

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
אֶלָּא 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"

בְּקֹרְבָּן
וְאָמַר
לֹא נִדְרָתִי
אֶלָּא
בְּקֹרְבָּנוֹת 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 קֹרְבָּן
וְאָמַר
לֹא נִדְרָתִי
אֶלָּא בְּעִצָּם
שֶׁהִנַּחְתִּי 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 עִצָּם 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 קֹרְבָּן. 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
אֶלָּא בְּאֲשֶׁתִּי הָרֵאשׁוֹנָה
שֶׁגִּירְשֵׁתִי
עַל כּוֹלָן
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
וּמִלְמַדֵּינָן אוֹתָן
כְּדִי
שֶׁלֹּא יִנְהָגוּ
קְלוּת רֹאשׁ
בְּנִדְרִים

The Gemara will explain the different halachos of this Mishna (although the Mishna seems to be an inherent contradiction, the Gemara will explain the Mishna's intent).

גמרא

The Difference Between a Talmid Chacham Explaining His Nedarim and an Am Ha'aretz Explaining His Nedarim

Before we explain the Gemara, a short introduction is needed.

After a person makes a neder, he can go to a Chacham and ask him to revoke it (he asks the Chacham to be שואל the neder, a process known as שְׁאֵילַת הַכֹּהֵן). The Ran (18:) explains that typically a Chacham can revoke a neder either through תְּרֻטָה – regret, or by finding a pesach (lit. an opening), that is, the Chacham finds a fact that if the person would have known this fact at the time that he made his neder, he would not have done so, i.e., the Chacham figures out a way how to say that the neder was made under false pretense).

The next Gemara will revolve around the question of what you need in order to get rid of the nedarim of our Mishna. Do we say that we do not need anything at all (as the nedarim of our Mishna do not have any validity)? Do we say that the Chacham can be matir the nedarim with just charatah (that is, the Chacham can say that based on the person's regret, the neder is mutur)? Or does the Chacham have to find an actual reason to say that the neder was made under false pretense (i.e., he has to find a pesach and charatah would not be enough to permit the neder)?

The Gemara starts by asking:

'The (Mishna) itself is difficult'	הָא גּוּפָא קָשְׁיָא
you (i.e., the Mishna) said	אָמַרְתָּ
you don't need shayla for them	אִין נְשְׂאֵלִין לְהוֹן
and then it teaches	וְהָדַר תִּנִּי
and if they ask (to have the neder revoked)	אִם נְשְׂאֵלוּ
we punish them	עוֹנְשִׁין אוֹתָן
and are machmir on them	וּמַחְמִירִין עֲלֵיהוֹן

At first the Mishna says that these nedarim do not need shayla at all, and then the Mishna says that not only do they need shayla, but we punish them and are machmir on them. But which one is it? Do these nedarim need shayla or not?

R' Yehuda said	אָמַר רַב יְהוּדָה
this is how it is learned	הַכִּי קָתְנִי

and all of them	וְכוּלָן
do not need shayla	אִין צְרִיכִין שְׂאֵלָה
(But) when was this said	בְּמָה דְּבָרִים אָמְרוּרִים
(with regard) to a talmid Chacham	בְּתַלְמִיד חַכָּם
but	אָבַל
with regard to an am haaretz (ignorant person)	בְּעַם הָאֶרֶץ
that comes to ask (to have his neder revoked)	שָׂבָא לִישְׂאֵל
we punish them	עוֹנְשִׁין אוֹתוֹ
and we are machmir with them	וּמַחְמִירִין עֲלָיו

The Gemara explains:

It is good (understandable)	בְּשִׁלְמָא
(this that it says) we are machmir with him	מַחְמִירִין
that we don't 'open' for them	דְּלֹא פְתַחֲמִין לֵיהּ
with charatah (regret)	בְּחַרְטָה
but (this that it says) we punish them	אָלָא עוֹנְשִׁין
what is the case (i.e., how do we punish them)	הֵיכִי דְמִי

As previously mentioned, there are two ways for a Chacham to be matir (permit) a neder. The Chacham can be matir a neder through charatah or by finding a pesach (a reason that says that the neder was done under false pretense). If so, we understand what it means to be machmir with these nedarim. That although normally a Chacham can be matir the neder with both charatah and by finding a pesach, in this case he is machmir and he is only matir the neder by finding a pesach and not with the easier method of being matir with charatah (the Gemara will explain why the Chacham is machmir like this).

However, what the Gemara does not understand is what it means when the Mishna says that we punish them. What type of punishment is the Mishna referring to?

