

## Nedarim 5a

The last daf ended with the Gemara trying to determine the intent of Shmuel's statement when he clarified the halacha of the Mishna. The Gemara started to explain that Shmuel was saying that the halacha of the Mishna that only the other person is assur is only true in the case that the person added the words "That I will eat from you" or "That I will taste from you".

But if he said **אָבַל אָמַר**  
 "I am in state of neder from you" **מִן־רַבִּי הַיָּמָד**  
 by itself **לְחֻדְיָהּ**  
 they are both assur **שְׁנֵיהֶן אֲסוּרִין**

See footnote for the explanation of this halacha.<sup>24</sup> The Gemara continues and tells us:

That this is like **כִּי הָא**  
 this that he said **דְּאָמַר**  
 R' Yosie bar R' Chanina **רַבִּי יוֹסֵי בְּרַבִּי חַנְיָנָא**  
**הַיָּמָד** **מִן־רַבִּי**  
 (if a person says) "I am in a state of neder from you"  
 they are both assur **שְׁנֵיהֶן אֲסוּרִין**

According to both Shmuel and R' Yosie bar Chanina if the person says "I am in a state of neder from you" both the person making the neder and the person the neder is being made against are both assur to benefit from each other.

The Gemara now asks on both Shmuel and R' Yosie bar R' Chanina from the following Mishna.

We learned in a Mishna **תָּנִן**  
 (if a person says) "I am **הַרִּינִי**  
 a chairim on you" **עֲלֶיךָ חֵרָם**  
 the one who the neder was made against **הַמְּוֹדָר**  
 is assur **אֲסוּר**  
 but **אָבַל**  
 the one who made the neder is not (assur) **מִדִּיר לֹא**

The case of a person saying "I am chairim on you" would seem to be the same as saying "I am in a state of neder to you" and yet this Baraisa tells us that if the person says "I am chairim on you" only the one who this neder was made against is assur and not the one who made the neder. But why is that? According to Shmuel and R' Yosie bar R' Chanina they should both be assur.

The Gemara answers:

For example **כְּגוֹן**  
 that he specified **דְּפָרִישׁ**  
 "and you onto me no" **וְאַתָּה עָלַי לֹא**

The Gemara answers that we can explain that this case is different as it could be that the person said specifically that he does not want to become assur from the other person and that is why they are both not assur. And it can still be true that in the case in which he says "I am chairim on you" without any disclaimers, both the one who made the neder and the one whom the neder was made against would both be assur.

The Gemara will now ask from the next part of the Mishna. The Gemara will ask as it did before and the Gemara will answer as it did before.

The Mishna says:

(If a person says) "You **אַתָּה**  
 should be on me as a chairim" **עָלַי חֵרָם**  
 the one making the neder is assur **הַמְּוֹדָר אֲסוּר**  
 but **אָבַל**  
 the one who the neder was made against is not (assur) **לֹא מִן־רַבִּי**

The Gemara answers:

For example **כְּגוֹן**  
 that he specified **דְּפָרִישׁ**  
 "And I on you no" **וְאַנָּה עָלֶיךָ לֹא**

The Gemara asks as it did before and answers as it did before. In the second case, the Mishna also says that only one of them is assur and not both of them, and as such, we have a question on

<sup>24</sup> Understanding the Difference Between Saying **הַיָּמָד מִן־רַבִּי** and saying **שְׂאֲנִי** **אֲסוּר לְךָ**

The Ran explains that this halacha is true because the words "I am in a state of neder from you" imply that the person is saying that he and his property should be assur to benefit from the other person and his property (why this is true is not entirely clear).

But this seems to be an impossibility. How can a person forbid his property from getting benefit from someone?! How could inanimate objects benefit from a person?!

Because of this problem, the Ran says that we assume that his intent must have been to say that he should not benefit from that person or his property, and that person should not benefit from him or his, or in other words they should both be assur to benefit from each other (i.e., the objective of including his property in the neder is not to say that his property should be assur to benefit

from the other person but rather his objective is to say that the other person should be assur in his property).

