

Nedarim 18A

The last daf ended off with the Gemara bringing a proof against the shita of Rav Huna who holds that if one says, “I am a nazir today, I am a nazir today”, the second nezirus is not chal. The Gemara had brought a Baraisa that said that if a person accepts two sets of nezirus, and then counts the first nezirus and separates a korban for this first nezirus, and he is then ‘shoyal’ (uproots) the first nezirus, we say that the days that he already counted will exempt him from counting thirty days for the second nezirus. The Gemara assumed that the case must be one in which he said, “I am a nazir today, I am a nazir today”. Because if the case were one in which he said, “I am a nazir today, I am a nazir tomorrow”, how could the Baraisa says that he does not have to count any more days once he uproots the first nezirus? Granted the first twenty-nine days of his second nezirus are covered but why does he not have to count one additional day? When he accepted the second nezirus by saying “I am a nazir tomorrow”, this obligated him to count from the next day until day thirty-one from now. And he only counted the first twenty-nine days of that period (as he counted thirty days from the time that he accepted his nezirus).

And this is disproof of Rav Huna ותיובתא דרב הונא

Since the Gemara proved that the case must be one in which he said “I am a nazir today, I am a nazir today”, we see that even in that case the second nezirus is chal, i.e., we see not like the shita of Rav Huna.

The Gemara answers:

No!	לא
Really (the case of the Baraisa is one in which he said)	לעולם
“I am a nazir today	הריני נזיר היום
I am (a nazir) tomorrow”	הריני למחר
and what (does it mean)	ומאי
(that) it counts for him	עלתה לו
(it means) except	לבר
for that extra day	מההוא יומא יתירא

The Gemara’s question was that even after the first nezirus is uprooted, the person should still have to count one more day, and to this the Gemara answers that indeed this is true. When the Baraisa said that the days that he already counted exempt him for counting more days, this just means that he does not have to count any more days except for the last day on which he still has to keep as a nazir.

Another answer:

(You can also say)	אי נמי
for example	כגון
that he accepted (upon himself)	שקיבל
two (sets) of nezirus at one time	שתי נזירות בבת אחת

Although Rav Huna holds that if one says, “I am a nazir today, I am a nazir today”, the second nezirus cannot be chal as the person is already a nazir, if the person accepts two sets of nezirus at one time (i.e., he says “I accept upon myself two sets of nezirus”), he will be chayiv to count two sets of nezirus.

The explanation of the distinction between the two cases is simple. Rav Huna holds that a nezirus cannot be chal on a pre-existing nezirus. Therefore, when he says, “I am a nazir, I am a nazir”, that second nezirus is not chal as he is already a nazir. But when the person accepts two sets of nezirus upon himself at one time, both sets are chal, as there is no reason why one should be chal more than the other, or in other words, no nezirus is trying to be chal on a person who is already a nazir.

And if so, that even R' Huna agrees that in this case both sets are chal, this is the case of the Baraisa. The Baraisa is saying that if a person accepts two sets of nezirus on himself, he will then have to be a nazir for sixty days (thirty days for each nezirus). And if after thirty days, one of the nezirus are uprooted, he will then no longer have to be a nazir for another thirty days, as the days that he was already a nazir will count towards the second nezirus.

The Source that Nezirus is Chal on Nezirus – And the Resulting Question on Rav Huna

Rav Hamnuna asked from a Baraisa	מתיב רב המנונא
(the posuk says) “Nazir Li’hazir”	נזיר להזיר
from here (we learn)	מכאן
that nezirus is chal on nezirus	שהנזירות חל על הנזירות

The Baraisa now tells us why a source is needed to teach us that nezirus is chal on nezirus.

For one could (have said)	שכיכול
it’s a din (i.e., it makes sense to say)	והלא דין הוא
and if what (is true)	ומה
(with regard) to shevuah that is chamor	שבועה חמורה
(that we say) shevuah is not chal	אין שבועה חלה
on a shevuah	על שבועה
nezirus that is kal (lenient)	נזירות קלה

is it not surely so

לא כל שָׁכַן

The Gemara understands that shevuos are more chamor than nedarim. And yet despite the fact that shevuos are more chamor, it has the kula (leniency) that a shevuah is not chal on a shevuah. If so, logic dictates that nezirus should not be chal on nezirus as well. After all, if what is more chamor has a certain kula, then one would have certainly thought that what is less chamor should also have this kula.