One Who Breaks His Nezirus and then Comes to be שואל on it

The Gemara answers:

As we learned in a Baraisa	כְּדַתְנִינָא
one who makes a neder to be a nazir	מִי שֶׁנָּזַר
and transgresses his neder	וְעָבַר עַל נְזִירוֹתוֹ
we do not 'listen' to him	אִין נִזְקָקִין לוֹ
until he observes the issur	עַד שֶׁיִּנְהוּג בּוֹ אִיסוּר
like the number of days	כְּמִיָּם
that he acted with them	שֶׁנִּהְגָּ בְּהוֹן
heter (permissiveness)	הֵיִתֵּר
these are the words of R' Yehuda	דְּבָרֵי רַבִּי יְהוּדָה

(and) R' Yosie said
 when was this said
 with a 'small' nezirus
 but with a 'large' nezirus
 it is enough thirty days

אָמַר רַבִּי יוֹסֵי
 בַּמָּה דְּבָרִים אָמוּרִים
 בְּנִזְיוֹת מִנְעֻטָּה
 אָבַל בְּנִזְיוֹת מְרוּבָּה
 דִּינֵי שְׁלֹשִׁים יוֹם

The Baraisa describes a case in which a person became a nazir and then transgresses this nezirus. After the person breaks the laws of his nezirus, he comes to the Chacham to be שׁוֹאֵל on it. R' Yehuda says that although the Chacham can be שׁוֹאֵל on this nezirus, we first punish this person by forcing him to 'makeup' those days that he did not follow that halachos of being a nazir. For example, if the person started to break his nezirus, and ten days later he comes to be שׁוֹאֵל on the nezirus, the Chacham will be שׁוֹאֵל, but only after the person acts as a nazir for ten days.

R' Yosie agrees with this halacha but says that the maximum amount of days that the person will have to make up is thirty days (the amount of stam nezirus). That is, if the person made a neder to be a nezirus for a long time and then breaks his nezirus for more than thirty days, he will only have to make up thirty days.

The Gemara explains that this 'punishment' applies to someone who breaks his neder as well. The Chacham will be matir this person's neder, but only after he makes up the days that he did not keep the neder (that is, if before he comes to the Chacham, he did not keep his neder for ten days, then he will have to make up those days before the Chacham will even 'listen' to his case). That is, this person will have to wait ten days before the Chacham would even listen to his case to decide if he want to be matir the neder or not.

The Rosh explains that although this 'punishment' is given for anyone who breaks his neder (i.e., any person who breaks his neder must make up the days that he broke his neder before the Chacham can be שׁוֹאֵל it), the chiddush of R' Meir is that we even 'punish' the am ha'aretz who makes one of the nedarim of our Mishna as well. That is, even though M'Dorayisa the

nedarim of the Mishna do not take effect, the am ha'aretz must still make them up before the Chacham can be שׁוֹאֵל on them.

To Summarize: R' Meir holds that if a talmid Chacham makes one of the nedarim of the Mishna, he is believed to explain his intent, and as such, no further action is needed.

However, if an am ha'aretz makes such a neder, not only is he not believed to explain what he meant, but R' Meir holds that we are machmir with them and do not allow the Chacham to be matir the neder with charatah but rather the Chacham can only be matir the neder by finding a pesach. Additionally, we punish the am ha'aretz by forcing him to make up any days that he did not keep as his neder before the Chacham is matir it.

The Chachamim, however, disagree with R' Meir. Although the Chachamim also hold that an am ha'aretz is not believed to explain his intent, the Chachamim hold that we would be matir these nedarim with charatah, and the am ha'aretz would not have to make up any days before the Chacham could do so.

A Bais Din that 'Listens' to a Person Who Broke His Neder

Rav Yosef said
 since the Rabbanim said
 we don't 'listen' to him
 a Bais Din that does 'listen' to him
 has not done the proper thing
 (and) Rav Acha bar Yaakov says
 that you put them in chairim (excommunication)

אָמַר רַב יוֹסֵף
 הוֹאִיל וְאָמְרֵי רַבָּנִין
 אֵין נִזְקָקִים לוֹ
 בִּי דִינָא דְמִזְדַּקְקֵי
 לָא עָבִיד שְׁפִיר
 רַב אַחָא בַר יַעֲקֹב אוֹמֵר
 מִשְׁמַתִּינֵן לֵיהּ

The Chachamim said that if someone breaks his nezirus and then comes to be שׁוֹאֵל on it, the Chachamim do not listen to him until he acts as a nazir for the number of days that he did not keep his nezirus. Rav Yosef now tells us that if a Bais Din does not follow this procedure and 'listens' to the person right away and is matir his nezirus, this Bais Din has not acted properly.¹⁰⁴ Rav Acha bar Yaakov adds that not only has such

¹⁰⁴ The Chiddush of Rav Yosef

Seemingly, it is hard to understand what Rav Yosef was coming to tell us. That Chachamim said that a Bais Din should not 'listen' to a person who breaks his neder before he makes it up. If so, it would seem obvious that a Bais Din that does not listen to this directive has not acted properly. If so, why would Rav Yosef need to tell us this?

The Ran answers that one could have thought that when the Chachamim said that Bais Din does not listen to this person when he comes to be matir his neder, this means that they do not actively pursue him to do so. That is, Bais

Din does not want a person to be bound by a neder (for the fear that he might come to violate it). Therefore, if they know of a person who has made a neder and not yet violated it, they will go and try to persuade that person to be matir his neder. Based on this, one could have thought that when the Chachamim says that Bais Din should not 'listen' to a person who broke his neder, this just means that Bais Din should not actively pursue this person to have him be matir his neder. But if this person of his own volition would come to Bais Din, we would listen to him and we would be matir his neder. Rav Yosef comes to teach us otherwise. That not only will Bais Din not pursue this person, but even

a Bais Din acted improperly, but we put such a Bais Din in chairim.

