YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**GEMARA GITTIN**

**Understanding *Bereira* (25a-26a)**

**By Rav Yair Kahn**

**Sources**:

1. Study the entire passage, from 25a, “*Ve-Rabbi Yochanan amar*” until the Mishna, 26a, with Rashi’s commentary.
2. *Eruvin* 37b, “Tana’ei hi… le-khesheyibaka;” Tosafot, s.v. “*Ela mei-atta*.”
3. Ramban, 25b, “*Ve-zeh ha-kelal she-ani omer bi-vreira*” until “*Ve-hu she-yitleh ba-maaseh*.”

**Questions**:

1. What is the difference between *bereira* and *tenai*?
2. What is the idea behind the distinction between making something dependent on oneself and making something dependent on others in relationship to the law of *bereira*?
3. How does the Ri (Tosafot, *Eruvin*) understand the view that *bereira* is untenable?

**Introduction**

Our passage deals with the issue of *bereira* and the possibility to distinguish in this law between dependence on one’s own prerogative and dependence on anothers’ prerogative. This passage has many parallels in the Talmud, and a comprehensive and thorough analysis requires studying all of them. In the context of our course of study, we do not have the possibility of dealing with all of the passages; therefore, we will focus our analysis to clarify the passage before us. I hope that clarifying this passage will illuminate other passages, and it will be of assistance for anyone who is willing to broaden and deepen his study of this important topic.

The passage of *bereira* relates to an ambiguous status which will become clear (*barur*) only at some point in the future. According to the one who says that *bereira* is tenable, one may rely on a future clarification, while the one who says that that *bereira* is untenable disputes this. We need to understand why every stipulation which makes the effectuation dependent on something which will happen in the future is not determined by this argument. There are many passages of conditions and stipulations which are to be fulfilled only in the future, but the issue of *bereira* is not raised*.* While the Ramban analyzes this question at length, his words are not sufficiently clear.

**Bereira vs. Tenai — Basic Understanding**

When we analyze the cases of *bereira* which are mentioned in the beginning of our passage, we may find a certain common denominator which differentiates it from stipulation (*tenai*). For example, our Mishna deals with a *get* ordered by the husband so that “I will divorce whomever I choose.” Marking the identity of the woman being divorced is part of the body of the *get*, and no stipulation is relevant. The idea of stipulation is the ability to base the effectuation on a side matter. However, marking the identity of the woman who is being divorced is an essential part of the divorce. “You are hereby divorced on the condition that rain will fall tomorrow” or “on the condition that you will give me two hundred *zuz*” are examples of stipulations — the rain and the money are not basic elements of the accounting of matters included in the *get*, and they are not part of the definition of the divorce taking effect. The law of stipulation, derived from the conditions of the tribes of Reuven and Gad receiving their territory in Transjordan (*Bamidbar,* ch. 32), is innovative: it is possible to stipulate that a certain action will take effect depending on another act or external event. However, the identity of the woman being divorced is not ancillary to the writing of the *get*; the name of the woman is part of the text of the *get*, and without it, an essential ingredient of the *get*’s content, which expresses the divorce of man and wife, is missing.

We also find this in the continuation of the passage, concerning the slaughter of the paschal offering for its registrants: “I hereby slaughter the paschal offering on behalf of whoever comes to Jerusalem first from among you.” The paschal offering may only be eaten by those who had been registered at the time of the slaughtering, so the identity of the registrant is an integral part of the process which begins at the time of slaughter; without it, registration has no content or meaning. If one says to a certain son of his, “I hereby slaughter the paschal offering on your behalf, on the condition that you reach Jerusalem first,” this would not be considered *bereira*: a formulation such as this is considered a stipulation because the registrant is mentioned explicitly, and the condition of arriving in Jerusalem first is something external. However, in our formulation, “on behalf of whoever comes to Jerusalem first from among you,” the slaughtering of the paschal offering is performed for an undefined, unknown registrant, whose identity will become clear only in the future, “whoever comes to Jerusalem first from among you.”

