

Nedarim 15a

The previous Gemara left off by saying that in the case in which the person says, “Sleep is assur tomorrow if I sleep today” everyone agrees that one is allowed to sleep today and he does not have to worry that by doing so, he might come to break his neder by sleeping on the next day. The Gemara now explains the logic for the distinction between this case and the case in which there is a machlokes.

When is a person not careful **כי לא מזדהיר**
 (he is not careful) with the ‘condition (day)’ **בתנאה**
 but with the ‘issur (day)’ **אבל באיסורא**
 he is careful **מזדהר**

The Gemara answers that there is a distinction between one’s ‘condition day’ and one’s ‘issur day’, as follows. The case in which there is machlokes between Rav Yehuda and Rav Nachman is the case in which the person says, “Today should be assur if I sleep tomorrow”. In this case, the ‘issur day’ is today, as this is the day that actually becomes assur as a result of the neder. The next day is only the ‘condition day’. That is, even if the person slept today, there is nothing intrinsically wrong with sleeping the next day. The only reason the person is forbidden to sleep on the next day, is because by doing so, this will cause the person to retroactively transgress his neder.

Therefore, since sleeping on the next day, i.e., the ‘condition day,’ is not intrinsically wrong, a person will not be careful to avoid it, and as such, this is why R' Yehuda holds that one is not allowed to sleep today (the ‘issur day’). We don’t let him sleep today because we are afraid that he will not be careful about sleeping on the next day (the ‘condition day’).

However, if the person said, “Sleep should be assur to me tomorrow if I sleep today”, in this case everyone will agree that the person can sleep today. If the person sleeps today, then this will cause the next day to become assur. Therefore, since going to sleep on the next day is something that is intrinsically assur, we are not concerned that he will sleep then.

We now come to the point of what the Gemara is trying to accomplish with bringing this Baraisa. The Gemara will now explore the various possibilities for what the case of the Mishna could be, and by doing so, will end up asking on one of the shitos brought in this machlokes.

We learned in the Mishna **תנו**
 (if a person says) “Konam **קונם**
 that I will sleep” **שאני ישן**
 (or “Konam) that I will walk” **שאני מהלך**
 (or “Konam”) that I will speak” etc. **שאני מדבר וכו’**

In all of these cases, the Mishna said that the neder will be effective and if the person does one of these actions, he will transgress the lav of ‘Baal’ Yachel’.

The Gemara now asks:

What is the case **היכי דמי**
 if you say **אלימא**
 as the Mishna teaches **בדקתני**
 “that I will sleep: **שאני ישן**
 (but) is this a neder! **מי הוי נדרא**
 but we learned in a Mishna **והתנו**
 shevuos are (more) chamor (than nedarim) **חומר בשבועות**
 for shevuos **שהשבועות**
 are effective on something **חלות על דבר**
 that has substance (i.e., is tangible) **שיש בו ממש**
 and on something **ועל דבר**
 that does not have substance (i.e., is not tangible) **שאין בו ממש**
 which is not the case **מה שאין כן**
 with regard to nedarim **בנדרים**
 and sleep **ושינה**
 is something **דבר**
 that does not have substance **שאין בו ממש הוא**

The quoted Mishna clearly says that a person cannot make a neder on something that is not tangible, if so, how can our Mishna say that a neder to forbid sleep will be effective?

The Gemara answers:

Rather (the case must be) **אלא**
 that he said **דאמר**
 ”Konam my eyes from sleep” **קונם עיני בשנינה**

The Gemara answer that the neder was not on the actual sleep but rather on the person’s eyes, things that are certainly tangible. But on this the Gemara still asks:

But if he did not give **ואי דלא יהיב**
 a measurement (for the sleep-prohibition) **שיעורא**
 do we leave him **מי שבקיננו ליה**
 until he transgresses **עד דעבר**
 the issur of ‘Baal Yachel’ **איסור בל יחל**
 but R' Yochanan said **והאמר רבי יוחנן**

Establishing the Case of the Mishna - How Can One Make a Neder Not to Go to Sleep?

(if a person makes) a shevuah
that he will not sleep
for three days
we give him malkus (lashes)
and (we let him) sleep immediately

שְׁבוּעָה
שֶׁלֹא אִישׁוֹן
שְׁלֹשָׁה יָמִים
מִלְקִין אוֹתוֹ
וְיִשְׁן לְאַחֲרַי

It is impossible for a person to go without sleep for three days. Therefore, if a person makes a shevuah not to sleep for three days, we know that this person will end up transgressing his shevuah, and as such, it comes out that this person has made a shevuah in vain that does not take effect, and as such, we give him malkus and allow to sleep right away.

If so, the same halacha should apply to nedarim as well. If a person says that he is assuring his eyes from going to sleep without limit, in effect he has said that he is forbidden from ever going to sleep, something that is obviously not possible to keep. Therefore, the same way we see that a shevuah that is impossible to keep is not effective, so too it should be with regard to nedarim. And if so, how can we say that our Mishna is referring to a case in which he simply says that his eyes should be assur to sleep with, if this neder is impossible to keep?⁸⁴ Since he cannot fulfill his neder (as a person can to push off sleep indefinitely, the neder should not take effect. And yet the Mishna says it does. If so, this cannot be the case of the Mishna.