The Importance of Not Becoming Accustomed to Making Nedarim (and other undesirable situations)

The Mishna said:

And the Chachamim say וְחֻכְמִים אֹמְרִים
 we 'open' for him with a 'pesach' פּוֹתְחִין לוֹ פֶּתַח בּוֹ'

The Mishna told us that while the Chachamim disagree with R' Meir and they hold that even if it was an am ha'aretz that made one of the nedarim of the Mishna we are matir the neder right away, but they still instruct the am ha'aretz of the need not to take nedarim lightly.

The Gemara continues on this theme of the importance of not taking nedarim lightly.

We learned in Baraisa	תָּנָא
'At all times' (lit. forever)	לְעוֹלָם
a person should not accustomed	אֵל תְּהִי רְגִיל
with (making nedarim)	בְּנִדְרִים
(because if you are) your end (will be)	שְׂסוּפָךְ
that you will be 'moyel' ('transgress')	לְמַעוֹל
shevuos	בְּשִׁבוּעוֹת

Shevuos are more chamor than nedarim and the Baraisa is telling us that one should not be accustomed to making nedarim, because if one is accustomed to making nedarim, this will lead him to make shevuos as well, and to subsequently transgress them.

The Baraisa continues with its list of things that a person should not become accustomed to, as becoming accustomed to these things lead to one doing various avayros.

And one should not become accustomed	וְאֵל תְּהִי רְגִיל
(to being) next to (i.e., in the vicinity)	אֶצֶל
(of) an am ha'aretz	עִם הָאֶרֶץ
(because if you are) your end (will be)	שְׂסוּפָךְ
that he will feed you tevel	לְהַאֲכִילְךָ טְבֵלִים

Chazal tell us that an am ha'aretz is suspected of not taking maaser off from his crops. Therefore, if a person is always found with him, it is highly probably that the am ha'aretz will end up feeding this person tevel (food that has not had either terumah or maaser taken off from it).

The Baraisa continues:

Do not become accustomed	אֵל תְּהִי רְגִיל
(to being) next to (i.e., in the vicinity)	אֶצֶל
(of) a Kohen am ha'aretz	כֹּהֵן עִם הָאֶרֶץ
(because if you are) your end (will be)	שְׂסוּפָךְ
that he will feed you terumah	לְהַאֲכִילְךָ תְּרוּמָה

Only a Kohen is allowed to eat terumah, therefore we are afraid that if a person will constantly be in the presence of an ignorant Kohen, the Kohen might come to feed the person (i.e., the Yisroel) terumah. The Ran's girsa is that the concern is the ignorant am ha'aretz might come to feed the person terumah that is tamei. The Ran explains that according to this the concern is even with regard to a Kohen. That is, we are even concerned with a Kohen being with an ignorant Kohen, because the result might be that the ignorant Kohen will feed the other Kohen terumah that his tamei, something that a Kohen is not allowed to eat.

The Baraisa continues:

And do not talk a lot	וְאֵל תִּרְבֶּה שִׁיחָה
with a woman	עִם הָאִשָּׁה
(because if you are) your end (will be)	שְׂסוּפָךְ
to come to immorality	לְבֹא לַיְדֵי נִיאוּף

The Danger of Looking at Women Inappropriately

R' Acha bar R' Yoshiyah says	רַבִּי אַחָא בְּרַבִּי יוֹשִׁיָּהּ אָמַר
all who look at women	כָּל הַצּוֹפֶה בְּנָשִׁים
his end will be	סוֹפוֹ
that he comes to avayra	בָּא לַיְדֵי עֲבִירָה
and all who stare	וְכָל הַמְּסַתֵּבֵל
at (even) the heel of a women	בְּעֵקֶבָהּ שֶׁל אִשָּׁה
will have children	הָיוּ לוֹ בְּנִים
that are not proper	שְׂאִינָן מְהוֹנְנִין
Rav Yosef said	אָמַר רַב יוֹסֵף
this refers (even) to his wife who is a niddah	וּבְאִשְׁתּוֹ נִדָּה

The Ran explains that the chiddush of Rav Yosef is that the issur to look at a women's heel applies even to a person wife while she is a niddah. That is, even though she is now assur to him, after she is no longer a niddah, she will be mutur to him. Therefore, one could have through that the desire to an avayra

if he would come to Bais Din by himself, the Bais Din should not 'listen' to him until he has 'made up' the number of days that he has violated his nezirus (neder).

with her is not that strong as he could always just wait until she will be mutur, and as such, it should be mutur to gaze at her. Rav Yosef comes to teach us otherwise. That even in this case the concern still applies.

R' Shimon ben Lakish said **אָמַר רַבִּי שְׁמַעוֹן בֶּן לָקִישׁ**
 the heel the we learned **עָקְבָה דְקַתְנִי**
 “refers” to the ‘dirty place’ **בְּמַקוֹם הַטּוֹפֵת**
 that is (located) **שְׁהוּא**
 directly opposite the heel **מִכּוּוֹן כְּנֻד הָעֵקֵב**

R' Shimon ben Lakish explains that since the heel is directly opposite the makom erva, Chazal refer to the makom erva as the heel, and staring at this is the issur reference above (as Chazal will always prefer to use a לשון נקיה ‘a clean’ expression) when referring to the makom erva).

