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Eiruvim Daf 46

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Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h
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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

Abaye sat at his studies and discoursed on this subject when Rav Safra said to him: Is it not possible that we are dealing here with a case where the rain fell near a town and the townspeople relied on that rain? — This, the other replied, cannot be entertained at all. For we learned: A cistern belonging to an individual person is on a par with that individual's feet, and one belonging to a town is on a par with the feet of the people of that town, and one used by the Babylonian pilgrims is on a par with the feet of any man who draws the water. Now it was also taught: ‘The water of a cistern used by the tribes may be moved within a radius of two thousand cubits in any direction’. Aren't [then] the two rulings mutually contradictory? Consequently it must be conceded that the latter represents the view of Rabbi Yochanan while the former represents that of the Rabbis. When he came to Rav Yosef and told him such and such a thing said Rav Safra and such and such did I reply, the other remarked: ‘Why did you not argue with him from that very statement: If it could be entertained that we were dealing with a case where the rain fell near a town then, instead of ruling that the water may be moved within a distance of two thousand cubits in any direction, should it not have been ruled that it was on a par with the feet of the people of that town?’

The Master said: ‘If [it fell] on a festival day the water is on a par with the feet of every man’. But why? Shouldn't the rain water acquire its place for the Shabbos in the ocean? Must it then be assumed that this ruling is not in agreement with the view of Rabbi Eliezer? For if it were in agreement with Rabbi Eliezer [the objection would arise:] Did he not state that all the world drinks from the water of

the ocean? — Rabbi Yitzchak replied: Here we are dealing with a case where the clouds were formed on the eve of the festival. But is it not possible that those moved away and these are others? — It is a case where one can recognize them by some identification mark. And if you prefer I might reply: This is a matter of doubt in respect of a Rabbinical law and in any such doubt a lenient ruling is adopted. But why shouldn't the water acquire its place for the Shabbos in the clouds? May it then be derived from this that the law of the Shabbos limits does not apply to the air above a height of ten tefachim, for if the law of Shabbos limits were at that height applicable the water should have acquired its place for the Shabbos in the clouds? — I may in fact maintain that the law of Shabbos limits is applicable [even at the height mentioned] but the water is absorbed in clouds. But shouldn't it then be forbidden all the more so because it was produced on the festival? — The fact, however, is that the water in the clouds is in constant motion. Now you have arrived at this explanation, you can raise no difficulty about the ocean either, since the water in the ocean is also in constant motion, and it was taught: Running rivers and gushing springs are on a par with the feet of all men. (45b – 46a)

Rabbi Yaakov bar Idi stated in the name of Rabbi Yehoshua ben Levi: The halachah is in agreement with Rabbi Yochanan ben Nuri. Said Rabbi Zeira to Rabbi Yaakov bar Idi: ‘Did you hear it explicitly or did you understand it by implication?’ — ‘I’, the other replied: ‘have heard it explicitly’ — What was that general statement? — [The one in] which Rabbi Yehoshua ben Levi has laid down: The halachah is in agreement with the authority that maintains



the less restrictive ruling in respect of the laws of eruv. What need then was there for the two statements? — Rabbi Zeira replied: Both were required. For if we had been informed only that ‘the halachah is in agreement with Rabbi Yochanan ben Nuri, it might have been assumed [that this applies in all cases] whether the halachah leads to a relaxation or to a restriction; hence we were informed that ‘the halachah is in agreement with the authority that maintains the less restrictive ruling in respect of the laws of eruv.’ Then let him state, ‘The halachah is in agreement with the authority that maintains the less restrictive ruling in respect of eruv’; for what purpose was it necessary to state also that ‘the halachah is in agreement with Rabbi Yochanan ben Nuri’? — It was required because it might have been presumed that the statement applied only to an individual authority who differs from another individual authority or to several authorities who differ from several other authorities, but not to an individual authority who differed from several authorities.