((Therefore the posuk comes to say)

תְּלַמּוּד לומר

(the words) “Nazir Li’hazir

נָזִיר לְהַזִּיר

(and) from here (we see)

מִכָּאן

that nezirus

שֶׁהַנְּזִירוֹת

is chal on nezirus

חָלָה עַל הַנְּזִירוֹת

(but) what is the case

הִכִּי דָּמִי

if you are going to say

אֵילִימָא

that he said

דְּאָמַר

“I am a nazir today

הַרִינִי נָזִיר הַיּוֹם

I am a nazir tomorrow”

הַרִינִי נָזִיר לְמָחָר

(is) a posuk (really) needed

הָא קָרָא בְּעֵינָא

If the person really said, “I am a nazir today, I am a nazir tomorrow”, it would seem obvious that the second nezirus should work (as the second nezirus is adding to the first) without the need for a posuk. And if the Baraisa still says that you need a posuk, the Baraisa cannot be referring to this case.

Rather isn’t it

אֵלָא לָאוּ

that he said

דְּאָמַר

“I am a nazir today

הַרִינִי נָזִיר הַיּוֹם

I am a nazir today”

הַרִינִי נָזִיר הַיּוֹם

and we learned in the Baraisa

וְקָתְנִי

that nezirus is chal on nezirus

נְזִירוֹת חָל עַל נְזִירוֹת

At this point the Gemara understands that the case of the Baraisa must be one in which he said, “I am a nazir today, I am a nazir today”, and yet the Baraisa says that the posuk comes to teach us that even the second nezirus is chal. If so, we see not like the shita of Rav Huna.

The Gemara answers:

No!

לֹא

here what are we dealing with

הָכָא בְּמַאי עֲסָקִינָן

for example

כְּגוֹן

that he accepted upon himself

שֶׁקִּיבַל עָלָיו

two sets of nezirus at one time

שְׁתֵּי נְזִירוֹת בְּבַת אַחַת

As the Gemara explained earlier, even though Rav Huna holds that a second nezirus cannot be chal on the first, if a person accepts two sets of nezirus at the same time, they are both chal. And if so, we have a case of nezirus being chal on nezirus that the Baraisa would need a posuk to teach us that with regard to nezirus this would work, as opposed to shevuos that one cannot have two shevuos be chal on the same thing.

What is the Chumrah of Shevuos?

The Gemara told us that the need for a drasha to teach us that nezirus is chal on nezirus comes from the fact that shevuos has a chumrah that nezirus doesn’t. And therefore, if a shevuah is not chal on a shevuah, one would have thought that nezirus cannot be chal on nezirus as well. The Gemara now explains what that chumrah is.

And what is the chumrah

וּמַאי חוּמְרָא

of shevuos more than neder

דְּשִׁבּוּעָה מִנְדָּר

if you say

אֵילִימָא

because it is chal

מִשּׁוּם דְּחֵיילָא

even

אֶפִּילוּ

on something that is not tangible

עַל דְּבַר שְׂאִין בּוּ מַמַּשׁ

(but) a neder is also chamor

נְדָר נְמִי חָמוֹר

for it is chal on a mitzvah

שָׁכַן חָל עַל הַמִּצְוָה

just like (it is chal) on a reshus (i.e., something you do not have to do, i.e., a non-mitzvah

The Gemara points out that the chumrah of shevuos over nedarim cannot be the fact that shevuos has a chumrah that nedarim does not, because nedarim as well has a chumrah that

⁹³ Why is a Posuk Needed for the Case of Someone Accepting Two Sets of Nezirus at One Time?

The Gemara tells us that the posuk is coming to teach us that if someone accepts two sets of nezirus at one time, both of them are chal.

And on this the Ran asks that seemingly this would be unnecessary. If a person says that he is accepting two sets of nezirus, this would seem to be the same as one saying that he is accepting sixty days of nezirus upon himself, and if so, it would seem obvious that this case should work without the need for a posuk.

The Ran answers that without the posuk one could have thought that indeed one cannot accept two separate nezirusim at one time. And if the person says that that he is, he should have to count one sixty-day nezirus.