The Gemara answers:

Rather (the case of our Mishna must be)
that he said
“Konaim my eyes from sleep
tomorrow
if I sleep today”

אֲלֵא
דְּאָמַר
קוֹנֵם עֵינַי בְּשִׁנְהָה
לְמָחָר
אִם אִישְׁן הַיּוֹם

The Gemara answers that the case of our Mishna that says that it is assur for him to sleep after making a neder not to sleep, must be referring to a case in which the person says that these eyes should be assur from sleep tomorrow if he sleeps today. If this is the case of the Mishna, then we understand the Mishna to be saying that as a result of his neder, now (today) he cannot go to sleep, because if he does go to sleep today, then he will come to transgress ‘Baal Yachel’ if he goes to sleep on the next day.

⁸⁴ The Difference Between Making an ‘Impossible Shevuah’ and an ‘Impossible Neder’

Although with regard to both to shevuos and nedarim, if they are made without the possibility to fulfill them, they are not effective, the Ran points out an important difference between them. In the case of making a shevuah that cannot possibly be fulfilled, the person will receive malkus. This is because he

And on this the Gemara asks:

But you said
any situation that has in it the issur
a person is careful

הָא אָמַרְתָּ
כָּל בְּאַסְוֵרְיָהּ
מְזַדְהָר

The Gemara is asking that if the case of the Mishna is one in which the person assures the next day’s sleep if he goes to sleep today, how could the Mishna say that he cannot sleep today? The Gemara told us that on the ‘issur’ day, everyone agrees that a person is careful, and as such, he should be allowed to sleep today, as we are not concerned that he will come to sleep tomorrow (and transgress ‘Baal Yachel’).

Because of this point, the Gemara says:

Rather it is obvious
(that our Mishna referring to where) he said
“Konaim my eyes from sleep today
if I sleep tomorrow”

אֲלֵא פְּשִׁיטָא
דְּאָמַר
קוֹנֵם עֵינַי בְּשִׁנְהָה הַיּוֹם
אִם אִישְׁן לְמָחָר

But on this the Gemara asks:

But if he did not sleep today
when he sleeps tomorrow
what (issur) of “Baal Yachel”
is there
rather is it not that he slept (today)
(and if so) we see that one can sleep
and (if so) this is a disproof
of R' Yehuda

וְאִי לֹא נָיִים הַיּוֹם
כִּי נָיִים לְמָחָר
מֵאֵי בַל יַחַל דְּבָרוֹ
אִיכָּא
אֲלֵא לֹא בְּדָנָיִים
אֲלֵמָּא אִיתִיהָ דְּנָיִים
וְתִיבְתָא
דְּרַב יְהוּדָה

If the person said “Konaim my eyes from sleeping today if I sleep tomorrow” and he does not sleep today, there will obviously not be a problem with going to sleep on the next day. The only problem that there could be with sleeping the next day, is that by doing so, this would cause his sleeping today to become assur. But if he didn’t sleep today, then his sleeping on the next day cannot be a problem.

Therefore, if the Mishna says that sleeping on the next day is a problem then it must be that he slept today. But if so, the Mishna is telling us that if he sleeps today, then there will be a problem with sleeping on the next. That is, the Mishna is saying that there will be a problem if he slept today, only if he also sleeps on the next day. And if so, from here we see not like R' Yehuda. According to R' Yehuda there is even a problem with

said the name of Hashem in vain. As opposed to making nedarim ‘in vain’. Although a neder that is impossible to fulfill is not valid, there is nothing wrong with making such a neder as he did not mention the name of Hashem. Making such a neder is simply a waste of time and the person will not receive malkus for doing so.

sleeping on the first day (as if he sleeps on the first day (the day of issur) we are afraid that he might sleep on the next day (the day of the condition), and yet our Mishna seems to say that he is allowed to sleep on the first day (but if he does, then the lav of “Baal Yachel” will prevent him from sleeping on the next day).⁸⁵

The Gemara answers:

When did the Mishna teach it (that there is an issur of **בִּי קִתְּנִי** “Baal Yachel” if he slept **דְּאִי נָיִים**)

The Gemara answers that the Mishna did not mean to give a heter to sleep on the “issur day” rather the Mishna is just discussing what would happen if he did. The Mishna just says that in the case that the person slept today (i.e., he did what he was not supposed to do), he will then be subject to “Baal Yachel” if he sleeps on the next day. But the Mishna never meant to say that it would be allowed to sleep on the first day.

Ravina gives another answer as to why our Mishna is not a question on R' Yehuda.

Ravina explains that the Mishna should be understood as we first thought; that he made a neder to assur his actual sleep. And even though we previously asked that if this is the case of the Mishna the neder should not be chal, and as such, he should not transgress “Baal Yachel” when he goes against it, Ravina will now explain why there can be an issur even in this case.

Ravina says **רְבִינָא אָמַר** really (the Mishna is) as it is taught **לְעוֹלָם כְּדִקְתָּנִי** and what does it mean (that he transgresses) “Baal **וְיֵמַאי בַּל יַחַל** Yachel” **יָחַל**

(this means he transgresses the issur “Baal Yachel”) that **מְדַרְבָּנָן** is M'Drabbanan

Ravina answers that the simple explanation of the Mishna is to explain it at face value, that the person says that he is making a neder to forbid his actual sleep. And even though we said earlier that a neder is not effective on something that is not tangible, this is only with regard to a M'Dorayisa, but M'Drabbanan such a neder is effective, and if the person breaks it, he will transgress an issur of “Baal Yachel” that is M'Drabbanan.

