

LANGUAGE

Tax [*karga*] – כַּרְגָּא: From the Middle Persian *harg*, meaning duty or tribute. In the Talmud it normally refers to a poll tax.

NOTES

And accepted to pay his tax for all of his years – וְקָבְלִיהָ לְכַרְגָּא דְכּוֹלֵי שְׁנֵינָא: Why was it not prohibited for Rav Pappi to accept this gift due to the prohibition against receiving a bribe? The Ramah answers that Rav Pappi was not the judge; he was merely present in the courthouse.

Disqualification of relatives – פְּסוּל קְרוֹבִים: Certain family relationships are mentioned here twice; see Rashi.

With regard to the order in which the relatives are mentioned, several commentaries explain that each case contains an element that is novel compared to the previous case: The first case is one's brother, which is the closest relationship mentioned in the mishna. One's paternal uncle is a more distant relative. The disqualification of one's maternal uncle contains a novel element, as he is a maternal relative, who therefore does not inherit from him. One's sister's husband is related only through marriage. The husband of one's paternal aunt is a more distant relative than one's sister's husband. The husband of one's maternal aunt is related through both marriage and the maternal relationship. The same can be said of one's stepfather. One's father-in-law is related to him only after he gets married. The husband of one's wife's sister is related through two marriages (see Ramah; Ran; Rabbeinu Yehonatan of Lunel).

One's brother and his paternal uncle – אֶחָיו וְאָחִי אָבִיו: The early commentaries discuss the fact that one's father is not mentioned. According to the Rambam, this is because one's father is mentioned explicitly in the verse and is not derived through an interpretation as the other relatives are. The Meiri explains this fact based on the opinion that all of one's ancestors are disqualified.

The initial version of the mishna – מִשְׁנֵה רֵאשׁוֹנָה: Three reasons are given for the principle, according to the initial version, that only paternal relatives are disqualified. One is that Deuteronomy 24:16, the verse from which the disqualification of relatives is derived, mentions only the father. Another explanation is that only potential inheritance renders the testimony of a relative tainted by a conflict of interest. A third explanation suggests that one's paternal relatives, and not his maternal relatives, are considered his family (Ramah).

And anyone who is fit to inherit from him – וְכֹל הֵרָאוי לְיִוָּרְשׁוֹ: According to several commentaries (Ramah; Ran; Maharshal, citing Rashi), this phrase is part of the initial version of the mishna, i.e., not only his uncle and the son of his uncle are disqualified, but also anyone who is fit to inherit from him. Other commentaries interpret this phrase as the conclusion of Rabbi Akiva's version. Accordingly, the disqualified relatives listed are those from whom the witness is fit to inherit. For example, one is disqualified from bearing witness about his maternal uncle, but his maternal uncle is fit to testify about him (Rambam; Rabbi Ovadya Bartenura).

Rashi explains that the phrase: Fit to inherit from him, means that the witness is fit to inherit from the litigant. Other early commentaries (Ba'al HaMaor; Ramah) maintain it means either the witness is fit to inherit from the litigant or vice versa. Accordingly, only the husband of his wife's sister and the like are not disqualified.

אֵלֶּיךָ, הֲכֵא קָא סָתֵם לֹן תַּנָּא, דְּתַנְּנָן: "אֵלֶּיךָ הֵן הַפְּסוּלִים: הַמְּשַׁחֵק בְּקוֹבְעֵינָא, וּמְלוֹי בְּרַבִּית, וּמְפָרְחֵי יוֹנִים, וְסוֹחְרֵי שְׂבִיעִית וְהַעֲבָדִים. זֶה הַכֵּל: כֹּל עֲדוּת שְׂאִין הָאִשָּׁה כְּשִׁירָה לָהּ, אִף הֵן אִין כְּשִׁירֵין לָהּ."

מִנֵּי אֵילִימָא רַבִּי יוֹסִי – וְהָאִיכָא עֲדוּת בְּרֵינֵי נַפְשׁוֹת, שְׂאִין הָאִשָּׁה כְּשִׁירָה לָהּ וְהֵן כְּשִׁירֵין לָהּ? אֵלֶּיךָ, לָא רַבִּי מֵאִיר הִיא?

קָם בַּר חָמָא נִשְׁקִיָּה אַבְרָעִיָה, וְקָבְלִיהָ לְכַרְגָּא דְכּוֹלֵי שְׁנֵינָא.