But now that we have a posuk, the halacha in this case is that two separate chiyuvim of nezirus are chal on the person. And even though in this case he will also have to count sixty days, the halachic difference between this case and someone who just accepts a sixty-day nezirus upon himself, is that in this case, upon the conclusion of the first thirty days, the person will have to shave himself and to bring a korban, i.e., he will have to finish his first nezirus (and do all that that entails), and only then will he count his second nezirus.

shevuos does not. If so, the chumrah of shevuos cannot be as a result of its unique halacha.

Rather **אֵלָא**
(it is consider chamor) because **מִשּׁוּם**
it is written with regard to shevuah **דְּכָתִיב בָּהּ בְּשִׁבוּעָה**
“He will not be cleaned (i.e., forgiven) **לֹא יִנְקָה**

When the posuk (Shemos 20:7) describes someone who takes Hashem’s name in vain, it says that Hashem will not forgive him. That is, the avayra of swearing falsely is so chamor, that the posuk makes this frightening statement that this person will not be forgiven.⁹⁴ This is something that is not said with regard to nedarim, and if so, we see how shevuos are chamor.

What Happens if One Makes Two Shevuos and is then שׁוֹאֵל On the First One?

The Mishna said:
(If one says) “Shevuah **שְׁבוּעָה**
that I will not eat **שָׁלָא אוֹכֵל**

shevuah that I will not eat” **שְׁבוּעָה שְׁלָא אוֹכֵל**
and he (then) ate **וְאָכַל**
he is not chayiv except for one **אֵינוֹ חַיִּיב אֶלָּא אַחַת**

The Mishna teaches us the rule that a shevuah is not chal on a shevuah. And on this halacha:

Rava said **אָמַר רַבָּא**
if he ‘asks’ on the first one **אִם נִשְׁאֵל עַל הָרִאשׁוֹנָה**
the second is chal on it **שְׁנֵינָה חֻלָּה עָלָיו**

Even though the Mishna says that a shevuah cannot be chal on a shevuah, Rava tells us that in a case in which the person does make a shevuah on a shevuah, if he is then שׁוֹאֵל (i.e., a Chacham uproots) the first shevuah, the first shevuah will be chal (i.e., the second shevuah will then be chal in the absence of the first shevuah).

The Gemara now questions how Rava sees this halacha from the Mishna.

From what (i.e., what did Rava see from the Mishna to מִמָּאֵי teach us this halacha)

The Gemara answers:

The Ran explains that it would seem that a neder could be chal on a shevuah. That is, if a person makes a shevuah that he will eat this bread, and he then makes a neder that the bread should be assur to him, the neder will be chal.

The reason for this is that the shevuah is not worse than a mitzvah. That is, the same way we find that a person is able to make a neder on a mitzvah, so too he should be able to make a neder on a shevuah as well. The reason why he is able to make a neder not to do a mitzvah, is because the mitzvah is a commandment on him (the גְּבוּרָא) and the neder is on the object (the חִפְצָא). And as such, we say that despite the fact that this person has a chiyuv to do this mitzvah, we cannot “feed” him something that is assur to him. With regard to a shevuah it is the same thing. Although the shevuah obligates him to eat this bread, a neder has the power to forbid him to do so (i.e., although the person has a chiyuv to eat the bread, the bread has an issur on it, and as such, we cannot feed this person something that is assur to him).

The Ran says that seemingly the next case should be true as well. That if a person makes a shevuah not to eat this bread, and he then makes a neder to assur the bread, if he then eats it, he will transgress both the shevuah and the neder. The Ran explains that the reason for this is the same as before. That a neder can be chal on a shevuah, because although the person’s shevuah creates an issur on the person (אִיסוּר גְּבוּרָא) his neder still has the ability to create an issur on the object (אִיסוּר חִפְצָא).

However, the Ran continues and says that the reverse would not be true. That is, if the person makes a neder not to eat this bread, and the person either makes a shevuah to eat it, or a shevuah not to eat, in both these cases, the shevuah would not be chal. The reason for this is because once the neder takes effect, although at first the neder creates an issur on the object, there is an issur on the person as well. This is for the simple reason that the person must follow the halacha that he is not allowed to eat things that are assur. And therefore, the same way a person is not allowed to make a shevuah to either fulfill or to uproot a mitzvah, so too he cannot make shevuah to either keep or to transgress his neder.