The Gemara asks:

And is there really **וְיָמֵי אִיכָא יַחַל** (an issur) of “Baal Yachel” **בַּל** M'Drabbanan **מְדַרְבָּנָן**

The issur of ‘Baal Yachel’ comes from the posuk that says that one should not disgrace his words. If so, how can we say that there is an issur of “Baal Yachel” on something that is only assur M'Drabbanan?

The Gemara answers:

Yes (there is) **אִין** and we learned in a Baraisa **וְהִתְנִיא** things that are mutur **דְּבָרִים הַמוֹתְרִין** and others **וְאַחֲרֵיהֶם** have the minhag (custom) to assur them **נִהְגוּ בְהֶן אִיסוּר** you are not permitted **אִי אֲתֵה רְשָׁאִי** to permit them in front of them **לְהִתִּירָן בְּפְנֵיהֶם** as it says **שְׁנֹאמַר** ”Do not disgrace you word” **לֹא יַחַל דְּבָרוֹ**

This Baraisa refers to things that are really mutur and yet there are those who have the minhag to be machmir on them.

⁸⁵ Why Can the Mishna Not Be Referring to a Case in Which the Person Says “My Eyes are Assur to Sleep Tomorrow if I Sleep Today?”

The Ran asks that according to R' Yehuda, why can we not say that the case of the Mishna is one in which the person says, “My eyes are assur to sleep tomorrow if I sleep today”. And if this is the case, then the Mishna will be telling us that one is allowed to go to sleep today even though he is putting himself into a sofek if he will transgress “Baal Yachel” by going to sleep tomorrow. And the reason why he would be allowed to do this is because of what the Gemara said, that everyone one agrees that a person is careful not to sleep on the day of issur (when it would be assur to do so).

The Ran answers that if the Mishna was really referring to a case in which the person says that one day should be assur if he sleeps on the other, then the Mishna could not be telling us that the case of having the ‘issur day’ being on the second day and that it is mutur to sleep on the first day.

The reason this cannot be the case of the Mishna is because the Tanna always wants to say the bigger chiddush. And according to R' Yehuda, although there are two possibilities the Mishna could have picked to discuss, the Mishna picked the smaller chiddush.

According to R' Yehuda, there are two halachos. The first is the halacha that a person is careful in the ‘issur day’ and the second is that a person is not careful in the ‘condition day’.

The first halacha is not such a chiddush as everyone agrees to it. The second halacha, that a person is not careful in the ‘condition day’ is a far greater chiddush. Firstly, because this concern is only M'Drabbanan, and secondly, it is obviously not so simple to say that a person is not careful in the ‘condition day’ as we find that R' Nachman argues on this.

If so, if the Mishna was really R' Yehuda, there would be no reason why the Mishna would pick to say the case in which the ‘issur day’ is second day. In this case, everyone holds that you can sleep on the first day. If the Mishna was really R' Yehuda, then the Mishna would have said the bigger chiddush, that if the ‘condition day’ is second, then it would be assur to eat on the first day. Therefore, concludes the Ran, we cannot answer the Mishna by saying that it is the shita of R' Yehuda and discussing a case in which the ‘issur day’ is second, because this is something that the Mishna would never do, as the Mishna always tries to say the bigger chiddush. Therefore, the Gemara says that it must be that our Mishna is not R' Yehuda and the Mishna is saying that even when the ‘condition day’ is second, one can still eat on the first day (i.e., the ‘issur day’).

The Baraisa says that one is not allowed to say that these things are mutur in front of these people as these people are obligated to follow their minhag and to be machmir with regard to these things. The Baraisa continues and says that if these people are not makpid to follow their minhag to be machmir, they will be transgressing the issur of “Baal Yachel”, since they took on the minhag to be machmir with regard to these things.

Now this chiyuv to follow one’s chumrah is only a chiyuv M’Drabbanan and yet the Baraisa still says that if one does not do so, he transgresses the issur of “Baal Yachel. If so, from this Baraisa we see as the Gemara answered, that indeed there is a concept of having an issur of “Baal Yachel” on an issur that is only M’Drabbanan.

Further Questions on the Shita of R' Yehuda that a Person is Not Careful with Regard to the ‘Condition’ Part of a Neder

We learned in a Mishna	תָּנִן
(if a person says to his wife) “You are (assur)	שְׂאֵת
to benefit from me until Pesach	נִהְיִית לִי עַד הַפֶּסַח
if you go to your father’s house	אִם תֵּלְכִי לְבֵית אָבִיךָ
(from now) until the Chag (i.e., Sukkos)”	עַד הַחַג
if she goes before Pesach	הֲלֹכָה לִפְנֵי הַפֶּסַח
she is assur to benefit from him	אֲסוּרָה בְּהִנָּאֲתוֹ
until Pesach	עַד הַפֶּסַח

(This implies that it is only if) she went	הֲלֹכָה
before Pesach	לִפְנֵי הַפֶּסַח
that it is assur	אֲסוּרָה
but if she did not go	לֹא הֲלֹכָה
no (it would not be assur for her to benefit from him)	לֹא

In this case, a man told his wife that if she goes to her father’s house anytime from now until Sukkos, then she will become assur to get benefit from him from now until Pesach. In other words, the going to her fathers’ house in the ‘condition’, and the getting benefit from him is the issur.

