

Nedarim 19A

The last daf ended off with R' Zayra explaining the various shitos with regard to the willingness of a person to put himself or his money into a situation of a sofek. R' Zayra tells us that if a person is not willing to subject his money to a sofek, then:

Certainty	כָּל שֶׁכֵּן
he will not subject (himself)	דְּלֹא מְעִיל
to a sofek	לְסַפְּיקָא

If a person is not willing to subject his property to a situation of a sofek, certainly he would not allow himself to be subject to a situation of sofek. Therefore, R' Zayra tells us that R' Eliezer who holds that the 'koy' is not even a sofek hekdesch (as a person does not want to subject his property to a sofek), would certainly hold that sofek nezirus is l'kulah. And if so, R' Eliezer would disagree with our Mishna that says that sofek nedarim are l'chumrah.

And the Tanna Kamma of the Baraisa who holds that the 'koy' will be hekdesch, is the author of our Mishna that holds that stam nedarim are l'chumrah (both with regard to a person's property and with regard to a person's body).

The Halacha of a Sofek Bechor (the difference between kedusha that comes by itself and kedusha that comes as a result of a person's actions)

The Gemara asks:

Abaya said to him	אָמַר לִיה אַבְיָי
how can you establish	בְּמַאי אוֹקִימְתָא
(the Mishna) that said sofek nezirus l'kulah	לְסַפְּקֵי נִזְרוּת לְקֻלָּה
like R' Eliezer	כְּרַבִּי אֱלִיעֶזֶר
(but) say the sayfa (of that Mishna)	אֵימָא סִיפָא
sofek bechoros	סַפְּקֵי בְּכוֹרוֹת
whether it is the bechor of man	אִחָד בְּכוֹרֵי אָדָם
or whether it is the bechor of animals	וְאִחָד בְּכוֹרֵי בְּהֵמָה

(and) whether it is (a bechor) from a tamei (animal) בֵּין טְמֵאָה
 (and) whether it is (a bechor) of a tahor (animal) בֵּין טְהוֹרָה

The Baraisa concludes that the halacha in all these cases of a sofek bechor, is that we apply the rule of:

“The one who is taking	הַמוֹצִיא
from his friend	מִחֲבֵירוֹ
it is on him to bring the proof”	עָלָיו הָרְאָיָה
and we learned	וְתָנִי
on it (i.e., with regard to this case)	עָלָה
and they are assur	וְאַסוּרִים
in shearing and in working	בְּגִיזָה וְעִבּוּדָה

There are various types of bechoros (firstborns) and their halachos are as follows. The firstborn male of a person must be redeemed from a Kohen for five silver coins (known as a pidyon haben.) The firstborn male of a kosher behayma must be given to a Kohen. And the firstborn male of a donkey (the tamei animal referenced in the Baraisa) must be redeemed for kosher behayma, and that kosher behayma is given to the Kohen. The halacha is that both the firstborn kosher animal and the firstborn male donkey are assur to benefit from, and as such, you are not allowed to work them or to cut their shearing's.

The Mishna (i.e., the sayfa of the Mishna that said that sofek nezirus is l'kulah) tells us that in the case of a sofek bechor, the Kohen will not be able to demand the bechor as the halacha is that a person cannot take money (or any object) from a person unless he knows with certainty that he is entitled to do so (known as הַמוֹצִיא מִחֲבֵירוֹ עָלָיו הָרְאָיָה).

However, although it is true that the Kohen cannot take the bechor, the Baraisa tells us that the bechor is still going to be assur to benefit from. That is, since there is a sofek if this animal is a bechor or not, one has to be machmir and assume that it is. But if so, we see not like the shita of R' Eliezer. If R' Zayra is really correct that R' Eliezer is the shita of the Mishna that said that sofek nezirus is l'kulah, how could the sayfa of this same Mishna say that a sofek bechor is assur.⁹⁸

⁹⁸ Why is the Gemara's Question Only on R' Zayra (why is there not an inherent contradiction in the Mishna)?

The Ran explains that without R' Zayra there is no contradiction in the Mishna (i.e., there is no contradiction between the raysha of the Mishna saying that sofek nezirus is l'kulah and the sayfa of the Mishna that says that a sofek bechor is assur to benefit from).

That is, one could answer that there is no contradiction in the Mishna as the Mishna could hold that although a person would allow his money to be subject to a sofek, he will not allow his body to be subject to a sofek. Therefore, in the raysha that discusses him becoming a nazir, the halacha is that we go l'kulah (as we are discussing the person himself). But in the sayfa we are discussing the person's money (i.e., the sofek bechor), and if so, it could very

well be that the reason the bechor is assur is because the person would agree to allow his possessions to be subject to a sofek.

However, according to Reb Zayra, the one who holds that sofek nezirus is l'kulah is R' Eliezer who holds that a 'koy' does not become hekdesch. That is, R' Zayra holds that our Mishna is R' Eliezer who does not differentiate between the willingness of a person to subject himself to a sofek and between the willingness of a person to subject his money to a sofek. But if so, we have a contradiction in our Mishna with regard to this that the raysha says a sofek nezirus is l'kulah, and yet it still says in the sayfa that sofek bechor is l'chumrah.