However, when the person just says "שְׂאֲנִי אֲסוּר לְךָ" this does not imply that 'he wants his property to become assur as well', and therefore we take his neder at face value that all he wants to do is to forbid himself from the other person but not that the other person should be forbidden to benefit from him.

And indeed, this is what the Gemara now says is Shmuel's shita, that when the person just says **הַיָּמָד מִן־רַבִּי**, both people are assur to benefit from each other. But if the person says **שְׂאֲנִי לְךָ אֲסוּר**, only the one making the neder will be assur to benefit from the other person, but the other person would be mutur to benefit from him.

Shmuel and R' Yosie bar R' Chanina. To which the Gemara once again answers that the case of the Mishna is where the one making the neder specified that he does not want the other person to become assur.

But the Gemara asks that seemingly we see from the later part of the Mishna not like these two answers.

The Gemara asks:

But in a case that he did not specify what (is the halacha) (are we really going to say) that they are both assur

אָבַל סְתָמָא מֵאִי שְׁנֵיהֶן אֲסוּרִים

But from this that the Mishna taught in the sayfa (end of the Mishna) (the case in which he says) “I am onto you and you are onto me” both of them are assur (this implies) that this is the case the both of them are assur but in a stam (unspecified) case he is assur and his friend is assur

הָא מִדְּקִתְנִי סִיפָא הֲרִינִי עֲלֶיךָ וְאַתָּה עָלַי שְׁנֵיהֶן אֲסוּרִים הֲדִין הוּא דְשְׁנֵיהֶם אֲסוּרִין הָא סְתָמָא הוּא אֲסוּר וְחֵבְרוּ מוֹתֵר

The Gemara had previously answered that according to Shmuel and R' Yosie bar R' Chanina if the person says either “I am chairim on you” or “You are chairim on me”, this is enough to make them both assur to each other unless the person specifies otherwise.

But from the sayfa of the Mishna we see clearly not this way. The sayfa of the Mishna says that the case that they are both assur to each other is the case in which the person says both, “I should be a chairim on you and you should be a chairim on me”. This clearly implies that without saying both parts of this expression, i.e., if the person would only say “I should be a chairim on you” or “You should be chairim on me” only one of them would be assur!

Because of this question, the Gemara changes what R' Yosie bar R' Chanina said.<sup>25</sup>

Rather this is what was said from R' Yosie bar R' Chanina (if the person said) “I am in a state of neder to you”

אֵלֶּא הֲכִי אֶתְמַר דְּרַבִּי יוֹסֵי בְּרַבִּי חַנְיָנָא מוֹתֵר אֲנִי לָךְ

(then) both of them are assur (but if he says) “from you” he is assur and his friend his mutur

שְׁנֵיהֶם אֲסוּרִין מוֹדְרֵי הֵימָךְ הוּא אֲסוּר וְחֵבְרוּ מוֹתֵר

The Ran explains that R' Yosie bar R' Chanina holds that the word לך (to you) has both the connotation of ‘to you’ and the connotation ‘from you’. Therefore, when a person says to his friend “I am in a state of neder ‘to you’”, he means to say that “I am assur to you” (and the friend can therefore not benefit from him) and he also means to say that “I am assur from you” (and he can therefore not benefit from his friend).

But when a person says, “I am chairim from you”, this just has the connotation of saying that he should be assur to benefit from his friend and nothing else. Therefore, in this case only the one making the neder will be assur but the friend will not be assur to benefit from the one making the neder.

The Gemara asks that seemingly this answer is incomplete as it only addresses the question on R' Yosie bar R' Chanina but not the question on Shmuel.

But our Mishna that taught ‘from you’ and Shmuel established our Mishna in all of them (i.e. all the cases) that until he says “That I taste from you” (or he says) “that I eat from you” (this is the case) that he is assur and his friend is mutur but (if he just says) “I am in a state of neder from you” both of them are assur

וְהָא מִתְנִיתִין דְּקִתְנִי הֵימָךְ וְאוֹקִימָנָא לְמִתְנִיתִין לְשִׁמוּעַל בְּכוּלָן עַד שְׁיֵאמַר שְׂאֲנִי טוּעֵם לָךְ וְשְׂאֲנִי אוֹכֵל לָךְ הוּא דְאֲסוּר וְחֵבְרוּ מוֹתֵר אָבַל בְּמוֹדְרֵי הֵימָךְ שְׁנֵיהֶם אֲסוּרִין