מִתְנִי' וְאֵלֶּיךָ הֵן הַקְּרוֹבִין: אֶחָיו, וְאֶחָיו אָבִיו, וְאָחִי אָמוֹ, וּבַעַל אַחֹתוֹ, וּבַעַל אַחֹת אָבִיו, וּבַעַל אַחֹת אָמוֹ, וּבַעַל אָמוֹ, וְחָמִיו, וְגִיסוֹ – הֵן וּבְנֵיהֶן וְחַתָּנֵיהֶן. וְחֹרְגוֹ, לְבָדוֹ.

אָמַר רַבִּי יוֹסִי: זֶה מִשְׁנֵת רַבִּי עֲקִיבָא. אֲבָל מִשְׁנֵה רֵאשׁוֹנָה: דּוֹדוֹ, וּבֶן דּוֹדוֹ, וְכֹל הֵרָאוי לְיִוָּרְשׁוֹ. וְכֹל הַקְּרוֹב לֹן בְּאוֹתָהּ שְׁעָה.

הִיא קְרוֹב וְנִתְרַחַק הִיא זֶה כְּשִׁיר. רַבִּי יְהוּדָה אָמַר: אֲפִילוּ מִתָּה בְּתוֹ וַיִּשׁ לֹן בְּנִים מִמֶּנָּה – הִיא זֶה קְרוֹב.

Rather, the *tanna* taught us an unattributed mishna here, as we learned in a mishna (*Rosh HaShana* 22a): These people are disqualified from bearing witness, as they are considered wicked and guilty of monetary transgressions: One who plays with dice, and those who lend money with interest, and those who fly pigeons, and merchants who trade in produce of the Sabbatical Year. And Canaanite slaves are also disqualified.^h This is the principle: For any testimony for which a woman is not fit, these too are not fit. Although in certain cases a woman's testimony is accepted, e.g., testimony concerning the death of someone's husband, in most cases her testimony is not valid.

In accordance with whose opinion is this mishna? If we say it is the opinion of Rabbi Yosei, that is difficult: But isn't there testimony in cases of capital law, for which a woman is not fit but for which those considered wicked due to having committed monetary transgressions are fit? Rather, is it not the opinion of Rabbi Meir, who maintains these people are disqualified from testifying in cases of capital law as well? Apparently, this unspecified mishna follows the opinion of Rabbi Meir. Therefore, the *halakha* is in accordance with his opinion.

Based on this conclusion, one of the witnesses who testified against bar Hama with regard to the murder was disqualified, and bar Hama was acquitted. Bar Hama then arose and kissed Rabbi Pappi on his feet and accepted upon himself to pay his tax [*karga*]^l for all of his years.ⁿ

MISHNA And these are the ones disqualified from bearing witness or from serving as judges due to their status as relatives^{nh} of one of the litigants or of each other: One's brother, and his paternal uncle,ⁿ and his maternal uncle, and his sister's husband, and the husband of his paternal aunt, and the husband of his maternal aunt, and his mother's husband, and his father-in-law, and his brother-in-law, i.e., the husband of his wife's sister. They themselves, all of these people, and also their sons, and their sons-in-law are considered relatives. And his stepson alone is disqualified, but not his stepson's sons or sons-in-law.

Rabbi Yosei says: This aforementioned *halakha* is Rabbi Akiva's version of the mishna. But the initial version of the mishnaⁿ reads as follows: His uncle and the son of his uncle, and anyone who is fit to inherit from him.ⁿ Only paternal relatives, who are fit to inherit from him, are disqualified; maternal relatives, who do not inherit from him, are not disqualified from bearing witness about him or from adjudicating his case. And the *halakha* disqualifying a relative from bearing witness or serving as a judge is referring to anyone who is related to him at the time of the trial.

If one was once a relative and became unrelated^h by the time of the trial, e.g., he married the daughter of one of the litigants, but she died or they were divorced, in this case he is fit. Rabbi Yehuda says: Even if his daughter died but her husband, the former son-in-law, has children from her, he is still considered a relative; the children cause them to remain related.

HALAKHA

Disqualification of a slave – פְּסוּל עֶבֶד: A Canaanite slave is disqualified from bearing witness by Torah law, as he is not a member of the covenant (Rambam *Sefer Shofetim, Hilkhot Eduṭ* 9:4; *Shulhan Arukh, Hoshen Mishpat* 34:19).

