

Nedarim 24A

“Konam that I will not benefit from you if you do not take (from me) for your son a kor (a certain measurement) of wheat and two barrels of wine”

קֹנָם שְׂאִינִי נְהַנֶּה לְךָ
אִם אֵי אֶתָּה נוֹטֵל לְבִנְךָ
כּוֹר שֶׁל חֵיטִין
וּשְׁתֵי הַבַּיִת שֶׁל יַיִן

The person makes a neder that it should be assur for him to benefit from his friend if his friend refuses to accept from him a gift of a kor of wheat and two barrels of wine for his son.

The Rosh explains that it is considered honorable for a person to accept a gift for his children as opposed to accepting it for himself.

And on this the Mishna says:

This (person) is able to be matir the neder (even) not through a Chacham for he is able to say to him “Did you say this for anything other than for my kavod this is my kavod”¹²⁵

הָרִי זֶה יָכוֹל
לְהַתִּיר אֶת נִדְרוֹ
שֶׁלֹּא עַל פִּי חָכָם
שֶׁיָכוֹל לומר לוֹ
כָּלום אֲמַרְתָּ
אֵלָּא בְּשֶׁבִיל כְּבוֹדִי
זֶה הוּא כְּבוֹדִי

The Mishna explains that in this case the person would not have to go to the Chacham to be matir his neder as this person’s friend has fulfilled what this person wanted. That is, the reason this person wanted his friend to accept this gift for his son was in order to give his friend kavod. Therefore, even if the friend does not accept the gift, this person’s objective was met. That is, the friend can say that the very offer of this gift, and the fact that

he refused, brings him more honor than if he would accept the gift. Therefore, since the objective of this person was fulfilled, he will not become assur to benefit from his friend.¹²⁶

But on this explanation the Gemara points out:

The reason (the neder is mutur by itself) (is because) he said “This is my honor: but without this it would be a neder who is this (i.e., who holds this way) if (we are going to say that it is) R' Eliezer ben Yaakov (but) they are nedarim of zerizus rather we see from here that the Rabbanan argue on him

טַעמָא
דְּאָמַר
זֶה הוּא כְּבוֹדִי
הָא לֹא הֲכִי
נִדְרָ הוּא
מִנִּי
אֵי
רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב
נִדְרֵי זִרְזוּן הוּוּ
אֵלָּא
שָׁמַע מִינָהּ
כְּלִיגֵי רַבָּנָן עָלֶיהָ

The Gemara points out that if not for the fact that the person says that the very offer of the gift is an honor to him, the neder would be chal. But why? According to R' Eliezer ben Yaakov, any time someone makes a neder just in order to pressure his friend to do something, the neder is considered as *נִדְרֵי זִרְזוּן*, and is not chal. And yet the Mishna implies that without the person’s friend saying that the refusal is considered an honor, the neder would be chal.

The Gemara assumes that the answer must be that indeed this Mishna is in accordance with the Rabbanan, and as such, we have

the one making the neder disagrees with the other person and it is as if he is saying that he did it for his own kavod, in which case the other person saying that it is as if he was kavod will not help. And the Rabbanan hold that it is as if the one making the neder is agreeing to the other person that the neder was made for the sake of the other person’s kavod, and as such, the other person saying that it is as if he was kavod will cause the neder not to be chal.

¹²⁶ Why Does this Person Not Need a Chacham to be Matir his Neder?

There are two ways to understand our Gemara in the Rishonim. Many Rishonim explain the Gemara as we did above. That the reason why this neder is not chal is because it is considered as if the condition for this neder was met. That is, the person says that this should become assur if my friend does not accept my gift, and even though in actuality the friend did not accept it, it is still considered as if he accepted it as the offer and his refusal still bring him kavod (and even more kavod than if would have accepted the gift).

The Rosh, however, explains differently. He explains that this neder is becoming mutur through a pesach. That is, the person can say that if he would have known that his friend would say that it is as if he accepted the gift, this person would never have made his neder. The Rosh points out that even though typically in order for a pesach to be able to be matir a neder, the person has to go to a Chacham, this case is different. In this case, the logic for his pesach is so strong (i.e., everyone knows that he would not have made the neder if he would have known that his friend would say this), and therefore he does not have to go to the Chacham.

¹²⁵ Understanding R' Meir's Shita

The Yerushalmi explains that R' Meir, who the Gemara will bring in the next case, argues in this case as well (that is, we will see that R' Meir argues in the next case, and the Yerushalmi says that he argues here as well).

However, the Yerushalmi explains that the machlokes between R' Meir and the Chachamim is not a machlokes in lomdus (i.e., an intrinsic machlokes in halacha) but rather it is simple a machlokes as to what the person means, as follows.

In this case, the other person says to the first person, “Since the only reason you made the neder in the first place was to give me kavod, it is as if you gave me kavod (even if I don’t actually accept the gift). The Yerushalmi explains that the machlokes will depend on what the person making the neder says. If the person making the neder agrees that he only made the neder in order to give the other person kavod, then everyone agrees that the other person can say that it is as if he got the kavod.

But if the one making the neder disagrees, and he says that it is not true, that the reason why he made the neder was not to give the other person kavod but rather it was to give himself honor, that is, it would be a kavod for himself if the other person accepts the gift from him. In this case, everyone would agree that even if the other person would say that it is as if he was honored, this would not make a difference. If the point of the other person accepting the gift was to give this person kavod, then unless the other person actually accepts the gift, the neder would be chal (this is because it is only considered a kavod to this person if the other person actually accepts the gift).

The machlokes between the Rabbanan and R' Meir is in the case in which the one making the neder remains silent. R' Meir holds that in this case, it is as if

an answer to our question if the Rabbanan argue on R' Eliezer ben Yaakov. From this Mishna we see that they do argue.

The Gemara answers that we cannot bring a proof from this Mishna because one can say:

Really	לְעוֹלָם
it is (even) R' Eliezer ben Yaakov	רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב הִיא
and R' Eliezer ben Yaakov agrees	וּמוֹדָה רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב
in the this (case)	בְּהַאי
that it is a (bonafied) neder	דְּנִדְרָא הוּי
for he could say to him	דְּאָמַר לִיה
“I am not a dog	לֹא כְּלָבָא אָנָּא
that I should benefit from you	דְּמִיתְהֵינָא מִינְךָ
and you should not benefit	וְלֹא מִיתְהֵינִית
from me” ¹²⁷	מִינָאִי

The Gemara explains that although typically R' Eliezer holds that a neder made just to motivate someone else to do something is not chal (as we assume that the person does not really mean what he says and just wants to get his friend to do what he wants), this case is different. In this case, when the person says that he forbids himself from getting benefit from his friend if his friend does not benefit from him, we assume that the person is serious. This is because the person does not want to appear as ‘a dog’. That is, a dog is an animal that benefits from others without giving them anything in return (at the Tosefos Yeshanim explains, it is common to place food before a stray dog, even though the dog does not give them anything). Therefore, when this person says that he is making a neder not to benefit from his friend unless his friend accepts his gift, we say that even R' Eliezer ben Yaakov agrees that the neder is chal.