The Gemara just answered that according to R' Yosie there is a difference between if the person said “to you” or “from you”. But this answer can only work in the shita of R' Yosie bar R' Chanina and not in the shita of Shmuel. This is because Shmuel was coming to explain the Mishna, and in the Mishna’s case the person said, “from you”, and yet Shmuel still said that unless he adds words “that I will eat from you” or “that I will taste from you”, this neder will make both of them assur, something that is contradicted by the Baraisa.

<sup>25</sup> The Gemara’s answer

The Ran explains that the Gemara at this point is attempting to answer both the shita of Shmuel and the shita of R' Yosie bar R' Chanina. The other Rishonim

(Tosefos, the Rosh) explain that the Gemara is only answering the shita of R' Yosie bar R' Chanina and the shita of Shmuel will be dealt with in the next Gemara, and this is how we will explain the Gemara.

That is, R' Yosie bar Chanina was not coming to explain the Mishna and therefore he could hold of the distinction between if the person said, “to you” or “from you”, but this will not work in the shita of Shmuel, as explained.

The Gemara answers that we have to change what Shmuel meant as well and in reality, this is what he meant to say:

Rather initially this (teaching) of Shmuel	אָלָא מַעֲיָקְרָא דְשִׁמוּאֵל
this is what was said	הֲכִי אֵיתָמַר
(it is for) the reason that he said	טַעְמָא דְאָמַר
“that I will eat from you”	שְׂאֲנִי אוֹכֵל לָךְ
(or) “I will taste from you”	וְשְׂאֲנִי טוֹעֵם לָךְ
this (is why) he is not assur	הוּא דְאִין הוּא אָסוּר
except for eating	אָלָא בְּאֲכִילָה
but (if he said)	הָא
“I am in a state of neder from you”	מוֹדְרָנִי מִמְךָ
he is assur even to benefit	אָסוּר אֶפְיֵלוּ בְּהִנָּא

The Ran explains that according to this explanation, the chiddush of Shmuel is that even ‘unclear yados – יָדִים שְׂאֵינָן מוֹכִיחוֹת are considered yados. That is, the statement of “I am in a state of neder to you” is not clear as to its intent (as the Gemara will explain shortly) and is therefore classified as an ‘unclear yad’. Because of this, one could have thought that it should not be effective at all.

Shmuel comes to tell us otherwise, that indeed it is a good yad and it therefore creates a full-fledged neder that will assur all benefit unless the person specifically says otherwise. Therefore, unless the person adds the words “That I will eat from you” or the words’ that I will taste from you’, this yad will forbid all types of benefit.

And on this the Gemara asks:

If so	אִי הֲכִי
let Shmuel say so	לִימָא שְׁמוּאֵל הֲכִי
(that is, Shmuel should have said) and if	וְאִם
he does not say	לָא אָמַר
(the Rishonim take out this word	אָלָא)
“That I will eat from you”	שְׂאֲנִי אוֹכֵל לָךְ
(or) “That I will taste from you”	וְשְׂאֲנִי טוֹעֵם לָךְ
he is assur	אָסוּר
to even benefit (from him)	אֶפְיֵלוּ בְּהִנָּא
(the Rishonim do not have these words)	אִין אָסוּר אָלָא בְּאֲכִילָה

The Gemara’s question is as follows. Shmuel’s statement was that the Mishna’s halacha is only true when he adds the words

‘that I will eat from you’. This would seem to imply that by leaving out the words ‘that I will eat from you’ less will be assur. That is, the implication of Shmuel’s words is that although the Mishna said something is assur, this is only true if you add these words. But according to what we are now saying to explain Shmuel, leaving out the words “that I will eat from you” causes more to be assur not less. According to what we are now saying, omitting these words causes the neder to forbid not just food but all benefit, i.e., the omission cause more to be assur not less. But if this is really what Shmuel meant, he should have simply said that if he leaves out these words he will be assur in all benefit, and Shmuel should not have used the format of saying that the Mishna is only true if he adds these words. But now that Shmuel does use this format, it would seem that he holds that the omission of these words causes less to be assur, something that is not true according to what the Gemara is now proposing in order to explain his shita. Because of this question, the Gemara rejects its answer and the Gemara will now bring a different explanation as to what Shmuel could have meant.

