

A בס"ד

Intro

Today we will learn בע"ה of מסכת סנהדרין דף כ"ח
Some of the topics we will learn about include.

The Mishnah's Halachah of

ואלו הן הקרובין

The relatives who are disqualified to testify or to serve as judges in a relative's case;

בעל כאשתו

A husband is considered like his wife, and therefore he achieves her status regarding all her relatives.

Six Machlokes regarding קרובים;

1.

שלישי בראשון

Whether a third generation of one brother can testify for a first generation, in other words for his great-uncle, and vice versa?

2.

שלישי בשני

Whether a third generation of one brother can testify for a second generation of another brother, in other words for a first-cousin once removed, and vice versa?

B

3.

אחי האח

Whether step-brothers become פסול through their biological brother?

4.

גיסו

Regarding the husband of a wife's sisters, does only גיסו become פסול, or his sons and sons in law are also פסול?

5.

קרוב ונתרחק

If two people were initially קרובים through marriage, such as a son in-law, but then his wife died, and they were no longer קרובים at the time of the incident, whether or not he is considered a קרוב to his father in-law through his children?

6.

אוהב ושונא

Whether a friend or enemy is disqualified to testify?

All agree however

שונא פסול לדון

One may not judge the case of an enemy, because since the דין despises him, it would be difficult for him to find merits for the defendant.

A

ואלו הן הקרובין

בעל כאשתו

שלישי בראשון

שלישי בשני

B

אחי האח

גיסו

קרוב ונתרחק

אוהב ושונא

1 So let's review ...

Zugt Di Mishnah:

ואלו הן הקרובין

The following relatives are disqualified to testify or to serve as a judge in a relative's case.

The Torah explicitly mentions אב, a father, and בן, a son, and the following are also פסול:

אחי

ואחי אביו

ואחי אמו

הן ובניהן וחתניהן

A brother, a father's brother, and a mother's brother, i.e. uncles, along with their sons and sons-in-law;

And the corresponding relatives;

ובעל אחותו

ובעל אחות אביו

ובעל אחות אמו

הן ובניהן וחתניהן

A sister's husband, a father's sister's husband, a mother's sister's husband, along with their sons and sons-in-law are פסול, because as Rashi explains;

בעל אחותו כאחיו הוא

דבעל כאשתו

A husband has the status of his wife regarding all her relatives.

ובעל אמו

וחמיו

וגיסו

הן ובניהן וחתניהן

A mother's husband - in other words, one's stepfather, and a wife's father, and the husband of a wife's sister, along with their sons and sons-in-law are פסול.

However

וחורגו לבדו

Regarding a wife's son - in other words, one's step son, only he is פסול; but his sons and sons-in-law are כשר.

1

משנה

ואלו הן הקרובין

The following relatives are disqualified to testify or to serve as a judge in a relative's case

The Torah explicitly mentions אב and בן, and the following are also פסול:

ואחי אמו
Mother's brother

ואחי אביו
Father's brother

אחי
Brother

הן ובניהן וחתניהן

Their sons and sons-in-law

And the corresponding relatives;

ובעל
אחות אמו
Mother's sister's
husband

ובעל
אחות אביו
Father's sister's
husband

ובעל
אחותו
Sister's
husband

הן ובניהן וחתניהן

Their sons and sons in-law

Because

בעל אחותו כאחיו הוא דבעל כאשתו
A husband has the status of his wife
regarding all her relatives

וגיסו
Husband of a
wife's sister

וחמיו
Wife's
father

ובעל אמו
Mother's husband
(Stepfather)

הן ובניהן וחתניהן

Their sons and sons-in-law

However

וחורגו לבדו

Regarding a wife's son (step son),
only he is פסול;
but his sons and sons-in-law are כשר

2

זו משנת רבי יוסי

זו משנת רבי עקיבא

This Mishnah is רבי's opinion;

אבל משנה ראשונה

דודו ובן דודו וכל הראוי ליורשו

The first Mishnah held that only a father's brother, and his son, and all other relatives from the father's side that are eligible to inherit him, are פסול, but relatives from the mother's side or through a wife that are not eligible to inherit, are כשר.

2

רבי יוסי says

זו משנת רבי עקיבא

This Mishnah is רבי's opinion

אבל משנה ראשונה

דודו ובן דודו וכל הראוי ליורשו

The first Mishnah held

*Only
a father's brother,
and his son,
and all other relatives
from the father's side
that are eligible
to inherit him,
are פסול*

*But
relatives from
the mother's side
or through a wife
that are not eligible
to inherit,
are כשר*

3

The Gemara proceeds with the sources for all the קרובים that are פסול:

The Pasuk states

לא יומתו אבות על בנים

ובנים לא יומתו על אבות

איש בחטאו יומתו

The last phrase of the Pasuk teaches us

שלא ימותו אבות בעון בנים

ובנים בעון אבות

A father does not die for the sins of his son, and a son does not die for the sins of his father, because

איש בחטאו יומתו

A person dies only for his own sins, but not for the sins of others.