Disqualification of relatives – פְּסוּל קְרוֹבִים: Relatives, both paternal and maternal, are disqualified from bearing witness (Rambam *Sefer Shofetim, Hilkhot Eduṭ* 13:1; *Shulhan Arukh, Hoshen Mishpat* 33:2).

Was once a relative and became unrelated – הִיא קְרוֹב וְנִתְרַחַק: One who was disqualified from bearing witness about a litigant because he was married to the litigant's relative is fit to bear witness after the relative's death, even if they had children. This is in accordance with the unattributed opinion in the mishna (Rambam *Sefer Shofetim, Hilkhot Eduṭ* 14:1; *Shulhan Arukh, Hoshen Mishpat* 33:12).

הַאֹהֶב וְהַשֹּׂנֵא – One who loves or one who hates: One who loves or hates one of the litigants is not disqualified from bearing witness about him, as the Jewish people are not suspected of testifying falsely out of love or hate. Nevertheless, the Maharshah rules that a complete enemy of one of the litigants is disqualified, as there is concern he will testify falsely for revenge (Rambam *Sefer Shofetim, Hilkhos Edut* 13:15; *Shulhan Arukh, Hoshen Mishpat* 33:1).

הַאֹהֶב וְהַשֹּׂנֵא. אֹהֶב – זֶה שׁוֹשְׁבֵינוּ, שׁוֹנֵא – כָּל שְׂלֵא דְבַר עִמּוֹ שְׂלֵשָׁה יָמִים בְּאֵיבָה. אָמְרוּ לוֹ: לֹא נִחְשְׁדוּ יִשְׂרָאֵל עַל כֵּן.

One who loves or one who hates^h one of the litigants is also disqualified. With regard to one who **loves** one of the litigants, this is referring to **his groomsman**. One who **hates** is referring to **anyone who, out of enmity, did not speak with the litigant for three days.**ⁿ The Rabbis said to Rabbi Yehuda: **The Jewish people are not suspected of bearing false witness due to love or hate.**

גַּמְ' מִנְהֵי מִיָּלִיד? דִּתְנוּ רַבְנֵי: "לֹא יוֹמְתוּ אָבוֹת עַל בְּנֵים," מִזֶּה תִּלְמֹד לֹא מֵרִיב? אִם לְלַמֵּד שְׂלֵא יוֹמְתוּ אָבוֹת בְּעוֹן בְּנֵים וּבְנֵים בְּעוֹן אָבוֹת. הֲרִי כָּכָר נֶאֱמַר: "אִישׁ בְּחַטָּאוֹ יוֹמְתוֹ!"

GEMARA From where is this matter, that relatives are disqualified from bearing witness, derived? The Gemara answers: It is as the Sages taught in a *baraita*: "The fathers shall not be put to death for the children, neither shall the children be put to death for the fathers; every man shall be put to death for his own sin" (Deuteronomy 24:16). **Why must the verse state this first clause? If it is to teach that the fathers shall not be put to death for the sin of the children, nor shall the children be put to death for the sin of the fathers, this is unnecessary, as it is in any event stated: "Every man shall be put to death for his own sin."**

אָלֵא, "לֹא יוֹמְתוּ אָבוֹת עַל בְּנֵים" – בְּעֵדוּת בְּנֵים; "וּבְנֵים לֹא יוֹמְתוּ עַל אָבוֹת" – בְּעֵדוּת אָבוֹת.

Rather, the statement "The fathers shall not be put to death for the children" should be interpreted to mean that they shall not be put to death **by the testimony of the children**, and the statement "Neither shall the children be put to death for the fathers" should be interpreted to mean that they shall not be put to death **by the testimony of the fathers**.

וּבְנֵים בְּעוֹן אָבוֹת לֹא? וְהִכְתִּיב: "פֶּקֶד עוֹן אָבוֹת עַל בְּנֵים?"

The Gemara asks: **And are children not put to death for the sin of the fathers? But isn't it written: "Visiting the iniquity of the fathers upon the children, and upon the children's children, unto the third and unto the fourth generation" (Exodus 34:7)?**

הֲתָם, כְּשִׂאוּחֻזִין מַעֲשֵׂה אָבוֹתֵיהֶן בִּידֵיהֶן.