The Gemara answers:

He said to him	אָמַר לִיה
why are you comparing	אָמַאי קָא מְדַמִּית
kedusha that comes by itself	קְדוּשָׁה הַבָּאָה מֵאִלֶּיהָ
to a kedusha that comes	לְקְדוּשָׁה הַבָּאָה
through (the actions of) a person	בְּיַדֵּי אָדָם

Rav Zayra answers that the rule that a person does not want to subject himself to a sofek only applies to kedusha that comes through the person. That is, when a person makes something hekadesh, he does so with the intention that this kedusha should be chal only if it is chal definitely, but not if it will be chal b'sofek.

Therefore, anytime we have a sofek if something is chal or not, we know that it was definitely not chal, as the person never agreed to have a sofek. But all this is only applicable with regard to kedusha that occurs through the actions of the person. That is, since the kedusha only occurs because of him, he has the ability to control it.

But in the case of kedusha that is chal by itself, there is no reason it cannot be chal b'sofek. This that a person does not want to subject himself or his money to a sofek is irrelevant, as he is not the one who is creating the kedusha.

The Shita of R' Eliezer with Regard to the Tumah of Liquids

Having answered the previous question, the Gemara continues:

Rather if there is a question	אָלָא אִי קִשְׁיָא
this is the question	הָא קִשְׁיָא
(the Baraisa said) a sofek	סָפֵק
(with regard to) liquids	מִשְׁקִין
with regard to becoming tamei (itself)	לִיטְמָא
it is tamei	טָמֵא
(but) with regard to making other things tamei	לְטַמְּא אַחֲרֵיהֶם
it is tahor	טָהוֹר
these are the words of R' Meir	דְּבַרֵּי רַבֵּי מַעֲיָר
and similarly R' Elazar says	וְכֹן הִיא רַבֵּי אֶלְעָזָר אָוִמֵר
like his words	כְּדְבָרֵיו

With regard to liquids becoming tamei, there are three

1. Some say that M'Dorayisa they become tamei and make other things tamei (i.e., if other objects touch tamei liquids they become tamei).

2. Some say that M'Dorayisa, liquids themselves become tamei but they cannot make other things tamei (but M'Drabbanan they can).

3. And some say that M'Dorayisa they do not become tamei at all, and it was only the Rabbanan that said that liquids can become tamei.

R' Meir (and by extension R' Eliezer) holds like the second option, that M'Dorayisa liquids can themselves become tamei M'Dorayisa but they cannot make other things tamei. Therefore, in a case of a liquid that there is a sofek if it became tamei, with regard to itself we have to be machmir, similar to any sofek M'Dorayisa that we are machmir b'sofek. But with regard to making other things tamei, we are not machmir, similar to every sofek M'Drabbanan that we go l'kulah.

And with this we come to the Gemara's question:

And does R' Eliezer (really) hold	וּמִי סְבִירָא לִיה לְרַבֵּי אֶלְעָזָר
that with regard to itself becoming tamei	לִיטְמָא
it is tamei	טָמֵא
but we learned in a Baraisa	וְהִתְנַיָא
Reb Eliezer says	רַבֵּי אֶלְעָזָר אָוִמֵר
there is no tumah	אִין טוּמְאָה
with regard to liquids	לְמִשְׁקִין
at all (i.e., there is not tumah M'Dorayisa)	כָּל עֵיקָר
(and) you should know (this is true)	תְּדַע
for Yosie ben Yoezer testified	שְׁהָרֵי הַעֵיד יוֹסֵי בֶן יוֹעֶזֶר
Ish Tzirayda (the man of Tzirayda)	אִישׁ צְרִידָה
on the grasshopper (called) Ayal	עַל אֵיל קַמְצָא
that it is tahor	דְּכֹן
and on the liquids	וְעַל מִשְׁקִין
of the shechting (slaughtering) house (of the Bais	בֵּית מִטְבַּחְהֵיא
	Hamikdosh)
that it is tahor	דְּכֹן

This Baraisa tells us that R' Eliezer holds that M'Dorayisa, liquids are not tamei at all, that is, they do not become tamei themselves and they cannot make other things tamei either. And this is seen from the testimony of Yosie ben Yoezer. That he said that this grasshopper called Ayal is tahor, and so are the liquids that are found in the place that the animals were shechted (slaughtered) in the Bais Hamikdosh. That is, the blood from the animals would not become tamei. The reason

for this is that although liquids can become tamei M'Drabbanan, the Rabbanan said that they only wanted to make general liquids tamei but they did not want to make liquids in the Bais Hamikdosh tamei in order to not increase tumah in the Bais Hamikdosh.

What we see from all this is that R' Eliezer holds that liquids only become tamei D'Rabbanan. But if so, how can he say that in a case of a sofek tumah with regard to liquids, they will become tamei m'sofek. Why would this be different than any other sofek M'Drabbanan that we rule l'kulah and not l'chumrah (see footnote where we explain why this question is only difficult according to the shita of R' Zayra).⁹⁹ Because of this question, the Gemara concludes that the Mishna is not the shita of R' Eliezer, and as such, we will still need to find the identity of the author of the Mishna.