Now, the Mishna said that if she goes to her father’s house before Pesach, then it will be assur for her to benefit from him. This implies, that if she does not go to her father’s house, then she will be allowed to benefit from her husband. But why is that? According to R' Yehuda a person is not careful in the ‘condition part’ of a neder, and therefore, how could we let her do the ‘issur part’, that is, how could we let her benefit from her husband? Why are we not concerned that after she benefits from him, she will then go to her father’s house, and by doing so, cause her to retroactively violate her neder.

R' Abba said	אָמַר רַבִּי אֲבָא
If she went before pesach	הֲלֹכָה לִפְנֵי הַפֶּסַח
it (would then be) assur (to benefit from him)	אֲסוּרָה
and (if she does) she will get malkus	וְלוֹקָה
(but) if she did not go	לֹא הֲלֹכָה
it is just an issur (to benefit from him but there	אֲסוּרָה בְּעִלְמָא
would not be malkus)	לֹא הֲלֹכָה

The Mishna said that if she goes to her father’s house, then it will be assur for her to benefit from him. And on this the Gemara inferred that if she would not go to his house then it would be mutur to benefit from him, and if so, this would be a question on the shita of R' Yehuda.

The Gemara now answers that this not the implication of the Mishna but rather the point that the Mishna is making is that it is only in the case that she actually went that she will be transgressing the neder by benefitting from her husband. And as such, it is only in the case that she actually went will she get malkus for violating the neder.

But if she did not go, while it would still be assur for her to benefit from him, as we are concerned that she will go at a later date, this eating is not a violation of the neder (as long as she did not go), and as such, although she did something wrong by benefitting from him, she will not receive malkus.⁸⁶

The Gemara continues to ask on R' Yehuda from the end of the Mishna.

But say the sayfa	אֵימָא סִיפָא
(if she goes to his house) after Pesach	אַחַר הַפֶּסַח

⁸⁶ The Ran quotes the Rambam who disagrees and holds the opposite way, that it is only the husband who receives malkus and not the wife. The husband receives malkus as he is the one who caused his words to be violated. And the wife will not receive malkus as she was not the one who made the neder, and as such, it is impossible to give her malkus for transgressing the lav of “ Baal Yachel Divaro” if she never said anything., i.e., it is not her neder and therefore she cannot receive malkus for violating it.

⁸⁶ If a Woman Violates a Neder that the Husband Made, Who Receives the Malkus, the Husband or the Wife (the Machlokes the Ran and the Rambam)?
The Ran says that in the case that the wife received benefit from the husband that was assur, since she violated the neder, she will be the one to receive malkus. And the husband will not receive any malkus as he did not do anything wrong, i.e., he was not the one who violated the neder.

(she will be subject to the lav of) “Do not desecrate **בְּבַל יַחַל דְּבָרוֹ**
 your word”
 and if she did not benefit (from her husband) **וְאִי דְלֹא אִיתְהַנִּי**
 before Pesach **לְפָנֵי הַפֶּסַח**
 is there a (lav) of “Baal Yachel” **מִי אֵיכָא בַל יַחַל**

rather it is obvious **אֵלָא פְּשִׁיטָא**
 that she benefitted (from her husband) **דְּאִיתְהַנִּי**
 (and if so) we see **אֵלְמָא**
 that she can benefit (from him) **מִיתְהַנִּי**

father’s house, this will cause her to retroactively transgress the lav of “Baal Yachel”.

The Gemara continues to ask on R' Yehuda.

We learned in the Mishna **תְּנִן**
 (If the husband says to his wife) “You (are assur)
 to benefit from me **שָׂאתָ**
 until Sukkos **נְהַנִּית לִי**
 if you go to your father’s house **עַד הָחַג**
 until Pesach” **אִם תֵּלְכִי לְבֵית אָבִיךָ**
עַד הַפֶּסַח

In this case, the ‘issur part’ of the neder is the benefitting from the husband from now until Sukkos, and the ‘condition part’ of the neder is her going to her father’s house from now until Pesach. And on this case the Mishna says:

If she goes (to her father’s house) before **הֲלָכָה לְפָנֵי הַפֶּסַח**
 Pesach **אִסְרוּהָ בְּהִנְאֻתָּו**
 she (will then) be assur in his benefit **עַד הָחַג**
 until Sukkos **וּמוֹתְרַת לִילָךְ**
 and she will be mutur to go **אַחַר הַפֶּסַח**
 after Pesach⁸⁷

The Gemara asks that the implication of the Mishna is:
 (That it is only if) she goes that she is assur **הֲלָכָה אִסְרוּהָ**
 (but if) she does not go **לֹא הֲלָכָה**
 no (she will not be assur) **לֹא**

The Mishna seems to be implying that it is only if she goes to her father’s house that there is an issur to benefit from him. But if she does not go to her father’s house then it would be mutur to benefit from him, that is, it would be mutur to benefit from him even before Pesach. But why? According to R' Yehuda, it should be assur for her to benefit from him as it is

allowed to go to her father’s house after Pesach, and if so, we are going to need an explanation as to why the Mishna felt it necessary to write this.