The Gemara answers: **There**, the verse is referring to a situation where the children **adopt the actions of their ancestors as their own.**ⁿ If they do not behave like their ancestors they are not punished for their ancestors' sins.

כְּדִתְנִי: "וְאִף בְּעוֹנֵת אֲבֹתָם אֲתָם יִמְקוּ" – כְּשִׂאוּחֻזִין מַעֲשֵׂה אָבוֹתֵיהֶם בִּידֵיהֶם. אֲתָהּ אוֹמֵר כְּשִׂאוּחֻזִין, אוֹ אֵינוֹ אֶלֶּא כְּשִׂאִין אוֹחֻזִין? כְּשִׂאוּחֻזִין אוֹמֵר "אִישׁ בְּחַטָּאוֹ יוֹמְתוֹ". הֲרִי כְּשִׂאוּחֻזִין מַעֲשֵׂה אָבוֹתֵיהֶן בִּידֵיהֶן.

This is as it is taught in a *baraita*: The verse: "And also in the iniquities of their fathers shall they pine away with them" (Leviticus 26:39), is referring to a case where they **adopt the actions of their ancestors as their own**. Do you say that it is referring specifically to a case where they **adopt** the actions of their ancestors, or perhaps it applies even where they **do not adopt** their ancestors' actions? **When the verse states: "Every man shall be put to death for his own sin,"** the Torah explicates that one is not put to death if he did not sin. Therefore, the verse in Leviticus is clearly referring to a case where they **adopt the actions of their ancestors as their own**.

וְלֹא? וְהִכְתִּיב: "וְכָשְׁלוּ אִישׁ בְּאֶחָיו" – אִישׁ בְּעוֹן אֶחָיו, מִלְּמַד שְׂכוּלָן עֲרֵבִים זֶה בְּזֶה!

The Gemara asks: **And are descendants not punished for the sins of their ancestors unless they adopt their behavior? But isn't it written: "And they shall stumble one upon another" (Leviticus 26:37)?** This verse is homiletically interpreted to mean that the Jewish people shall **stumble, one due to the iniquity of another**, i.e., they are punished for each other's sins, which **teaches that all Jews are considered guarantors**, i.e., responsible, **for one another**.

הֲתָם שְׂהִיָּה בְּיָדָם לְמַחֹת וְלֹא מִיחוּ.

The Gemara answers: **There**, in the verse in Leviticus, the reference is to a case where others **had the ability to protest** the sin but they **did not protest**. Consequently, they are punished for not protesting, regardless of any familial relationship they may have with the sinner.

NOTES

Three days – שְׂלֵשָׁה יָמִים: In the *Sifrei* this definition is derived from the verse: "And he does not hate him from yesterday or the day before" (Deuteronomy 19:4), which indicates that hate is established over a period of three days.

Where the children adopt the actions of their ancestors as their own – כְּשִׂאוּחֻזִין מַעֲשֵׂה אָבוֹתֵיהֶן בִּידֵיהֶן: The early commentaries explain that one is punished only for his own sins. But if his ancestors were also wicked, God does not wait with His punishment as He does with one whose ancestors were righteous (Meiri; Ramban's Commentary on the Torah).

HALAKHA

Unless they are both rendered conspiring witnesses – עד שזיומו שניהן: Conspiring witnesses are not punished, whether by the death penalty, lashes, or monetary payment, unless both witnesses are rendered conspiring witnesses. Nevertheless, even if only one of them is rendered a conspiring witness, he is disqualified from bearing witness about any matter (Rambam *Sefer Shofetim, Hilkhot Edut* 20:1).

Three testimonies but they are one testimony for rendering them conspiring witnesses – שלש עדויות והן עדות אחת להזמה: This case is one of land that is in the possession of a certain individual, where two witnesses testified that it was in his possession for one year, two witnesses testified that it was in his possession a second year, and two witnesses testified that it was in his possession a third year. This confers on him presumptive ownership of the land. Although these are three distinct testimonies, they are considered one testimony with regard to punishment if the witnesses are rendered conspiring witnesses. Therefore, if three of the witnesses are brothers, each of whom testified about a different year, and a fourth witness who is not related to the brothers joined with each of them, testifying about all three years, and they were all rendered conspiring witnesses, the brothers together pay half the fine and the fourth witness pays the other half (Rambam *Sefer Shofetim, Hilkhot Edut* 21:7).

