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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

The Gemara asks: We have thus found that fathers [cannot testify] for the sons [of each other], and vice versa; and all the more, fathers (i.e., brothers) [cannot testify] in respect of each other; but from where is it derived [that] sons [are inadmissible to give testimony] in respect of sons (i.e., cousins)?

The Gemara answers: If so [that such testimony is admissible, and the Torah disqualifies only the uncle’s testimony], the text should have read: The fathers shall not be put to death on account of [the testimony of] a son. Why ‘sons’? [To teach] that they too [are ineligible] in respect of each other.

Thus we have found that sons [are inadmissible] for each other; from where do we know their inadmissibility [as joint witnesses] concerning others?

Rami bar Chama said: It is deduced by logic. For it has been taught in a Baraisa: Witnesses cannot be declared zomemim¹ until both are proved zomemim. Now, should

you think that sons are eligible [to testify in cases] concerning strangers, a witness declared a zomem might suffer death because of his brother's testimony [which supported his own].

Rava asked: But according to your argument, what of that which we learned in a Mishnah²: If there were three brothers (*each one testifying on one of the years*) and another witness joined with them (*for each year*) - these are three (*valid*) testimonies (*for two brothers are not testifying on the same thing*), and they are one testimony with respect to zomemim (*if they were found to be zomemim, they all must pay; the three brothers pay half of the value, and the one witness pays the other half*). It thus results that the perjured witness must pay money on account of the testimony given by his brother? Rather, [it must be assumed that the penalty for] false testimony is brought about through outsiders (so that it is not the brothers who cause the infliction of punishment), so here too, [the penalty for] false testimony comes about through strangers! [Hence the

¹ When witnesses offer testimony and other witnesses refute them claiming that the first set of witnesses could not possibly testify regarding the alleged crime since they were together with them at a different location at the precise time that they claimed to witness the crime somewhere else; the Torah teaches us that we believe the second pair in this instance; the first witnesses are called "eidim zomemim" -- "scheming witnesses," and they receive the exact punishment that they endeavored to have meted out to the one they accused

² If two witnesses testified that he occupied the property for three years, and they were found to be zomemim (when witnesses offer testimony and other witnesses refute them claiming that the first set of witnesses

could not possibly testify regarding the alleged crime since they were together with them at a different location at the precise time that they claimed to witness the crime somewhere else; the Torah teaches us that we believe the second pair in this instance; the first witnesses are called "eidim zomemim" -- "scheming witnesses," and they receive the exact punishment that they endeavored to have meted out to the one they accused) - they pay the original owner of the land the entire amount (for they tried to take the property away from him). If there were two witnesses on the first year, and two on the second, and two on the third (and they were all found to be zomemim) - we divide it between them (each set of witnesses must pay a third of its value).

difficulty remains; — from where do we know that two kinsmen are inadmissible as witnesses in cases of other persons?]

The Gemara answers: But if so, the text should have read: and a son on account of fathers, or, and they on account of the fathers. Why and sons? —To show that sons [are not eligible] in respect of strangers.

The Gemara asks: We have thus deduced [the exclusion of] paternal relations. From where do we know [the same] of maternal relations?

The Gemara answers: The Torah says ‘fathers’ twice. Since [the repetition] is unnecessary in respect to paternal relations, we may refer it to maternal relations.

The Gemara asks: Now, we have thus learned [the exclusion of relatives’ testimony] to the detriment (of their relative); from where do we know [the same] of [testimony regarding the] benefit (of a relative)?

The Gemara answers: The Torah says ‘they shall be put to death’ twice. Since that [the repetition] is unnecessary in respect of (a case where it is to one’s) detriment, refer it to (a case where it is to one’s) benefit.

The Gemara asks: Again, we have learned [the exclusion of relatives] in capital cases; from where is the same known of civil suits?

The Gemara answers: The Torah says: you shall have one manner of law, meaning that the law must be administered similarly in all cases.

³ Brother, paternal uncle, maternal uncle, sister’s husband, paternal aunt’s husband, maternal aunt’s husband, stepfather and father-in-law

Rav said: My paternal uncle, his son and his son-in-law may not bear testimony for me; nor may I, my son nor my son-in-law testify for him. But why so? Does not this involve relationships of a third-level and a first-level, whereas we learned that a relative of the second-level [may not testify] for a relative of the second-level; and also that one of the second-level cannot testify for one of the first-level; but not that a relative of the third-level may not bear testimony for one of the first-level?

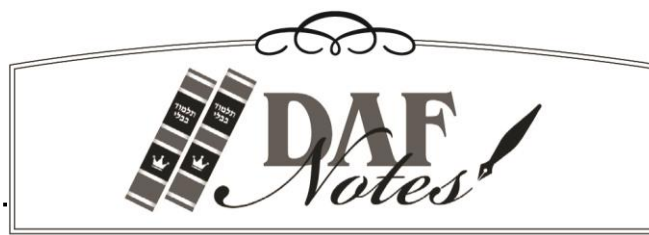
The Gemara answers: What is meant by his son-in-law, stated in the Mishnah, is his son’s son-in-law (which is a second-level to third-level degree of kinship).