3

*The Gemara proceeds with the sources
for all the קרובים that are פסול*

**לא יומתו אבות על בנים
ובנים לא יומתו על אבות
איש בחטאו יומתו**

The last phrase of the Pasuk teaches us

**שלא ימותו אבות בעון בנים
ובנים בעון אבות**

*A father does not die for the sins of his son,
and a son does not die for the sins of his father*

because

איש בחטאו יומתו

*A person dies only for his own sins,
but not for the sins of others*

4 Therefore, the beginning of the Pasuk teaches us as follows:

1.

לא יומתו אבות על בנים
בעדות בנים

A son cannot testify against אבות, plural, two fathers, and cause them to die;

And this is a source for

בנים לאבות

A son cannot testify against his father, or אחי אביו, his father's brother.

ובנים לא יומתו על אבות

בעדות אבות

The two fathers cannot testify against the son;

And this is a source for

אבות לבנים

A father, or father's brother, cannot testify against a son or brother's son.

And certainly

אבות להדדי

The two fathers, who are brothers, cannot testify against each other.

4

Therefore, the beginning of the Pasuk teaches us as follows:

1

**לא יומתו אבות על בנים
בעדות בנים**

A son cannot testify against אבות, plural, two fathers, and cause them to die

And this is a source for

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A son cannot testify against his father, or אחי אביו, his father's brother

**ובנים לא יומתו על אבות
בעדות אבות**

The two fathers cannot testify against the son

And this is a source for

אבות לבנים

A father, or father's brother, cannot testify against a son or brother's son

And certainly

אבות להדדי

The two fathers, who are brothers, cannot testify against each other

5

2.
The first word בנים is also plural to teach בנים לבנים
The sons of the two brothers, in other words, first cousins are also פסול.

And the second word בנים is plural to teach בנים לעלמא
Two relatives cannot testify together as a pair of עדים for a stranger.

3.
The word אבות is mentioned twice to teach לקרובי האם
Even relatives from the mother's side are פסול.

4.
The word יומתו is mentioned twice to teach לזכות
A relative cannot testify, even in favor of his relative.

אשכחן בדיני נפשות
בדיני ממונות מנלן
The above Pasuk refers to capital cases.
However, a קרוב is פסול even in monetary cases, because another Pasuk states
משפט אחד יהיה לכם
משפט השווה לכם
The procedures are the same.
=====

5

2

The first word בנים is also plural

To teach

בנים לבנים

The sons of the two brothers, in other words, first cousins are also פסול



The 2nd בנים is plural

To teach

בנים לעלמא

Two relatives cannot testify together as a pair of עדים for a stranger

3

אבות

Is mentioned twice

To teach

לקרובי האם

Even relatives from the mother's side are פסול

4

יומתו

Is mentioned twice

To teach

לזכות

A relative cannot testify, even in favor of his relative

**אשכחן בדיני נפשות
בדיני ממונות מנלן?**



**משפט אזור יהיה לכם
משפט השווה לכם**

The procedures are the same

6 The Gemara proceeds with two Machlokos;
One regarding שלישי בראשון
Whether a third generation of one brother can testify for a first generation, in other words for his great-uncle, and vice versa?

And a second Machlokes regarding שלישי בשני
Whether a third generation of one brother can testify for a second generation of another brother, in other words for a first-cousin once removed, and vice versa?

רב stated
אחי אבא לא יעיד לי
הוא ובני וחתנו
My father's brother, i.e. my uncle;
His son and his son in-law, i.e. my cousins;
Cannot testify for me;
And
אף אני לא אעיד לו
אני ובני וחתני
I, my son, and my son-in-law, cannot testify for my uncle.
And the Gemara explains;
רב holds שלישי בראשון פסול
And therefore he said בני לא אעיד לו
אחי אבא, My son cannot testify for his great-uncle, and vice versa.

However, רב holds שלישי בשני כשר
And therefore Rav only said בני לא אעיד לו
But בני אעיד לבנו
My son cannot testify for his great-uncle, but he can testify for the son of his great-uncle, his first cousin once removed.

