vow off benefit from Reuven, Shimon, and Levi" — it is necessarily a single vow, and partly annulled is wholly annulled; the ruling that these are separate vows applies only when they stand before him. (AH §14)

Where one wished to forbid only some of a group that stood before him and had to name them, all agree that the "to this and to this" form is a general expression even when he specified them, since he was compelled to name them. With the "and not to you, and not to you" form, however, it may still be particularizing, since the shorter form was available to him. (AH §14)

One who swore not to eat figs and grapes when they were not before him — the principle applies; but if they lay before him and he said "...from these figs and these grapes," per Rambam it is particularizing and the principle does not apply. (AH §15)

Adding "and not to drink" after swearing not to eat serves to separate them into two matters, since drinking is included in eating. (AH §15; *Shevuos*, beginning of ch. 3)

Release by Regret Versus by a Pesach

The Tur holds the principle applies only to a vow released through a *pesach*, which uproots the vow from its origin, but not to one released through regret (*charatah*). (AH §16; Tur; Ramban)

- *Tosafos* and the Rashba dispute this, since with regret too the sage uproots the vow; the *Shulchan Aruch* cites both views without deciding. (AH §16; *Tosafos* and Rashba)

In a husband's annulment (*hafarah*) the principle does not apply, since a husband merely cuts off the vow going forward and does not uproot it retroactively. (AH §16)

- Some hold that even the part is not released in a husband's annulment, by a decree of Scripture. (AH §17; Siman 234)

When the Vow Affects Another Person

Where two people took one vow and one asked a sage and was released, the other is not released, for they are two vows. (AH §17)

Even with one who vowed, if the vow concerns another — such as swearing to pay another by a set time or to do him a task — and the other released part of it, the whole is not released, since he does not uproot it retroactively but only forgoes it going forward, like a husband's annulment. (AH §17)[103]

If a ban or decree was imposed on ten people and some were released, not all are released, for the same reason. (AH §17)[104]

A document containing many conditions with a concluding oath upon all of them — if one is asked upon and released, all is released, since he included them in a single oath; and it is understood he asked the sage with the other party's consent, for otherwise the sage may not release him. (AH §18; Pischei Teshuvah, Rashdam and Maharashach)

When Only Part Is Set Aside (Not Annulled)

Although partly annulled is wholly annulled, when part is merely *set aside* it is not wholly set aside — such as one who vowed to fast from *Rosh Hashanah* to *Yom Kippur* and fell ill on some days; when he recovers within those days he must fast the remaining days. (AH §20; Radbaz)

A Vow Attached to a Prior Vow

If one vowed off one person and then said of another "let him be like so-and-so," and so on even to a hundred, all are forbidden; if the first is released all are released; if the last, only the last is permitted; if the middle, from it down is permitted and from it up forbidden — even if he said "let him be like so-and-so" at a later time. (AH §21)

Likewise one who vowed off meat and attached bread to the meat ("bread upon me like meat"), and honey to the bread, even to a hundred items and even attached at a later time — the same rule of release applies. (AH §21)

Where one vowed and his fellow heard and said "and I," and a third said "and I," even to a hundred, all are bound, and the same rule of release applies. (AH §22)

- Here, unlike the two prior cases, each "and I" must be said within *toch kedei dibbur* of the previous speaker, since a stranger's "and I" has no explicit intent. (AH §22)
- If the second actually said "and I, like the vow so-and-so accepted," it is effective even after time, since he clarified his words. (AH §22; *Nazir*, ch. 4)

Repeated Oaths on the Same Object

If one forbade an object upon himself twice, or swore upon it twice, then even though he was asked upon it and released, it remains forbidden until he is asked upon it and released a second time. (AH §23; Tur and SA §3)

- Some hold this applies only where he asked upon the first alone, so he must then ask upon the second; but he may ask upon both together, and this counts as the second having taken effect since it exists in the world. (AH §23; Bach; *Nedarim* 18a)
- Some hold he cannot ask upon both together, since

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103. see *Pischei Teshuva* 3, citing the *Chasam Sofer* (*siman* 10), that *beis din* may release the portion of such a vow that carries no benefit to the other party even against his will, while the portion that benefits him is not released.