The Gemara asks: But should he (the Tanna of the Mishnah) not include [instead] his son’s son (which is a more direct example)?

The Gemara answers: He teaches us incidentally that the husband bears the same relationships as his wife.

The Gemara asks: But what of that which Rabbi Chiya taught: [The Mishnah enumerates] eight ³principal relations who make up the number of twenty-four (for sons and sons-in-law of the eight relatives are included). But these (on the assumption that an additional generation of sons and sons-in-law are included) amount to thirty-two!?

The Gemara revises its answer: But in fact, son-in-law is literally meant. Why then does he [Rav] designate him the “son’s son-in-law”? — Because since his relationship comes from the outside (i.e., through marriage), he is regarded as one degree further removed.



The Gemara asks: If so, it is a case of a relationship between a third-level and a second-level (which the Mishnah is disqualifying), whereas Rav allowed [the testimony of] a third-level concerning a second-level (relative)!?

The Gemara finds a completely different source for Rav's ruling: Rather, Rav agrees with Rabbi Elazar, for it has been taught in a Baraisa: Rabbi Elazar said: Just as my paternal uncle may not testify for me – he, his son and son-in-law, so too the son of my paternal uncle, his son and son-in-law may not testify for me.

The Gemara asks: But still, that includes relatives of the third and the second-level, whereas Rav permitted the testimony of such relatives!?

The Gemara answers: Rav agrees with Rabbi Elazar in one point, but differs from him in another. (28a1 – 28a3)

What is Rav's reason? — The Torah states: Fathers shall not be put to death for sons [‘al banim]; and sons . . . this [the ‘and’] teaches the inclusion of another generation [as ineligible to testify].

And Rabbi Elazar? The Torah states: ‘al banim, implying that the fathers' disqualification is carried over to the sons. (28a3 – 28a4)

Rav Nachman said: My mother-in-law's brother, his son, and my mother-in-law's sister's son, may not testify for me.

The Tanna [of the Mishnah] supports this: A sister's husband; the husband of one's paternal or maternal aunt, . . . All these with their sons and sons-in-law [are ineligible as witnesses].

Rav Ashi said: While we were with Ulla, the question was raised by us: What of one's father-in-law's brother, the father-in-law's brother's son, and the father-in-law's sister's son? — He answered us: We learned this in the Mishnah: A brother, father's brother, and mother's brother . . . All these with their sons and sons-in-law [are ineligible].

It once happened that Rav went to buy parchment, and they asked him whether a man may testify for his step-son's wife. [Rav answered:] In Sura they say that a husband is as his wife; in Pumbedisa, that the wife is as her husband. For Rav Huna said in Rav Nachman's name: From where do we know that a woman is as her husband? — From the verse: The nakedness of your father's brother you shall not uncover; you shall not approach to his wife, she is your aunt. But is she not actually your uncle's wife? Hence we infer that a woman is as her husband. (28a4 – 28b1)

The Mishnah had stated: And a step-father, he, his son and son-in-law.

The Gemara asks: His son! But that is his brother!?

Rabbi Yirmiyah said: This is only added to indicate [the exclusion of] a brother's brother.

Rav Chisda declared a brother's brother eligible. The Rabbis said to him: Are you unaware of Rabbi Yirmiyah's dictum? — “I have not heard it,” he answered, that is to say, “I do not accept it.”

The Gemara asks: If so, [the difficulty remains,] he [i.e., his step-father's son] is his brother!?

The Gemara answers: He [the Tanna] enumerates both a paternal and a maternal brother. (28b1)

Rav Chisda said: The fathers of the bride and bridegroom may testify for each other; their inter-relationship is no more than that of a lid to a barrel. (28b1)

Rabbah bar bar Chanah said: One may testify for his betrothed wife.

Ravina remarked: That is only where his testimony is to remove money from her; but if it is to obtain money for her, he is not to be believed.

The Gemara notes: But [in reality] that is not so; it makes no difference whether his testimony is to obtain money for her or to remove money from her; in neither case is he to be believed. [For] on what [do you base] your opinion [that you do not regard him as a relative]? On Rabbi Chiya bar Ammi's dictum stated on the authority of Ulla, viz.: When a man's betrothed wife [dies], he is not obliged to mourn as an onein, nor may he defile himself. Similarly, she is not bound to mourn as an onenes [if he dies] nor to defile herself. If she dies, he does not inherit from her; but if he dies, she receives her kesuvah!