⁹⁴ Summary of a Neder Being Chal on a Neder and of Shevuah Being Chal on a Shevuah

Nezirus:

1. If a person accepts two sets of nezirus at one time, everyone agrees that the person is chayiv to keep two sets of nezirus.
2. If a person says, “I am a nazir today, I am a nazir tomorrow”, everyone agrees that he is chayiv to keep two sets of nezirus (i.e., for sixty-one days).
3. If a person says, “I am nazir today, I am a nazir today”, in this case there is a machlokes. Rav Huna holds that the second nezirus is not chal and Shmuel holds that it is.

Shevuos:

1. If a person says “Shevuah that I am not eating figs”, and then repeats and says “Shevuah that I am not eating figs”, everyone agrees that the second shevuah is not chal.
2. If a person says, “Shevuah that I am not eating figs”, and then he made another shevuah and said “Shevuah that I will not eat figs and grapes”, in this case there is a machlokes. Rabbah holds that the second shevuah is chal and Rav Huna holds that it is not. This machlokes will also determine what the rule “A shevuah is not chal on shevuah means”. According to Rav Huna, this rule covers all cases, and according to Rabbah it only covers the first case (as the second case it is chal).

Nedarim:

The Ran brings that there are those that hold that the same way nezirus is chal on nezirus, so too a regular neder is chal on a neder (i.e., if a person says “Konam this bread on me, konam this bread on me”, he will be chayiv twice if he eats it. However, the Ran disagrees, and he holds that it is only the case of nezirus that can be chal on nezirus and not a neder on a neder.

From the fact that the Mishna did not teach it is only one and it did teach that he is only chayiv once (as such the Mishna is teaching us) that it is space that it does not have (and therefore) when he will be mayshil (uproot) on his friend (i.e., the other shevuah) it will be chal

מדלא קתני אינו אלא אחת וקתני אינו חייב אלא אחת רוחא הוא דלית לה כי מיתשיל על חבירתה הנילא

If the Mishna wanted to say that the second shevuah is not chal at all, it should have said that there is only one shevuah here. And that will tell us what happened, that only one shevuah was chal. But the Mishna did not say this. Rather the Mishna said that he is only chayiv on one. This implies that in reality in a certain sense, even the second shevuah was chal, but practically it cannot be chal in totality as there is no space for it. And this is what the Mishna means when it says that you are only chayiv once. It means to say that you are only chayiv once as there is ‘no space’ for the second shevuah to be chal. But once there is space for it, the second shevuah will then be chal. And this is what happens when the person is שואל on the first shevuah. He removes that first shevuah and this allows the second ‘waiting’ shevuah to then be chal.

The Gemara now brings the same halacha from Rava but in a different setup.

‘Another version’
When the Mishna says that he is only chayiv if he makes a shevuah on a shevuah, this means to say:
A chiyuv there isn’t but a shevuos there is but for what halacha (is it relevant to know that there is a shevuah if he is not chayiv for it)

לישנא אחריןא חייובא הוא דליכא הא שבועה איכא למאי הלכתא

If the person is not chayiv for transgressing this second shevuah, of what relevance is there to know that it is chal?

The Gemara answers:

(It must be that the Mishna comes) to (teach us the halacha) like Rava that Rava said if one is shoyail on the first (shevuah) the second shevuah goes up instead of it (i.e., the second shevuah takes the place of the first one) let us say that there is support (i.e., a proof) to him (it says in the Mishna) One who makes a neder for two nezirisim and he counted the first one and he separated a korban and he then is shoyail on it the second (nezirus) is counted instead of the first one

למדךבא halacha) like Rava דאמר רבא נשאל על הראשונה עלתה לו שניה תחתייה the first one) לימא מסניע ליה מי שפנד שתי נזירות ומנה את הראשונה והפריש קרבן ונשאל עליה עלתה לו שניה בראשונה of the first one