104. see *Chochmas Adam* 102:10, that communal bans are deemed to carry an implicit condition permitting release, so the community may release part while leaving the rest in force.

the second has not yet taken effect and cannot be released until after the first is released. (AH §23; Beis Yosef, end of Siman 228)

- The Rambam's language indicates like the first view, that both may be released together, and the later authorities rule accordingly. (AH §23)

An Oath Not to Ask on One's Oath

One who swore on a matter and swore not to ask upon his oath cannot first ask upon the matter, for asking would transgress the second oath; rather, he first asks upon the oath not to ask, and afterward upon the matter itself. (AH §24)

Likewise if he swore not to do something "without release" (*belo hataras*), he first asks upon what he said "without release," and afterward upon the essential oath or vow. (AH §24; SA §4)

- The phrase "without release" means that he placed a separate oath upon those words, or said "and also I swear not to release this oath." (AH §25)

Multiplied Oaths Not to Ask

If he doubled or tripled his oath not to ask, each one requires its own release. (AH §26)

If one forbade a food upon himself if he does a certain act, adding that its prohibition should intensify with each asking — they release him as many times as they estimate he meant, and once more upon the phrase "and so forever." (AH §26; SA §5)

- Upon "and so forever" a single release suffices, since it is but one expression, even though "forever" implies countless times. (AH §26; Taz)

Likewise a community that imposed a prohibition and stipulated that no release, nor release of the release, be made — they first release the later prohibitions, two releases being required here because they stipulated both "no release" and "no release of the release," and only then the original prohibition. (AH §26; SA §4)

Ordering the Releases When the Later Depends on the Earlier

Sometimes the first oath's release must precede the second — such as one who swore not to speak with so-and-so, then swore that if he speaks with him he shall be forbidden meat; he cannot ask upon the second first, since the vow has not yet taken effect until he speaks. He asks upon the first, speaks, the second takes effect, and then he asks upon it. (AH §29)

Likewise if he swore not to benefit so-and-so and not to benefit the sage who would release this oath, he first asks upon the first; only then does the second take effect, and he asks upon it. So too if he swore not to benefit so-and-so and declared that he be a *nazir* if he asks upon his oath. (AH §29; Tur)

Stipulating That the Oath Never Be Released

If he stipulated at the time of his oath that it never be released — his stipulation is nothing, mere words, since he did not include in his oath that he would not ask upon it; for had he done so, they release the second first and then the first. (AH §30; SA §7)

- Some read this as: even where he included "it shall never be released," it is nothing, since no vow lacks release; but if he said "he shall not ask upon his oath," that is a valid separate oath, released first, then the first. (AH §30; Taz)
- The accepted reading is that "it shall never be released" — where he means the release should be ineffective — is meaningless, whereas "without release" in the earlier case means he himself will not seek release, akin to "he shall not ask." (AH §31)

Requiring Specific Distant Releasers

If he swore and stipulated that only so-and-so and so-and-so, who are in distant lands, may release him, he regrets that stipulation and others release it for him, and afterward others release the matter he swore upon. (AH §32; SA §6)

- Where he named three, it may be treated as "upon the consent of many"; and for a matter of *mitzvah* there is release in any case. (AH §32; Taz; Siman 228)[105]

A Ban or Oath "Without Any Release"

If one accepted a *niduy* and a *cherem* to do something "without any *pesach* or *charatah*," he is released, for this requires neither *pesach* nor *charatah*. (AH §33; SA §8)

But if he said "without any *pesach*, release, or *charatah*," we are concerned for the word "release" he added, and they release the second first, then the first. (AH §33)

- These expressions are not themselves a vow or oath, but adding "release" indicates somewhat an oath, just as "*issur*" indicates a vow. (AH §33; Siman 204)
- A prohibition proclaimed publicly (*issur*) is not intended as a vow or oath, but merely as a stringency. (AH §33)

Swearing "As I Am a Jew"

One who swore and said that if he asks upon his vow he is not a Jew — it is forbidden to ask upon his vow; even if he did ask *bedieved*, he is to be rebuked and chastised for having made his faith dependent on his vow, and he requires atonement and forgiveness. (AH §27; Rema §4)

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105. see *Pischei Teshuva* 4, citing the *Chasam Sofer* (end of *siman* 221), that one who vowed '*al da'as rabbim*, without release' need not be released twice when the release is for a matter of *mitzvah*.