6 The Gemara proceeds with two Machlokos...

שלישי בראשון

שלישי בשני

stated רב
**אחי אבא לא יעיד לי
הוא ובני וחתנו**

**אף אני לא אעיד לו
אני ובני וחתני**

שלישי בראשון פסול

שלישי בשני כשר

*Therefore Rav only said
בני לא אעיד לו*

7 The Gemara questions רב from our Mishnah that mentions only אחי אביו הן ובניהן
 A person is פסול to his uncle, which is שני בראשון, and to his cousin, which is שני בשני.
 However, the Mishnah does not mention that a person's son is פסול to his uncle, the son's great-uncle, which is שלישי בראשון?

Apparently, the Mishnah holds that only שני בראשון פסול
 And שני בשני פסול
 However שלישי בראשון כשר
 And certainly שלישי בשני כשר

The Gemara cites another opinion, that of רבי אלעזר אומר: רבי אלעזר אומר כשם שאחי אבא לא יעיד לי הוא ובנו וחתנו
 Just like my uncle, and his son and son-in-law, cannot testify for me; so too, בן אחי אבא לא יעיד לי הוא ובנו וחתנו
 My cousin, and his son and son-in-law, cannot testify for me.

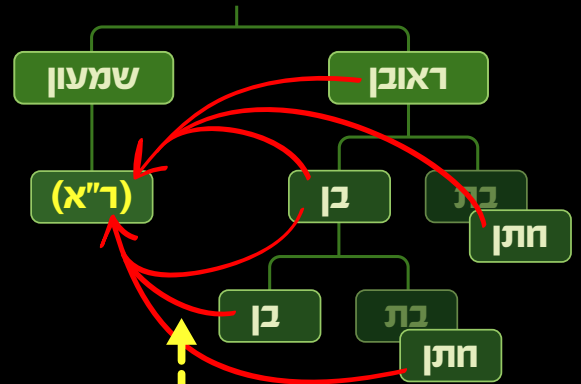
רבי אלעזר clearly holds שלישי בשני פסול
 And therefore certainly holds שלישי בראשון פסול

7 The Gemara questions רב
 Our Mishnah mentions only אחי אביו הן ובניהן
 A person is פסול to his uncle, which is שני בראשון, and to his cousin, which is שני בשני
 However, the Mishnah does not mention that a person's son is פסול to his uncle, the son's great-uncle, which is שלישי בראשון?

Apparently,
 However שלישי בראשון - כשר
 And שלישי בשני - כשר
 Mishnah holds that only שני בראשון - פסול
 And שני בשני - פסול

The Gemara cites another opinion

רבי אלעזר אומר
 כשם שאחי אבא לא יעיד לי הוא ובנו וחתנו
 בן אחי אבא לא יעיד לי הוא ובנו וחתנו



רבי אלעזר clearly holds שלישי בשני פסול
 And therefore certainly holds שלישי בראשון פסול



8 And the Gemara explains the Machlokes as follows
 רב holds only שלישי בראשון פסול
 However שלישי בשני כשר
 Because the Pasuk states לא יומתו אבות על בנים ובנים לא יומתו על אבות לרבות דור אחר
 As Rashi explains וי"ו לרבות בני בנים
 The superfluous letter VAV adds that also a third generation is פסול but only to the אבות the first generation, in other words שלישי בראשון פסול.

While רבי אלעזר holds even שלישי בשני פסול
 Because the Pasuk states על בנים which teaches פסולי דאבות שדי אבנים
 All those, such as שלישי, that are פסול to the ראשון are also פסול to the שני.

So, let's summarize this 3-way Machlokes:

The משנה holds שלישי בראשון כשר
 And certainly שלישי בשני כשר

רבי אלעזר holds שלישי בראשון פסול
 And even שלישי בשני פסול

רב agrees with רבי אלעזר that שלישי בראשון פסול
 However, agrees with the Mishnah that שלישי בשני כשר
 =====

8

The Gemara explains the Machlokes as follows

רב holds Even שלישי בשני פסול

Because the Pasuk states על בנים which teaches פסולי דאבות שדי אבנים

רבי holds Only שלישי בראשון פסול

However שלישי בשני כשר

Because the Pasuk states לא יומתו אבות על בנים ובנים לא יומתו על אבות לרבות דור אחר וי"ו לרבות בני בנים

So, let's summarize...

שמעון	ראובן	שמעון	ראובן
בן	בן	בן	בן
שלישי בשני	בן	שלישי בראשון	בן
כשר	מלפני	כשר	
פסול	רב אלעזר:	פסול	
כשר	רב:	פסול	



9 The Gemara proceeds with several Halachos of eligibility to testify:

1.

And cites a Machlokes regarding

אחי האח

The scenario is as follows:

A man, with a son ראובן from a previous marriage, married a woman, with a son שמעון from a previous marriage.