The Gemara continues:

It is good according to Shmuel	הַיְחָא לְשִׁמוּעַל
that said (that when Yosie ben Yoezer said)	דְּאָמַר
it is tahor	דְּכֹן
(this was referring) to making other things tamei	מִלְטָמָא אַחֲרִים
but	אֲבָל
its own tumah it has in it	טוּמְאָתָא עֲצֵמֶן יֵשׁ בְּהוּן
it is good	שְׁפִיר
but (according) to Rav	אֲלָא לְרַב
that said it means 'really' tahor	דְּאָמַר דְּכֹן מִמֵּשׁ
what is there to say	מַאי אֵיכָא לְמִימַר

Although Yosie ben Yoezer said that liquids do not become tamei, there is a machlokes as to the intent of these words. Shmuel holds that it just means that it is tahor from making other things tamei, but it itself is tamei. And Rav holds that his intention was to say that it is totally tahor, that is, it is tahor with regard to making something else tamei and it is tahor with regard to itself as well.

The Gemara now points out that the previous question is only difficult according to Rav. According to Rav, Yosie ben Yoezer (and by extension R' Eliezer) hold that liquids do not become tamei M'Dorayisa. And based on this, the Gemara asked its question, that if so, how could he hold that a sofek is tamei. But according to Shmuel this is not a question. According to Shmuel, he holds that it itself can become tamei, and if so, we understand very well why he would say that its sofek tumah is tamei as well.

The Gemara just asked that according to Rav, we cannot say that the Mishna that said that sofek nezirus is l'kulah is the shita of R' Eliezer. If so, the Gemara will now have to find the author of that Mishna, and the Gemara will also have to find the author of our Mishna that holds that stam (sofek) nedarim are l'chumrah.

Defining the Shita of R' Yehuda with Regard to a Person's Willingness to Subject Himself to a Sofek

Rather this is R' Yehuda	אֲלָא הָא רַבִּי יְהוּדָה
and this is R' Shimon	וְהָא רַבִּי שִׁמְעוֹן

D'oraysa (nezirus) be more chamor that a sofek M'Drabbanan. And if so, if R' Eliezer is really the one that holds sofek nezirus is l'kulah, he would also have to hold that a sofek with regard to tumas maskin is l'kulah as well.

The Ran continues and says that even without R' Zayra we should have the Gemara's question. The Mishna quotes R' Eliezer as holding that a sofek hekdesch with regard to a 'koy' is mutur, even though it is a question of a D'oraysa. If so, how could he also hold that a sofek with regard to tumas maskin in l'chumrah? The same way we said before that it cannot be that R' Eliezer is more machmir with regard to a D'Rabbanan, and is so, if he holds that a sofek tumas maskin is l'chumrah, he cannot also hold that sofek nezirus is l'kulah, so too we should ask with regard to a sofek 'koy'. If R' Eliezer holds that a sofek tumas maskin is l'chumrah, how could he also hold that a sofek hekdesch with regard to a 'koy' is l'kulah.

The Ran answers that one could have said that with regard to a 'koy' becoming hekdesch R' Eliezer holds that it does not become hekdesch simply because a person does not refer to a 'koy' as a behayma or as a chaya. Therefore, when a person says that his chayos or his behaymos should become hekdesch, we know with certainty that he was not referring to the 'koy'. In other words, it could be that R' Eliezer's opinion with regard to the question of the 'koy' becoming hekdesch as nothing to do with his opinion with regard to what the halacha is in the place of a sofek, and as such, we cannot ask on R' Eliezer from the case of a koy.

⁹⁹ Why is the Gemara's Question Only Difficult According to R' Zayra (why is there not an intrinsic contradiction in the shita of R' Eliezer with regard to the tumah of liquids)?

The Ran explains that without the statement of R' Zayra, we would not have a contradiction in the shita of R' Eliezer. It could be that R' Eliezer holds that the tumah of liquids is only M'Drabbanan but he could also hold that even in a sofek M'Drabbanan we go l'chumrah (that is, although we hold that with regard to a sofek D'Rabbanan we go l'kulah, it could be that R' Eliezer goes l'chumrah).

The question only starts with what R' Zayra told us that R' Eliezer holds that sofek nezirus is l'kulah. That is, even in a case of an issur M'Dorayisa, R' Eliezer still holds that one can be maykil. If so, it is not understandable how he could be more machmir with regard to a sofek tumah of liquids if he holds that liquids only become tamei M'Drabbanan.

The Ran points out that one could have argued that there is no comparison between the case of nazir and the case of tumas maskin (liquids), as the kedusha of a nazir comes from the person, and as such, it could be that a person would not want to subject himself to a sofek and that is why sofek nezirus is l'kulah. But with regard to sofek tumas maskin, no such reasoning could apply as the tumah of maskin comes by itself and does not depend on the willingness of a person. And if so, perhaps that is why it will be tamei even though it is only tamei M'Drabbanan.

The Ran says, that although one could have made such an argument, at the end of the day it would not make sense to have a sofek involving an issur

The Gemara answers the contradiction by saying that our Mishna that holds sofek nedarim is l'chumrah is the shita of R' Shimon and the Mishna that says sofek nezirus is l'kulah is R' Yehuda, as will be explained.