**יָדִים שְׂאֵינָן מוֹכִיחוֹת תַּחַת הַמִּשְׁנָה שֶׁאֵינָן יָדָיִם אֲרוּרִים**

Because of the previous question, the Gemara once again changes its explanation of Shmuel’s shita and now says that his intent is as follows:

Rather this is how it was said	אָלָא הֲכִי אֵיתָמַר
it is for the reason that he said	טַעְמָא דְאָמַר
“That I will eat to you”	שְׂאֲנִי אוֹכֵל לָךְ
(or) “that I will taste to you”	וְשְׂאֲנִי טוֹעֵם לָךְ
that he is assur	הוּא דְאָסוּר
but (if) he (just) said	אָבַל אָמַר
“I am in a states of neder from you”	מוֹדְרָנִי הִמְךָ
this does not imply	לָא מִשְׁמַע
that he said to assur (with a neder)	דְאָמַר אָסוּר
What is the reason (the neder will not work)	מַאי טַעְמָא
(the words) “I am in a state of neder	מוֹדְרָנִי
from you”	מִמְךָ
implies I will not ‘deal’ with you (but not	לָא מִשְׁתַּעֲיֵנָא בְּהַדְדָךְ מִשְׁמַע
a neder)	א נְדֵר
(and the words) “I am separated	מוֹפְרָשְׁנִי
from you”	מִמְךָ

imply that I will not do business **דלא עבידנא עמך משא ומתן משמע**  
 with you (but not a neder) **מרוחקני**  
 (and the words) “I am distanced **ממך**  
 from you” **ממך**  
 imply that I will not stand in **דלא קאימנא בארבע אמות דילך משמע**  
 your four amos (but not a neder)<sup>26</sup>

The Gemara now says that the explanation of Shmuel’s statement is that he holds **שאינן מוכיחות** cannot make a neder, and therefore, unless he adds the words **שאינן אוכל לך**, the words **ממך** will not create a neder. This is because since these words have a connotation other than **issur**, they are considered as **מוכיחות שאינן מוכיחות**, and Shmuel holds that **שאינן מוכיחות** cannot make a neder.

<sup>26</sup> **Why is the Gemara’s Answer Valid Now If It Wasn’t Before?**

The Ran points out that although previously the Gemara entertained the possibility that Shmuel holds that the words **וכו ממך ממך** do not constitute a yad, the Gemara rejected that possibility as two Baraisos clearly say that the words **וכו ממך ממך** do function as a yad to create a neder. If so, why does the Gemara now accept the possibility that these words do not create a neder if the Baraisos say not that way?

The Ran answers that there is a fundamental difference between what the Gemara proposed before and what the Gemara is now saying. Previously, the

Gemara thought to say that Shmuel holds that these words are not a yad at all and this was disproven from the Baraisos. Now, however, the Gemara is saying that they are yados, but **מוכיחות שאינן מוכיחות**. And therefore, despite the fact that two Baraisos say that **מוכיחות שאינן מוכיחות** work, Shmuel can certainly say that the Mishna holds that they do not work, as this question, if **מוכיחות שאינן מוכיחות** work or not is a machlokes Tannaim. If so, it can simply be that the two Baraisos that hold that they do work, hold like the shita that **מוכיחות שאינן מוכיחות** work, and Shmuel is learning that our Mishna holds like the shita that they do not work.