From here we see that even though we said that if a person at first accepts one shevuah and then a second, the second shevuah is not chal, this is only true with regard to the chiyuv shevuos, but the second shevuah is considered a shevuah, and therefore, when the first shevuah is removed, the second one takes its place. This is seen from this Mishna. This Mishna describes a case in which the person at first accepts one nezirus, and then another, and yet when the person is שואל on the first nezirus is chal. But why? Rav Huna holds that when a person says, “I am a nazir today, I am a nazir today”, the second nezirus is not chal. If so, why when the person is שואל on the first nezirus, do we say that the second nezirus is chal. If it wasn’t chal originally, why should it be chal now? The answer must be that Rava is right. That even though a shevuah (or in this case) a nezirus is not chal, this does not mean that it is not chal at all but rather it just means that it is not chal with regard to him being chayiv if he transgresses this second nezirus.⁹⁵

The Gemara says that there is no proof to Rava’s halacha, as the case of the Mishna could be:

For example כגון

⁹⁵ The Ran’s Observation that the Gemara’s Proof is Only in Accordance with Rav Huna and not Shmuel

The Ran points out that this proof is only in accordance with Rav Huna and not Shmuel. According to Shmuel, when a person says, “I am a nazir, I am a nazir”, he is chayiv in two nezirisim. And if so, of course when the person is שואל on the first nezirus, the days that he counted work for the second nezirus (as he was chayiv in the second nezirus all along). And this will not be a proof to the case in which he made a shevuah on a shevuah (as a because with regard to shevuos, even Shmuel holds that one is not chayiv for the second shevuah).

In this case, one could argue that since the second shevuah is not chal originally, it cannot be chal a later point when the person is שואל on the first. It is only according to Rav Huna that we can say that the cases are comparable. And if we see that with regard to nezirus, the second nezirus is chal when the person is שואל on the first, we can say that the same should apply to shevuos as well. That when the person is שואל on the first shevuah, the second shevuah will then be chal.

that the accepted upon himself

שְׁקִיבֵל עָלָיו

two nezirus at one time

שְׁתֵי נְזִירוֹת בְּבַת אַחַת

In the case that a person accepts two nezirusim at one time, everyone (i.e., even Rav Huna) agrees that both nezirusim are chal at that point. If so, of course the days that he counted for the first nezirus will work for the second nezirus when he is שׁוֹאֵל on the first nezirus, but this will not be a proof to Rava's halacha with regard to shevuos. When one makes a shevuah on a shevuah, he is only chayiv for the first shevuah and not the second. Therefore, it could very well be that when the person is שׁוֹאֵל on the first shevuah, the second one is not then chal. That is, one could say that if the second shevuah was not chal originally, it cannot be chal later when the person is שׁוֹאֵל on the first shevuah. And this will not be comparable to the case of nezirus, because with regard to the case of nezirus, both sets of nezirus were chal right away.

Nedarim 18b

משנה

The Halacha and the Cases of Stam Nedarim

Stam (unspecified) nedarim
are l'hachmir (we are stringent)
and their explanations
are l'kulah (we are lenient)

סְתָם נְדָרִים
לְהַחְמִיר
וּפְירוּשָׁם
לְהַקֵּל

The Tanna Kamma holds that anytime we have a stam neder, that is, a neder that its words do not necessarily indicate the intent of the speaker, the halacha is that we are machmir (stringent). That is, if his words could be explained to mean a neder, and they could also be explained to mean something that is not a neder, the halacha is that we have to be machmir and assume that he meant to make a neder.

However, although it is true that with regard to stam nedarim we are machmir, with regard to their explanations we are maykil (lenient). That is, after the person said a stam neder, i.e., words that are unclear, the person is believed to say that in reality his intent was not to make a neder.

The Gemara now illustrates this halacha:

How is it (i.e., what is the case of stam nedarim)
(If a person) said
“It should be on me like salted meat”
(or he said “It should be on me) like ‘poured wine’

כִּי־צָדַק
אָמַר
הָרִי עָלַי כְּבָשָׂר מְלִיחַ
כִּי־יָנַח

The person made one of these two nedarim and we are not sure as to what he means. The Mishna tells us that there are two possibilities.