And if so, we are left with our question, in the case that R' Eliezer does say that a neder to pressure someone to do something is not chal, do the Rabbanan agree or not?

The Case in Which a Person Can Say that He is Not to be Considered as a King

The Gemara continues:	
Come and hear	תָּא שְׁמַע
One who says to his friend	הָאוֹמֵר לְחֵבֵירוֹ
“Konam	קוֹנָם
that you should benefit from me	שְׂאֲתָה נְהֵינִית לִי
if you do not give	אִם אֵי אֲתָה נוֹתֵן
to my son	לְבִנִי
a kor of wheat	כוֹר שֶׁל חִיטִין
and two barrels of wine	וּשְׁתֵי חֲבִיתוֹת שֶׁל יַיִן

In with regard to this case, the Mishna says:	
R' Meir says	רַבִּי מַעִיר אוֹמֵר
until he gives (it)	עַד שֶׁיִּתֵּן
and the Chachamim say	וְחֻכְמִים אוֹמְרִים
also this (case)	אֲףֹּה
the person can be matir his neder	כֹּחַ לְהַתִּיר אֶת נִדְרוֹ
not through a Chacham	שְׁלֹא עַל פִּי חֻכְם
for he is able to say	שֶׁיִּכְוֹל לֵאמֹר

¹²⁷ Why Does this Explanation Not Apply to Our Mishna?

The Ran explains that this explanation, that the person does not want to appear as a dog would not apply to our Mishna. That is, one could ask that perhaps the person in our Mishna as well does not want to appear a dog and that is why he made the neder. But this cannot be the pshat in the Mishna because the Mishna is the case that Reb Eliezer ben Yaakov said is a case of נִדְרֵי נִדְרִין! If so, we have to understand why the explanation that the person does not want to appear as a dog not apply to our Mishna.

The Ran explains that it is specifically in our case that we can say like this. In the Gemara’s case the person does not want to benefit from the other person if that person does not benefit from him. Therefore, he makes a neder that he should be assur to benefit from the other person if that other person does not accept his gift. This neder assures that this person will not be a person who benefits from someone else without that other person benefitting from him.

But in our Mishna, this is not his neder. In the Mishna, the person says that the other person should be assur to benefit from him. Now, if this person’s concern is that he should not benefit without giving anything back in return, a neder to assure the other person from getting benefit from him does not accomplish this.

The Ran then brings that there are those who give another explanation as to why the explanation that the person does not want to appear as a dog does not apply to our Mishna. They explain that it is specifically in our case that we have this concern. This is because if this person is willing to give the other person such a large gift, it must be because the other person gave him something. Therefore, since the other person gave this person something, this person wants to ‘repay’ the other person and that is why he wants to give the other person this gift. And this is why this person says that he wants to assure himself from getting benefit from the other person if the other person does not want to accept this person’s gift. This person wants to make sure that he has the ability to pay back what he received from the other person, and that is why he makes this neder.

In our Mishna however, there is no indication that the other person gave this person anything. All this person did was to invite the other person to his house, something that is not considered a ‘big thing’, i.e., he would do this even if the other person did not give him anything. Therefore, since there is no reason to assume that this person is trying to pay back the other person, there is no reason to assume that he is trying to make sure that he does not appear as a dog and that is why in the Mishna R' Eliezer ben Yaakov holds that the neder was only made as a נִדְרֵי זְרוּזִין.

“It is as if I have accepted”¹²⁸¹²⁹

הַרִינִי פְּאִילוּ הַתְּקַבְּלֶתִי

In this case, a person makes a neder that his friend should be assur to benefit from him, if his friend does not give his son a gift of a kor of wheat and two barrels of wine. R' Meir says that the neder is chal and this friend is assur to benefit from this person until he gives this person's son the requested gift. The Chachamim however disagree. They hold that the person can get rid of the neder without the need to go to the Chacham. This is because he could just say that it is as if I have accepted the gift (i.e., his saying this takes the place of his actual acceptance).¹³⁰

And on this the Gemara points out that:

The reason (for this halacha)

טַעְמָא

(is because) he said

דְּאָמַר

“It is as if I have accepted it”

הַרִינִי פְּאִילוּ הַתְּקַבְּלֶתִי

but without this

הָא לֹא הִכִּי

¹²⁸ Can a Person Always Say that it is as if the Condition Has Been Fulfilled (the mysterious words of the Rashba)?

The Ran quotes the Rashba as saying that it is only in a case that is similar to ours that a one can say that it is as if he accepted the gift, but one cannot say this in all cases. However, the exact reasoning of the Rashba of when one can, and when one cannot say this is not clear. In the words of the Rashba as brought in the Ran, the Rashba seems to be saying two separate guidelines, as follows.

At first the Rashba is quoted as saying that the criterion for when one can say “it is as if I have accepted” is only with regard to a מעשה and but not with regard to a ביטול מעשה. That is, if the person is supposed to do something and he doesn't do, the person can still say that it is as if it was done. However, in the case in which the person is not supposed to do something and he does do it, then the person cannot say that it is as if he didn't do it.

This would seem to be the intent of the Rashba from the end of his words as well. The Rashba ends off by saying that the case in which one cannot say that it is as if the condition has been fulfilled is the case in which the person is not supposed to go to a certain place and he does go there. In this case, the other person cannot say that it is as if this person didn't go there if he really did.

The Ran ends by saying that although this is the shita of the Rashba, others disagree. There are those that say that one can always say that it is as if the condition has been fulfilled. The reason for this is because in any case of a neder being made on a condition, the reason one must fulfill the condition is because this is the desire of the one making the neder. Therefore, the one making the neder can say that even though the condition was not fulfilled, the only reason it would need to be fulfilled is to satisfy my desire, and therefore I am now saying that it is as if my desire has been satisfied even though the condition was not fulfilled.

Although what we wrote as the explanation in the shita of the Rashba (and indeed there are those who quote the Rashba this way,), that the entire difference between when the person can and when he cannot say this is the difference between a מעשה and a ביטול מעשה, the actual words of the Ran when he quotes the Rashba seem to indicate that there is a different explanation in the Rashba's shita.

The Ran quotes the Rashba as saying that the reason the person has the ability to say that it is as if he has accepted the gift is because the person can say that even if he would actually accept the gift, he could always just return it. Therefore, the person can say that why do we need to waste our time by having me accept the gift only to return it to you a second later, let it just be considered as if I have already accepted it (דאפוכי מטראתא למה לי).