אֲשַׁכְּחַן אָבוֹת לְבָנִים וּבָנִים לְאָבוֹת,

§ The Gemara resumes its discussion of the source for the disqualification of relatives from bearing witness. From the fact that the verse: “The fathers shall not be put to death for the children” (Deuteronomy 24:16), is not phrased in the singular, i.e., A father shall not be put to death for his child, it is derived that not only are a father and child disqualified from bearing witness about one another, but closely related relatives, i.e., brothers, are also disqualified from bearing witness about each other’s children. Consequently, we found a source for the disqualification of fathers from bearing witness about their children or the children of their brothers, and for the disqualification of children from bearing witness about their fathers or their fathers’ brothers.

וְכָל שָׂכֵן אָבוֹת לְהֶדְדִי.

And all the more so, the related fathers, e.g., brothers, are disqualified from bearing witness about each other, as they are certainly more closely related to each other than are a nephew and an uncle.

בָּנִים לְבָנִים מִמֶּלֶךְ?

But from where do we derive that one brother’s children cannot bear witness about the children of the other brother?

אִם בֵּן לְיִתְרוֹ קָרָא: “לֹא יוֹמְתוּ אָבוֹת עַל בֵּן.” מֵאֵי “בָּנִים”? דְּאֶפְיֵלוּ בָּנִים לְהֶדְדִי.

The Gemara answers: If so, if the children of one brother can bear witness about the children of the other brother, let the verse write: The fathers shall not be put to death for the child. For what reason is “children” written, in the plural? It is derived from here that even children of brothers are disqualified from bearing witness about each other.

אֲשַׁכְּחַן בָּנִים לְהֶדְדִי. בָּנִים לְעֵלְמָא, מִמֶּלֶךְ?

We found a source for the halakha that the children of brothers cannot bear witness about each other. From where do we derive that the children of brothers cannot bear witness together about others?

אָמַר רַמִּי בַר חָמָא: סְבֵרָא הוּא, כְּדִתְנִינָא: “אִין הָעֵדִים נַעֲשִׂין זִוְמָמִין עַד שְׁזִיזְמוּ שְׁנֵיהֶן.” וְאִי סָלְקָא דְעֵתָךְ בָּנִים לְעֵלְמָא בְּשֵׁרִין, נִמְצָא עַד זִוְמִים נִהְרַג בְּעֵדוֹת אַחֵיו!

Rami bar Hama says: This halakha is based on logical reasoning, and is not derived from a verse. This is as it is taught in a baraita: The witnesses are not rendered conspiring witnesses unless they are both rendered conspiring witnesses.^h And therefore, if it enters your mind that related children are fit to bear witness together about others, a conspiring witness can be found to be executed based on the testimony of his brother, i.e., his relative. Since a conspiring witness is executed for his testimony only if his co-witness is also rendered a conspiring witness, the testimony of his co-witness, who is a relative, is what causes him to be executed. This is tantamount to relatives bearing witness about each other. Therefore, relatives cannot serve as witnesses together.

אָמַר לִיהֵא רַבָּא: וְלִיטְעֵמִיךְ, הָא דְתַנֵּן: “שְׁלִישָׁה אַחֵין וְאֶחָד מִצְטָרֵף עִמָּהֶן, הָרִי אֵלוֹ שְׁלִישׁ עֵדוּת; וְהֵן עֵדוּת אַחַת לְהִזְמָה.”

Rava said to him: But according to your reasoning, there is a difficulty arising from that which we learned in a mishna (*Bava Batra* 56b): If one occupied land for three years, this serves in court as proof that he is the legal owner. If three brothers testify to his three-year possession of the land, with each one testifying separately about one year, and one unrelated individual joins with each of the brothers as the second witness, these are considered three distinct testimonies and are therefore accepted by the court. If they were to be considered one testimony it would not be accepted, as brothers may not testify together. But they are considered one testimony for the purpose of rendering them conspiring witnesses.^h In other words, they are punished only if all six of the witnesses are rendered conspiring witnesses, and the liability is divided among them.