The same applies to buying wine from the Cutheans. According to our passage, the effectiveness of allocating the various tithes in this case depends on the Tannaitic dispute about the tenability of *bereira*, and this is because the “identity” of the allocated wine will be clarified in the future, because one has declared, “Two pints that I will allocate in the future are the priestly portion.” It is clear that the object, i.e., this measure of two pints, is an integral part of the act of allocation, and without this object there is no effectiveness to the allocation at all, and the wine remains untithed.

In light of all of this, it makes sense that **the question of *bereira* focuses on the present**. So that there will be meaning to writing the *get* in the present, at the time of the writing, there is a need to write the *get* on behalf of a specific woman. The same applies to slaughtering the paschal offering: the registration is brought into effect at the time that the lamb is slaughtered, and therefore, we require the registrants to be in existence at that time. Similarly, when it comes to allocating tithes, it is clear that we require an object of wine at the time that the priestly portion and tithes are effectively named, for if one does not name a certain “object” of wine, the rest of the wine cannot be released from its untithed status, and one who drinks from it is liable. Thus, it appears that according to the one who says that *bereira* is tenable, one may define the present based on the future, and if so, in a case of purchasing wine from among the Cutheans, the allocation of tithes takes effect immediately upon those two pints which one will allocate in the future: even though it is still not clear to us which pints we are talking about, at the end of the day, these two pints already exist in the present. Therefore, if we maintain that *bereira* is tenable, those pints will be identified retroactively, and in the future, when one allocates them, it becomes clear that the previous act of naming took effect upon these pints which one has now allocated.

The same mechanism applies to writing a *get* and slaughtering a paschal offering. According to the one who says that *bereira* is tenable, both the woman, whom the husband will in the future want to divorce, as well as the son who in the future will reach Jerusalem first, exist in the present. Granted, their identity becomes clear to us only in the future, but in any case, this is only a subjective lack of knowledge on our part at this point in time; on the objective level, even now there is a certain woman who may be defined as “whomever I choose,” and her identity will be clarified when the mists of time clear.

**Understanding of the Ramban**

We must investigate this idea in light of the passage of *bereira* found in the Mishna in *Eruvin* (36b):

A person may make a stipulation concerning his *eruv* and say, "If foreigners come from the east, let my *eruv* be that of the west; if from the west, let my *eruv* be that of the east; if they come from both directions, I will go in whatever direction I desire; and if they come from neither direction, I will be like the people of my town."

"If a sage comes from the east let my *eruv* be that of the east; if from the west, let my *eruv* be that of the west; if he comes from either direction, I will go in whatever direction I desire; and if no one comes from either direction, I will be like the people of my town."

Rabbi Yehuda says: “If one of them was his teacher, he may go only to his teacher, but if both were his teachers, he may go in whatever direction he prefers.”

According to the Gemara, the idea of *bereira* lies at the core of this. Presumably, it would have been possible to argue that only the latter case, “I will go in whatever direction I desire” depends on the law of *bereira*, and this is what we have said above, because the placement of the *eruv* is a characteristic part of the *eruv* which takes effect at the commencement of Shabbat, and therefore it is impossible to mark it based on the future without the law of *bereira*. However, in the former part, “If foreigners come from the east, let my *eruv* be that of the west; if from the west, let my *eruv* be that of the east,” there is only the conjunction of two stipulations. The first stipulation is “Let my *eruv* be that of the west if foreigners come from the east” and this is dependent on an outside factor, and therefore the *eruv* is valid even if one believes that *bereira* is untenable. There is also an additional valid stipulation, “Let my *eruv* be that of the east, if they come from the west.”

However in the continuation of the passage, the Gemara writes:

Rav stated: Set aside our Mishna, for we have Ayo’s Mishna. Ayo’s Mishna reads as follows: “Rabbi Yehuda says, ‘A man cannot make simultaneous conditions in connection with two possible events. He can only say, “If a sage comes from the east, let my merger be that of the east; if from the west, let my merger be that of the west,” but not “If he comes from either direction.”’”