As we learned in a Baraisa	דְּתַנִּינָא
(If a person says) "I am a nazir	הֲרִינִי נָזִיר
if there is in this pile	אִם יֵשׁ בְּכַרְי הִזָּה
one hundred kor (a certain measurement)	מֵאָה קוֹר
and he went	וְהִלֵּךְ
and he found that it was either stolen	וּמָצָאוּ שְׁנֵגֶבֶת
or lost	אוּ שְׁאֵבֶד
R' Yehuda (says it is) mutur	רַבִּי יְהוּדָה מְתִיר
and R' Shimon (says) it is assur	וְרַבִּי שִׁמְעוֹן אוֹסֵר

A person says that he will be a nazir if a certain pile has one hundred kor in it. After the person makes this declaration, he goes to check if the pile has one hundred kor or not and he discovers that the pile was either stolen or lost. In other words, there is no way to verify if his condition was met or not. R' Yehuda says that in such a case, the person is mutur. This is because R' Yehuda holds that a person would not subject himself to a doubt. Therefore, since in this case we do not know if his condition was met or not, we know with certainty that he did not intent to make himself into a sofek nazir, and as such, he is going to be mutur (i.e., not a nazir)

R' Shimon, however, disagrees. He holds that a person would subject himself to a sofek, and therefore, since there is the possibility that there was one hundred kor in that pile, this

person will be assur (that is, he will have to act as a nazir since there is a sofek if his nezirus was chal or not).

Based on this machlokes, the Gemara answers the contradiction between the two Mishnayos. Our Mishna that holds that stam nedarim are l'chumrah, holds like the shita of R' Shimon that a person would subject himself to a sofek. And the Mishna that holds that a sofek nazir is mutur is the shita of R' Yehuda who holds that a person would not subject himself to a sofek.

The Gemara asks:

And they (asked) a contradiction	וְרַמִּי
from R' Yehuda	דְּרַבִּי יְהוּדָה
on R' Yehuda	אֲדַרְבֵי יְהוּדָה
did R' Yehuda (really) say	מִי אָמַר רַבִּי יְהוּדָה
a person would not enter himself	לֹא מַעֲיִיל אִינִישׁ נַפְשִׁיהּ
into a sofek	לְסַפֵּיקָא
(but) there is a contradiction	וְרַמִּינְהִי
(our Mishna said that) R' Yehuda says	רַבִּי יְהוּדָה אוֹמֵר
(if a person makes a neder with) stam terumah	סְתָם תְּרוּמָה
in Yehuda	בִּיהוּדָה
it is assur	אֲסוּרָה
and in Galiel it is mutur	וּבְגַלִּיל מוֹתֵרָה
for the people of Galiel do not	שְׂאִין אֲנָשֵׁי הַגַּלִּיל מְכִירִין
recognize	רְעוּזִין
the terumas haliska	אֶת תְּרוּמַת הַלֶּשֶׁכָּה
the reason (for this halacha is only because)	טַעְמָא
they do not recognize	דְּאִין מְכִירִין

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But if they would recognize (the terumas haliska) **הָא מְכִירִין**
it would be assur **אֲסוּרִין**

In our Mishna, R' Yehuda said that if someone makes a neder with terumah in Galiel, the neder will not be chal as the people in this location do not recognize and are not familiar with the terumas haliska. As such, when they make a neder using terumah, their neder is not chal as we assume that they were referring to the terumah of crops (something that is not valid to make a neder with, as explained previously).

The clear implication of this halacha is that if they would recognize the terumas haliska, then the subject of the neder would be assur. This would be true because we would then have a sofek if he was referring to the terumas haliska (in which case the neder would be chal) or if he was referring to the terumah of the crops (in which case the neder would not be chal), and a sofek neder is chal.

And on this the Gemara asks that this contradicts what we quoted from R' Yehuda. We quoted R' Yehuda as saying that in the case of sofek nezirus we go l'kulah. And yet with regard to a sofek neder he goes l'chumrah (as we see from this diyuk).

The Chumrah of a Sofek Nazir

The Gemara answers:

Rava said **אָמַר רַבָּא**
with regard to the pile **גַּבֵּי קָרִי**

That is with regard to the person who makes his nezirus depended on the size of the pile:

He holds **קָסָבַר**
anything that its sofek **כָּל שֶׁסְּפִיקוֹ**
is (more) chamor **חָמוֹר**
than its certain (case) **מִנְדָּאֵי**
a person does not enter himself **לֹא מַעֲנִיל נַפְשֵׁיהּ**
into a sofek **לְסְפִיקָא**
for with regard **דְּאֵילוּ גַבֵּי**
to a 'definite nazir' **נְזִיר וְדָאֵי**

¹⁰⁰ The korban chatas is eaten by the Kohanim and the korban shelamim is eaten by the nazir (except for certain parts that are given to the Kohanim).

¹⁰¹ Why Does the Nazir Have to Bring a Korban Chatas?

The Ran asks that seemingly the sofek nazir does have a way out. Although it is true that a sofek nazir cannot bring his korban chatas, he can bring his other two korbanos, i.e., his korban shelamim and his korban olah. These two korbanos can be brought with a condition (as they can be brought as a korban

he shaves **מְגַלַּח**
and he brings his korban **וּמְבִיא קֶרְבַּן**
and it is eaten¹⁰⁰ **וְנֹאכַל**
(but) with regard to its sofek (nazir) **עַל סְפִיקוֹ**
he cannot shave **לֹא מַצִּי מְגַלַּח**

Rava explains that although it is true that R' Yehuda holds a person would subject himself to a sofek, this would not be true with regard to the unique case of a sofek nazir in which the sofek nazir is more chamor than a definite nazir.