However, according to this, the only time a person can say that it is as if the condition has been fulfilled even when it hadn't been, is in the case where the person is supposed to receive something. But in a case in which the person has to do something, no one can say that it is as if this action has been done even though it has not yet been (as the above shevara (logical reasoning) would simply

it is a neder

נֶדֶר הוּא

who is this

מִנִּי

if it is R' Eliezer ben Yaakov

אִי רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב

it is a neder of zerizus

נֶדֶרִי זִירוּזִין הוּא

rather is it not

אֵלֶּא לָא

the Rabbanan

רַבָּנָן

and (we see that indeed) they argue

וּפְלִיגִי

The Gemara says as it did before, that from this Mishna we see that if not for the fact that there is a special reason to say that the neder is not chal, it would be chal. and this is true even though this neder is only made to pressure his friend. If so, we have a proof that the Rabbanan argue on R' Eliezer ben Yaakov.

The Gemara answers:

No

לֹא

not apply). However, according to this understanding in the Rashba, if a person would make a neder on condition that the other person goes to a certain place, the person cannot not say that it is as if the person went there, if he really didn't.

The problem is that as mentioned before, the end of the Rashba's words seem to indicate otherwise. In the Rashba's example of a case that does not work, he specifically says a case in which the condition was that the person should not go to a particular place (and the person ended up going there).

But according to our second explanation of the Rashba's shita, the case that should have been mentioned as a case in which this does not work should have been the case in which the condition was to go to a certain place. And the Rashba could have said that even in this case, it cannot be said that it is as if the condition has been fulfilled even if the person didn't go there (that is, if the second explanation of the Rashba is the correct one, the Rashba should have said a bigger chiddush, that even though this is a case of a מעשה, one can still not say that it is as if the condition has been fulfilled).

And since the Rashba did not give this case, it would seem that the first explanation is the correct one, but if so, why would he mention the shevara (logical explanation) of “דאפוכי מטראתא למה לי - why should we waste our time”, this seems to be totally irrelevant to what he is trying to say (if the first explanation is the correct one).

At the end of the day, we are left with two different explanations of the words of the Rashba, and as such, it would still need further clarification as to how to understand the Rashba correctly, וצ"ע ואכמ"ל יותר.

¹²⁹ Who Has the Ability to Say, “It is as if I Accepted it” (only if his sons rely on him (הבנים סוכמים על שולחם)?

In the Gemara's case, the person said that it should for his friend to benefit from him if his friend does not give his son this gift. In this case, the Gemara says that the person has the ability to say that it is as if he has accepted the gift. The Ran explains that the reason that he can do this is because the point of this condition is only to benefit this person, therefore the person has the ability to say that he does not need it and it is as if he received that benefit.

The Ran points out that according to this, this explanation would only work in the case that the person's sons rely on him for their food. That is, since this person has to provide for his children's sustenance, the giving of the gift to his children benefits him (as he will now not have to give his children food as they have food from the gift). Therefore, since the point of the gift to his sons is to benefit him, he has the ability to say that it is as if he received this benefit. However, in the case in which the person's sons do not rely on him for their food, we say that the point of the gift is to benefit them. And that being the case, only they would have the ability to say that it is as if they have accepted the gift.

really	לְעוֹלָם
(it is) R' Eliezer ben Yaakov	רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב
and R' Eliezer agrees	וּמַוְדָּה רַבִּי אֱלִיעֶזֶר
in this case	בְּהַאי
that it is a neder	דְּנִדְרָא הוּי
because he is saying to him	מִשּׁוּם דְּאָמַר לֵיהּ
“I am not a king	לְאוּ מַלְכָּא אָנָּא
that I benefit you	דְּמַהֲנִינָא לְךָ
and you do not benefit me	וְאַתָּה לֹא מַהֲנִית לִי

The Gemara answers as it did before, that although typically R' Eliezer holds that a neder made to pressure someone to do something is not chal, this case is different. In this case there is a special reason why the person would make this neder, and if he does make the is neder, we assume that he means what he says. In this case, in could be that the person made his neder in order that he should not be considered as a king, that is, as a person who gives others benefit without receiving anything in return. Therefore, this person says that the other person should be assur to get benefit from him, if the other person does not give him this gift.

This explanation does not apply to the case of our Mishna. In our Mishna the person says that the other person should be assur to benefit it from him unless the other person comes to eat with him. In this case, Reb Eliezer ben Yaakov says that we assume that the only reason the person would do this is in order to pressure the other person to come to him but not that he actually means to assur the other person from benefitting from him just because he didn't want to come to his house to eat with him.

The Gemara brings another proof to the question of if the Rabbanan argue with R' Eliezer ben Yaakov or not

The Case of נְדָרֵי אוֹנְסִין

He said to him	אָמַר לֵיהּ
Mar Kashisha bar Rav Chisda	מַר קַשִּׁישָׁא בְרִיהּ דְּרַב חֲסִידָא
to Rav Ashi	לְרַב אֲשִׁי
Come and hear	תָּא שְׂמַע
The case of nedarim of 'onsim'	נְדָרֵי אוֹנְסִין
(Is when) a person makes a neder against his friend	הַדִּירוּ חֲבֵירוֹ
that he should eat with him	שְׂיֵאכֵל אֶצְלוּ
and he becomes sick	וְחָלָה הוּא
or his son becomes sick	אוּ חָלָה בְּנוֹ
or the river stops him	אוּ שְׁעָבְבוּ נָהָר

The Mishna tells us that נְדָרֵי אוֹנְסִין are as follows. A person makes a neder that he wants to be chal if a specified action does not take place, i.e., he is using his neder to try and force a certain action to happen. For example, he makes a neder that his friend should not be allowed to benefit from him unless that friend eats with him. After this neder is made a 'onus' occurs. A 'onus' is defined as something that happens that is beyond the person's control and we say that if the reason that the person did not do the desired action is because of an 'onus', then we can assume that the person never had in mind for this circumstance and as such the neder is not chal.

The Mishna tells us that the example of נְדָרֵי אוֹנְסִי is a case in which a person tells his friend that his friend should be assur to benefit from him if he does not come to eat with him. Afterwards, his friend attempts to come but cannot because either he gets sick, his child gets sick, or the river prevents him (for example the river overflowed its banks). In this case, the Mishna says that the neder is not chal because the reason why this person did not come is not because he didn't want to, but rather it was an 'onus' that prevented him.