Why does it not work if one says, "If he comes from either direction?" Obviously because the rule of imputation is not tenable, but then for “from the east” and “from the west”, imputation is untenable as well!

The Gemara determines that in the version of Ayo, who believes that *bereira* is not tenable, one should take issue with the former case.

The Ramban in our passage relates to this problem and claims that if one makes the stipulation concerning one matter, then this is considered a stipulation, and is valid according to everyone. However, **if one stipulates concerning two things, this is dependent on the law of *bereira***. Unfortunately, he does not offer an explanation of this distinction.

It makes sense that according to the Ramban, the former case of the Mishna is not defined as two independent conditions. If we separate the conditions one from the other, it is possible to validate each condition separately, because each is dependent on one external factor. From the fact that the Talmud validates this case based on *bereira*, we have no choice but to say that we are talking about one complex condition; if so, the problem of *bereira* resurfaces: at the time of the effectuation of the *eruv,* the location of the *eruv* — an intrinsic characteristic part of the effectuation — depends on the future occurrence: will the invaders come, and from which direction will they do so? Therefore, the *eruv* can be binding only according to the one who holds that *bereira* is tenable, because according to him, we may define the present based on the future. If so, the words of the Ramban dovetail with what we have explained above.

The view which holds that *bereira* is untenable believes, of course, that the future does not clarify what came before; rather, as the future unfolds a new reality comes into being. According to this, the present cannot be elucidated by the future, and in the present, at the time of the writing of the *get*, it is not written on behalf of a specific woman; similarly, at the time of slaughtering the paschal offering, the registration does not apply to anyone; finally, at the time that the *teruma* is named, there is no specific portion of the barrel of wine.

However, in *Eruvin* (37b), the Gemara assumes that Rabbi Shimon believes that *bereira* is untenable, because he forbids one to drink the wine even after one designates “whatever I allocate in the future is *teruma*” Rava there rejects this idea and explains that Rabbi Shimon really believes that *bereira* is tenable, and even if *bereira* is tenable, in any case at the time of allocation, there is a problem: the remnants of the wine, the remainders after the separation of the tithes, are not distinguishable. *Teruma* is defined as “premier”, the prime, first part of the produce, implying that there must be something recognizable left over. (This is a local *teruma* consideration and is unrelated to *bereira* which is a universal halakhic issue).

Rava replied: “This is different, because we require it to be ‘premier’ (*Devarim* 18:4) — the remnants must be distinguishable.”

Abbayei said to him: “Now then, if a man has before him two untithed pomegranates and declares: ‘If rain will fall today, the one shall be the priestly portion for the other, and if no rain will fall today, the other shall be the priestly portion for the first,’ would his assertion here also be null and void, whether there was rain that day or not?

The Tosafists note that Abbayei’s question is not only difficult for those who hold Rava’s view! Even if we will say that Rabbi Shimon does not require distinguishable remnants but believes that *bereira* is untenable, it is impossible to allocate one of two pomegranates.

Tosafot (*ad loc*.) suggest two solutions to this question.

According to the first answer, it is indeed impossible to allocate one of the two pomegranates according to the view that *bereira* is untenable, but despite this, Abbayei asks the question only according to the view that *bereira* is tenable, because only according to this view is the law illogical.

In their second answer, Tosafot bring the innovation of the Ri, that even according to the view that *bereira* is not tenable, a *kohen* may still eat one of the two pomegranates allocated, and there is no prohibition of eating untithed produce. In other words, even according to the view which believes that *bereira* is untenable, one would agree that the naming is immediately effective, and the pomegranates are no longer untithed. However, in any case, the two pomegranates are forbidden to a non-priest because of a doubtful status of *teruma*, and only a *kohen*, who is allowed to eat *teruma*, would be permitted to consume both of them.

Let us explain this view of the Ri. It indeed appears, according to the one who says that *bereira* is untenable, that the future cannot define the present retroactively. However, in any case, we should investigate what the definition of the present is if we will not take the future into account.