If he made his neder with אַם בְּשֵׁל (שְׁלָמִים)(שְׁמַיִם) נְדָר
(reference) to shamayim (heaven)⁹⁶

it will be assur אָסוּר

(but) if he made his neder with אַם בְּשֵׁל עֲבוּדָה זָרָה נְדָר
(reference) to avodah zorah

it will be mutur מוֹתָר

and if it was stam (unspecified) וְאִם סְתָם

it will be assur אָסוּר

When one makes a neder by comparing it to a different thing that is assur, the neder is only chal if that other object

became assur through a neder as well (it must be a דְּבַר הַנְּדוּר and not a דְּבַר הָאָסוּר). Therefore, in this case that the person said this object should be like the salted meat, or like ‘poured wine’ the halacha will depend on the person’s intent. If he meant to compare it to ‘Shamayim objects’, i.e., to the meat of a korban, or to the wine that is poured on the mizbayach, then the neder will be chal as hekdedesh (i.e., the korban or wine) only becomes assur as a result of a person making it assur).

But if he meant to compare it to ‘avodah zora objects, i.e., to the salted meat that they would bring before the avodah zora, or to the wine that would be poured before them, then the neder will not be chal. Avodah zora is assur because the Torah said it should be assur (and not as the result of a neder), and therefore, if a person makes a neder by comparing an object to it, the neder will not be chal.

And if we do not know the intent of the person, we are machmir and assume that he meant to compare it to the meat of a korban (or to the wine that was poured on the mizbayach), and as such, it will be assur. And this is a case of us saying that stam nedarim are l'hachmir.

Another example of saying that stam nedarim are l'hachmir.

(If a person says) this should be on me	הָרִי עָלַי
like a chairim	כְּחַרְמִים
if (he meant to say)	אִם
like the chairim of shamayim (Heaven)	כְּחַרְמֵי שָׁמַיִם
it is assur (i.e., the neder works)	אָסוּר
and if (he meant to say)	וְאִם
like the chairim of Kohanim	כְּחַרְמֵי שָׁל כֹּהֲנִים
it is mutur	מוֹתָר
and if it is stam (unspecified)	וְאִם סְתָם
it is assur	אָסוּר

The term ‘chairim’ can either refer to those objects that are given to the Bais Hamikdosh, or to those things that are given to the Kohanim. Therefore, when a person makes a neder by saying this should be chairim there are two possibilities as to his intent. He could either be referring to those objects that are donated to the Bais Hamikdosh (i.e., to Shamayim), and as such, the neder will be chal. When things are given to the Bais Hamikdosh, they become assur, and as such, one can use them for a neder.

However, if the intent of the person is to compare this object to those things that are given to the Kohanim, the neder

⁹⁶ The Girsas of the Gemara

Although our girsas in the Gemara says שְׁלָמִים, the girsas of many of the Rishonim is שְׁמַיִם.

will not be chal. Once these things are given to the Kohen, they become his and he can do anything he wants with them. If so, these are things that are mutur, and therefore, if one compares an object to them, the object will remain mutur as the person is comparing the object to things that are not assur.

And if we do not know the intent of the person, one must be machmir.

A third illustration of the halacha that stam nedarim are l'hachmir.

(If a person says) “This should be on me like maaser” **הרי עלי כמעשר**
 if he is making his neder with maaser **אם כמעשר בהמה נדר behayma (the maaser of animals)**

it is assur **אסור**
 (but) if (the neder is being made with maaser) **ואם**
 of the goren (threshing-floor) **של גורן**
 it is mutur **מותר**
 and (if) it is stam **ואם סתם**
 it is assur **אסור**

The term maaser can either refer to the tenth animal that one must give to the Kohen or to the tenth of his grain that he must give to the Lavi. If this person intended the tenth animal, then the neder will be chal. When a person proclaims an animal as maaser, this makes the animal assur, and as such, it will be considered a דבר הנדור that one can make a neder with.

However, if the person is referring to the maaser of his grain, the neder will not be chal as maaser from grain is not considered a דבר הנדור, see footnote⁹⁷.

Another example of a word that can be interpreted to mean either a valid neder or not.