And on this the Gemara points out:

But if not for this (i.e., if not for the onus)	הָא לְאוּ הָכִי
it would be a neder	נִדְרָא הוּא
Who is this	מִנִּי
if it is R' Eliezer ben Yaakov	אִי רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב
it is (a neder) of zerizus	זִירוּזִין הוּי
rather is not	אֶלָּא לְאוּ
the Rabbanan	רַבָּנָן
(and if so, we see that) they argue	וּפְלִיגִי

This case seems to be a classic case of נְדָרֵי זְרוּזִין, as the person only made the neder in order to pressure his friend to come eat with him. If so, even if an 'onus' did not occur, the neder should still not be chal. And yet the Mishna says that the only reason that the neder is not chal is because an 'onus' took place. If so, we see that the Mishna must be the shita of the Rabbanan, and we see that the Rabbanan argue on R' Eliezer ben Yaakov.

The Gemara answers:

Really (we can say)	לְעוֹלָם
(it is) R' Eliezer ben Yaakov	רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב
and do you hold	וּמִי סָבְרָת
that it was the inviter who made the neder	דְּאָדְרִיָּה מְזַמְנָא לְזַמְנָא
	אֶגְוִינָא דְּאָדְרִיָּה
against the invite	
no (rather the case is)	לֹא
that the invitee made a neder	דְּזַמְנָא אָדְרִיָּה

against the inviter	לְמִזְמָנָא	more than this	יִתֵּר עַל כּוֹן
that he said to him	דְּאָמַר לֵיהּ	R' Eliezer ben Yaakov said	אָמַר רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב
“Invite me to your seudah (meal)”	מִזְמַנְתָּ לִּי	one who says to this friend	הָאֹמֵר לְחַבְרֵי
(and the inviter) said (back) to him	לְסֵעוּדָתִיךָ	“Konam	קוֹנָם
“Yes (you can come to my seudah)”	אָמַר לֵיהּ	that I should benefit from you	שְׂאֲנִי נִהְנֶה לָךְ
(the invitee then said to the inviter) “Make a neder on yourself (to make sure that you do this)”	אֵין	if you don’t	אִם אֵי אַתָּה
and the (inviter) made the neder	נָדַר זֶה	come to be my guest	מִתְאַרַח אֶצְלִי
and (then) the invitee got sick	עָלִיד	and eat with me hot bread	וְתֹאכַל עִמִּי פֶת חֲמֵה
or his (the invitee’s) son got sick	וְנָדַר	and drink with me a hot drink”	וְתִשְׁתֶּה עִמִּי כּוֹס חֲמִין
or the river prevented him	וְחָלָה הוּא	And the other (person)	וְהָלָה
there are nedarim of an ‘onus’	אוֹ שְׁחָלָה בְּנוֹ	is ‘upset’ with him (he doesn’t want to go)	הַקָּפִיד כְּנִגְדּוֹ
	אוֹ שְׁעָכְבוּ נְהַר	even these (R' Eliezer ben Yaakov holds)	אִף אֵלוֹ
	הָרִי אֵלוֹ נְדָרֵי אוֹנָסִין	(that) they are (considered) nedarim of zerizus	נְדָרֵי זִירוּזִין
		and the Chachamim did not agree to him	וְלֹא הוֹדוּ לוֹ חַכְמֵי

The Gemara answers that the Mishna could be the shita of R' Eliezer ben Yaakov; however, the case is not as we think it is. That in reality it was the invitee who wanted to eat with the inviter and not the other way around. That is, one person asks his friend to eat with him and his friend agrees and says that this person could eat with him. This person then asks his friend to make a neder that all of his friend’s possessions should be assur to him if he does not come to the meal that he requested from his friend. After all this, although this person tries to go to his friend to eat, he is unable to do so as a result of something that is out of his control.

In this case, everyone would agree that the neder is chal. This is because we cannot say that the only reason the inviter made this neder was to pressure the invitee to come to him because it was not the inviter who wanted this person to come but rather it was the invitee who asked for the invitation. As such, there would be no reason for the inviter to make a neder in order to pressure the person to come as it was the invitee who asked for the invitation in the first place. Therefore, if the inviter does make such a neder, it must be because it was meant as an actual neder and not as a נְדָרֵי זִירוּזִין.

The Case in which it is a Bigger Chiddush that R' Eliezer ben Yaakov Holds that the Neder is Only Considered as נְדָרֵי זִירוּזִין

The Gemara again tries to bring a proof to our question.
Come and hear תָּא שְׁמַע

¹³¹ Is Our Gemara Now Saying that R' Eliezer ben Yaakov Does Not Hold of the Shevara that a Person Does Not What to Appear as a Dog?

This Baraisa states that this case in which R' Eliezer ben Yaakov considers as a case of נְדָרֵי זִירוּזִין, is a bigger chiddush that what R' Eliezer ben Yaakov says in the Mishna.

In our Mishna, the case was one in which the person says that his friend should be assur to get benefit from him if his friend does not come to eat with him and R' Eliezer ben Yaakov says that the neder is not chal as it is only a נְדָרֵי זִירוּזִין.

The Baraisa now says that there is another case in which R' Eliezer ben Yaakov also says is a case of נְדָרֵי זִירוּזִין. And this is a bigger chiddush than the Mishna. The reason this is a bigger chiddush that it is considered as a נְדָרֵי זִירוּזִין is because in this case there is a reason to say that even R' Eliezer ben Yaakov would hold that it is not a case of נְדָרֵי זִירוּזִין. This is because in this case, the person does not say that his friend should be assur to him, but rather the person says that he should be assur to benefit from his friend if his friend doesn’t come. And this is the case in which the Gemara previously said that it could be that R' Eliezer ben Yaakov would agree that it is not a נְדָרֵי זִירוּזִין because of the shevara that a person does not want to appear as a dog (that is, the person does not want to get benefit if he can’t give benefit, and therefore he makes a neder that says that if the friend doesn’t allow him to give him food, he does not want to benefit from his friend).

And yet this Baraisa says that even though there is such a shevara, R' Eliezer does not hold of it and he would hold that even in this case the neder that was made is only considered as a נְדָרֵי זִירוּזִין and is therefore not chal.¹³¹

According to the way we explained the Gemara, our Gemara is now saying that R' Eliezer ben Yaakov does not hold of the shevara that a person does not want to appear as a dog. That is, the way we explained why the Baraisa is a bigger

(But) what (does it mean) מאי
 that the Chachamim did not agree (admit) to לא הודו לו חכמים
 him
 is it not לאו

chiddush than the Mishna is because in the case of the Baraisa the shevara that a person does not want to appear as a dog is applicable and yet R' Eliezer still holds that the neder is not chal as it is a נדר זרוזין. If so, we see clearly from this Baraisa that R' Eliezer ben Yaakov does not hold of this shevara.

However, although this is the way that the Ran explains the Gemara in his first pshat, in the second pshat that he brings, R' Eliezer ben Yaakov could still hold of the shevara.