The Ran answers that one could have thought that in this case the Chachamim would make a gezirah that she is assur to go to her father’s house then. Because if we say that she is allowed to go to her father’s house she might forget that she went to her father’s house before Pesach and caused the neder to take effect (i.e., if we allow her to go now, she might forget that as a result of her going to her father’s house before Pesach, she is now assur to benefit from her husband). Therefore, one could have thought that to prevent this mistake from happening, they said that it would be assur for her to go to her father’s house after Sukkos. The Mishna therefore comes to teach us otherwise, that after Sukkos, the only issur in affect is that she is not allowed to benefit from her husband, but she is allowed to go to her father’s house.

Nedarim 15b

And (if so) this is a disproof **תִּיבְתָא**
 of R' Yehuda **דְּרַב יְהוּדָה**

The Gemara asks as it did previously, that if the Baraisa discusses a case in which she is going to be assur to go to her father’s house after Pesach, then she obviously already benefitted from her husband from before Pesach. Because if she did not, then there would be no problem with her going to her father’s house. Even if by her going to her father’s house the bread retroactively becomes assur, this will not make a difference if she didn’t eat it. Rather it must be that indeed she did eat the bread. But how could she? According to R' Yehuda it would be assur for her to eat the bread as we would be concerned that she will not be careful in the ‘condition part’ of the neder. The Gemara concludes that it must be that the halacha is not in accordance with R' Yehuda.

The Gemara answers as it did previously:

When did we learn (the Mishna) **כִּי קָתְנִי**
 that if she benefitted **דְּאִי אִיתְהַנִּי**
 (she will then) be subject to “Baal Yachel” **הָרִי זֶה בְּבַל יַחַל דְּבָרוֹ**

The Gemara answers that the Mishna is not saying that she is allowed to benefit from the husband before Pesach, rather the Mishna is just saying what would happen if she would. That is, if she did not do what she was supposed to do, and she went ahead and benefitted from her husband, then if she goes to her

⁸⁷ What is the Chiddush that She is Allowed to Go After Pesach?

The case of the Baraisa is that if she goes to her father’s house before Pesach, then it will be assur to benefit from her husband until Sukkos. And on the Mishna on this said that if she did not keep ‘the condition part’, that is, if she did go to her father’s house before Pesach, then she will be assur to benefit from her husband until Sukkos, but she will be allowed to go to her father’s house from then until Sukkos.

The problem is that seemingly this last part of this halacha is obvious and seems unnecessary. Of course, she can go to her father’s house after Pesach. The whole issue of going to her father’s house was only before Pesach. And once she went, all this did was to say that it is now assur to benefit from her husband, but it has no relevance to her going to her father’s house after Pesach. That is, there seems to be absolutely no reason she should not be

possible that she will still go to her father's house before Pesach. And if she does, it will come out that the benefit that she received from him was assur. Therefore, since R' Yehuda holds that a person is not careful in the 'condition part' of a neder, it should be assur for her to benefit from him before Pesach, and yet the Mishna seems to imply that the only time that it would be assur for her to benefit, is if she first went to her father's house.

Rava said (answers) **אמר רבא**
 'that the same halacha is true' **הוא הדין**
 that even if she did not go **דאפילו לא הלכה**
 it is assur (for her to benefit from him) **אסורה**

And what the Mishna means to say is:

If she went **הלכה**
 she is assur (to benefit from him) **אסורה**
 and she receives malkus (if she does benefit) **ולוקה**
 (but if) she did not go **לא הלכה**
 it is only a general issur **אסורה בעלמא**

The Gemara answers that the intent of the Mishna to say that if she does go, that is when she will get malkus for violating the neder. But it could very well be, that even if she did not yet go, it will still be assur for her to eat. It will be assur for her to eat then, not because at that point she will be violating the neder, but rather it will be assur for her to eat then as her eating will be setting up the possibility that she might come to violate the neder if she will eventually end up going to his house.

However, with regard to malkus (i.e., transgressing the neder), this only happens is she ate and then went to her father's house.

The Gemara asks another question:

They asked from a Baraisa **מיתבי**
 (if a person says) "This loaf (of bread) **כפר זו**
 should be onto me (like a korban) today **עלי היום**
 if I go **אם אלך**
 to a certain place **למקום פלוני**
 tomorrow" **למחר**
 if he eats it **אכל**
 this is a violation of "Do not Go" **הרי זה בבל ילך**

If the person eats the loaf of bread, then he will be subject to the issur of "Do not go". That is, if he eats the bread, he will then be assur to go to that place, because by going there, he will cause the bread to retroactively become assur. Once again, the Gemara is asking that the implication of this Baraisa seems to

be that the person is allowed to eat the bread but by doing so, he will now be subject to the issur of going to the particular place referenced in the person's neder. But according to R' Yehuda it should be assur to eat the bread in the first place. After he eats the bread, he might come to go to that place, and by doing so he will end up causing himself to violate the neder retroactively.