The Middah Tova of Being a בְּיָשׁוֹן

We learned in a Baraisa **תְּנִינָא**
 (On the posuk (Shemos 20:17) that says) “In order **בְּעֵבוֹר**
 that His fear should be **תְּהִיָּה יִרְאָתוֹ**
 on your faces” **עַל פְּנֵיכֶם**
 this refers to embarrassment **זוּ בּוֹשָׁה**

The posuk continues:
 “In order that you should not do awayros” **לְבַלְתִּי תַחֲטְאוּ**
 this teaches **מִלְּמַד**
 that embarrassment **שְׁהַבוֹשָׁה**
 brings (a person) **מִבִּיאַה**
 to the fear of sin **לִידֵי יִרְאָת חֲטָא**

The pesukim in parshas Yisro, when describing the giving of the Torah at Har Sinai says that it was given in order that the fear of Hashem should be on their faces. The Gemara tells us that this refers to shame, as one who has shame will not come to do awayros.

The Baraisa continues:
 From here they said **מִכּוּן אָמְרוּ**
 a good sign for a person **סִימָן יָפֵה בְּאָדָם**
 is that he is a ‘an embarrassed’ person **שְׁהוּא בְּיָשׁוֹן**

If a person can become embarrassed, he will not be willing to do awayros, as awayros bring embarrassment to a person.

Others say **אַחֲרֵים אוֹמְרִים**
 any person who gets embarrassed **כָּל אָדָם הַמֵּתְבַיֵּשׁ**
 will not quickly come to sin **לֹא בְּמַהֲרָה הוּא חוֹטֵא**

and one who **וְאִי**
 does not have **שְׂאִין לוֹ**
 embarrassment (the ability to become embarrassed) **בוֹשָׁת פְּנִים**
 it is know **בְּיָדוֹעַ**
 that he did not stand with his fathers **שֶׁלֹא עָמְדוּ אֲבוֹתָיו**
 at Har Sinai **עַל הַר סִינַי**

The Ran explains that the posuk is telling us that the reason Ma’mad Har Sinai (the revelation at Har Sinai) occurred was to put the fear of Hashem on the faces of Klal Yisroel, and through this they acquired **בוֹשָׁת פְּנִים**, the ability to become embarrassed. In other words, this explains why Hashem did not just give us the Torah without the experience of Ma’mad Har Sinai. Hashem specially gave us the Torah through this incredible event in order that we should acquire this middah.

And the posuk in Devarim (29:13) says the Ma’mad Har Sinai was done for those that were there and for those that were not there. That is, it was done not just to imbue those present with the middah (characteristic) of **בוֹשָׁת פְּנִים**, but rather it was done to imbue all future generations with this middah as well. If so, if we find that there is a person who does not have this middah, it must be, that indeed, his ancestors did not stand at Har Sinai.

What a Person is Allowed To do and What a Person is Not Allowed To do During Tasmish (and the consequences for someone who violates these guidelines)

R' Yochanan ben Dahavai said **אָמַר רַבִּי יוֹחָנָן בֶּן דָּהַבַּאי**
 four things **אַרְבָּעָה דְבָרִים**
 the malachi hashareis told me **סָחוּ לִי מִלְאֲכֵי הַשָּׂרֵת**

R' Yochanan ben Dahavai will now tell us four consequences that the malachi hashareis told him with regard to someone who has tasmish (i.e., lives with his wife) in an improper way.

Crippled (children) **חִיגְרִין**
 why do they happen **מַפְנֵי מָה הוּיִין**
 because **מַפְנֵי**
 they turn over their tables **שְׁהוֹפְכִים אֶת שׁוּלְחָנָם**

The Mefarshim explain that this means that they have tasmish in a manner that is the opposite of the normal way.

Mute (children) **אַילְמִים**
 why do they happen **מַפְנֵי מָה הוּיִין**
 because they kiss **מַפְנֵי שְׂמִנְשָׁקִים**

on 'that place' (the erva of the woman)	על אותו מקום
deaf and mute (children)	חרשים
why do they happen	מפני מה הויין
because they talk	מפני שמספרים
at the time of tasmish	בשעת תשמיש
blind (children)	סומין
why do they happen	מפני מה הויין
because they stare	מפני שמסתכלים
at 'that place' (the erva of the woman)	באותו מקום

The Ran explains that each one of these punishments is specific for the wrong thing that the person did. If a person has tasmish in an abnormal way, then since he did an avayra with his thighs, he is punished with thighs (i.e., his children will be crippled). If he did the avayra with his mouth, then his children will not be able to talk. And if he did an avayra by with listening and talking (i.e., he talked during tasmish), then he will have children that will not be able to talk or hear. The Ran does not explain the last case, but seemingly the idea is the same, that if a person did the avayra by looking at a place that he should not

have, he is punished by having children that will not be able to see.

Although we have said that the punishment for these actions affect the person's children, this is not entirely clear and there are those who explain that these punishments refer to what will happen to the actual person.