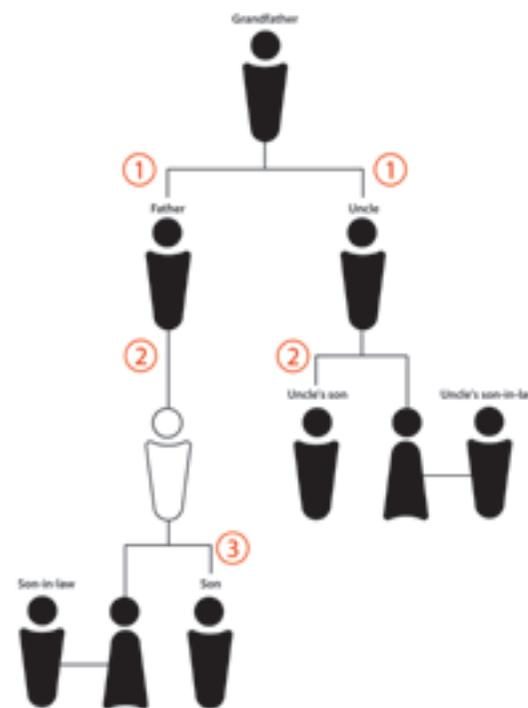
נִמְצָא עַד זִוְמִים מְשַׁלֵּם מִמֶּנּוּ בְּעֵדוֹת אַחֵיו!

Rava states his objection: If so, a conspiring witness can be found to be paying money due to the testimony of his brother, and nevertheless, the brothers’ testimony is not disqualified.

BACKGROUND

If it is not needed to teach the matter – אם אינו ענין – This form of reasoning is one of the thirty-two hermeneutical principles of Rabbi Eliezer, son of Rabbi Yosei. According to most commentaries, the conclusions drawn from these principles are as authoritative as they would be were they explicitly written in the Torah (see *Yad Malakhi*). This particular principle is based on the superfluity of words or verses in the context of that biblical passage. The word or verse is never applied to matters totally unrelated to the meaning of the text.

The father's brother and his relatives – אחי האב וקרוביו – This chart shows the family relationships discussed by Rav. The witness in question is represented by the white figure. The chart illustrates how the witness is a member of the second generation in relation to his paternal uncle, who is a member of the first generation. The relationship between the witness and the son of his paternal uncle is that of two members of the second generation, and the relationship between the son of the witness and the witness's paternal uncle is that of a member of the third generation and a member of the first generation.



Generational relationships of the witness

NOTES

From where do we derive that one cannot testify to the benefit of his relative – לזכות מנא לן? Why is it not inferred *a fortiori* that if one is disqualified from bearing witness to the detriment of his relative, all the more so is he disqualified from bearing witness to his benefit? This leads some commentaries to the conclusion that one is disqualified from bearing witness about his relatives not due to suspicion that he is lying but due to a Torah edict. Therefore, it is possible that the disqualification applies only to testimony that is to the detriment of the relative (Rabbi Yeshaya Pick-Berlin).

אָלֵא, הַזְמַח מֵעֲלָמָא קִאָּתִי. הַכָּא נִמִּי, הַזְמַח מֵעֲלָמָא קִאָּתִי.

Rather, this is clearly not considered tantamount to brothers bearing witness about each other, as the rendering of one as a conspiring witness comes not from his co-witness but from others, i.e., the witnesses who testify that he had been with them. Here too, it cannot be proven logically that relatives are disqualified from bearing witness together, as the rendering of one as a conspiring witness comes from others.

אָלֵא, אִם בֶּן, לִיכְתוּב קָרָא: "וּבֶן עַל אָבוֹת", אִי נִמִּי "הֵם עַל אָבוֹת". מֵאִי "וּבָנִים"? אֶפְלוּ בָּנִים לְעֲלָמָא.

Rather, the *halakha* that relatives are disqualified from bearing witness together is derived from a different source: If it is so that relatives can bear witness together, let the verse write: And a child shall not be put to death for the fathers, or: They shall not be put to death for the fathers. For what reason is "and the children" written in the plural? This indicates that related children are disqualified from bearing witness even about others.

אֲשַׁבְּחֶנּוּ קְרוּבֵי הָאָב; קְרוּבֵי הָאֵם, מִנְלָן? אָמַר קָרָא: "אָבוֹת" "אָבוֹת" תְּרִי וְיִמְנִי, אִם אֵינוֹ עֲנִין לְקְרוּבֵי הָאָב, תִּנְהִי עֲנִין לְקְרוּבֵי הָאֵם.