After a nazir finishes his nezirus, he shaves his body, brings his korbanos, and can return to regular life. However, a sofek nazir cannot do this. As we said, in order to complete his nezirus, a nazir must bring his korbanos, and this is something that a sofek nazir cannot do.

This is because if the person is in reality not a nazir, and he brings the korbanos of a nazir into the Bais Hamikdash, he will be bringing חוּלִין לַעֲזָרָה (non-hekdesh animals into the Bais Hamikdash), something that is not allowed. And although there are times that a person can make a condition and say “If I am chayiv to bring this korban, then it should be that korban, and if I am not chayiv to bring a korban, it should be a korban nadava (a korban brought voluntarily), this would not apply to the korban chatas that the nazir has to bring (as a korban chatas cannot be brought as a nadava).¹⁰¹ Therefore, left with no options, the sofek nazir will have to act as a nazir for the rest of his life, something that is obviously more chamor than a regular nazir.

A person would never agree to place himself in this situation, and as such, in the case of a sofek nazir, the halacha is that he is definitely not a sofek, as he never had intention to become this type of sofek. But in the regular case of a sofek, R' Yehuda would hold that a person would be agreeable to subject himself to a sofek, and that is why he could be the author of our Mishna that says sofek nedarim are l'chumrah.

The Gemara asks:

He said (asked) to him **אָמַר לֵיהּ**
Rav Huna bar Yehuda **רַב הוּנָא בַר יְהוּדָה**
to Rava **לְרַבָּא**

nadava), and therefore it would seem that the sofek nazir could just bring these two korbanos. That is, although l'chatchila a nazir brings three korbanos (a chatas, shelamim, and olah), we learned previously, that b'dieved if a nazir does not bring all three, he can still shave his hair and end his nezirus. If so, why can the sofek nazir not just do the same? The Ran answers that although this is true b'dieved, l'chatchila he must bring all three. And therefore, with regard to this sofek nazir, we cannot l'chatchila tell him to just bring his shelamim and olah.

(but if) he said אָמַר
 “I am הָרִינִי
 a nazir olam (i.e., a nazir forever) נָזִיר עוֹלָם
 what is the halacha מַאי

Rava previously told us that according to R' Yehuda a person would not agree to be a sofek nazir, as a sofek nazir is more chamor than a regular nazir (as a sofek nazir has to be a nazir forever).

But according to this, what would happen in the case of a sofek nazir olam? That is, a person says that he will be a nazir olam (a nazir forever) if this pile has one hundred kor, and the pile is then lost or stolen. In this case do you say that the person agrees to be a sofek nazir? In this case, if we know that he is a nazir, he will be a nazir forever, and if so, its sofek is not more chamor than the definite nazir, and as such, the person should be agreeable to be a sofek nazir.

And yet the implication of the Baraisa in which the person makes his nezirus dependent on the size of the pile, is that we are discussing all types of nezirus, even the case of a nazir olam. That is, the Baraisa implies that in all of these cases the person will not even be a sofek nazir if the pile is lost or stolen. And the question is why not. In the case of the nazir olam, if the pile is lost or stolen, we should be machmir and say that he is nazir b'sofek.

Rava answers:

He said to him אָמַר לִּי
 a nazir olam also נָזִיר עוֹלָם נָמִי
 its sofek סְפִיקוֹ
 is (more) chamor than its definite case חֲמור מוֹדָא
 for in its definite case דְּאֵילוּ וְדָא
 if his hair becomes ‘heavy’ הַכְּבִיד שְׁעָר
 he can ‘lighten’ it with a razor מִיִּקַּל בְּתַעַר
 and bring his three korbanos וּמְבִיא שְׁלוֹשׁ בְּהֵמוֹת
 and if (we are discussing) וְאֵילוּ
 his sofek סְפִיקוֹ
 no (he cannot take a haircut) לֹא

The halacha is that even a nazir olam can trim his hair if it gets too ‘heavy’ i.e., it gets too long, but when he trims his hair, he must bring korbanos (i.e., those korbanos that a regular nazir brings at the end of his nezirus). However, a sofek nazir cannot do this. Even if his hair becomes long, he will not be able to trim it, as in order to trim it he must bring korbanos, something that a sofek nazir cannot do (as we explained earlier). As such, a sofek nazir is considered more chamor than even a nazir olam.

And this is why even in the case of a sofek nazir olam, a person would not agree to be a sofek.

The continues and asks:

(But if) he said אָמַר
 “I am a nazir Shimshon” הָרִינִי נָזִיר שְׁמִשׁוֹן
 what is the halacha מַאי

Although a nazir olam can cut his hair at times, a nazir Shimshon can never do so (if someone accepts to be a nazir Shimshon, he is a nazir forever). If so, in the case that a person says, “I am a nazir Shimshon if this pile has one hundred kor”, and the pile is then stolen or lost, the person should become a nazir. That is, in this case the sofek nazir Shimshon is not more chamor than a definite nazir Shimshon, and if so, why does the Mishna say that R' Yehuda is maykil in the case of a sofek nazir, which implies in all cases (i.e., including nazir Shimshon).