The Gemara answers:

Did it teach 'he eats' **מי קתני אוכל**
 'he ate' is was taught **אכל קתני**
 (which means to say) that if he ate **דכי אכל**
 (then) he is subject to the issur "Not to go" **הרי זה בבל ילך**

The Gemara answers as it did before. The Baraisa never said that he is allowed to eat the bread. Rather, all the Baraisa does is to describe what will happen if he does. That is, the Baraisa tells us that if he ends up eating the bread, then he will be subject to the issur of בל ילך.

The Baraisa continues:

If he goes **הלך**
 this is a (violation of the law of) **הרי זה**
 "Baal Yachel Divaro" **בבל יחל דברו**

The Baraisa tells us that if the person goes to that particular place this will be a violation of the neder.. And on this part of the Baraisa the Gemara points out:

He goes (i.e., he is allowed to go) **מהלך**
 no (the Baraisa did not say) **לא**
 and this is difficult to R' Yehuda **וקשיא לרב יהודה**

The Ran (and the other Rishonim) explain the Gemara's question as follows. According to R' Yehuda, the person is not allowed to eat on the first day. Therefore, since he is not allowed to eat then, the Mishna should have told us this case.

That is, if you hold that you are allowed to eat on the first day, then we understand the Baraisa very well. The Baraisa is telling us what the person is allowed to do. He is allowed to eat on the first day but he should be aware that if he does so he must be careful not to go to that certain place on the next day (that is, he must be careful not to violate his neder).

But according to R' Yehuda, when a person makes this type of neder, he is not allowed to eat the bread on the first day. But if so, why did the Baraisa not describe this case? That is, why did the Baraisa not tell us the ramifications of the case in which the person followed the halacha and did not eat bread on that day?

The Baraisa should have said that if the person makes this type of neder, then he is allowed to walk to that certain place. The reason he would be allowed to walk to that place is because we will assume that the person followed the halacha and did not eat the day before. And indeed, if he did not eat on the day before, he will then be allowed to walk to this place on the next day.

That is, if the Mishna would have said that by making this neder, you are still allowed to walk, then we would be able to figure out that the reason he is allowed to do so must be because the person did not eat on the first day as it is assur to do so. In other words, according to R' Yehuda the Baraisa should have added another case in which the person would be allowed to go to that place, and if the Baraisa did not mention this case, this would seem to indicate that indeed the Baraisa is not in accordance with R' Yehuda.

The Gemara answers:
 Reb Yehuda would say to you **אָמַר לָךְ רַב יְהוּדָה**
 'in truth it could have been' **הוּא הָדִין**
 that it should have taught "he goes" **דְּלִיתֵינִי מֵהַלָּךְ**
 (but) since it was taught in the raysha **אֵיידִי דְּקִתְּנִי רִישָׁא**
 that he ate **אָכַל**
 for it could not have said he eats **דְּלֵא מִיתֵינִי לִיה אֹכֵל**
 it taught in the sayfa 'he went' **תְּנִי סִיפָא הַלָּךְ**

The Gemara's question was that the Baraisa in the sayfa should have said a case in which he would be allowed to go (i.e., the case that he did not eat the day before).

The Gemara answers that it is true that the Baraisa in the sayfa could have said a case in which it would be mutur to go, but the Baraisa didn't because this would not match the raysha of the Baraisa.

The raysha of the Baraisa discusses the ramifications of eating the bread, and with regard to this, there would be no way to say he is allowed to eat the bread because according to R' Yehuda there is no such case. According to R' Yehuda, once

this person makes this neder, it is forbidden for him to eat the bread, as we are afraid that after he eats the bread, he will then go to that place tomorrow. And by doing so, he will cause the neder to take effect which will mean that retroactively the bread was assur.

Therefore, since the raysha needed to describe a case in which he ate the bread (i.e., something that he was not allowed to do), the Baraisa in the sayfa had to stick to describing what would happen if the person went (i.e., in a case when he was not allowed to do so) but could not describe a case in which he was actually allowed to do so.⁸⁸

The Valid Way to Forbid One's Wife on Himself

The Mishna said:
 One who says to his wife **הָאוֹמֵר לְאִשָּׁה**
 "Konam that I live with you" **קוֹנָם שְׂאֲנִי מְשַׁמְשֵׁד**
 this is subject **הָרִי זֶה**
 to (the lav) of "Baal Yachel Divaro" **בְּבַל יַחַל דְּבָרוֹ**
 The Gemara asks:
 But he is obligated to her **וְהָא מְשַׁתְּעָבֵד לָהּ**
 M'Dorayisa **מִדְּאוּרֵייתָא**
 as it is written (Shemos 21:10) **דְּכַתִּיב**
 "Her food, her clothing, and her time, **שְׂאָרָהּ כְּסוּתָהּ וְעִנְתָּהּ**
 he should not diminish" **לֹא יִגְרַע**

A man is obligated to provide food and clothing to his wife and to be with her. If so, how could he make a neder to assur tasmish (the act of living together), if this is something that is owed to her?