## Nedarim 5b

Should we (really) say	לִימָא
that Shmuel holds	קָסָבֵר שְׁמוּאֵל
‘unclear yadayim’	נְדָיִם שְׂאִינן מוֹכִיחוֹת
are not considered yadayim	לֹא הוּוּיִן נְדָיִם
The Gemara answers:	
Yes!	אֵין
Shmuel	שְׁמוּאֵל
establishes our Mishna	מוֹקִים לָהּ לְמַתְנִיתִין
in accordance with R' Yehuda	כְּרַבִּי יְהוּדָה
that says	דְּאָמַר
‘unclear yados’	נְדָיִם שְׂאִינן מוֹכִיחוֹת
are not yadayim	לֹא הוּוּיִן נְדָיִם

### What Needs to be Written in a Get? The Machlokes R' Yehuda and the Rabbanan

As we learned in a Mishna	דְּתַנּוּ
the body (integral part) of a get	גּוּפוֹ שֶׁל גֵּט
(includes just the words) “You are mutur	הָרִי אֶת מוֹתֶרֶת
to all people”	לְכָל אָדָם
Reb Yehuda	רַבִּי יְהוּדָה
says (that you must add the words)	אֹמַר
“and this should be from me to you	וְדִין דְּיִהְיוּ לִיכִי מִינְאִי
a writ of expulsion	סָפֵר תִּירוּכִין
and a letter of leaving”	וְאִיגָרַת שְׂבוּקִין

The Ran explains that just writing the words ‘And you are mutur to all men’ is equivalent to נְדָיִם שְׂאִינן מוֹכִיחוֹת. This is because although the assumption is that the husband is divorcing his wife with this get, it is not certain that this is his intent as it could be that the husband intends to divorce her with דִּבְבוּר, i.e., he intends to divorce her with his declaration that he is divorcing her and the role of the get is just to prove that the divorce took place.

The Gemara is telling us that from this Mishna we see the machlokes of נְדָיִם שְׂאִינן מוֹכִיחוֹת being considered effective

yadayim or not. The Tanna Kamma holds that נְדָיִם שְׂאִינן are good yadayim and therefore all the husband as to write is that ‘You are mutur from all man’.

Reb Yehuda disagrees. He holds that נְדָיִם שְׂאִינן מוֹכִיחוֹת are not yadayim and therefore he holds that the get will not work unless he specifies that he is divorcing her with this get.

And Shmuel who said that our Mishna holds that נְדָיִם שְׂאִינן are not yadayim is saying that our Mishna is in accordance with the shita of Reb Yehuda.

### Why Does Shmuel Learn that the Mishna is in Accordance with R' Yehuda and Not the Rabbanan?

And on this the Gemara asks:

Why is Shmuel forced	אֲמַאי דְּחִיק שְׁמוּאֵל
to establish our Mishna	לְאִוּקוּמָה לְמַתְנִיתִין
in accordance with Reb Yehuda	כְּרַבִּי יְהוּדָה
establish it like the Rabbanan	לְוִקְמָה כְּרַבְנָן
and even though	אֲף עַל גַּב
they are not ‘clear yadayim’	דְּאֵינן נְדָיִם מוֹכִיחוֹת

Shmuel learned that in our Mishna if you just say the words מוֹדְרְנִי הֵימָךְ, the neder will not be effective as our Mishna holds like Reb Yehuda that נְדָיִם שְׂאִינן מוֹכִיחוֹת are not yadayim.

But why did Shmuel have to say this? Why did Shmuel not say that our Mishna holds like the Rabbanan that hold that נְדָיִם שְׂאִינן מוֹכִיחוֹת are yadayim, and as such, the words מוֹדְרְנִי הֵימָךְ would be sufficient?

The Ran explains that one cannot say that the reason Shmuel established the Mishna as the shita of R' Yehuda is simply because Shmuel holds like the shita of R' Yehuda as this is something that Shmuel would never do. Shmuel would never leave the shita of the Rabbanan and pasken like the shita of R' Yehuda unless he had an indication from the Mishna that indeed the halacha is like R' Yehuda.<sup>27</sup>

The Gemara answers:

Rava said	אָמַר רַבָּא
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itself as נְדָיִם שְׂאִינן מוֹכִיחוֹת. That is, why would Shmuel pick to learn the Mishna in accordance with R' Yehuda and not the Rabbanan.