- Only in such a case is he not released; but if he said "if I do such a thing I shall not be a Jew," he needs no release at all, though it is improper and he is to be rebuked. (AH §27)

In all lands the custom spread to swear "as I am a Jew"; the Rema's objection applies only when said upon a vow or oath, or upon a future act, lest he later retract and release his vow. (AH §28)

- When said regarding the past — affirming that such was the matter, or such is his debt, or such he did — it may be permitted if he speaks the truth, and the custom is not to protest against the masses who say it. (AH §28)
- Regarding a future matter one must protest, and in our places this expression is taken as a full oath. As for the grossly insolent phrase "as the Holy One is true, so I speak truth" — one must protest with a strong hand, for one may not liken any truth to the truth of the Creator. (AH §28)[106]

230: Releasing Vows and Oaths

Releasing Oaths and Vows

A sage may release both vows and oaths through a *pesach* (an opening) or *charatah* (regret). (AH §1)

- Rif, following Rav Asi, held that a sage releases only four types of vow resembling an initial mistaken vow, and that the Rabbis attend to releasing oaths only for a matter of communal benefit or *mitzvah* — such as making peace between a man and his wife, communal welfare, or the like — and then only on clear, evident grounds close to Rav Asi's view, but not on mere *charatah* or *pesach*. (AH §1; *Nedarim* 21b)
- The Rosh held this is merely a stringency, adopted because in his day vows were treated lightly, but the true law is that both vows and oaths are released through *pesach* and *charatah*; so ruled all the *Rishonim*, and so is the custom. (AH §1)
- The early authorities wrote that this stringency did not spread among most of Israel. (AH §1; Beis Yosef)

An Oath Taken by God's Name or by Holy Books

Rav Hai Gaon held that **one who swore by a prayer book, book of supplications, or other holy books** in his possession has no release, and that in later generations no one has the power ever to release or annul an oath. (AH §2)

- Rav Hai Gaon further held that **one who invoked God's Name, or the Torah placed in the ark**, may not have his oath annulled or released by anyone — not even a great sage or scribe. (AH §2)

The Rosh held that all these are stringencies, and that by *Torah* law all oaths have a release; the *Geonim* merely instituted a stringency not to release oaths, so that people would refrain from swearing. (AH §2)

In these lands, where people were exceedingly lax with vows and oaths and would transgress deliberately if not granted release, the Rosh ruled to release vows and oaths for them. (AH §2)

Rambam ruled that the law of an oath is like the law of a vow in every respect, and the Ramban likewise cited the *Geonim*'s words. (AH §2)

Maharam Mintz held that even though Rav Hai Gaon forbade releasing any oath by the Name or by the *Torah*, this is only a stringency. (AH §3)

- R' Elchanan reports that R' Shimshon of Sens held one may release such an oath; R' Peretz and Rabbeinu Yosef Tov Elem likewise permitted it. Aviasaf concluded from Rabbeinu Tam, R' Yitzchak, and others that Rav Hai's stringency did not spread among most of Israel. (AH §3; Beis Yosef)

Practical Ruling of the *Shulchan Aruch*

One may release oaths and vows even where the person swore by invoking God's Name; nevertheless, one should not seek release except under pressing need. (AH §4)

Any vow whose release involves a trace of transgression should not be released. (AH §4; Siman 228)

When releasing such vows for the common lax people, Maharam Mintz would impose upon them fasts — on a Monday, Thursday, and Monday, or similar, according to the person and the vow — or require them to give money for a *mitzvah*, so they would not treat vows lightly by relying on going to a sage for release; and this is proper to do. (AH §4; Shach §1)

The upshot: such vows are released only for great need or for a *mitzvah*, and one fines the person with money or a fast, all according to the discretion of the one ruling. (AH §4)

This applies only to a vow made by the Name, by holy books, or by an oath; **but an ordinary vow** — such as one who vowed to fast and afterwards is unable and finds it hard to fast — is released immediately with nothing imposed. (AH §4)

A Sale Made in Violation of an Oath

The Rema cited the opinion that **one who swore not to do something** — e.g. not to sell a certain object — and

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106. see *Pischei Teshuva* 5, citing the Radbaz, that the phrase 'as the Holy One is true, so I speak truth' borders on heresy and warrants rebuke, though when assuring his fellow he remains bound to his word.