He said to him אָמַר לִּי
 nazir Shimshon נָזִיר שְׁמִשׁוֹן
 we did not learn לֹא תִנִּיא

Rava answers simply that when the Baraisa says sofek nezirus is l'kulah, it was not including the case of a nazir Shimshon.

(But) he said (back) to him אָמַר לִּי
 but Rav Ada bar Ahava said וְהָאֵמַר רַב אֲדָא בַר אֶהֱבָה
 we did learn nazir Shimshon תִּנִּיא נָזִיר שְׁמִשׁוֹן
 he said (back) to him אָמַר לִּי
 if it was learned אִי תִנִּיא
 it was learned תִּנִּיא

The Gemara answers that if this is really true, that the Baraisa includes the case of nazir Shimshon, then indeed there is no way to reconcile the Mishna with the Baraisa (i.e., the Mishna that implies that R' Yehuda holds stam nedarim l'hachmir and the Baraisa that says that R' Yehuda holds that stam nezirus is l'kulah).

**The Shita of R' Tarfon that the Acceptance of Nezirus
 Needs to be Done in a Definitive Manner - שְׁלֹא נִיתְּנָה נְזִירוֹת -
 אֶלֶּא לְהַפְּלֵא**

Rav Ashi said רַב אֲשֵׁי אָמַר
 that is R' Yehuda הֵהִיא רַבִּי יְהוּדָה
 in the name of R' Tarfon מִשּׁוּם רַבִּי טַרְפוֹן הִיא
 as we learned in a Baraisa דְּתִנִּיא
 R' Yehuda רַבִּי יְהוּדָה

in the name of R' Tarfon
says
not one of them is a nazir
for nezirus was not given
except for in a clear manner

משום רבי טרפון
אומר
אין אחד מהם נזיר
לפי שלא ניתנה נזירות
אלא להפלאה

The Gemara in meseches Nazir (34:) brings a Baraisa that describes two people who see a person approaching. The first person says that he will be a nazir if the approaching person is so-and-so. The second person says that he will be a nazir if the approaching person is not so-and-so. R' Tarfon holds that no matter what happens, neither of these people will be a nazir. This is because he holds that when the posuk (Bamidbar 6:2) says *איש או אשה כי יפלא לנדר* - a man or woman when they separate themselves by making a neder, it means that an acceptance of nezirus is only chal if it was done in a clear manner, that is, it is only chal if at the time of the acceptance it is known if the person will be a nazir or not. This is the shita of R' Tarfon as quoted by R' Yehuda.

Based on this, Rav Ashi explains that when R' Yehuda says that in the case of the missing pile the person is definitely not a nazir, he was just quoting R' Tarfon but not saying his own shita.

But on this answer the Gemara asks:

If so
what is the difference
that it was stolen or lost

אי הכי
מאי איריא
שנגנב או שאבד

The Baraisa said that the case in which there is a machlokes if the person is a nazir or not, is the case in which the pile of grain was either stolen or lost, i.e., a case in which we can currently not determine if there were a hundred kor of grain or not.

But according to R' Tarfon, even if the grain was not lost or stolen, and it was determined that there was a hundred kor in the pile, the person will still not be a nazir. According to R' Tarfon, anytime it cannot be immediately determined that the

pile had the required amount, the nezirus will not be chal. If so, why would the Baraisa specifically pick the case in which the pile was lost or stolen, if this fact is irrelevant to R' Tarfon's shita?

The Gemara answers:

Rather (it was said) to let it be known the 'chiddush' (lit. strength) of R' Shimon that even though it was stolen or lost he holds a person would enter into a sofek on himself	אלא להודיעך כחו דרבי שמעון דאף על גב דנגנב או שאבד קסבר מעיל איניש נפשיה לספיקא 102
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Although R' Tarfon holds that a nezirus is chal only if it was accepted in a definitive manner, R' Shimon disagrees. R' Shimon holds that not only does a nezirus not have to be accepted in a definitive manner, but a person is willing to subject himself to a sofek. That is, R' Shimon holds that a person agrees to become a nazir if there was in reality one hundred kor in the pile, even if we never find this out.

Therefore, in order to teach us this chiddush, the Mishna specifically picked the case of the pile getting lost or stolen.

**Understanding the Halacha of the Sayfa – The Shita of
R' Elazar bar R' Tzadok**

The Mishna said:

R' Yehuda said stam terumah in Yehuda etc. (it is assur) etc. but if they would recognize it would be assur (from this) we see	רבי יהודה אומר סתם תרומה ביהודה כו הא מכירין אסורין אלמא
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The Ran answers that with regard to the shita of R' Tarfon, there is no difference between the cases. Since his shita is that you must accept nezirus in a definitive manner, the cases don't make a difference. As long as we do not know how much grain was in the pile at the time that he accepted his nezirus the nezirus is not chal.

However, according to R' Shimon, the case in which the grain is not lost or stolen, only teaches us the halacha that he holds nezirus does not have to be accepted in a definitive manner. Therefore, the Baraisa picked the case in which the grain was lost or stolen in order to teach us the bigger chiddush that he holds that a person is even willing to subject himself to a sofek nezirus (even though the sofek nezirus is more chamor than a definite nezirus).