That is, previously the Ran (see footnote) brought two reasons why the shevara of not wanting to appear as a dog does not apply to our Mishna. The first reason is because in our Mishna the person is saying that his friend should be assur to benefit from him as opposed to the Baraisa in which the person says he should be assur to benefit from his friend. That is, according to this, in any case that the person is forbidding himself from benefitting from his friend the shevara of 'not appearing like a dog' applies, and if R' Eliezer still says that the neder is not chal, as it is considered as נדר זרוזין, this must mean that R' Eliezer ben Yaakov does not hold of this shevara.

However, in the Ran's second explanation to differentiate between the Mishna and the Baraisa, he says that the deciding factor is if we assume that the one making the neder received a large benefit from his friend or not. That is, in the Mishna we don't assume that the person received a large gift from his friend, and as such, we say that the neder is only a נדר זרוזין as the shevara of 'not appearing as a dog' does not apply. And the reason why in that Baraisa that shevara of 'not appearing like a dog' does apply, is because in that case we assume that the person did receive a large gift from his friend (and that is why he demands that his friend accepts a large gift for his son).

But if that is the case, that in our Baraisa we should also not assume that this person received such a large gift from his friend (as the only reason why we said that that Baraisa is one in which the person received a large gift is because he is demanding that the friend accept a gift). But in the Baraisa that our Gemara is now bringing, the person also just wants his friend to eat with him, similar to the Mishna. But if this is true, why is our Baraisa a bigger chiddush than our Mishna that says that R' Eliezer bar Yaakov holds that it is only a נדר זרוזין?

The Ran answers that according to this the reason that our Baraisa is considered a bigger chiddush is because in our Baraisa that person is very specific in this that he wants his friend to eat with him (i.e., he specifies that he wants him to eat warm bread and hot drinks). And therefore, since he was so specific, one might have thought that even R' Eliezer ben Yaakov would agree to the Chachamim that this is not a case of נדר זרוזין but rather it is a 'real' neder.

In other words, the chiddush of our Baraisa is not that R' Eliezer ben Yaakov holds what he does even though there is a shevara that 'he does not want to appear as a dog' but rather the chiddush of our Baraisa is that R' Eliezer ben Yaakov holds that this is a נדר זרוזין even through the person was very specific when he made his neder.

The Ran concludes that according to this, even at this point of the Gemara, it could be that the Gemara sticks by what it said earlier, that it could be that R' Eliezer ben Yaakov would agree that in a case in which the shevara of 'not wanting to appear a dog' would apply, the neder would be chal and it would not be considered as a נדר זרוזין.

Nedarim 24B

That (they did not agree) even
in the first (case)
and we (therefore) see from here
that the Rabbanan argue on him

דאפילו

בדקמייתא

ושמע מינה

פליגי רבנן עליה

(indeed) we see (that) from here שמע מינה

The Gemara concludes that indeed we see from here that the Rabbanan argue on R' Eliezer ben Yaakov. That is, the Gemara concludes that the Rabbanan do not just argue on this case but rather they also argue in the first case (i.e., the Mishna). And if so, we have proven that indeed when our Mishna said that this is the shita of R' Eliezer ben Yaakov, this means to say that it is only the shita of R' Eliezer ben Yaakov as the Rabbanan to not agree that the case of the Mishna would be considered a case of נדרי זריזין.

The Shita M'kubetzes brings from the R'aim that the proof of the Gemara is from this that the Baraisa did not say that the Chachamim did not agree to him in this case but rather the Baraisa made a general statement that the Chachamim do not agree to him, the implication being that the Chachamim do not

agree to him at all, that is, not in the case of the Baraisa and not in the case of the Mishna.¹³²

The Halacha with Regard to the Machlokes R' Eliezer and the Chachamim

What happened to it מאי הוי עליה

That is, what happened with regard to the machlokes R' Eliezer ben Yaakov and the Rabbanan, i.e., who is the halacha like?

Come and hear תא שמע

that Rav Huna said דאמר רב הונא

the halacha הלכה

is like R' Eliezer ben Yaakov כרבי אליעזר בן יעקב

and so said וכן אמר

Rav Ada bar Ahava רב אדא בר אהבה

the halacha הלכה

is like R' Eliezer ben Yaakov כרבי אליעזר בן יעקב

From here we see that although the Chachamim do argue with R' Eliezer ben Yaakov, the halacha is like R' Eliezer ben Yaakov (see footnote).¹³³

¹³² **A Different Way to Learn the Gemara**

Although according to the girsa of our Gemara, the Gemara has proven that the Chachamim argue on R' Eliezer ben Yaakov even in the case of the Mishna, some Rishonim hold that this cannot be the correct girsa as the Gemara has not proven this.

That is, the Baraisa tells us that the case of the Baraisa is a bigger chiddush than the Mishna. But if this is really true, that the Baraisa is a bigger, then just because the Chachamim argue in this case, how do we know that they argue even in the case of the Mishna? Maybe they just argue in the case of the Baraisa but they would agree that in the case of the Mishna it is only considered as נדרי זריזין?

As a result of this question, there are those Rishonim that hold that the girsa of the Gemara is that the Gemara first says that from the Baraisa there is a proof that the Chachamim argue even in the case of the Mishna and the Gemara answers that no, there is no such proof (as explained), and it could be that they just argue in the case of the Baraisa but in the case of the Mishna they would agree to R' Eliezer ben Yaakov, see the Ran (on the previous amud) that has such a girsa.

¹³³ **How Do We Know that the Halacha is Like R' Eliezer ben Yaakov even in the Mishna's Case?**

In the previous footnote, we brought that there are those Rishonim that hold that in reality there is no proof that the Chachamim argue with R' Eliezer ben Yaakov in the Mishna's case.

The problem is that the sugya started with the Gemara asking if the Chachamim argue with R' Eliezer ben Yaakov, and if they do, whom is the halacha like. And now the Gemara is saying that from R' Huna's statement we have the answer to our questions. That we see that although the Rabbanan argue with R' Eliezer ben Yaakov, the halacha is like him.

But what is the proof from R' Huna? Perhaps R' Huna was referring to the Baraisa's case, and if so, there would be no proof to the Gemara's original questions which were in regard to the Mishna's case. As we just said, one can differentiate between the Baraisa and the Mishna, and therefore, if indeed R'

Huna was referring to the Baraisa's case, there would be no proof to the Gemara's question.