But this question seems hard to understand. The reason that Shmuel learns the Mishna as one case is as we started off with. Shmuel learns this way because the Mishna says the word ‘assur’ only once. And if the Mishna says the word ‘assur’ only once, it must be because indeed saying מוֹדְרְנִי הֵימָךְ does not work. But why not? Because of this question Shmuel concluded that indeed מוֹדְרְנִי הֵימָךְ by itself does not work because נְדָיִם שְׂאִינן מוֹכִיחוֹת are not yadayim. But if this is all true, how do we understand the Gemara’s question? Of course, Shmuel is forced to learn the Mishna like the shita of R' Yehuda, because if not, why can the person not just say מוֹדְרְנִי הֵימָךְ by itself?

### 27 Why Does Shmuel hold that the Mishna is All One Case?

Although the Ran previously (ד"ה מיתבי') said that the reason Shmuel learned that the Mishna is all one case is because the Mishna said the word ‘assur’ only once, the Gemara still has its question. That is, at this point the Gemara is explaining that Shmuel holds that if one says מוֹדְרְנִי הֵימָךְ by itself, it will not be effective as נְדָיִם שְׂאִינן מוֹכִיחוֹת are not yadayim, in accordance with the shita of R' Yehuda. And this is how Shmuel learns the Mishna, that when the Mishna says that מוֹדְרְנִי הֵימָךְ works, it means to say that מוֹדְרְנִי הֵימָךְ works but only if he adds the words “that I will eat from you”.

The Gemara now asks that why does Shmuel have to learn this way? Why does Shmuel not learn the Mishna to mean that מוֹדְרְנִי הֵימָךְ could work by

the Mishna was difficult (to Shmuel)	מתניתין קשיתה
(because) why did it teach	אמאי תאני
“That I will eat of yours”	שאני אוכל לך
“I will taste of yours”	שאני טועם לך
let it (just) teach	ליתני
“That I will eat”	שאני אוכל
“That I will taste”	שאני טועם
we see (lit. hear) from here	שמע מינה
that you need	בעיני
‘clear yadayim’	נדים מוכיחות

The Ran explains the proof from the Mishna as follows. According to Shmuel, the Mishna is all one case, that is, when the Mishna quotes the person as saying “That I will eat from you” this is after the person had already said “I should be in a neder state from you.”

But if so, when he says the words “That I will eat from you”, why does he have to add the last words “from you”? Even if he would not add these words, we would be able to assume that he means to assur himself from eating?

That is, if he would not add the last words “to you”, this would be considered a case of מוכיחות שאינו מוכיחות נדים. And yet the Mishna did not say this case. From this Shmuel inferred that indeed the reason the Mishna did not choose to say this case of מוכיחות שאינו מוכיחות נדים, is because the Mishna holds that מוכיחות נדים are not מוכיחות נדים.

The Ran explains that the reason the omission of the words “to you” makes his statement into מוכיחות שאינו מוכיחות נדים, is because even if he would say the words “That I will eat” this does not necessarily mean that he is coming to forbid eating. Before he

said the words “That I will eat”, he said the words “I should be in a neder state from you”, and therefore his intent might be to say that I am assur to talk to you if I eat today (and he is not coming to assur eating at all).

Therefore, since his words are not clear, they are only considered as נדים שאינו מוכיחות.

**The Machlokes Abaye and Rava if נדים שאינו מוכיחות Are Considered Yadayim or Not (and the source that each one brings to their shita)**

It was said	איתמר
“unclear yados”	נדים שאינו מוכיחות
Abaye says	אבאי אמר
they are yadayim	הווינו נדים
and Rava holds	ורבא אמר
they are not yadayim	לא הווינו נדים
Rava said	אמר רבא
R' Eide explained the reason to me	רבי אידי אסבירא לי
(as) the posuk (Bamidbar 6:2) says	אמר קרא
“To be a nazir to Hashem”	נזיר להזיר לה'
(the Torah) ‘compares’	מקיש
yados nezirus	ידות נזירות
to nazir	לנזירות
just like nezirus (has to be)	מה נזירות
with ‘hafla’ (i.e., it is with complete clarity)	בהפלאה
so too	אף
the yados of nezirus (have to be)	ידות נזירות
with ‘hafla’ complete clarity (see footnote) <sup>28</sup>	בהפלאה

choose to learn the Mishna in accordance with R' Yehuda when he had the option to learn it in accordance with the shita of the Rabbanan?