¹⁰² Why Did the Mishna Not Want to Teach Us the Chiddush of R' Yehuda?

Typically, when the Mishna has the choice of picking a case in order to teach us a chiddush, the Mishna will pick the case that teaches us the chiddush that is l'kulah and not the chiddush that is l'chumrah, פי' דהיתרא עד'ף, כחה דהיתרא עד'ף.

This is because by definition it is always considered a bigger chiddush to be maykil than it is to be machmir (as one can always be machmir, because even if it is not the correct halacha, nothing wrong has happened, as opposed to someone being maykil incorrectly). If so, why is the Gemara saying that we picked the case in which the grain was lost to teach us the chiddush that even in this case R' Shimon is machmir, it should have picked the case in which it was not lost in order to teach us the chiddush that even in this case R' Tarfon (quoted by R' Yehuda) is maykil?

(that in the case of) a sofek
it is l'chumrah

סְפִיקָא
לְחֻמְרָא

The Mishna quoted R' Yehuda as saying that if a person would make a neder in Yehuda using terumah, his neder would be chal but in Galiel it would not be chal.

The reason for this distinction is that in Yehuda they recognize the terumah of the terumas haliska (something that can be used for a neder) but in Galiel they do not. Therefore, when a person in Galiel makes a neder using terumah, we assume that he is referring to the terumah of a person's crops and therefore the neder is not chal. The implication of this halacha is that if in Galiel they would recognize the terumas haliska, their neder would be chal.

But why? Even if they would recognize the terumas haliska, there would still be the possibility that while making their neder they would refer to the terumah of crops, and if so, in this case there should be a sofek as to what he means.

The Gemara says that it must be that the Mishna holds that stam nedarim are l'chumrah. And therefore, in Galiel, as long as there is a possibility that the neder was made correctly, we have to be machmir and assume that it was.¹⁰³

(But) say the sayfa	אֵימָא סִיפָא
stam charamim in Yehuda	סְתָם חֲרָמִים בִּיהוּדָה
are mutur	מוֹתְרִין
and in Galiel they are assur	וּבְגָלִיל אֲסוּרִין
for the people of Galiel do not	שְׂאִין אֲנָשֵׁי הַגָּלִיל
recognize	מְכִירִין
the charamim	אֶת חֲרָמֵי
of the Kohanim	הַכֹּהֲנִים
but if they would recognize it	הָא מְכִירִין
they would be mutur	מוֹתְרִין

(from this) we see
its sofek is l'kulah

אֲלָמָא
סְפִיקָא לְקוּלָא

In Galiel, they do not recognize the charamim of the Kohanim, and therefore, when they use stam charamim for nedarim, we assume that they are referring to the charamim of hekdesch (and therefore the neder is chal). The implication is that if they would recognize the charamim of the Kohanim, then the neder would not be assur.

But why not? Even if there is the possibility that the person was referring to the charamim of hekdesch, it could also be that they were referring to the charamim of the Kohanim. If so, this neder should be no better than a sofek, and yet the implication of the Mishna is that it would be mutur. That is, this implication says that stam nedarim are mutur, something that contradicts what we said before, that the implication of the Mishna is that R' Yehuda holds that stam nedarim are assur.

The Gemara answers:

Abaye said	אָמַר אַבְיֵי
the sayfa (i.e., the case of charamim)	סִיפָא
is R' Elazar bar R' Tzadok	רַבִּי אֶלְעָזָר בְּרַבִּי צְדוֹק הִיא
as we learned in a Baraisa	דְּתַנִּינָא
R' Yehuda says	רַבִּי יְהוּדָה אָמַר
stam terumah in Yehuda	סְתָם תְּרוּמָה בִּיהוּדָה
is assur	אֲסוּרָה
R' Elazar bar R' Tzadok says	רַבִּי אֶלְעָזָר בְּרַבִּי צְדוֹק אָמַר
stam charamim in Galiel	סְתָם חֲרָמִים בְּגָלִיל
are assur	אֲסוּרִין

The Gemara answers that both of these diyukim are correct as the end of the Mishna is in reality two separate Tanna'im. Reb Yehuda holds that stam terumah in Galiel is mutur only because they do not recognize the terumas haliska.

¹⁰³ Why Does the Gemara Not Ask from the Words of the Mishna Themselves?

The Ran asks an obvious question. The Gemara proves from a diyuk from R' Yehuda's words with regard to Galiel, that he must hold that stam nedarim are l'hachmir.

But why do we need to come onto a diyuk? R' Yehuda said that in Yehuda if a person makes a neder using terumah, it is assur, as in Yehuda they recognize the terumas haliska. But what difference does that make? Even if they are familiar with the terumas haliska, they certainly are also familiar with the terumah of crops! Therefore, even in Yehuda when they make a neder using terumah, it should be no better than a sofek, and yet R' Yehuda says that the neder is chal. If so, we see that R' Yehuda holds that a sofek neder is chal, and that being the case, why do we need to use a diyuk from the halacha with regard to Galiel to prove this?

This question applies to the last case of the Mishna as well. The Mishna said that in Yehuda (a place in which they recognize both the charamim of hekdesch and the charamim of the Kohanim), if a person uses charamim to make a neder, the neder is not chal. If so, we see that a sofek nedarim are

l'kulah, and if so, why do we need to come to the diyuk from the halacha with regard to the people of Galiel.

