

OVERVIEW of the Daf

1) Disqualifying relatives from testifying (cont.)

The source that cousins may not testify for one another is presented.

Rami bar Chama suggests a source that relatives may not testify together or serve on the same Beis Din.

Rava demonstrates that this is not the source and another source for this ruling is presented.

Sources for additional related halachos are introduced.

Rav expands the list of relatives who may not testify for one another.

On its third attempt the Gemara refutes Rav's ruling forcing a revision to Rav's original statement.

This understanding is also refuted and a final explanation is recorded.

This explanation is unsuccessfully challenged.

The sources for Rav and R' Elazar's respective rulings are presented.

The list of relatives that are disqualified from testifying for one another is expanded.

Rav discussed whether one may testify for his step-son's wife.

The source for this issue is presented.

R' Yirmiyah and R' Chisda disagree whether one may testify for a brother's brother.

R' Chisda rules that the father of the groom and the father of the bride may testify for one another.

Rabbah bar bar Chana rules that one may testify for his arusah.

Ravina suggests a qualification to this ruling but it is rejected.

A Baraisa issues what seems like an incoherent set of rulings concerning a stepson and a brother-in-law.

One explanation of the Baraisa is suggested but rejected in favor of a second explanation.

R' Yehudah in the name of Shmuel rules in accordance with R' Yosi that one may not testify for a brother-in-law or a stepson.

A related incident is recorded.

The Gemara presents a discussion about whether one may testify for someone who is no longer a relative. ■

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By Dr. and Mrs. Yudel Mayefsky
In loving memory of their father
הרב יצחק בן הרב משה, ע"ה

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Distinctive INSIGHT

Shmuel rules according to R' Yose

אמר רבי יהודה אמר שמואל הלכה כרבי יוסי

The Mishnah (27b) provided a list of the relatives who are disqualified from being judges or witnesses for each other. R' Yose stated that the list was authored by Rabbi Akiva, but that a previous Mishnah taught that the only relatives disqualified are those who are in line to inherit from one another. This means that a brother-in-law is allowed to testify, as he is not an heir.

The Gemara cites a Baraisa where we find a disagreement between R' Yehuda and R' Yose. After a brief analysis, the Gemara suggests that R' Yehuda holds that although a stepson is disqualified from testifying for his mother's husband, this is only true regarding himself. The son and son-in-law of a stepson may testify. However, regarding a brother-in-law, not only is he disqualified, but his son and son-in-law also may not testify. R' Yose, however, disagrees, and he holds that just as we found regarding the stepson that only he is disqualified, this is also the law regarding a brother-in-law, where only he is disqualified.

Rabbi Yehuda in the name of Shmuel rules according to R' Yose. It is not clear, however, whether the reference was to the view of R' Yose in the Mishnah who allows a brother-in-law to testify, as he is not an heir, or whether the ruling is in accordance with R' Yose in the Baraisa, where he disqualifies a brother-in-law. The Gemara tells of a gift document which was signed by two brothers-in-law, and R' Yosef was willing to validate it. Abaye protested and claimed that the ruling might not be according to the Mishnah which allows brothers-in-law to testify, but rather according to the Baraisa. R' Yosef

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REVIEW and Remember

1. What is the source that two brothers may not testify together?

2. What is the implication regarding testimony that a husband is like his wife?

3. Why doesn't a Kohen ארוס make himself tamei for his ארוסה?

4. Why does the Torah instruct a person to inquire of the kohanim who will be around in his days?

HALACHAH Highlight

Is an arusah included in the enactments of Rabbeinu Gershom?

הכא משום איקרובי דעתא הוא והא איקרבא דעתיה לגבה

Here [concerning testimony] the issue is having a close feeling and an engaged couple have that close feeling

Regarding the relationship between an arusah and his arusah, the Gemara differentiates between those halachos that are a function of a couple being considered one flesh (שאר) which a betrothed couple have not yet achieved and those halachos that relate to the closeness of the couple which does apply to a betrothed couple. Thus, for example, an arusah may not testify for his arusah since the disqualification for testifying is a function of closeness which has already been achieved. Poskim discuss Rabbeinu Gershom's cherem against a man who divorces his wife without her consent and whether that enactment includes an arusah and an arusah.