107. see *Pischei Teshuva*, citing the *Noda BiYehuda* (*Mahadura Tinyana*, EH 129:4), who limits the voiding of the sale to one who swore outright

transgressed and sold it, his sale is void, since he transgressed his oath. (AH §5; Rema)[107]

- In *Choshen Mishpat* §208 the ruling is that the sale is valid; the halachic authorities dispute this. (AH §5; Choshen Mishpat §208)
- The Rema does not contradict himself: for the law the sale is valid. The *Aruch HaShulchan* suggests that perhaps his intent here, where he deals with the severity of vows and oaths, is that if the buyer does not insist on keeping his purchase, one penalizes the seller who sold in violation and voids the sale, whereas if the buyer wishes to keep it, the sale stands. (AH §5)
- Alternatively, the *Aruch HaShulchan* explains "his sale is void" to mean that it is void until he seeks release on his oath. (AH §5)

231: Conditional Vows and Their Annulment

Vows Made Contingent on Another's Permission

One who vows or swears not to do a certain thing without so-and-so's permission — once that person grants permission, the vow is released and requires no annulment by a sage, since he did not attach that person to the essence of the vow. (AH §1; Siman 228:135)

If, however, one vows or swears on the mind of his fellow not to do a certain thing, then even if the fellow grants permission, he still requires annulment by a sage, since he made him a partner in the essence of the vow. (AH §1)

If he states that his intent was that the fellow have the power to release the vow — i.e., that it should not take hold unless the fellow agrees — then no sage's release is needed: the fellow's own release suffices. (AH §1)

- But **if he states** that his intent was that the vow take effect and merely that the fellow be able to release it thereafter, this does not help. (AH §1)
- Some say that even in such a case the fellow's release is effective so long as the vow has not yet taken hold. (AH §1)

A Self-Imposed Reservation to Annul

A vow or oath can be annulled only through an expert or through three laymen. (AH §2) Even if at the time of the vow he expressly stipulated that he may nullify it from its root whenever he wishes, or made it depend on another to nullify it whenever he wishes, this is worthless — for the moment the vow takes hold it has no release except through an expert or three laymen. (AH §2)[108]

Where one vowed with his fellow's consent — saying, "I hereby make this vow contingent on so-and-so's agreement" — and the fellow agreed, and afterward the fellow asked a sage about his agreement and it was annulled, this does not undo the vow; once the fellow agreed the vow was established and the fellow has no further power over it. (AH §3)

If the fellow did not agree — and immediately upon hearing said the vow should not be — the vow is void. (AH §3)

All the more so, if one expressly stipulated "I hereby vow on condition that my fellow so-and-so may nullify it" — the fellow may nullify it so long as the vow has not yet taken hold. (AH §3)

- But if he said the fellow may nullify it *whenever he wishes*, this does not help — neither after the vow takes hold nor before it takes hold. (AH §3)

A Vow Set to a Fixed Time

If one vowed for a set period, no annulment is needed; when the time arrives the vow lapses on its own. (AH §4)

Regarding a general *konam* — where one forbade a thing by *konam* upon the whole world, which resembles *hekdesh* — [the sanctity does not lapse of itself; it requires redemption]; some hold this differs from a private *konam*. (AH §4)

- It appears the law is that even for a private *konam* the holiness does not lapse without cause, and that a private *konam* differs from *hekdesh* only as to redemption but is subject to *me'ilah* like *hekdesh*. (AH §4; Rambam, Hilchos *Me'ilah* 4:9)
- Nonetheless, the setting of a fixed time is more effective [than a condition such as "until they are cut down," which may never occur], since the time must inevitably pass and the holiness thereby lapses. (AH §4; *Nedarim* 28b)

Mutual Vows Between Husband and Wife

A case arose of a man who told his wife to give him a handshake-oath (*tekias kaf*) not to remarry after his death, and he would likewise give her one not to marry a woman if she died first. (AH §5) It was ruled that since his own vow does not take effect — even if he has children, because there is a prohibition to remain without a wife — her vow likewise does not take effect. (AH §5)

- Nonetheless, for good measure her vow was annulled for her. (AH §5; Taz in the name of Maharshal)
- A vow, an oath, and a handshake-oath (*tekias kaf*) all

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never to sell this particular object — so the sale itself is inherently transacted through transgression — but one who swore only not to sell without so-and-so's knowledge and then sold, the sale stands, since it could have been made permissibly, comparable to one who slaughters on *Shabbos*.