When is a Person Allowed to Talk During Tasmish?

The Baraisa said that one of the inappropriate actions that is done during tasmish is talking. As Tosefos explains, tasmish is supposed to be done in a quiet, discreet manner, and by talking this cause others to know of their presence. But on this the Gemara asks:

But they asked a contradiction	ורמינהו
(The Baraisa says) that they asked	שאלו
Ima Shalom (the wife of R' Eliezer)	את אימא שלום
because of what	מפני מה

Nedarim 20B

(were) you children	בְּנֵיךָ
that are ‘particularly’ beautiful	יְפִיפִין בְּיֹתֶר
she said to them	אָמְרָה לָהֶן
“He (he husband) does not talk, i.e., have tasmish	אֵינוֹ מְסַפֵּר
with me	עִמִּי
not in the beginning of the night	לֹא בְּתַחֲלַת הַלַּיְלָה
and not at in the end of the night	וְלֹא בְּסוֹף הַלַּיְלָה
but rather	אֶלֶּא
at midnight (i.e., the middle of the night)	בְּחֻצוֹת הַלַּיְלָה

The Ran explains that R' Eliezer did not want to have tasmish, (the word talk is a euphemism for have tasmish), at either the beginning or end of the night, because at those times women are found in the street, and as such, he was concerned that perhaps he would have them in mind during tasmish.

“And when he would ‘speak’ (have tasmish)	וְכִשְׁהוּא מְסַפֵּר
he would reveal a tefach	מְגַלֵּה טֶפַח
and he would cover a tefach	וּמְכַסֶּה טֶפַח
and it was similar to him	וְדוֹמֵה עָלָיו
as if he was being forced	כְּמִי שֶׁכִּפְאוֹ
by a shaid (demon)	שַׁד
and I said to him	וְאָמַרְתִּי לוֹ
‘what is the reason’	מָה טַעַם
and he said to me	וְאָמַר לִי
‘in order	כְּדֵי
that I do not place my eyes (i.e., think)	שֶׁלֹּא אֶתֵּן אֶת עֵינַי
of another woman	בְּאִשָּׁה אַחֶרֶת
and it would be ‘found’	וְנִמְצְאוֹ
that his children would come	בְּנָיו בָּאִין
to being mamzayrim	לִיְדֵי מַמְזָרוֹת

The Ran explains that the revealed tefach and covered tefach refer to the two tefachim that person is allowed to reveal while going to the bathroom (urinating). R' Eliezer would have tasmish with his clothes on and he would only reveal one tefach. Additionally, when he would have tasmish, it was as if a shaid was forcing him to do so (i.e., he did it quickly). The reason for all this was in order to do tasmish as quickly as possible in order to minimize the chance that he would think about another woman during tasmish. The Shita M'kubetzes explains that if one thinks of another woman during tasmish, in a certain sense, he has had tasmish with that woman and that is why the children of this tasmish in a certain sense will have a trace of mamzayrus.

The bottom-line of this discussion is that we see that R' Eliezer talked during tasmish, and yet, not only were his children not deaf and mute, but they were exceptionally beautiful. The Gemara says that from this story we see that one is allowed to talk during tasmish.

There are two approaches in the Mefarshim of how we see from this story that one is allowed to talk during tasmish. Either we see that you are allowed to talk during tasmish from the fact that R' Eliezer answered his wife during tasmish, or we see this from the fact that the ‘nickname’ given to tasmish is ‘talking’. That is, if it would really be true that one is not allowed to speak during tasmish, it would be non-sensical to refer to tasmish as talking. We would not refer to tasmish by something that is assur to do then. Therefore, if we see that the ‘nickname’ given to tasmish is ‘talking’, indeed it must be that one is allowed to talk during tasmish.

The Gemara answers:

It is not difficulty	לֹא קִשְׁיָא
this (when it is mutur, refers)	הָא
to words (related) to tasmish	בְּמִילֵי דְתַשְׁמִישׁ
and this (that it is assur, refers to)	הָא
other words (i.e., things unrelated to tasmish)	בְּמִילֵי אַחֲרֵינְיָתָא

The Gemara answers that it is mutur to talk during tasmish but only about topics related to tasmish and not anything else.

The Shita that Everything is Mutur During Tasmish

R' Yochanan said	אָמַר רַבִּי יוֹחָנָן
these are the words of	זוֹ דְּבַרִּי
Yochanan ben Dahavai	יוֹחָנָן בֶּן דַּהַבַּאִי
but the Chachamim said	אָבַל אֲמַרוּ חֲכָמִים
the halacha is not	אִין הַלְכָה
like Yochanan ben Dahavai	כְּיוֹחָנָן בֶּן דַּהַבַּאִי
rather	אֶלֶּא
whatever	כֹּל מָה
a person wants to do	שֶׁאָדָם רוֹצֵה לַעֲשׂוֹת
with his wife	בְּאִשְׁתּוֹ
he does (and it is mutur)	עוֹשֶׂה
it is a mashal (parable)	מִשָּׁל
to meat that comes	לְבֶשֶׂר הַבָּא
from the slaughter house (butcher)	מִבֵּית הַטָּבַח
if he wants to eat it with salt	רָצָה לְאָכְלוֹ בְּמַלַּח
he eats it (as such)	אוֹכְלוֹ