<sup>28</sup> **The Gemara’s Drasha from the Word “Hafla”**

The Ran explains the Gemara as follows. The Gemara in meseches Nazir describes a case in which a person makes a neder and says, “I will be a nazir like that person who is now passing by.” R' Tarfon holds that the person is not a nazir under any circumstance. That is, even if the passing person turns out to be a nazir, and as such, one would have assumed that there is no reason why the person making the neder should not be a nazir (as his condition was fulfilled), according to R' Tarfon, the person is still not a nazir.

This is true because at the time of the neder it was not clear if this neder will be effective or not as they still did not know the identity of the person passing by. And the posuk says “hafla”, that is, it must be clear at the time of the neder that the neder is taking effect, and if it isn't, the neder will not take effect no matter what happens later (i.e., the neder will not be chal even if we find out later that the condition was fulfilled).

Based on this, R' Tarfon makes a hekesh from actual nezirus to the yados of nezirus. That just like the actual nezirus has to be made in a clear manner, so too the yados of nezirus has to be made in a clear manner as well. And if so, this is how R' Tarfon knows that נדים שאינו מוכיחות will not be effective.

The answer is that there could be another reason why the Mishna had to say that the person added the words ‘that I will eat from you’. Earlier the Gemara attempted to say that the reason that Shmuel holds that the person has to add the words ‘that I will eat from you’ is because if not, both the person making the neder and the person to whom the neder is made against are going to be assur. But now that he says the words ‘that I will eat from you’, only the one making the neder is going to be assur.

The Gemara rejected this answer but only because Shmuel’s own words implied otherwise. That is, the Gemara even then held that this would be a perfectly acceptable way to explain why the person has to add the words ‘that I will eat from you’ and the only problem was that Shmuel did not hold of it.

And on this the Gemara now asks why this is so. Shmuel held that the Mishna is discussing one case, that is, he holds that from the Mishna we see that one must add the words ‘that I will eat from you’. And to explain why these words must be added, he had two choices. Either the explanation is because without adding these words, both people will be assur, or the explanation is that without adding these words, the words מוכיחות מוכיחות themselves are only considered מוכיחות שאינו מוכיחות נדים that are not yadayim in accordance with the shita of R' Yehuda.

From Shmuel’s words we see that he picked the second choice and not the first. And on this the Gemara asks why he did so. Why would Shmuel

let us say **לֵימָא**  
 that in the machlokes **בַּפְלוּגָתָא**  
 (between) Reb Yehuda **דְּרַבֵּי יְהוּדָה**  
 and the Chachamim **וְרַבָּנָן**  
 they argue **קָמִיפְלָגִי**

It would seem that the machlokes between Abaye and Rava if שְׂאִינָן מוֹכִיחוֹת are yadayim, is in reality the same machlokes of Reb Yehuda and the Chachamim, as follows.

As we learned in a Mishna **דְּתַנּוּ**  
 the body (integral part) **גּוּפוֹ**  
 of a get (includes just the words) **שָׁל גֵּט**  
 “You are mutur **הֲרִי אֶת מוֹתֶרֶת**  
 to all men” **לְכָל אָדָם**  
 R' Yehuda says (that you must add the words) **רַבִּי יְהוּדָה אוֹמֵר**  
 “and this should be from me to you **וְדִין דִּיהוּי לִיכִי מִינָאִי**  
 a writ of expulsion **סִפְר תִּירוּכִין**  
 and a document of exemption **וְגוֹט פְּטוּרִין**  
 and a letter of leaving **וְאִיגְרָת שְׁבוּקִין**

The Gemara now sets up the various shitos.

Abaye **אֲבַיִי**  
 says like the Rabbanan **דְּאָמַר כְּרַבָּנָן**  
 and Rava **וְרַבָּא**  
 is saying like Reb Yehuda **דְּאָמַר כְּרַבֵּי יְהוּדָה**

As we explained earlier, this machlokes between the Chachamim and Reb Yehuda is a machlokes if שְׂאִינָן מוֹכִיחוֹת are yadayim or not. If so, it would seem that their machlokes would seem to be the same machlokes that is between Abaya and Rava as well. That is, Abaye who says שְׂאִינָן מוֹכִיחוֹת are yadayim holds like the Rabbanan and Rava who said that שְׂאִינָן מוֹכִיחוֹת are not yadayim holds like Reb Yehuda.