The Ran gives three explanations:

1. At first, he quotes his Rabbayim that say that it must be that the Gemara knew that when R' Huna said that the halacha is like R' Eliezer ben Yaakov, he was referring to the Mishna. And if R' Huna needed to say that with regards to the Mishna the halacha is like R' Eliezer ben Yaakov, it must be that even in the Mishna the Chachamim argue on him.
2. The Ran continues and says that in reality we do not need to say like his Rabbayim that the Gemara just knew that Rav Huna was referring to the Mishna but rather this could be inferred from Rav Huna's words themselves. He explains that when the Gemara asked if the Chachamim argue with R' Eliezer ben Yaakov in the Mishna, the purpose of this question was not to just see when they have their machlokes but rather the point of the question was to see if the Chachamim argue with him, and if they do, is the halacha like them or like R' Eliezer ben Yaakov. But now that Rav Huna said that the halacha is like R' Eliezer ben Yaakov even in the Baraisa's case, we also know that the halacha is like him in the Mishna as well. This is for the simple reason that the Baraisa is a bigger chiddush that the neder is considered as נדרי זריזין, and therefore, if in the Baraisa we pasken like R' Eliezer ben Yaakov then that neder is considered as נדרי זריזין, then certainly in the Mishna's case the halacha will be like R' Eliezer ben Yaakov that the neder is only נדרי זריזין. Therefore, once we know what the halacha is, it doesn't make a difference if the Chachamim hold that it is just in the Baraisa's case that the neder is not a נדרי זריזין, or if they hold that even in the Mishna's case the neder is a real neder and not a נדרי זריזין. The Gemara's question was only with regard to figuring out the halacha, and now that we know that the halacha is like R' Eliezer ben Yaakov, we no longer need to know the Chachamim's shita.
3. The third answer that the Ran brings is that since when Rav Huna said that the halacha is like R' Eliezer ben Yaakov and he did not specify if

משנה

Non-Sensical Nedarim

The Mishna on daf chof told us that there are four categories of nedarim that are not chal. Our Mishna will now explain the second set of nedarim that are not chal. These are known as נְדָרֵי הַבְּאִי – non-sensical nedarim. See footnote where we quote the Ran that explains the fundamental difference between the two cases and why they are not chal.^{134 135}

(The case of) nedarim of nonsense
(is when) he said

נְדָרֵי הַבְּאִי
אָמַר

he was referring to the Mishna or the Baraisa, we assume that he meant the Mishna. This is because the majority of the people were familiar with the Mishnayos but not the Baraisos. Therefore, if Rav Huna made an unspecified statement, we can assume that he meant the Mishna as this is what most people would be used to.

¹³⁴ The Two Types of נְדָרֵי הַבְּאִי

The Ran explains that our Mishna is describing two distinct types of נְדָרֵי הַבְּאִי – two types of non-sensical nedarim. That is, each one of the two cases of our Mishna represents a different type of נְדָרֵי הַבְּאִי and the reason why each one is not chal is for a different reason.

- 1) The first is what is known as גּוֹזְמָא – exaggeration. This person said that he saw that number of people that left Mitzrayim (600,000 men between the age of 20 and 60, and many women, children, and older men). Now although in theory it could be that true that he actually saw this number of people, in reality we say this is virtually impossible and the person's intent was just to exaggerate the number of people that he saw. The Ran explains that the reason this neder is not chal is because in reality it was, as follows. The person makes a neder that this should be assur if I did not see the number of people who left Mitzrayim. Now although we know that he did not see this number of people, we say that he did mean what he said. That is, when he said the number of people who left Mitzrayim, we say that he didn't mean that actual number but rather he meant to say that he saw a very large group of people, similar to the large group of people who left Mitzrayim. Therefore, the reason why the neder is not chal to make the thing assur is for the simple reason that we say that he did fulfill the condition.
- 2) The second type of נְדָרֵי הַבְּאִי is a neder in which he says something that is so outlandish that it cannot be true. This is the second case of the Mishna. In the second case, the person says that this should be assur if I did not see a snake like the board of an olive-press. The Gemara will explain that his intent is not to say that the snake is the size of the board but rather that it is pitted like the board. This is something that is blatantly not true as such a snake does not exist. The reason this neder is not chal to assur the object (i.e., in the case that he says this should be assur if I did not see this type of snake) is because we say that he never meant to make a neder to assur this object. This is because if the person really wanted to make a real neder, he never would have made it depended on such a ridiculous thing. And if he did make this ridiculous neder, we assume that his intent was just to use the neder to strength the ridiculous story that he was telling his friend but not that he meant to make a serious neder. That is, he tells his friend that he saw this amazing sight, and he then wants to 'prove' to his friend that he actually saw this is by saying that if he didn't, all the fruits in the world should be assur to him.

“Konam	קוֹנָם
if I did not see on this road	אִם לֹא רָאִיתִי בְּדֶרֶךְ הַזֶּה
like (the number of people) who went up	כְּעוֹלָי
(from) Mitzrayim	מִצְרַיִם

The second case of נְדָרֵי הַבְּאִי is the case in which one says:

“If I did not see	אִם לֹא רָאִיתִי
a snake	נָחָשׁ
like the beam of a olive-press	כְּקוֹרֵת בֵּית הַבַּד

גמרא

The Ran continues and says that according to this we can understand the Mishna in meseches Shevuos that describes making shevuos in vain. The Mishna there lists two cases: If a person makes a shevuah if he did not see a flying camel or if a person makes a shevuah that he did not see a snake like the beam of a wine press. And through the Mishna listed these two cases, the Mishna there did not list the case of one making a shevuah if he did see the number of people who left Mitzrayim. But why not? Our Mishna lists this case as one of the נְדָרֵי הַבְּאִי, and if so, why did the Mishna over there not list it as well.

The Ran answers that we can understand this omission very well. There the Mishna is listing cases in which the shevuah was made in vain, that is, the shevuah cannot be true. If so, the Mishna there could not list the case of seeing the number of people who left Mitzrayim because in reality it could be that he did see this. Not that he actually saw this number of people but rather he saw the number of people that he meant. When he says these words he is just referring to a large group, and if so, his shevuah was not necessarily in vain as it is certainly possible that he saw a large group.

The Ran continues and says that we also understand why our Mishna did not list the case of the flying camel. According to the Ran our Mishna is not just listing various examples of נְדָרֵי הַבְּאִי. Rather the Mishna tells us the two distinct types of נְדָרֵי הַבְּאִי. And once the Mishna told us the case of the snake being similar to the olive press board (i.e., an actuality that cannot exist), there would be no reason to also list the case of the flying camel as this is just another example of this type of נְדָרֵי הַבְּאִי (as opposed to the Mishna in meseches Shevuos that is listing various example of the same type of false shevuah).