The Gemara answers:
 (The Mishna is referring to a case in which) he says **בְּאוֹמֵר**
 the benefit (enjoyment) of tasmish **הַנְּזִאת תְּשַׁמְּיֵשֵׁד**
 (should assur) to me **עָלַי**
 and he does not desire **וְהָא לֹא קָא נִיחָא לִיה**

⁸⁸ **The Halacha if the Person Ate the Bread on the First Day Without Remembering the Neder**

The Ran explains that the reason the raysha could not of said a case of הַלָּךְ and the sayfa a case of מֵהַלָּךְ is because if it would have done so, the implication would be that there is a case that he is allowed to go even though he ate the day before. And although this would seem to be an incorrect implication, as his going on the second day means that retroactively the bread he ate on the first day was assur, the Ran continues and says that this is not necessarily true. If on the first day the person ate the bread without realizing that it was part of the neder, then it will be mutur for the person to go on the second day. This is because there is a rule that nedarim that are made בשוגג are not considered nedarim. Therefore, since when he ate the bread he forgot that his going will now become assur, the neder does not take effect.

In other words, the Baraisa would be assumed to be referring to two cases. The first case would be the case in which he ate the bread on the first day with the full knowledge that this eating will cause that it will now be assur to go on the next day. And in this case, if he goes on the second day, he will be violating the lav of "Baal Yachel".

And we would also know the second case in which the person eats the bread without the awareness that this will cause his going the next day to be assur. But although this implication would reflect a true halacha, the Ran explains that since the Baraisa was not discussing this halacha of making a neder without full knowledge, the Baraisa did not want to imply this halacha. and for this reason, the Baraisa had to say a case of הַלָּךְ and not מֵהַלָּךְ.

tasmish

בְּתַשְׁמִישׁ

The Gemara answers that it is true that the husband cannot assur his wife in tasmish (as he is obligated to provide her with it). But what he could do is to say that he himself should be assur in tasmish (since he does not want tasmish, he can say that he should be assur in it). That is, he cannot affect her, but he can affect himself.

The Gemara now proves this point:

As Rav Kahana said

דָּאָמַר רַב כְּהָנָא

(If a wife says) “My tasmish

תַּשְׁמִישִׁי

(should be konam) on you

עָלֶיךָ

we force her

כּוֹפִין אוֹתָהּ

and she has tasmish with him

וּמִשְׁמִישָׁתוֹ

for she is obligated to him (i.e., to live

דְּשַׁעְבֻּדֵי מְשׁוּעָבְדָתָ לֵיהּ

with him)

But if she says:

“The benefit (enjoyment) of tasmish

הַנְּאִת תַּשְׁמִישֵׁךְ

(should be assur) on me

עָלַי

it is assur

אָסוּר

for we don't “feed” a person

שֶׁאֵין מֵאֲכִילִין לוֹ לְאָדָם

something that is assur to him

דְּבַר הָאָסוּר לוֹ

From Rav Kahana we see as the Gemara answered. That although a person is obligated in tasmish to his wife, if he says that the benefit of the tasmish should be assur on him, this will work. And this is similar to what Rav Kahana said. That although a neder that a wife makes to assur her husband in tasmish is not effective, if she assures tasmish on herself the neder will be effective.⁸⁹

משנה

Various Shevuos that are Effective and Various Shevuos that Are Not Effective

(If one says) “Shevuah that I will not sleep”

שְׁבוּעָה

שְׁאֵינִי יָשֵׁן

(or he says “Shevuah) that I will not speak”

שְׁאֵינִי מְדַבֵּר

(or he says “Shevuah) that I will not go”

שְׁאֵינִי מֵהֵלֵךְ

(in all these cases) it is assur

אָסוּר

⁸⁹ How Can One Assur Tasmish on Himself if Tasmish is not a Tangible Object?

The Ran asks that this that the Mishna says that there is a lav of “Baal Yachel” with regard to one that assures tasmish on himself, is only saying that there is as issuur of “Baal Yachel” M'Drabbanan but not M'Dorayisa.

The Ran says that it has to be this way because M'Dorayisa a neder is not effective on something that is not tangible. If so, how could this neder work? The answer is that although it is not a neder M'Dorayisa, it is a neder M'Drabbanan.

But the Ran then asks that if it is not effective M'Dorayisa, how could the Chachamim say that it works if by doing so they are uprooting two mitzvohs. Since this person cannot live with his wife, he will not be able to do the mitzvah of 'Onah' (the mitzvah of living with one's wife) and he will also not be able to do the mitzvah of פְּרִיָה וּרְבִיָה (the mitzvah to have children).

The Ran answers that there is a rule that the Chachamim have the power to uproot a mitzvah min HaTorah בְּשֵׁב וְאֵל תַּעֲשֶׂה. That is, the Chachamim can never tell you to do an action that goes against the Torah, but they are able to tell you that you do not have to do something that the Torah says to do (i.e., they can tell you do rest and not to do).

If so, in our case as well. The Chachamim have the power to say that the person must abide by this neder, even though by doing so, the person will not be able to do two mitzvohs that are min HaTorah.

The Ran points out that one cannot answer that the case of the Mishna is simply that he assured his body from getting benefit, and if so, the neder would be effective M'Dorayisa (as the neder is taken effect on a tangible object, i.e., on him). The Ran explains that one cannot answer this way because the Mishna compares this case to the case of making a neder to forbid sleep. And Ravina answered that in all of these cases the issuur is only an issuur M'Drabbanan. If so, we have the question of how the Rabbanan could make an issuur if this causes him not to do two mitzvohs.

The Fundamental Machlokes HaRishonim with Regard to מצות לא ליהנות (is Incidental Benefit Included in this Rule?)