The Gemara asks: We found a source for the disqualification of paternal relatives. From where do we derive the disqualification of maternal relatives? The Gemara answers: The verse states "fathers," "fathers," i.e., it states the word twice. This repetition is unnecessary, as the verse could have stated: And the children shall not be put to death for them. If the superfluous word "fathers" is not needed to teach the matter^b of paternal relatives, as this matter was already derived from the verse, apply it to the matter of maternal relatives.

אֲשַׁבְּחֶנּוּ לְחֹבֶה; לְזֹכוֹת, מִנָּא לָן?

The Gemara asks: We found a source for the *halakha* that one cannot bear witness to the detriment of his relative, as the verse states: "Shall not be put to death." From where do we derive that one cannot testify to the benefit of his relative?ⁿ

אָמַר קָרָא: "וּמְתוֹ" "וּמְתוֹ" תְּרִי וְיִמְנִי, אִם אֵינוֹ עֲנִין לְחֹבֶה, תִּנְהִי עֲנִין לְזֹכוֹת.

The Gemara answers: The verse states the term "shall not be put to death," "shall not be put to death," twice. If it is not needed to teach the matter of testimony to the detriment of one's relative, as this *halakha* was already derived from the verse, apply it to the matter of testimony to the benefit of one's relative.

אֲשַׁבְּחֶנּוּ בְּדִינֵי נַפְשׁוֹת; בְּדִינֵי מְמוֹנוֹת, מִנְלָן?

The Gemara asks: We found a source for the disqualification of relatives in cases of capital law, as the verse is referring to execution. From where do we derive this *halakha* in cases of monetary law?

אָמַר קָרָא: "מִשְׁפֵּט אַחַד יִהְיֶה לָכֶם" – מִשְׁפֵּט הַשְּׂוֵה לָכֶם.

The Gemara answers that the verse states: "You shall have one manner of law" (Leviticus 24:22), which is interpreted to mean: A law that is equal for you. In other words, monetary law and capital law essentially follow the same guidelines.

אָמַר רַב: אַחֵי אָבָא לֹא יְעִיד לִי, הוּא וּבְנֵו וְחַתָּנֵו. אַף אֲנִי לֹא אֲעִיד לוֹ, אֲנִי וּבְנֵי וְחַתָּנֵי.

Rav says: My paternal uncle will not testify about me, neither he, nor his son, nor his son-in-law, in accordance with the ruling of the mishna. Furthermore, I will not testify about him, neither I, nor my son, nor my son-in-law.^{bH}

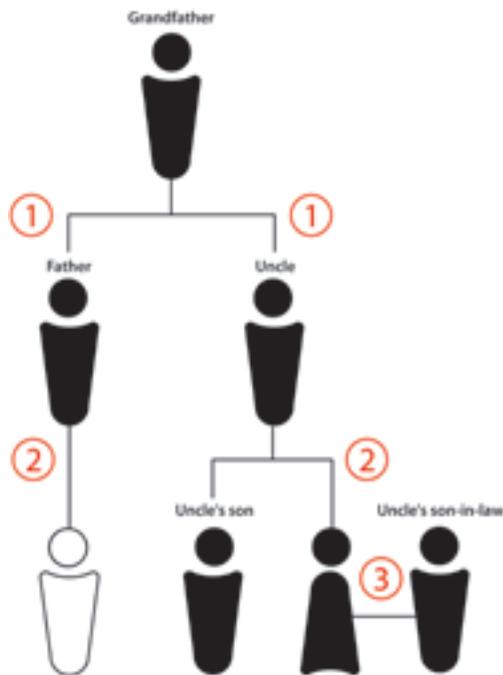
HALAKHA

Disqualified relatives – קְרוּבִים הַפְּסוּלִים – With regard to disqualification from bearing witness, familial relationships are defined in the following manner: Siblings are defined as members of the first generation, their children are members of the second generation, and the children of their children are members of the third generation. The relationship between a parent and a child is equal to that of members of the first generation. The same is true with regard to a husband and wife: Their children from other marriages are considered members of the second generation, and the children of their children are members of the third generation.