Teshuvah Maharik¹ writes that Rabbeinu Gershom's enactment is limited to one's wife and he explains the logic of his assertion as follows. If a man is merely betrothed and he decides that he wants to divorce her, who has the authority to force him to marry her and obligate himself in the responsibilities of a husband to someone he does not wish to marry? The only options that are available are to convince him to marry her or for them to divorce but Rabbeinu Gershom would not have made an enactment that would leave an arusah stuck as an agunah.

The ruling of Maharik is codified in Rema² but Pischei Teshuvah adds an important qualification to this ruling. In

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ended up retracting his validation of the document, and he told the receiver that the document was worthless.

Ri"ף, Rambam (Eidus 13:9), and Rosh, as well as the other Rishonim all rule according to R' Yose's opinion in the Baraisa, that a brother-in-law is disqualified from testimony, but that it is only he who is excluded, and not his son or son-in-law. R' Yose is of the opinion that although the husband of a mother's sister is disqualified, as well as his son and son-in-law, this is not the same as one's brother-in-law, where only he is disqualified, but not his son nor his brother-in-law.

It is clear that the opinions of Rav Nachman and Rav Ashi do not concur with the ruling of Shmuel, who rules according to R' Yose. Rav Nachman disqualifies one's mother-in-law's brother, and his son, and the mother-in-law's sister's son. Rav Ashi disqualifies one's father-in-law's brother and his son. These cases are derived from the beginning of the Mishnah, against which R' Yose argues. Accordingly, פסקי הר"ד does not rule according to R' Yose. Nevertheless, most poskim accept the ruling of Shmuel, according to whom we generally rule in monetary cases. ■

the name of earlier authorities Pischei Teshuvah writes that Maharik's ruling that an arusah was not included in Rabbeinu Gershom's enactment is limited to the part of the cherem against a man who divorces his wife without her consent. The enactment that one may not marry more than one wife applied to an arusah the same as it applied to a nesuah. Consequently, the cherem of Rabbeinu Gershom applies for an arusah not to marry a second wife in addition to his arusah. ■

1. שו"ת מהרי"ק שורש ק"א אות ג'.

2. רמ"א אה"ע סי' א' סעי' י'.

3. פתי"ש שם ס"ק ט"ו. ■

STORIES Off the Daf

"We will surely meet in Gan Eden!"

"כי אכלא לדנא..."

Even toward the end of his life, Rabbi Akiva Eiger, zt"l, made sure to attend his grandchildren's weddings. Once, when he took leave of one of the mechutanim at such an affair, his mechutan began to weep. When Rabbi Akiva Eiger asked why he was crying he replied, "We are already old. Who knows if we will ever meet again..."

The gadol then said. "Don't worry. Mechutanim in this world are

mechutanim in the next world. We will surely meet in Gan Eden!"

After recounting this story, Rav Eliyahu Mann, shlit"א, asked Rav Chain Kanievsky, shlit"א, "Is there any source in chazal for such closeness between mechutanim in the next world?"

Rav Kanievsky replied, "In Sanhedrin 28 we find that mechutanim are permitted to bear witness regarding each other since they are likened to a barrel and its cover which is not really a single body. It seems clear from this analogy, however, that there is some kind of connection between them, just as a barrel and its cover are indeed two parts of a unit."¹

The Pnei Menachem of Gur, zt"l,

would offer a tongue-in-cheek explanation of this statement to impart a very practical lesson for mechutanim. "On the surface this seems difficult. What is the relevance of this parable to mechutanim? Yet it is possible to extract an important hint from this comparison. The barrel and the cover contain the contents, they aren't mixed in with them! It is essential that the mechutanim give some healthy space to their children and not meddle in their private affairs. If they are not careful to maintain their distance, they can ruin the shidduch, even when they mean well."² ■

1. דרך שיחה, ח"ב, ע' שפ"א

2. נעימות החיים, ע' קנ"ט ■