The Gemara now questions this assumption and says that the machlokes between Abaye and Rava is not necessarily the same machlokes as Reb Yehuda and the Rabbanan.

Abaye can say to you **אָמַר לָךְ אֲבַיִי**  
 “I say **אֲנָא דְאָמַרִי**  
 even in accordance with Reb Yehuda **אֲפִילוּ לְרַבֵּי יְהוּדָה**  
 (this is because) until here **עַד קָאָן**  
 Reb Yehuda did not say **לֹא קָאָמַר רַבֵּי יְהוּדָה**  
 that one needs ‘clear yados’ **בְּעִינָן יְדִים מוֹכִיחוֹת**  
 except for with regard to a get **אֶלָּא גְבִי גֵט**  
 that one needs ‘kerisos – cutting off’ **דְּבְעִינָן כְּרִיתוֹת**  
 and (in this case) there isn’t (any) **לֵיכָא**  
 but in general (everywhere else) **אֲבָל בְּעֵלְמָא**  
 who heard about him (that he needs ‘clear yados’) **מִי שְׁמַעְתָּ לִיהִי**

Regarding giving a get, the Torah says that it must be a סִפְר – ‘a document of cutting-off’. That is, there must be a complete disconnect between the husband and wife as a result of the get. The Gemara in meseches Gittin learns many halachos that result from this requirement. Our Gemara is now saying that Reb Yehuda might hold that normally שְׂאִינָן מוֹכִיחוֹת are yadayim, and it is just with regard to giving a get that it doesn’t work. This would be because a get needs a clear and complete separation, and a get that is not completely clear would not satisfy this requirement.

And Rav would say **וְרַבָּא אָמַר**  
 I say (my shita) **אֲנָא דְאָמַרִי**  
 even according to the Rabbanan **אֲפִילוּ לְרַבָּנָן**  
 (this is because) until here **עַד קָאָן**  
 the Rabbanan did not say **לֹא קָאָמַרִי רַבָּנָן**  
 that you don’t need **דְּלֹא בְּעִינָן**  
 ‘clear yadayim’ **יְדִים מוֹכִיחוֹת**  
 only with regard to a get **אֶלָּא גְבִי גֵט**

The Chachamim, however, disagree with R’ Tarfon and they hold that there is no such requirement that the status of a neder has to be determined when the neder is made. They therefore hold that if the passing person will be discovered to be a nazir, this person’s neder will be effective. Or in other words, they do not hold that the word ‘hafla’ in the posuk teaches us that nezirus must be made in a clear manner.

The Ran points out that this does not mean that the Chachamim hold יְדִים מוֹכִיחוֹת are effective. Rather they also agree that יְדִים מוֹכִיחוֹת are not effective. Rather, they learn this directly from the word ‘hafla’ itself.

**To summarize:** R’ Tarfon holds that the word ‘hafla’ is said in reference to the actual nezirus, and as such, he holds that the actual nezirus must be made in a clear manner. And once the word is used to teach that the nezirus must be made in a clear manner, he uses a hekesh that the yadayim of nezirus has

to be made in a clear manner as well, that is to say יְדִים מוֹכִיחוֹת do not work.

The Chachamim however do not hold that the word ‘hafla’ teaches anything about the actual nezirus and instead they use the word ‘hafla’ directly to teach us that the yadayim of nezirus must be made in a clear manner, or in other words to teach us that יְדִים מוֹכִיחוֹת do not work.

The Ran concludes and says that when our Gemara says that our Gemara is in accordance with the shita of R’ Tarfon, the intent of the Gemara is not to say that it is only like the shita of R’ Tarfon but not the Chachamim, but rather the intent of our Gemara is to say that it is even like R’ Tarfon. That is, even though R’ Tarfon already uses the word ‘hafla’ to teach that the actual nezirus must be said in a clear manner, he still holds that יְדִים מוֹכִיחוֹת do not work as he learn yadayim of nezirus from a hekesh to actual nezirus.