The *halakha* is that members of the first and second generations are disqualified from bearing witness about one another. With regard to a member of the first generation and a member of the third generation, the authorities disagree whether Rav's opinion, that they are disqualified, should be accepted. According to all authorities, a member of the second generation and a member of the third generation can testify about one another, and all the more so members of the third generation can testify about one another (Rambam *Sefer Shofetim*, *Hilkhot Edu* 13:4; *Shulhan Arukh*, *Hoshen Mishpat* 33:2).

BACKGROUND

Comes from outside – מעלמא קאָמט: This chart illustrates how the paternal uncle's son-in-law is considered, in relation to the witness, represented by the white figure, like a member of the third generation vis-à-vis a member of the second generation. Since a relative by marriage is considered a more distant relative than his spouse by one generational level, it follows that the paternal uncle is a member of the first generation, his daughter is a member of the second generation, and her husband, the paternal uncle's son-in-law, is considered to be like a member of the third generation.



Relationship of witness to his paternal uncle's son-in-law

ואמאי הוה ליה שלישי בראשון. ואנן שני בשני תנן, שני בראשון תנן, שלישי בראשון לא תנן!

The Gemara asks: **And why**, for example, can Rav's son not testify about the brother of his father's father? But **it is** the testimony of a member of the **third generation with regard** to a related member of the **first generation**, as there is a two-generation difference between them. **And we learned** in the mishna that a member of the **second generation cannot testify about** a member of the **second generation**, e.g., one cannot testify about the son of his paternal uncle. **We also learned** that a member of the **second generation cannot testify about** a member of the **first generation**, e.g., one cannot testify about his uncle. But **we did not learn** that a member of the **third generation cannot testify about** a member of the **first generation**.

מאי "חתנו" דקתני במתניתין? חתן בנו.

The Gemara answers: In the statement that is taught in the **mishna**: They themselves, and their sons, and their sons-in-law are considered relatives, **what is the ruling of the mishna concerning his son-in-law referring to?** It is referring to **the son-in-law of his son**. Accordingly, the mishna disqualifies the testimony of a member of the third generation about a member of the first generation.

וליתי "בן בנו"!

The Gemara asks: **But if so, let the mishna teach**: And his son and **the son of his son**, instead of: His son-in-law. This would be a more straightforward manner of conveying the *halakha* with regard to a member of the third generation testifying about a member of the first generation.

מילתא אגב אורחיה קא משמע לן: דבעל כאשתו.

The Gemara answers: By mentioning his son-in-law, the mishna **teaches us a matter in passing**: That with regard to the different levels of familial relationships, **a husband is like his wife**. Therefore, there is no difference between one's son and one's son-in-law.

ואלא הא דתני רבי חייה: "שמונה אבות שהן עשרים וארבעה" – הני תלתין ותרתינו הוי!

The Gemara asks: **But if the mishna is referring to the son-in-law of his son**, a difficulty is posed by **that which Rabbi Hiyya teaches** in a *baraita*: **Eight fathers**, i.e., eight principal relatives mentioned in the mishna, are disqualified, **which are twenty-four** including the son and son-in-law of each. If the mishna is referring to one's grandson **these are thirty-two**, as the son, the son-in-law, and the grandson of each are included.

אלא לעולם חתנו ממש. ואמאי קרי ליה חתן בנו? בין דמעלמא קאמט, כדור אחר דמי.

The Gemara consequently rejects the explanation that the mishna is referring to the son-in-law of one's son: **Rather, the mishna is in fact referring to his actual son-in-law**. **And why does Rav refer to him as the son-in-law of his son**, deriving from this case that a member of the third generation cannot testify about a member of the first generation? **Since one's son-in-law comes from outside**⁸ the family he is considered a more distant relative than his son, **as if he belongs to another generation**.

אי הכי הוה ליה שלישי בשני – ורב אכשר שלישי בשני!

The Gemara challenges this: **If that is so**, then the testimony of an individual with regard to the son-in-law of his father is equivalent to that of a member of the **third generation with regard to** a member of the **second generation**. **And Rav is known to have deemed** a member of the **third generation fit**^N to bear witness **about** a member of the **second generation**.

NOTES

And Rav deemed a member of the third generation fit, etc. – ורב אכשר שלישי וכו'. Rashi explains that this is derived from Rav's aforementioned statement. Several interpretations of Rashi's explanation have been suggested (see Rosh).

Other commentaries explain that this is based on an unrelated incident, in which Rav deemed a member of the third generation fit to bear witness about a member of the second generation (Rabbeinu Yona).