¹³⁵ The Way Tosefos and the Rosh Understand the Two Cases of the Mishna

Although in the previous footnote we brought the shita of the Ran who holds that the Mishna represent two distinct cases of נְדָרֵי הַבְּאִי, the Rosh and Tosefos say that the reasoning for both cases are the same. The reason why these nedarim are not chal is because we assume that the person is just exaggerating. That is, although he makes the neder conditional on the seeing the number of people who left Mitzrayim, we see that he just means to refer to a large number of people. Therefore, if he says that this should be assur unless he sees the number of people who left Mitzrayim, the fruit will not become assur as it could be that he did see a large number of people. They explain that this is the reasoning for the second case as well. The man said that this should be assur unless he sees this non-existent type of snake. And we see that this person is just trying to exaggerate. That is, he means to say that this should be assur unless he sees a strange-looking type of snake. Therefore, even though that he definitely did not see as exactly as he said (i.e., to see a snake that is similar to the board of a winepress), we say that it could be that he saw as strange looking snake, and by his seeing this strange snake this would be considered a fulfillment of his condition.

The Difference Between נְדָרֵי הֶבְאִי and שְׁבוּעוֹת הֶבְאִי

“Shevuah
that I saw...”

שְׁבוּעָה
שְׂרָאִיתָּהּ

Abaye explains that the case of a שְׁבוּעוֹת הֶבְאִי (non-sensical shevuos) is the case in which the person makes a shevuah that he saw what would seem to be an impossible situation; he makes a shevuah that he saw the number of people who left Mitzrayim.¹³⁶

The Ran explains that according to Abaye, the chiddush that the Baraisa is teaching us is that although one might have thought that since shevuos are more chamor than nedarim, just because people will exaggerate when they make nedarim, they will not exaggerate when they make shevuos, the Baraisa comes to teach us that this is not true. The Baraisa tells us that the same way a person will exaggerate while making nedarim, he will exaggerate while making shevuos as well. Therefore, if a person makes a shevuah that he saw the number of people who left Mitzrayim, we don't say that we should give him malkus for a making a false shevuah (שבועה שוה), rather we say that in reality he was telling the truth (as his intent while saying the number of people who left Mitzrayim was to say that he saw a large number of people, something that is certainly possible).

But on this explanation the Gemara asks:

Rava said to him

אָמַר לִיָּהּ רַבָּא

if so

אִם כֵּן

why do I need to say it

לְמָה לִי לְמִימַר

and further more

וְעוֹד

similar to neder it was learned

דִּוְמִיָּא דְנִדֵּר קִתְּנִי

Rava asks two questions on Abaye. The Rosh explains that at first the Gemara is asking that if the Baraisa means as Abaya understands, what is the chiddush? Even though it might be true that a person might exaggerate this way, this cannot be a reason that it is mutur to make a shevuah this way. A person cannot make a false shevuah, and as such, it is obvious that it would be assur for a person to make this type of shevuah.¹³⁷ It is only with regard to nedarim that we say that the neder is mutur.

¹³⁷ Why is it Mutur to Exaggerate While Making a Neder but Not While Making a Shevuah?

The Rosh explains that the Gemara assumes that it is obvious that a person is never allowed to make a shevuah if his words are not perfectly true. That is, even if we can interpret his words in a manner in which he is in a sense he is telling the truth (as he was only exaggerating), this is still going to be assur. But why? What is the different between making a neder that one is allowed to exaggerate and a shevuah that one is not allowed to exaggerate?

Seemingly, the difference is that with regard to making a neder, there is no concept of making a 'false neder'. The problem is only when a person violates his neder.

Therefore, with regard to a neder we are only concerned with his intent. And if we understand that his intent is that he exaggerates, then we say that it is mutur. Not that the neder is mutur, but rather the subject of the neder is mutur.

We learned in a Baraisa תָּנָא

non-sensical nedarim are mutur נְדָרֵי הֶבְאִי מוּתָרִין

(but) non-sensical shevuos

שְׁבוּעוֹת הֶבְאִי

are assur

אֲסוּרִין

The Rosh explains that since shevuos are more chamor (severe) than nedarim, the Chachamim made an issur M'Drabbanan to say that שְׁבוּעוֹת הֶבְאִי (non-sensical shevuos) are assur.

[The Ran's girsa of the Gemara is that the same way that נְדָרֵי הֶבְאִי are mutur, so too שְׁבוּעוֹת הֶבְאִי are mutur. We will explain the sugya according to the girsa of our Gemara and in the footnote we will explain the sugya according to the Ran's girsa.]

On this the Gemara asks:

What is the case

הִכִּי דָּמִי

of non-sensical shevuos

שְׁבוּעוֹת הֶבְאִי

if you say

אֵילִמָּא

that he said

דָּאֲמַר

“Shevuah

שְׁבוּעָה

if I did not see on this way..”

אִם לֹא רָאִיתִי בְּדֶרֶךְ הַזֶּה

he has not said anything

מִיִּדְעָם קָאֲמַר

If a person just says that he is making a shevuah if he didn't see a particular thing (for ex. the number of people that left Mitzrayim), he has not said anything. When one adds the words if..., the implication is that he only wants that his shevuah should be chal on condition that he did not see this thing. But these words don't make sense. The person did not assur anything with his shevuah, and if so, what difference does it make if the condition was fulfilled or not? What difference does it make if this shevuah is chal or not?

The Gemara answers:

Abaye said

אָמַר אֲבַיִי

(the case is) that he said

דָּאֲמַר

¹³⁶ The Case that Abaye is Referring to When He Explains the Case of שְׁבוּעוֹת הֶבְאִי

The Ran points out on that this is only works if he says the first case of the Mishna. But if the person says that he saw a snake similar to an olive press beam, in this case the person will get malkus. As the Ran explained (quoted in an earlier footnote), a person will not exaggerate by saying he saw this type of snake as this snake does not exist (as opposed to seeing the number of people who left Mitzrayim, although extremely unlikely, it could be possible and that is why a person would exaggerate with this number). However, although this is the shita of the Ran, the other Rishonim disagree. They hold that a person would exaggerate with saying they saw this snake, as his intent is just to say that he saw a strange-looking snake, something that is certainly possible.

The second question that Rava asks on Abaya is that according to Abaya the case of נְדָרֵי הַבַּי is not similar to שְׂבוּעוֹת הַבַּי, and if so, how could they be compared to each other? That is, in the case of נְדָרֵי הַבַּי, the person is making something assur upon himself and in the case of שְׂבוּעוֹת הַבַּי, the person is just making a shevuah.

The Gemara answers:

Rather	אֵלָא
Rava said	אָמַר רַבָּא
(the case is one in which) the person says	בְּאוֹמַר
“It should be assur	יֵאָסְרוּ
the fruits of the world	פִּירוֹת הָעוֹלָם
on me with a shevuah	עָלַי בְּשְׂבוּעָה
if I did not see on this road	אִם לֹא רָאִיתִי בַדֶּרֶךְ הַזֶּה
like that the ones who when up	קְעוּלֵי
from Mitzrayim (i.e., that number of people)	מִצְרַיִם

In this case the shevuah is similar to the neder, and even though we say that people tend to exaggerate, and if so, it could

That is, the way we understand his neder, his neder does not make this object assur.