(if he wants to eat it) roasted
 he eats it (as such)
 (if he wants to eat it) cooked
 he eats it (as such)
 (if he wants to eat it) 'shalok' (very well cooked)
 he eats it (as such)
 and so it is with (eating) fish
 that comes from the trapper

צָלִי
 אוֹכְלוּ
 מְבוּשָׁל
 אוֹכְלוּ
 שְׁלוֹק
 אוֹכְלוּ
 וְכֵן דָּג
 הַבָּא מִבֵּית הַצִּיִּיד

The Chachamim compare a person having tasmish with his wife to eating meat or fish and says that the same way there are multiple ways to eat these foods, so too with regard to having tasmish. A person does not have to have tasmish in the normal way but rather he can do whatever he wants (i.e., he is allowed to do the things that R' Yochanan ben Dahavai said you are not allowed to do).

Who Where the מְלָאכֵי הַשָּׂרֵת that Spoke to R' Yochanan ben Dahavai?

The previous Gemara quoted R' Yochanan ben Dahavai as saying that the malachi hashareis told him what a person is not allowed to do during tasmish and the consequences of doing these things anyway. The Gemara now wants to know who these malachim were.

Ameimar said
 who are the malachi hashareis
 the Rabbanan
 for if you will say
 (they were) actual malachi hashareis
 why did R' Yochanan say
 that the halacha is not
 like Yochanan ben Dahavai
 but they are experts
 in the creation of the baby
 more (i.e., more than the Rabbanan)

אָמַר אַמֵּימַר
 מֵאֵן מְלָאכֵי הַשָּׂרֵת
 רַבָּנָן
 דְּאֵי תִימַא
 מְלָאכֵי הַשָּׂרֵת מְמַשׁ
 אַמַּאי אָמַר רַבִּי יוֹחָנָן
 אֵין הַלְכָה
 כְּיוֹחָנָן בֶּן דְּהַבַּאי
 הָא אֵינְהוּ בְקִיָּאֵי
 בְּצוּרַת הַוּלְדֵי
 טַפֵּי

The malachim obviously know more about how a baby is formed than people do. Therefore, if they say that certain actions cause certain deformities, how could the Chachamim argue on this? Ameimar therefore said that it must be that they were not actual malachim but rather they were the Rabbanan who are referred to as Malachim.

And why are they called
 malachi hashareis

וְאַמַּאי קָרוּ לְהוּ
 מְלָאכֵי הַשָּׂרֵת

'that they excel and are separate'
 like the malachi hashareis

דְּמַצְיִינֵי
 כְּמְלָאכֵי הַשָּׂרֵת

The Ran explains that this refers to the fact that the Rabbanan excel and are separate from regular people similar to the malachim. As it says in the Haggadah shel Pesach, מְלַמֵּד שְׁהֵיוּ, which the Ran explains to mean that they were a separate nation that did not get mixed in with the Mitzrim.

The Response to the Women that Complained about their Husband's Actions During Tasmish

'There was a certain woman'
 that came before Rebbi
 she said to him
 "Rebbi
 I prepared for him a table
 and he turned it over"

הָהִיא
 דְּאֵתְאֵי לְקַמֵּיהּ דְּרַבִּי
 אָמְרָה לוֹ
 רַבִּי
 עָרַכְתִּי לוֹ שׁוּלְחָן
 וְהִפְכוּ

That is, the woman related that she had been prepared to have tasmish in the typical fashion but her husband had tasmish in an unusual way.

He said to her
 "My daughter
 the Torah permitted it
 and I
 what can I do for you"

אָמַר לָהּ
 בְּתִי
 תוֹרָה הִתִּירְתָּךְ
 וְאֲנִי
 מָה אֶעֱשֶׂה לָּיְךְ

Rebbi responded by saying that although the husband did not have tasmish in the normal manner, this is not a problem as the Torah permits whatever the husband wants to do. The Ran explains that this is learned from the posuk that say כִּי יִקַּח אִישׁ אִשָּׁה, that a man will take a woman. The implication of the posuk is that he takes her to do whatever he desires.

Another story along the same lines.

'There was a certain woman'
 that came before Rav
 she said to him
 "Rebbi
 I prepared for him a table
 and he turned it over"
 he said (back to her)
 "What is the difference (between this)
 from a fish"

הָהִיא
 דְּאֵתְאֵי לְקַמֵּיהּ דְּרַב
 אָמְרָה לוֹ
 רַבִּי
 עָרַכְתִּי לוֹ שׁוּלְחָן
 וְהִפְכוּ
 אָמַר
 מַאי שְׁנָא
 מִן בֵּינֵיתָא

That is, the same way a person can eat a fish any way that he wants, so too a husband is allowed to have tasmish in any way that he sees fit.