The Ran answers that one could have said that from the halacha that is said with regard to the people of Yehuda, we cannot know the halacha of sofek nedarim. When the Mishna said that when the people of Yehuda use terumah to make nedarim it is chal, it could be that this is not because stam nedarim are l'chumrah but rather it is because in Yehuda when they refer to terumah, they only refer to the terumas haliska (that is, since they are so used to it), and when they want to refer to terumah of crops, they will say so specifically. And the reverse is true as well. It could be that the reason when people in Yehuda use charamim for a neder it is mutur, is not because stam nedarim are l'kulah but rather it is because they are so familiar with the charamim of Kohanim (and therefore when they use the term charamim without specifying which type, we assume that they are referring specifically to the charamim of Kohanim and not of hekdesch).

However, from the halacha that is said with regard to the nedarim of those that live in Galiel, we can infer whether stam nedarim are l'chumrah or l'kulah (as the Gemara explains).

But if they would, the neder would be chal as he holds stam nedarim are l'chumrah.

However, the sayfa that implies that stam nedarim are l'kulah (and therefore if the people of Galiel would recognize **Nedarim 20A**

משנה

A Person's Ability to Explain His Intentions While Making a Neder

In the last Mishna we learned that although stam nedarim are l'chumrah, their explanations are l'kulah. Our Mishna will now explain what that means.

If a person makes a neder with a chairim and then says "I did not make a neder only with the chairim of the sea

נָדַר בְּחַיִּים
וְאָמַר
לֹא נִדְרָתִי
אֶלֶּא בְּחַיִּימוֹ שֶׁל יָם

Typically, a person makes a neder by saying that this is chairim to me (i.e., he means to say that the same way that this chairim is assur, so too this object should be assur). This person, however, says that when he used the word chairim, he was not referring to something that is assur but rather he was referring to a fisherman's net (which is also called chairim). A fisherman's net is not something that is assur, and therefore if someone uses it to make a neder, his neder will not be chal.

(If someone makes a neder) with a korban and (then) he says "I did not make a neder only with the korbanos of the kings"

בְּקֹרְבָן
וְאָמַר
לֹא נִדְרָתִי
אֶלֶּא
בְּקֹרְבָנוֹת שֶׁל מְלָכִים

Although typically, the term korbanos refers to animal offerings that are brought to Hashem, at times the term can also refer to the gifts that are brought to a king. These gifts do not have any kedusha, are not assur, and therefore, if they are used to make a neder, the neder is not chal.

(If one says) "Myself is a korban" and (then) he said "I did not make a neder only with the bone that I leave for me to make a neder with"

הָרִי עִצְמִי קֹרְבָן
וְאָמַר
לֹא נִדְרָתִי
אֶלֶּא בְּעֵצָם
שֶׁהִנְחַתִּי לִי
לְהִיּוֹת נוֹדֵר בּוֹ

the charamim of the Kohanim, the neder would be mutur) is the shita of R' Elazar bar R' Tzadok who holds that stam nedarim are l'kulah.

Although the simple translation of the word עִצְמִי means myself (and when used in a neder it means that the person is making himself assur), this person says that the intent of this word is to mean my bone (the word עֵצָם means bone and therefore it could be that when he said the word עִצְמִי he did not mean 'myself' but rather he meant 'my bone').

Tosefos explain that the person is saying that he meant to make a neder with his (animal) bone that he has in his house (this bone is not assur and therefore the neder that was made with it is not chal).

The person explains that he keeps this bone in his house in order to use it as a way to fool people into thinking that he makes real nedarim. That is, this person would say הָרִי עִצְמִי קֹרְבָן. Upon hearing this, everyone listening would assume that he is making a neder, when in reality he would just be referring to this bone and there would be no neder.

(If a person says) "Konam my wife that I should benefit from her" and he (then) said "I did not make a neder only in reference to my first wife that I divorced" on all of them (i.e., in all of these cases) we don't do shayla on them

קֹנָם
אֲשֶׁתִּי נִהְיִית לִי
וְאָמַר
לֹא נִדְרָתִי
אֶלֶּא בְּאֲשֶׁתִּי הָרֵאשׁוֹנָה
שֶׁגִּירָשְׁתִּי
עַל כֻּלָּן
אִין נִשְׁאַלִין לָהֶם

In all of these cases, the neder does not need shayla and is mutur even without going to the Chacham.

But if they do ask (i.e., to do shayla) we punish them and we are machmir on them these are the words of R' Meir and the Chachamim say we find (lit. open) for them a pesach (lit. an opening) from a different place and we teach them in order that they should not act with lightheadedness (i.e., laxity) with regard to nedarim

וְאִם נִשְׁאַלִין
עוֹנְשִׁין אוֹתָן
וּמְחַמְרִין עֲלֵיהֶן
דְּבַרֵּי רַבֵּי מַעִיר
וְחַכְמִים אוֹמְרִים
פּוֹתְחִין לָהֶן
פְּתַח
מִמְקוֹם אַחֵר
וּמְלַמְדִין אוֹתָן
כְּדִי
שֶׁלֹּא יִנְהָגוּ
קְלוּת רֵאשׁ
בְּנִדְרִים