



## OVERVIEW of the Daf

### 1) Disqualification from a kohen (cont.)

Zeiri disagrees with Rav and Shmuel and maintains that none of the gittin mentioned in the Mishnah disqualify a woman from marrying a kohen except for the last case. R' Assi concurs with this position.

R' Yochanan asserts that even the last case does not disqualify a woman from marrying a kohen, and the Gemara explains how R' Yochanan's position is consistent with his position on other matters.

The necessity for R' Yochanan's two rulings is explained.

### 2) Writing a גט for the sake of this woman

R' Hoshaya asked R' Yehudah whether the principle of retroactive clarification (ברירה) works for gittin.

R' Yehudah answered that the principle does not apply.

R' Hoshaya unsuccessfully challenges this position.

Our Mishnah is cited to support the interpretation of the Baraisa R' Yehudah presented in the name of R' Yochanan.

Another Baraisa is cited as proof to R' Yochanan's interpretation of the Mishnah.

Abaye notes that R' Hoshaya and R' Yehudah are discussing different cases (i.e. whether there is a difference if ברירה is subject to one's own decision or whether it is subject to the decision of others).

Rava suggests that conceptually the cases may be treated the same.

R' Mesharshiya cites the opinion of R' Yehudah who distinguishes between the different types of ברירה.

R' Mesharshiya cites the opinion of R' Shimon who also makes a distinction between different types of ברירה. ■

## REVIEW and Remember

1. What is the significance that brothers dividing their father's estate are considered purchasers?  
\_\_\_\_\_
2. Is there a difference whether dependent upon oneself or others?  
\_\_\_\_\_
3. How is it possible to make the necessary separations from wine bought from a כותי if there are no other utensils available?  
\_\_\_\_\_
4. What is the status of a woman who received a גט that is to take effect retroactively to now when the husband dies?  
\_\_\_\_\_

## Distinctive INSIGHT

### ברירה – Yes or No?

איתביה האומר לבניו הריני שוחט את הפסח על מי שיעלה מכם ראשון

The Gemara had determined that the final case in the Mishnah teaches that we say אין ברירה—we do not say that an undetermined fact can be retroactively defined when it later becomes resolved.

Rav Hoshaya asked Rav Yehuda how this can be reconciled with a Mishnah in Pesachim (89a) which seems to teach the reverse. A father slaughtered an animal for a Korban Pesach. Instead of declaring specifically whom from among his children he included to join him in this Korban, he announced that whichever child would arrive in Yerushalayim first would be the winners. The halacha is that whichever child later arrives in Yerushalayim first is the winner. As presented, the only way we can say that this is the child the father had in mind when he earlier slaughtered his Korban is if we use the concept of ברירה. This is the reverse of the conclusion from our Mishnah in Gittin.

The Gemara answers that the actual case in Pesachim is where the father had all his children in mind at the moment when he did the שחיטה, and he issued the challenge to hurry to Yerushalayim only as a manner to encourage his children to hurry to the mitzvah. There is no need for the device of ברירה in that case.

Pnei Yehoshua notes that the Gemara knew of several sources from Mishnayos which indicate יש ברירה, but it chose to ask from the case in Pesachim because it is a סתם משנה, and the halacha rules in accordance with that case. In addition, the Gemara chose not to ask from the Mishnah in D'mai which also indicates יש ברירה (where one may designate teruma from the beverage he wants to drink, although the designation will only refer to the amount which will remain at the end), as that case teaches that ברירה should work based upon the person's own actions (תולה בדעת עצמו), whereas we wish to compare cases of ברירה which depend upon the actions of others and how it affects a later result. Both the case of Rav Yehuda in our Gemara (which wife will come through the door first) and the case in Pesachim (which child will arrive in Yerushalayim first) are cases which depend upon others, and yet here we say אין ברירה, while the case in Pesachim seems to rule יש ברירה.