The Issur to Think of Another Woman During Tasmish

The posuk (Bamidbar 15:39) says:

“And you should not go after your heart”	ולא תתורו
from here Rebbi said	אחרי לבבכם
a person should not drink from this cup	מכאן אמר רבי אל ישתה אדם בכוס זה
and place his eyes with a different cup	ויתן עיניו בכוס אחר

That is, a person should not think about another woman while having tasmish

Ravina said	אמר רבינא
(this statement of Rebbi) was not needed	לא נצרכא
except (to teach us that it is assur)	אלא
even if both of them are his wives	דאפילו שתי נשיו

Ravina tells us that the chiddush of Rebbi is to say that it is assur to think of another woman at the time of tasmish, even in the case where that other woman is the husband’s second wife.

The Nine Types of Children that Result from Improper Actions (thoughts) During Tasmish

¹⁰⁵ The Nine Cases

בני אימה בני אנוסה - It is assur to have tasmish if the woman is doing so out of fear, or if the husband physically forces her to have tasmish. The Ran explains that the first case refers to where she is just scared of him but not that he actually forces her to have tasmish. The second case refers to where he actually forces her to have tasmish. The Ran explains that although these are two different situations, they are similar to each other, and as such they are counted as one case (i.e., in the list of nine cases being discussed).

בני שנואה - It is assur to have tasmish if the husband hates the woman. The Ran explains that if the husband hates her, there is a concern that he will be thinking of a different woman during tasmish (the Mefarshim ask that if so, why was this not a problem with Yaakov and Leah, עי' שם).

בני נידוי - It is assur to have tasmish when one is a nidui (excommunicated). The Rosh explains that this refers to a case in which either he or she is in nidui, as it is assur for someone in nidui to have tasmish. The Rosh adds that this also refers to a case in which either he or she is in avaylus (the mourning period for a close relative), as an avel (mourner) is assur in tasmish. The Rosh explains that the reason the Gemara picked the case of being in nidui is because this is more common (seemingly the Rosh doesn't mean that nidui is more common but rather that having tasmish while being a nidui is more common than having tasmish while being an avel). It must be pointed out that although our Gemara says that it is assur for someone in nidui to have tasmish, the Mefarshim bring the Gemara in Moed Katan (15:) that has a sofek if someone in nidui could have tasmish or not, עי' שם ואכמ"ל.

The posuk in Yechezkel (20:8) says:

“And I will choose from you those who rebel and those who sin with me”	וברוחי מקם המרדים והפושעים בי
R' Lavi said	אמר רבי לוי
these are the children (of those) who have (these) nine middos (behavior characteristics)	אלו בני תשע מדות

A siman (tool to help us remember) is as follows:

The children of	בני
אֶסְנִית א-ס-נ-ת	
משגע מ-ש-ג-ע-ח	

Each one of the letters of these two words stands for one of these nine middos, as follows.

The children of (a woman in) fear	בני אימה
the children of a forced woman	בני אנוסה
the children of one who is hated	בני שנואה
the children of nidui (excommunication)	בני נידוי
the children of an ‘exchanged woman’	בני תמורה
the children of argument	בני מריבה
the children of drunkenness	בני שכרות
the children of a ‘mentally divorced’ woman	בני גרושת הלב
the children of ‘mixture’	בני ערבוביָא
(and) the children of chutzpah (brazenness)	בני חצופה

See footnote, where each one of these cases is explained.¹⁰⁵

בני תמורה – The Ran explains that this case refers to someone who has tasmish with one of his wives while thinking that he is having tasmish with a different one. The Mefarshim ask that seemingly this problem occurred when Yaakov married Leah, as he had tasmish with Leah thinking that it was really Rochel, עי' שם ואכמ"ל.

בני מריבה – The Ran explains that this refers to a case in which the wife is not hated but there still is an argument between them, and they have not yet appeased each other.

בני שכרות – The Ran explains that since he is drunk, he does not think about his wife during tasmish. The Mefarshim explain that because of this his tasmish is not considered a complete tasmish, but rather it is considered as just an act of z'nus immoral behavior.

בני גרושת הלב – This refers to a case of man having tasmish at a time in which he plans on divorcing his wife. The Rosh explains that this issur is even in a case that the man does not hate his wife but just plans on divorcing her. The problem with having tasmish at that time, is that since the man plans on divorcing her, his mind will be on a different woman.

בני ערבוביָא – The Ran explains that this refers to a case in which many men have tasmish with one woman, and therefore, when she becomes pregnant, we don't know who the father is. The Mefarshim adds two more cases. This case could be referring to a man who has tasmish with one of his wives, but he does not know which one. Or it could be referring to a case in which a woman gets divorce, and within three months, marries someone else. Because of this, if she becomes pregnant seven months after her second marriage, we will not know it

The Children that Result from a Woman ‘Asking for Tasmish’

The last of the nine cases of an improper tasmish is the case of a woman who acts with chutzpah. This refers to a woman who explicitly asks her husband for tasmish.