108. see *Chochmas Adam* 102:10, who qualifies that communal *cheramim* differ, being treated as though made with a built-in condition permitting release, so the community may annul them even mid-term and even before the vow takes hold.

share one law. (AH §5)

232: The Four Nullified Types of Vows

The Four Vows That Require No Release

The Sages permitted four categories of vows, and these require no release by a Sage at all: **vows of urging (*nidrei zeruzin*)**, **vows of exaggeration (*nidrei havai*)**, **vows made in error (*nidrei shegagos*)**, and **vows made under duress (*nidrei onsin*)**. (AH §1; *Nedarim*, ch. 3 (Mishnah))

There is a fifth type of vow that requires no release: one who made his vow conditional on something and the condition was not fulfilled. (AH §1)

The Exception: Temurah Admits No Release

With *temurah* — substituting an animal for one already consecrated — one may not seek release, since even an inadvertent *temurah* takes effect and the mechanism of release, treating the act as mistaken, does not apply. (AH §1; Rambam, Hilchos *Nedarim*, ch. 4)

Vows of Urging (Nidrei Zeruzin) in a Sale

Where a seller and buyer haggle — the seller vowing a *konam* not to lower his price and the buyer vowing a *konam* not to raise his offer — and they then settle on a middle figure, neither vow takes effect, since it is the way of merchants to vow only in order to press the other to agree. (AH §2)

The middle figure need not be exactly halfway; whether they settle above or below the midpoint the vows are void, so long as they roughly split the difference. (AH §2; Rema §2)

- Strictly, if they settle at the very price one of them named (the buyer's low figure or the seller's high figure), the vow does take effect, since the words spoken explicitly were truly meant. (AH §2)
- Some are lenient even in that case, since the whole intent was merely to urge; and this is the common practice. (AH §2; Shach note 3)

If they explicitly state that they intended a full, binding vow, it is a valid vow. (AH §3)[109]

If they did not reach agreement but the sale fell through — as when the seller stood at a *sela* and the buyer at a *shekel*, which is half a *sela*, and the buyer left the seller and later returned — it is assumed they intended a full vow, and it takes effect; whoever violates it has profaned his word. (AH §3; Tur and SA §2)

- The sale is deemed to have fallen through only if the buyer left the seller; if he did not leave, it is not deemed fallen through even if much time passed. (AH §3)

Where One Party Stood His Ground

If one party held to his figure and the other did not — the Tur and Shulchan Aruch rule that once the vow was nullified for the one, it is nullified for the other, since it was a single vow made to both. (AH §4)

- The *Aruch HaShulchan* questions this ruling — why should the two parties depend on one another? He reads the Yerushalmi source as referring rather to the distinct case of one seller who vowed to two buyers. After offering in §6 a reading on which the Tur and *Shulchan Aruch*'s ruling does stand, he leaves the point unsettled in practice. (AH §§4-6)

Where one vowed to two prospective buyers, saying he intended a binding vow toward one and only urging toward the other — since the vow is void as to the one, it is void as to the other, being counted as one vow to both. (AH §5; Rema §2)

When the Gap Between the Figures Is Large

Where the seller vowed not to go below a *sela* and a *perutah*, or the buyer not to add beyond a *shekel* less a *perutah*, it is in doubt whether this is a binding vow or still a vow of urging; and since a *Torah* doubt is treated stringently, it is forbidden in all such cases. (AH §7; Nedarim (Gemara))

- Some hold the doubt is only about the precise fractional wording; others hold the doubt turns on how far apart the two figures were. (AH §7)
- Some rule that when the seller named slightly more than a *sela* the excess is urging, but a figure below a *sela* is certainly forbidden, and correspondingly for the buyer. (AH §7; Shach note 5)

One should be stringent in accordance with all the views; and if the parties wish to uphold the sale, they should have the vow released before three. Each may open with "had I known the other would not agree, I would not have vowed" — a *pesach* drawn from the body of the vow itself. (AH §7; Siman 228)

Vows of Urging in Inviting a Guest

Where a host presses his guest to dine with him and vows — barring the guest from his property, or barring himself from benefit from the guest, if the guest will not eat with him — it is a vow of urging and takes no effect. (AH §8)

- **If the host states he intended a binding vow**, it is forbidden. (AH §8)

Where the guest (rather than the host) vows — as

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109. see *Pischei Teshuva*, citing the Ran, that even where the parties maintain their haggling-vow was meant as binding, one may still open a *pesach* for release — 'had you known the buyer would not pay a *sela*, would you have vowed?'