But with regard to a shevuah this shevara would not apply. While making a shevuah one must make sure that its words are true, and if they are not, then he has done an issur (even if he only meant to exaggerate and in a certain sense his words are true).

¹³⁸ The Ran’s Explanation of the Sugya

In the Ran’s girsa, the Gemara brings a Baraisa that says, not that נְדָרֵי הַבַּי and שְׂבוּעוֹת הַבַּי are different but rather that they are the same. That in both cases we say that the person is just exaggerating, and as such, when they make either their neder or shevuah on the condition that they see something that seems outlandish, they don’t actually mean what they say, and as such, it could very well be that they will end up fulfilling their condition.

According to the Ran, the back-and-forth of the Gemara is as follows. At first the Gemara asks to establish the case of שְׂבוּעוֹת הַבַּי and Abaya answers that the case is one in which the person makes a shevuah that he saw the number of people that went up from Mitzrayim.

According to this, the chiddush of the Baraisa is that even though shevuos are more chamor than nedarim, people will exaggerate when they make shevuos, and therefore, when the person makes a shevuah that he saw the number of people who left Mitzrayim, we don’t say that this is a false shevuah but rather we say that it is a שְׂבוּעוֹת הַבַּי.

And on this Rava asks two questions. Firstly, what is the chiddush of this Baraisa. If a person exaggerates with regard to nedarim, why would we think that he would not do the same with regard to shevuos. And secondly, the cases of shevuos are not the same as the cases of nedarim. As the Ran previously explained, a person only exaggerates about something that is at least theoretically possible. Therefore, since in theory a person could see the number of people that left Mitzrayim, when he said that he saw that number, we say that he was just exaggerating. However, with regard to a person who says that he saw a snake similar to an olive press beam, such an animal does not exist. If so, when a person says he saw it, it cannot be that he is exaggerating.

But according to this, when the Baraisa says that both נְדָרֵי הַבַּי and שְׂבוּעוֹת הַבַּי are mutur, they are talking about different cases. With regard to נְדָרֵי הַבַּי, the halacha would be true both in the case in which he said that he saw the number of people who left Mitzrayim and it would also be true in the case in which he said he saw this snake. However, with regard to שְׂבוּעוֹת הַבַּי, the halacha would only be true in the case that the person said that he saw number that left Mitzrayim. This is true because in this case we can say that the person was exaggerating, and as such, it comes out that in reality he was saying the truth. However, if a person makes a shevuah that he saw this snake, in this case his words cannot be interpreted in a way

be that he fulfilled his condition by seeing a large number of people, we still say that the fruits are assur (because shevuos are more chamor than nedarim).

But on this the Gemara asks:

Ravina said to Rav Ashi	אָמַר לֵיהּ רַבִּינָא לְרַב אֲשִׁי
but maybe	וְדַלְמָא
this man	הָאִי גְבַרָא
saw an anthill	קִינָא דְשׂוּמְמִנֵי חֲזָא
and he gave them the name	וְאָסִיק לְהוֹן שְׂמָא
(of the) ‘Olay Mitzrayim’	עוּלֵי מִצְרַיִם
(and if so, it comes out) that he swore properly	וְשָׁפִיר מְשִׁתְבַּע

Perhaps this person saw an anthill that was teeming with ants, and as a nickname, he called them the ‘Olay Mitzrayim’ (the ones who went up from Mitzrayim). And when he made his shevuah, there was nothing wrong with it, as his intent was not the outlandish possibility of seeing so many people but rather his intent was to refer to those ants, something that is very plausible to see.¹³⁸

that results in him telling the truth, and a such, it would be assur to make such a shevuah (the reason why with regard to a neder it is mutur even in this case was explained previous, footnote). If so, it comes out that the נְדָרֵי הַבַּי and שְׂבוּעוֹת הַבַּי are not similar.

And to this Rava answers that the case of the Baraisa is one in which the person says that he is making a shevuah that all of the fruits of the world should be assur to him if he did not see the number of people that left Mitzrayim or he makes a shevuah that all the fruits of the world should be assur to him if he didn’t see this type of snake. And with regard to this the Baraisa says that both these shevuos are only considered as שְׂבוּעוֹת הַבַּי and the fruits are therefore mutur.

The chiddush of this halacha is that with regard to the case in which the person says that he is making a shevuah that all the fruits of the world should be assur to him if he didn’t see this type of snake, by saying that the fruits are mutur because this is only a שְׂבוּעוֹת הַבַּי, it comes out that the person made a שְׂבוּעוֹת הַבַּי, a false shevuah, something that is assur to do.

As follows. When a person says that he is making shevuah that all the fruits of the world should be assur if he didn’t see this impossible snake, there are two possible ways to understand his intent of saying these words.

Either he could mean that he is really trying to make all the fruits of the world assur. That is, since he obviously did not see this non-existent type of snake, his shevuah will be chal, and it would come out that he did nothing wrong with making this shevuah but the fruits become assur.

The chiddush of the Baraisa is that we say not this way. Rather we assume that he never meant to make the fruits assur. We assume this because if this person would really mean to assure the fruits, he would have said it straight. That is, he would have simply made a shevuah that says that he is making all of the fruits assur.

But he did not do that. He decided to make the issur depend on this impossible sight. And since he took this unnecessary step, we say that his true intent was not to make the fruits assur but rather to prove his shevuah. That is, we understand that he is making a shevuah that he saw this type of snake, and to prove it, he says that if he is not saying the truth, all the fruits in the world should be assur, in other words a שְׂבוּעוֹת הַבַּי. That is, the same way with regard to nedarim we say that he doesn’t really mean to assure the fruits, so too with regard to shevuos we say that he doesn’t really mean to assure the fruits.

The Ran points out that this is definitely a chiddush as one could have said that this assumption should only apply to nedarim. A person who makes a false neder has done nothing wrong. Therefore, it makes sense that the condition is only trying to prove his false neder.

But if a person makes a false shevuah it is a terrible avayra. Therefore, when faced with a choice with explaining a person’s words as either meaning that he wants to make the fruits assur or meaning that he is making a false shevuah, one could have

said that we would assume that the person would not want to make the false shevuah. And if that would be true that we assume that a person would not want to make a false shevuah, in this case, since there is a choice between saying that the person meant to assure the fruits or he meant to swear on something that is not true, we

would assume the first choice. And yet the Baraisa says otherwise. The Baraisa says that the fruits are mutur even through this results in saying that the person made a false shevuah.