From this we see that it is wrong to do so, and on this the Gemara asks:

But it is not so	איני
but R' Shmuel bar Nachmani said	והאמר רבי שמואל בר נחמני
that R' Yochanan said	אמר רבי יוחנן
any man	כל אדם
that his wife	שאשתו
demands of him (to have tasmish)	תובעתו
there will be to him children	היו לו בנים
that even	שאפילו
in the generation of Moshe Rabbinu	בדורו של משה רבינו
there were not like them	לא היו כמוהם
as it says (Devarim 1:13)	שנאמר
“Take for yourself	הבו לכם
men	אנשים
who are wise and understanding”	חכמים ונבנים
and it is written (Devarim 1:15)	וכתיב
“And I took heads of your Shevatim”	ואקח את ראשי שבטיכם
and it does not written	ולא כתיב
understanding men	נבונים

The end of that posuk says that the heads of the Shevatim were wise men. The posuk describes how Moshe says that Yisro had told him to take wise and understanding men to help him answer Klal Yisroel’s questions. Moshe continues and says that although Yisro told him to take wise and understanding men, in the end Moshe was only able to gather men who were wise but not understanding (as there were no ‘understanding’ men in the generation of Moshe).

But despite the posuk telling us that at that time there were no ‘understanding’ men, the posuk tells us that at other times there were these ‘understanding’ men.

the child is from her first husband (i.e., it is a baby born after nine months), or if the child is from her second husband (i.e., it is a baby born after seven months).

בני חצופה – This refers to a woman who has the chutzpah to explicitly ask her husband to have tasmish.

And (yet) it is written (Bereisis 49:14) **וכתיב**

“the donkey caused Yissochar to be born” **יששכר חמר גרם**

(This is not the literal translation of the words but rather the way the Gemara now darshins them)

The Mefaraish explains that in a way the donkey caused Yissochar to be born. That is, since the donkey (that was carrying Yaakov) turned towards the tent of Leah, Leah was then able to appease Yaakov to come to her tent (as the posuk (Bereisis 30:16) says **וַיְבֵא יַעֲקֹב מִן הַשָּׂדֶה בְּעָרֵב וַתֵּצֵא לֵאָה לְקָרְאֵתוֹ וַתֹּאמֶר אֵלַי תָּבוֹא כִּי הוּא (שֹׁכֵר שְׂכָרְתִּיךָ בְּדוֹדָאֵי בְּנֵי וַיִּשְׁכַּב עִמָּה בַּלַּיְלָה הוּא**).

The Maharsha quotes the Aruch that explains that the donkey made a noise, and because it did so, Leah came out of her tent to greet Yaakov, at which time she appeased him to come to her.

From here we see that Leah appeased Yaakov with words in order to have tasmish and as a result Yissochar was born. And in regard to Yissochar it says:

And it is written (Divrei Hayomim 1 12:33) **וכתיב**

“From the children of Yissochar **מבני יששכר**

those who know **יודעי**

the understanding of times” **בינה לעתים**

From this Baraisa we clearly see that a woman asking for tasmish is a good thing, as this was why Leah was zocheh (merited) to have such good children (i.e., she was zocheh to have children who were **נבונים** (people who were not found in the time of Moshe Rabbinu). And yet the previous Baraisa taught that it is considered chutzpah for a woman to ask for tasmish.

The Gemara answers:

This **ההיא**

refers to (just) appeasing him **דמרצנא ארצניי**

The only time it is considered chutzpah is if the woman explicitly asks for tasmish. However, if the woman just appeases her husband, and as a result of her actions, he asks her to have tasmish, this is considered a good thing. The Ran explains that this is exactly what Leah did. She didn’t ask Yaakov for tasmish but rather she just asked Yaakov to come to her tent, and as a result, Yaakov on his own asked her for tasmish.

הִדְרוּ עֲלֵךְ וְאֵלֹי מוֹתְרִין

משנה

The Four Invalid Nedarim

(There are) four nedarim
 that the Chachamim permitted
 Nedarim of zerizus (i.e., to get someone to do
 meaningless nedarim
 mistaken nedarim
 and nedarim of on'sim (forced circumstances, as will
 be explained)

אַרְבַּע נְדָרִים

הַתִּירוּ חֲכָמִים

נְדָרֵי זְרִיזוּן
 (something)

וְנְדָרֵי הַבְּאִי

וְנְדָרֵי שְׁגָגוֹת

וְנְדָרֵי אוֹנְסִין
 (as will be explained)

The Mishna explains the case of נְדָרֵי זְרִיזוּן.

(The case of) nedarim of zerizus
 how is it
 if one was selling an object
 and he (i.e., the seller) said

נְדָרֵי זְרִיזוּן

כִּיצַד

הִיא מוֹכֵר חֶפֶץ

וְאָמַר

“Konam
 that I will not lower (the price) for you
 than a sela (i.e., four dinarim)”

קוֹנָם
 שְׂאִינִי פוֹחֵת לָךְ
 מִן הַסֵּלַע

and the other one (i.e., the buyer)
 says

וְהֵלֵךְ
 אוֹמֵר

“Konam
 that I will not add to you
 on (i.e., more than) a shekel (two dinarim)

קוֹנָם
 שְׂאִינִי מוֹסִיף לָךְ
 עַל הַשֶּׁקֶל

The Ran explains that the seller does not want to sell the object for less than four dinarim, and therefore he says that the money the buyer wants to pay him should be forbidden to him if he accepts less than four dinarim. However, the buyer as well has a certain price in mind and does not want to pay more than two dinarim, and therefore he says that the object being sold should be forbidden to him if he pays more than two dinarim. That is, each one of them makes his neder in order to try and get the price he wants.