(If one says) “This should be on me like terumah” **הרי עלי כתרומה**
 if (he is making a neder) **אם**
 like the terumas haliska **כתרומת הלשכה נדר**

it is assur **אסור**
 and if (he means like the terumah) **ואם**
 of the goren (threshing-floor) **של גורן**
 it is mutur **מותר**
 and if it is stam (unspecified) **ואם סתם**
 it is assur **אסור**
 these are the words of R' Meir **דברי רבי מאיר**

Terumah can either refer to the money that is taken from the liska (chamber) in the Bais Hamikdosh in order to pay for the korbanos of the tzibbur, or it can refer to the terumah that is given to the Kohen. If the person was referring to the כתרומת הלשכה, then his neder would be chal, as the only reason why that money is assur is because someone made it assur by declaring that he wants to give it to the Bais Hamikdosh. But if the person was referring to the terumah that is given to the Kohen, then the neder will not be chal as terumah is not considered a דבר הנדור (see footnote on the previous Gemara that explains why terumah is not considered a דבר הנדור, even though it only became terumah as a result of the person declaring it terumah).

Until this point the Mishna has been bringing cases in which we say that although the person's words can be explained either l'chumrah or l'kulah, if he says it stam (i.e., without specifying), we go l'chumrah. The Mishna will bring R' Yehuda's shita that there are times that a person will make a neder with stam terumah, and even so we will be maykil (there is a machlokes Rishonim if R' Yehuda is coming to argue on R' Meir, or if he is just coming to explain his shita).

R' Yehuda said **רבי יהודה אומר**
 stam terumah in Yehuda **סתם תרומה ביהודה**
 is assur **אסורה**
 (but) in Galiel **בגליל**
 it is mutur **מותרת**
 for the people of Galiel do not **שאין אנשי גליל**

⁹⁷ Why is Maaser Goren Not Considered a דבר הנדור?
 There are many different possibilities to explain why maaser is not considered a דבר הנדור. The simplest reason will be like the shita of many Tannaim that maaser rishon is mutur, and if so, one can obviously not make a neder with it. However, the Rishonim point out that the implication of our Mishna is that it is in accordance with everyone, that is, our Mishna can even be in accordance with the shita of R' Meir who holds that maaser rishon is assur to זרים (non-Leviim) (as the Mishna will bring that R' Meir argues with the sayfa, which implies that he does not argue in the sayfa).

Many Rishonim say that maaser is similar to terumah, and on daf yud bais, the Ran (and others) explain that when the person declared these crops as terumah, his declaration did not differentiate between Kohanim and Yisrayalim. And yet, Kohanim are mutur in terumah and Yisrayalim are assur.

If so, we see that in reality it was not the person's declaration that made the assur. Rather, all the person did was to make the grain terumah, and then it was the Torah that made the assur. If so, so too in regard to maaser the explanation is the same. That although it is the person who makes it maaser, it is the Torah that makes the assur, and therefore it is not considered a דבר הנדור.

Another explanation said by the Ritva (and others), is that this assur of maaser was there all along, and when one separates the maaser, all he is doing is separating something that was already assur (that is, the maaser is mixed up with the rest of the grain and the person is just separating it out). If so, maaser is not considered a דבר הנדור.

recognize (i.e., they are not familiar with) **מכירין**
 the terumas haliska **את תרומת הלשכה**

The people who lived in Galiel were not familiar with the terumas haliska, as they lived far away from the Bais Hamikdosh, and as such, R' Yehuda holds that if they said the word terumah when making a neder, we can assume that they were referring to the terumah that is given from a person's crops and not to the terumas haliska (and the neder would therefore not be chal).

That is, even though normally R' Yehuda would agree that we are machmir with regard to stam nedarim, and therefore if a person mentions terumah in his neder we have to assume that he is referring to the terumas haliska (and the neder is therefore chal), in Galiel this was not the case, as in Galiel we assume that the person's intent was to refer to the terumah that a person gives from one's crops.

The Mishna ends off with one last shita. This shita disagrees with the Tanna Kamma and holds that we are maykil with regard to stam nedarim (and the only time we will say that his neder is chal is if we can assume that is intent was to make a neder that creates a valid neder).

Stam charamim (i.e., nedarim) in Yehuda **סתם חרמים ביהודה**
 are mutur **מותירין**
 (but) in Galiel **בגליל**
 they are assur **אסורין**
 for the people of Galiel do not **שאינו אנשי גליל**
 recognize the charamim of the **מכירין את חרמי הכהנים**
 Kohanim

As we previously mentioned, if a person says, "This should be on me as a chairim", there are two possibilities to explain what he was referring to. He could either be referring to charamim of the Bais Hamikdosh (and as such the neder will be chal). Or he could be referring to the charamim of the Kohanim (and the neder will then not be chal). In the case where the person did not specify which one he was referring to, the Tanna Kamma said that you have to be machmir as stam neder l'hachmir. However, this Tanna disagrees and holds that any time there are two possibilities to explain the person's words, the halacha is that you are maykil.