The Gemara disagrees with the comparison: There, the Torah has made it all depend on the fact that she is 'she'ero' [his wife], a designation which cannot be applied to a betrothed wife. Whereas here [the testimony of a relative is inadmissible] because of closeness of feeling; and such closeness of feeling does exist here [in the case of a betrothed woman and her groom]. (28b1 – 28b2)

The Mishnah had stated: One's step-son alone.

Our Rabbis taught in a Baraisa: A step-son alone (is disqualified from testifying). Rabbi Yosi said: A brother-in-law. Another [Baraisa] has been taught: His brother-in-law alone. Rabbi Yehudah said: A step-son. What does this mean? Shall we assume it to mean as follows: A step-son alone, and the same applies to a brother-in-law; whereas Rabbi Yosi reversed this: A brother-in-law alone, and the same applies to a step-son? If so, when our Mishnah states: A brother-in-law, his son and son-in-law, whose view is this? It is neither Rabbi Yehudah's nor Rabbi Yosi's!? But [again] if this is its meaning: A step-son alone; while as for a brother-in-law, [the exclusion extends to] his son and son-in-law; whereas Rabbi Yosi reversed this: A brother-in-law alone; while as for a step-son, [the exclusion extends to] his son and son-in-law too: in that case, what Rabbi Chiya taught, viz., that the Mishnah enumerates eight primary relations which [together with the sons and sons-in-law] involve twenty-four in all, is neither the opinion of Rabbi Yehudah nor that of Rabbi Yosi!?

Hence this must be the meaning: A step-son alone; but as for a brother-in-law, his son and son-in-law too [are included]; whereas Rabbi Yosi ruled: A brother-in-law alone, and certainly his step-son. The Mishnah therefore agrees with Rabbi Yehudah; while [the view expressed in] the Baraisa is in accordance with Rabbi Yosi. (28b2 – 28b3)

Rav Yehudah said in the name of Shmuel: The halachah follows (the view of) Rabbi Yosi.

A certain gift document had been attested by two brothers-in-law. Now, Rav Yosef thought to declare it valid, since Rav Yehudah said in Shmuel's name: The halachah rests with Rabbi Yosi. But Abaye said to him: How do we know that [he referred to] the ruling of Rabbi Yosi as stated in the Mishnah which permits the

testimony of a brother-in-law: perhaps he meant the ruling of Rabbi Yosi in the Baraisa, which disqualifies a brother-in-law? — One cannot think so, for Shmuel said: E.g., I and Pinchas, who are brothers and brothers-in-law (are inadmissible); hence others who are only brothers-in-law are admissible. But [Abaye retorted] may it not be that Shmuel, in saying, 'e.g., I and Pinchas,' meant only to illustrate the term 'brothers-in-law'? Thereupon [Rav Yosef] said to him: Go and establish your title through those who witnessed the delivery, in accordance with Rabbi Elazar.

The Gemara asks: But didn't Rabbi Abba say: Even Rabbi Elazar agrees that a deed bearing its own disqualification is invalid? — Thereupon Rav Yosef said to him: Go your way; they do not permit me to give you possession. (28b3)

The Mishnah had stated: Rabbi Yehudah said etc. [if one's daughter dies, and his son-in-law has children from her, he still remains a relative].

Rabbi Tanchum said in the name of Rabbi Tavla in the name of Rabbi Beruna in Rav's name: The halachah rests with Rabbi Yehudah. Rava said in Rav Nachman's name: The halachah is not in agreement with Rabbi Yehudah. Rabbah bar bar Chanah said likewise in Rabbi Yochanan's name: The halachah does not rest with Rabbi Yehudah.

Some refer this dictum of Rabbah bar bar Chanah to the following: Rabbi Yosi the Galilean gave the following exposition: And you shall come unto the Kohanim, the Levites, and unto the judge that shall be in those days. Is it then conceivable that, one could go to a judge who does not exist in his lifetime? Rather the text refers to a judge who was formerly a relative but who subsequently ceased to be one. [Whereon] Rabbah bar bar Chanah

said: The halachah rests with Rabbi Yosi the Galilean. (28b3 – 28b4)

DAILY MASHAL

Relatives are ineligible to testify in any case, criminal or civil, either on behalf of their relative or against him.

The Problem: Disqualifying a witness to testify on behalf of his relative is easily understandable because he is suspected of subjectivity. But if he testifies against a relative whom he should favor is this not an indication that he is objectively telling the truth?

The Resolution from Ohr Samayach: The Sefer Hachinuch offers two possible explanations.

In order to eliminate the possibility of a relative's subjective testimony on behalf of his kin ever being accepted the Torah made his disqualification absolute.

The close relationship of relatives inevitably leads to disputes and in a moment of anger one of them may seek to harm the other by falsely testifying against him, a move he will woefully regret once he has calmed down. A relative's testimony is therefore always suspected of being subjective whether he is testifying for or against his kin.