

OVERVIEW of the Daf

1) Disinheriting one's children (cont.)

The Gemara elaborates on the Baraisa that presented an incident of a father who wished to disinherit his sons.

Tangentially, the Gemara cites a Baraisa that elaborates on the greatness of Yonason ben Uziel and the wisdom of R' Yochanan ben Zakkai.

2) **MISHNAH:** The Mishnah discusses the ramifications of a person's claim that someone is his son or brother.

3) "This is my son"

R' Yehudah in the name of Shmuel states that a person is believed to identify his son to inherit and exempt his wife from yibbum.

The novelties of these rulings are explained.

R' Yosef in the name of R' Yehuda in the name of Shmuel offers an explanation why a man is believed to identify his son to exempt his wife from yibbum.

R' Yosef strongly objects to the logic of this explanation and revises it to be more logical.

4) Claiming that one divorced his wife

R' Yosef applies the logic of this halacha and believes a husband who claims to have divorced his wife.

R' Yochanan is quoted as ruling that a husband is not believed to claim that he divorced his wife.

A conflicting ruling from R' Yochanan is cited.

The Gemara resolves the contradictory rulings.

The Gemara inquires whether a man is believed concerning the future if he claims that he divorced his wife in the past. The essence of the question is whether we divide a person's claim into two separate and distinct parts.

It is reported that R' Mari and R' Zevid disagree about this matter.

The opinion that rejects the allowance to divide a person's claim in two is unsuccessfully challenged. ■

REVIEW and Remember

1. How does the Baraisa describe the lowest students of Hillel the Elder?

2. Concerning what halachos is a man believed to identify a son?

3. Why is a man believed to identify a son to exempt his wife from yibbum?

4. Explain the principle of פלגינן דיבורא.

Distinctive INSIGHT

Trusting a father who identifies someone as his son

זה בני נאמן למאי הלכתא? אמר רב יהודה אמר שמואל ליורשו. ליורשו-פשיטא!

The Mishnah taught that if a man identifies a person as his son, the father is believed. Rav Yehuda in the name of Shmuel explains that the practical meaning of this is in regard to inheritance. The Gemara immediately notes that there would be no novelty for the Mishnah to teach such a ruling, as it is obvious that a person may declare that a particular person is his heir. Rashbam explains that this is obvious because the father here has a **מינו**, meaning that the father has no reason to lie, for if he wanted to give this person an outright gift he had the legal option of doing so. He should therefore be believed when he says that this is his son. This leads us to conclude that the father is only believed to bequeath to this person from the assets he had in his possession at the moment he issued this testimony, as it is only regarding these that he has a **מינו**. The father is not believed regarding property he obtains afterwards, as these were not part of the **מינו**, and they were not available to be given as a gift at the time of his statement.

Earlier (127a) the Mishnah taught that a man is believed when he says that one of his sons is the firstborn, and the Gemara points out that the father's credibility extends to allow that son to collect his double portion even from property which the father obtains after that statement was made, and even to property he receives while being in a state of **גוסס**. Why does that statement work even without a **מינו**?

Rashbam explains that in the case of the firstborn, we already know that this particular person is a son, and that he is eligible to inherit from his father. It is just that we did not know that he was the firstborn. The verse teaches us that the father has the power to provide us this information, and once the father says so, he is legally identified as the first born. It is not because of the **מינו**, and it therefore is not subject to the **מינו** limitations. In our case, we have no information at all that this person is even a son of this man. The mechanism to believe the father is the **מינו** itself, so we are limited to the degree that the **מינו** applies, which is the property which is currently in the father's possession as he speaks.

Rashba asks that the statement of Shmuel is that the father is trusted "that the son inherit him," which implies

HALACHAH Highlight

פלגיין דיבורא Applying the principle of

מי פלגיין דיבורא או לא פלגיין דיבורא

Do we divide a person's statement or do we not divide a person's statement?