They then had a son לוי together.

Ruvain and Shimon are not related, but they are each אחי האח to the other, the brother's brother, because Levi is each one's half-brother.

רבי ירמיה holds

אחי האח

פסול

Because they share a brother;

רב חסדא holds

אחי האח

כשר

Because they are not related;

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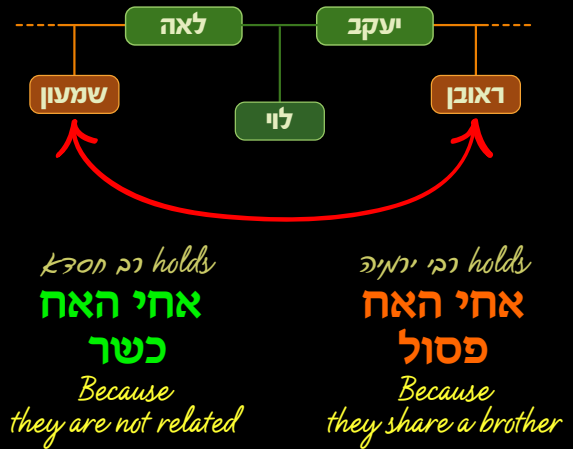
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The Gemara proceeds with...

Several Halachos of eligibility to testify:

1

אחי האח



10

2.

רב חסדא says

אבי חתן ואבי כלה

מעידין זה על זה

The fathers of the groom and the bride may testify for each other, because

ולא דמו להדדי אלא כי אכלא לדנא

They are not considered relatives through their children, like a stopper which is not considered a part of the actual barrel.

10

2

אבי חתן ואבי כלה מעידין זה על זה

The fathers of the groom and the bride may testify for each other

Because

ולא דמו להדדי אלא כי אכלא לדנא
They are not considered relatives through their children,

like a stopper which is not considered a part of the actual barrel

11

3.

מעייד אדם לאשתו ארוסה

A person may testify for his bride to whom he gave

Kiddushin, but did not yet marry, because

אכתי לאו שארו היא

She is not considered his relative before marriage.

רבינא however makes a distinction

לא אמרן אלא לאפוקי מינה

אבל לעיולי לה לא מהימן

He may only testify against her, but he may not testify in her favor.

The Gemara concludes however,

לא שנא לאפוקי ולא שנא לעיולי

לא מהימן

He may not testify for her at all, because

איקרבא דעתיה לגבה

He certainly feels close to her

=====

11

3

מעייד אדם לאשתו ארוסה

A person may testify

for his bride to whom he gave Kiddushin,
but did not yet marry

Because

אכתי לאו לאו היא

She is not considered his relative
before marriage

רבינא however

makes a distinction

אבל לעיולי לה
לא מהימן

But he may not testify
in her favor

לא אמרן אלא
לאפוקי מינה

He may only testify
against her

The Gemara concludes however

לא שנא לאפוקי ולא שנא לעיולי
לא מהימן

He may not testify for her at all

Because

איקרבא דעתיה לגבה

He certainly feels close to her

12 The Mishnah taught
 גיסו
 הן ובניהן וחתניהן
 The husband of his wife's sister, and his sons and sons-in-law, are פסול
 However
 חורגו לבדו
 His wife's son - or stepson, only he is פסול, but his sons and sons-in-law are כשר.

The Gemara cites two contradicting Braisos:

One Braisa states

חורגו לבדו
 רבי יוסי אומר גיסו

While the second Braisa states

גיסו לבדו
 רבי יהודה אומר חורגו

And the Gemara reconciles as follows:

The Gemara in the first Braisa is תנא קמא of the second Braisa and he concurs with our Mishnah that only

חורגו לבדו

But
 גיסו
 הוא ובנו וחתנו

While the Gemara in the second Braisa is רבי יוסי of the first Braisa and he disagrees with our Mishnah and holds

גיסו לבדו

וכ"ש חורגו

Both גיסו and חורגו are only themselves פסול, but their sons and sons-in-law are כשר.

And רבי יוסי concurs with the Braisa of

תני ר' חייא

שמונה אבות

שהן עשרים וארבעה

The first eight people mentioned in the Mishnah, along with their son's and sons-in-law, a total of twenty four

people, are פסול. This implies however that regarding the remaining two people, גיסו and חורגו, their sons and

sons-in-law are כשר.

=====

12 The Mishnah taught...

גיסו

הן ובניהן וחתניהן

The husband of his wife's sister, and his sons and sons-in-law, are פסול

However

וחורגו לבדו

Regarding a wife's son (step son), only he is פסול;

but his sons and sons-in-law are כשר