We may entertain two possibilities. If a person names *teruma* of wine which he will allocate in the future, this allocation may be not effective at all, because the wine which he will allocate in the future is not extant in the present. Alternatively, perhaps the naming of the *teruma* attaches itself to every molecule of the wine, out of doubt, because every drop is equally fit to become the portion which will be allocated in the future.

According to the first approach, all the wine is forbidden for priests and non-priests, because the allocation does not take effect at all, and the wine does not lose its untithed status. According to the second understanding, on the other hand, the naming of *teruma* is effective for all of the wine, due to its current dubious status. Therefore the wine loses its untithed status, but it is allowed only to the *kohen*, not the non-priest, because every drop of it has the status of doubtful *teruma*, since each drop is potentially part of the pints which will be left over.

**Summary**

It appears that the question of *bereira* reflects two conceptions of the future. The view which believes that *bereira* is tenable accepts a deterministic view concerning the future. Therefore, in the present as well, there are only two certain pints which will be allocated in the future, and our sole problem is a lack of knowledge concerning their identity. Therefore, there is meaning in the present to marking a certain object on the basis of future events.

Those who dispute this do not accept this view. According to their position, as long as one does not allocate the wine, it is impossible to speak about certain pints which will be allocated in the future, because the situation in the present is open to all future possibilities. Therefore, one cannot say that two pints now exist which may be labeled as “whatever I allocate in the future.” On the other hand, one may say that all pints in the barrel at the time of naming the *teruma* correspond to this definition at that time, and therefore the status of *safek* *teruma* will apply to every drop.

However, we still need to understand the idea of distinguishing between making the stipulation dependent on the prerogative of others and making the stipulation depend on one’s own prerogative. If all of the possibilities are open in the present and the future is not determined ahead of time; the same applies to making the stipulation dependent on others. If the present is already determined, and we do not have anything but a lack of knowledge in terms of the future, the same applies to making the stipulation dependent on oneself. How is it possible to claim that *bereira* is not tenable when making it dependent on oneself, while when making it dependent on others, *bereira* is tenable?

It appears that one may explain that according to this view, the truth of the matter is that the future is imperative even in the present, and therefore *bereira* is tenable when one makes the stipulation dependent on others. Even so, when one makes it dependent on himself, *bereira* is untenable, and this is because in this situation, a man has the consciousness of choice: according to his perspective, everything depends upon him, and he may choose this woman or another. This awareness, even though it reflects subjective reality, prevents the application of the law of *bereira* for something which is dependent on one’s own prerogative.

However, we still must explain the end of the passage, which applies the law of *bereira* to a case of marrying “on the condition that Father will approve.” Ostensibly, “on the condition that Father will approve” is an example of a regular stipulation, because the will of the father is a characteristic part of the act of getting married, and if so, the law of *bereira* is not applicable, according to what we have seen. Another question to ask is why the Gemara connects the law of *bereira* to the Mishna below, “What is she during those days?” There as well, we are apparently dealing with a regular stipulation.

The Rishonim struggle with these questions and propose different solutions, and therefore we will dedicate a separate *shiur* next week to this topic.

**For the next shiur: *Bereira* Continued (25a-26a)**

**Sources**:

1. 25a, “*Amar leih Rav Mesharsheya… le-khesheyibaka,*” Rashi s.v. “*U-lkhi mayit;”* s.v. *“Lo ratza”* [Rashi, *Shevuot* 36a, s.v. *“Bo kabbalat devarim”]*
2. Tosafot, s.v. “*U-lkhi mayit*.”
3. Ramban, s.v. “*Toleh*;” Rabbeinu Crescas, s.v. “*Ma hi*.”
4. *Chiddushei Ha-Ritva* (Manuscript), s.v. *“Rabbi Shimon omer.*”

**Questions**:

1. Which stipulations rely on *bereira* according to Rashi? Why?
2. Why, according to Tosafot, is the Mishnaic case of “What is she during those days” dependent on the law of *bereira*, even without the distinction of Rashi?
3. Why is the case of “if Father will approve” dependent on the law of *bereira* according to the *Chiddushei Ha-Ritva*? Why is this so according to the Ramban?