The one exception will be the case of someone in Galiel saying these words. In Galiel, Kohanim were not commonly found and as such, the people there were not familiar with the charamim of Kohanim. Therefore, since the people were not familiar with the charamim of Kohanim, if a person in Galiel

would make a neder with charamim, even this Tanna would hold that the neder is chal, as we assume that the person's intent was to refer to the charamim of hekdesh and not of Kohanim.

גמרא

Who is the Tanna of Our Mishna that Holds that Stam Nedarim are L'chumrah?

The basis for our Mishna is the halacha that stam nedarim are l'chumrah and on this the Gemara asks:

But we learned in a Mishna **והתנן**
 sofek nezirus is l'kulah **ספק נזירות להקל**
 Our Mishna told us that stam nedarim are l'chumrah, but this is contradicted by the Mishna in Tohoros (4:12) that says that stam nezirus is l'kulah.

The Gemara answers:

R' Zayra said **אמר רבי זיירא**
 it is not difficult **לא קשיא**
 this (shita that holds you are maykil b'sofek) **הא**
 is R' Eliezer **רבי אליעזר**
 and this (i.e., the shita that holds you are machmir) **הא**
 is the Rabbanan **רבנן**
 as we learned in a Baraisa **דתניא**
 someone who is makdish **המקדיש**
 (either) his chaya (undomesticated animal) **חיותו**
 or his behayma (domesticated animal) **ובהמתו**
 has been makdish the 'koy' **הקדיש את הכוי**
 R' Eliezer says **רבי אליעזר אומר**
 he has not been makdish the 'koy' **לא הקדיש את הכוי**

In halacha, animals are divided into two categories, chayos (undomesticated animals) and bayamos (domesticated animals). Although by and large we know which animals fit into which group, there is a sofek with regard to the animal called a 'koy'. Is it a chayah or is it a behayma? This sofek leads to the question of what is the halacha with regard to someone who is makdish all of his bayamos or if the person is makdish all of his chayos. Is the 'koy' included or not? In both these cases, the Tanna Kamma holds that the 'koy' will be hekdesh. That is, the 'koy' will be hekdesh b'sofek. Reb Eliezer however disagrees.

He holds that in both these cases the 'koy' will not be hekdesch. This is because R' Eliezer holds when a person makes a neder he would not do so in a way that will leave doubt as to the halacha. Therefore, in the case in which he makes a neder, and the halacha is not clear if a certain animal is included in this neder, the halacha will be that it is definitely is not included. R' Eliezer holds that a person does not want to place himself in a situation of a sofek, and therefore, in this case R' Eliezer will hold that that 'koy' will definitely not be hekdesch, as the only way that hekdesch would be chal is as a sofek (as we do not know the status of a 'koy').

The Gemara will now explain how the authorship of our Mishna will depend on this machlokes.

The one who holds	מאן דאמר
that his money	קמוזו
a person would enter into a sofek	מעניל לספיקא
his body also	גופיה נמי
he would enter (into a sofek)	מעניל

The Gemara explains that the person who is willing to have his money (i.e., his possessions) be subject to a sofek, would also agree to have his physical body be subject to a sofek. Therefore, the Tanna Kamma of the Baraisa that holds that the 'koy' will become assur (as a sofek), is the Tanna of our Mishna that holds that a person would be willing to allow his objects to become assur as a sofek (and that is why our Mishna says that stam nedarim are l'chumrah). And this Tanna would also hold that a person would be willing to subject his physical body to a sofek, and as such, in the case of a sofek nazir, the person will become assur (that is, with regard to making something assur as a result of a neder, this Tanna does not differentiate between a person's property and the person's body. In both cases, this Tanna holds that the person is willing to accept a sofek).

And the one who says	ומאן דאמר
a person does not enter (his money)	לא מעניל
into a sofek	לספיקא
his body	גופיה (נמי)