Based on the Gemara's discussion of פלגיין דיבורא – dividing a statement – Maharil Diskin suggests a fascinating halacha. If Reuven were to come and report that he betrothed a woman in the presence of a single witness and that witness were to confirm that he witnessed Reuven betroth this woman we should accept their testimony and following the principle of פלגיין דיבורא conclude that she is betrothed but prohibited to marry since we do not know to whom she is betrothed. In other words we will accept the testimony only that she is betrothed but not that Reuven is the groom.

The reason this conclusion is incorrect is that we cannot utilize the principle of פלגיין דיבורא to create testimony. According to Reuven and the witness the betrothal was performed in the presence of only a single witness. In accordance with that testimony a valid kiddushin was not performed since kiddushin, by definition, requires two witnesses and we cannot create a valid kiddushin with the principle of פלגיין. The principle of פלגיין applies only when we have full testimony except that it is accompanied by something that would disqualify one of the witnesses. In order to not

(Insight...continued from page 1)

that the son would now inherit fully, and not just regarding the possessions currently in the father's control. Rashba also notes that the custom throughout the Jewish people is that a son who appears from outside the country and is identified by the father is given full status to inherit all property. Rashba concludes that the father is trusted implicitly, without a מינו, and without limitations. ■

disqualify the witness we utilize the principle of פלגיין and ignore the disqualifying factor. According to this approach if Reuven and the single witness were to testify that Reuven betrothed the woman in the presence of two witnesses we would conclude that she is betrothed but since we do not have valid testimony concerning the husband she would be prohibited to marry.

Rav Chaim Soloveichik takes a different approach. He demonstrates that it is the husband that makes a woman prohibited from marrying other men. Accordingly, when Reuven and the witness testify that Reuven betrothed the woman Reuven is the one who causes this woman to be prohibited. If we were to utilize the principle of פלגיין we would have to say that another man betrothed this woman and made her prohibited to other men. That would constitute an entirely different testimony and the principle of פלגיין does not allow us to change the essential character of the testimony. ■

1. דבריהם מובא במתיבתא פניני הלכה לדף קל"ד: . ■

STORIES Off the Daf

Important distinctions

"כל עוף הפרור עליו מיד נשרף..."

Rav Meir Shapiro of Lublin, ז"ל, was well known for his wit as well as his penetrating analysis. These qualities made him a very beloved teacher who could tackle any subject matter and even amuse his students as he fielded any and all questions.

It is unfortunate and well known that the yeshivos in Lithuania lost many bochurim to the haskalah movement. Rav Meir's students once asked him to explain the exact difference between a Lithuanian yeshiva student and one from Poland. After all, both keep the

same basic hours and learn the same Torah. Why did those who attended his yeshiva fare better than their Lithuanian counterparts?

He replied with an illustration from today's daf. "There were once two chavrusos, one Litvish and one Chassidic, who learned gemara together. When they came to the gemara which recounts the greatness of Yonasan ben Uziel, both were immersed in deep thoughts for a few moments.

"The Litvishe bochur asked the Chassid what he was thinking about. 'I am contemplating the vast ramifications of this gemara. Just imagine: when Yonasan ben Uziel learned a fire emerged from him and incinerated any bird flying overhead. Who can imagine the great holiness of this wondrous man? I consid-

ered how it was possible for a human being to attain such a level of sanctity.'

"The Chassid then asked his chavrusah the same question. 'You also paused here. What were you thinking about?'

"The Litvishe bochur responded in a very different manner. 'I was just wondering what the halachah is regarding the bird. Is Yonasan ben Uziel obligated to pay for the bird if it is not ownerless? Is this heavenly flame considered like any fire for which one is obligated to pay for damages incurred?'

With that, Rav Meir concluded, "That is the difference between an average yeshiva bochur from Lithuania and one from Poland!" ■

1. רבי מאיר אומר, ע' 112-113