The Gemara says that if one assures the benefit of tasmish on himself, the neder would be effective. But the Ran asks that seemingly the husband should still be allowed to have tasmish with her, the neder notwithstanding. There is

a rule is Shas that says מצות לא ליהנות ניתנו, that the benefit of a mitzvah is not considered benefit. Therefore, since there is a mitzvah to be with one's wife, he should be allowed to be with her even though he made this neder. That is, since the tasmish is a mitzvah, the benefit that he gets from it is not considered a benefit, and if so, living with her would not be in violation of his neder.

The Ran answer that when the Gemara says מצות לא ליהנות ניתנו, this means that the actual benefit of getting the mitzvah is not considered a benefit, but any side benefit that he might receive as a result of doing this mitzvah would be considered a mitzvah.

The Ran brings the example of someone who has a mitzvah to go into a mikva. The Gemara tells us that if a person makes a neder not to get benefit from a mikva, then he would be allowed to into it during the winter but not during the summer. During the summer, his going into the mikva would be beneficial, not just as a result of his getting a mitzvah for going to the mikva, but he will be benefiting by cooling off in it.

If so, in our case as well, since he gets physical benefit from the tasmish, that will cause him to be assur to have tasmish with her.

The Rashba disagrees and he holds that any benefit that one gets from doing a mitzvah is not considered as benefit, even if this benefit is a “side-benefit”.

And the reason he is not allowed to have tasmish with her, is because the only time there is a mitzvah for him to have tasmish with her is when he is obligated to do so, but once this neder takes effect, that obligation goes off. If so, once he makes a neder, he no longer has a mitzvah to have tasmish, and therefore it will be assur for him to do so.

The Rashba points out that even though there is a mitzvah of פְּרִיָה וּרְבִיָה, and as such, if he has tasmish with her, the benefit of the tasmish should be mutur as he is doing a mitzvah, he will still be assur to have tasmish with her. This is because although he does have a mitzvah of פְּרִיָה וּרְבִיָה, there is no reason he would have to fulfill this mitzvah with her specifically.

In all of these cases the shevuah works and the person will become assur to do that particular action. The chiddush of the Mishna is that this is true, although it is not true with regard to nedarim. Nedarim can only take effect on a **דָּבָר שֶׁיֵּשׁ בוֹ מִמַּשׁ** (a tangible item), and as such, a neder cannot take effect on sleep. Shevuos, however, do not have this restriction and can be effective even with regard to something intangible.

(However, if one says) “Korban	קָרְבָּן
I will not eat of yours”	לֹא אוֹכֵל לָךְ
(or he says) “Hu Korban	הֵא קָרְבָּן
that I will eat of yours”	שֶׁאוֹכֵל לָךְ
(or if he says) “Not a korban	לֹא קָרְבָּן
what I will not eat of yours”	לֹא אוֹכֵל לָךְ
(in all of these cases) it will be muter	מוֹתֵר

In all of these cases the shevuah will not be effective. In the first case, in which he says “Korban, I will not eat of yours”, the food does not become assur because a shevuah is not made in such a manner. That is, if the person means to make a shevuah with these words, then the shevuah is not effective because by mentioning the word korban, he means to makes a shevuah by the life of the korban. And this is simply not a valid shevuah. That is, if one makes a shevuah by swearing with something, this only works if he swears by the name of Hashem but not if he swears by a different object.

And if the person means to make a neder, then his statement will certainly not be effective. This is because if he is making a neder, then what he said was that it should be like a

korban the food that he will not eat, but the food that he will eat should remain mutur to him.

The second case of the Mishna in which he says “Hu korban that I will eat of yours” is also ineffective for the same reason as above, that a shevuos by the life of a korban does not work (as the only time a shevuah is effective with swearing by something, is when he swears with the name of Hashem).

The Ran points out that the correct girsa of this case is that he said “הֵא קָרְבָּן שֶׁאוֹכֵל לָךְ” and not “הֵקָרְבָּן שֶׁאוֹכֵל לָךְ” because if he would have said **הֵקָרְבָּן** (i.e., as one word and not two) then R' Meir would hold that this would be a valid neder, as the Gemara will tell us shortly.

And in the third case of the Mishna in which the person said “**לֹא קָרְבָּן לֹא אוֹכֵל לָךְ**”, the reason the shevuah is not effective is for the simple reason that person did not say anything. Saying that what he will not eat should not become assur, does not have any significance, and as such, he will be allowed to eat.

The Ran points out that although this last case might seem obvious, the reason why the Mishna says it is to teach us the one does not say **מִכְּלָל לֹא אֶתָּה שׁוֹמֵעַ הוּא**. That is, if one holds that **מִכְּלָל לֹא אֶתָּה שׁוֹמֵעַ הוּא**, then although the actual words this person said don't have any significance, their implication does have significance. That is, saying that the food that he will not eat should not be a korban implies that the food that he does he should become a korban. And if so, according to those that hold that **מִכְּלָל לֹא אֶתָּה שׁוֹמֵעַ הוּא**, the food would become assur. But as the Gemara will tell us, that Tanna of our Mishna is R' Meir who does not hold that **מִכְּלָל לֹא אֶתָּה שׁוֹמֵעַ הוּא**, and as such, that is why the Mishna says that the food will remain mutur.