The cases in our Gemara and that of Pesachim also

(Continued on page 2)

# HALACHAH Highlight

## Marrying against the wishes of a parent

הריני בוועליך על מנת שירצה אבא

*I am having relations [for kiddushin] on the condition that my father agrees to the marriage*

**R**ema<sup>1</sup> rules that a son is not required to listen to his father if his father protests his choice of a wife. In his work Teshuvos Meishiv Davar<sup>2</sup>, the Netziv limits this ruling to a circumstance where the man's choice for a wife will not cause disgrace or distress to his father. If, however, the choice of a wife will disgrace or distress his father it is prohibited for the son to marry that woman. The Shevet HaLevi<sup>3</sup> writes that when questions like this are presented to him he delays responding to the inquiry hoping that with time the son will see that his father is correct with regards to his concern for the honor of the family even though, technically, the son has the right to marry the woman of his choice.

Noda B'Yehudah<sup>4</sup> writes that it is obvious that there is no difference between a son and a daughter for this halacha and a daughter is not required to listen to her father if he protests against her choice of a husband. This ruling is echoed by Teshuvos Avnei Tzedek<sup>5</sup> where he writes that a woman is not obligated to honor her parents if it infringes on

(Insight. Continued from page 1)

share in common the need for something to be done לשמה (the writing of a גט and the inclusion of a person in a particular Korban Pesach). This is why the Gemara chose to compare these cases, rather than other Mishnayos which feature the concept of ברירה. ■

matters related to her body or soul (גופה ונפשה). Teshuvos Torah Lishmah<sup>6</sup>, however, has a different perspective on the matter. He writes that if a woman wants to marry so that she can have children and populate the world (לא תהו בראה) (לשבת יצרה) and her father does not want her to marry she is obligated to comply with her father's wishes. The reason is that a woman is not obligated, even Rabbinically, in the mitzvah of procreation. Although a woman who has children is certainly rewarded for the mitzvah, nonetheless, since it is not obligatory, she must put that voluntary mitzvah aside for the Biblical obligation of honoring her father. If, however, she offers reasons other than procreation for wanting to marry it is possible that those reasons will allow her to disregard her father's restriction against her marrying. ■

1. רמ"א יו"ד סי' ר"מ סעי' כ"ה.
2. שו"ת משיב דבר ח"ב סי' נ'.
3. שו"ת שבט הלוי ח"ב סי' קי"א אות י"ז.
4. שו"ת נודע ביהודה מהדו"ת אה"ע סי' מ"ה.
5. שו"ת אבני צדק יו"ד סי' צ"ט.
6. שו"ת תורה לשמה סי' רס"ו. ■

# STORIES Off the Daf

## A Doubtful Kiddush

"אלמא אין ברירה..."

**O**nce, a certain young man who was a member of a community in which everyone tried to make his own kiddush had a problem. He was a guest leil Shabbos, and when he asked his host if he could make his own kiddush, the host replied that he was unsure if there was enough wine. "I will figure out whether it is possible after I make kiddush, since I don't want the other guests to have to wait."

The young man had a problem: should he intend to fulfill his obligation by hearing his host's kiddush or not? If there was enough wine and he had intended to fulfill his obligation, he

would lose the opportunity to make his own kiddush later. But if it turned out that there was not enough wine and he thought to exclude himself so that he could make kiddush later, how would he fulfill his obligation? He thought about this as his host sang Shalom Aleichem and was struck with what appeared on the surface to be the perfect solution: he would hear his host's kiddush but would make a stipulation that the kiddush discharge his obligation only if there was not enough wine for him to make his own kiddush. That way, if there was wine, he would make kiddush and if not, he was covered by his host's.

When this the young man was learning Gittin 25 which discusses ברירה, he started to have doubts; perhaps making a condition on wine is ברירה and he should not have done it?

When discussing this question, the Chazon Nachum, ז"ל<sup>1</sup>, ruled that it is permitted לכתחילה. "Ramban in Gittin explains that ברירה is relevant only in a situation where there are two actions. If there is only one action it is no problem. For example, one who says: 'If a chochom comes to the west, my eiruv on that side will take effect, and if a chochom comes to the east, my eiruv on that side will take effect.'"

But if one merely says, "If a chochom comes to the east, my eiruv on that side will take effect, but if not I will have my regular eiruv, this is permitted according to everyone in all situations."

He concluded, "In this case too, there is only one action, so it is permitted according to everyone in all situations."<sup>1</sup> ■

<sup>1</sup>שו"ת חזון נחום, סימן ל"ב