Said Rava to Abaye: Consider! The laws of eruv are Rabbinical, [of course]. Why then should it matter whether an individual differs from another individual or whether an individual authority differs from several other authorities? — Said Rav Pappa to Rava: Is there no difference in the case of a Rabbinical law between a dispute of two individuals and one between an individual authority and several other authorities? Have we not in fact learnt (in a *Mishna* in *Niddah*): Rabbi Eliezer says that any woman who missed three periods has no retroactive impurity. The *Gemora* cites a *braisa*: It once happened that Rebbe ruled (on an actual case involving a young girl) in accordance with the ruling of Rabbi Eliezer, and after he reminded himself (that the halachah does not follow R’ Eliezer in this case), he observed: Rabbi Eliezer is sufficiently worthy to be relied upon in a time of pressing need.

The *Gemora* asks: What is the meaning of ‘after he reminded himself’? If it means that he reminded himself that the *halachah* was not in accordance with Rabbi

Eliezer, but rather, it is in accordance with the Rabbis; how, then, could he rule according to Rabbi Eliezer even in a time of pressing need? Rather, it must be that it was not stated whether the *halachah* was in accordance with Rabbi Eliezer or with the Sages; then what is meant by ‘after he reminded himself’? It means the following: After he reminded himself that it was not an individual that disagreed with him, but rather, it was many Rabbis that disagreed with him. Upon remembering that, he observed that Rabbi Eliezer is sufficiently worthy to be relied upon in a time of pressing need.

Said Rav Mesharsheya to Rava (or, as others say, Rav Nachman bar Yitzchak said to Rava): Is there no difference in the case of a Rabbinical law between a dispute of two individuals and one between an individual authority and several authorities? Was it not in fact taught: [On receiving] an early report [of the death of a near relative both] the seven and the thirty days of mourning must be observed [but on receiving] a belated one only one day of mourning is to be observed. And what is meant by ‘early’ and ‘belated’? [A report received] within thirty [days of the death is said to be] ‘early’ [and one received] after thirty [days from the death is said to be] ‘belated’; these are the words of Rabbi Akiva. The Sages, however, ruled: Whether a report is early or belated both the seven and the thirty days of mourning must be observed. And in connection with this Rabbah bar Bar Chanah stated in the name of Rabbi Yochanan: Wherever you come across a law which an individual authority relaxes and several authorities restrict, the halachah is in agreement with the majority who restrict it, except in this case where the halachah is in agreement with Rabbi Akiva, though he relaxes the law and the Sages restrict it. In this respect he is of the same opinion as Shmuel who laid down: The halachah is in agreement with the authority that relaxes the law in the case of a mourner. Thus it follows that it is only in the case of mourning that the Rabbis have relaxed the law but that elsewhere, even in respect of a Rabbinical law a difference is to be made between a dispute of two individuals and a dispute of an individual authority against a number of



authorities! Rav Pappa replied: It was required: Since it might have been presumed that this applied only to eiruv of courtyards but not to eiruv of Shabbos limits, hence it was necessary [to make that statement also]. From where however, is it derived that a distinction is made between eiruv of courtyards and eiruv of Shabbos limits? — From what we learned: Rabbi Yehudah ruled: This applies only to eiruv of Shabbos limits but in the case of eiruv of courtyards an eiruv may be prepared for a person whether he is aware of it or not, since a privilege may be conferred upon a man in his absence but no disadvantage may be imposed upon him except in his presence. - Rav Ashi replied: It was required: Since it might have been assumed that this applied only to the remnants of an eiruv¹ but not to the beginnings of one. From where, however, is it derived that a distinction is made between the remnants of an eiruv and the beginnings of one? — From what we learned: Rabbi Yosi ruled: This applies only to the beginnings of the eiruv but in the case of the remnants of one even the smallest quantity of food is sufficient, the sole reason for the injunction to provide eiruv for courtyards being that the law of eiruv shall not be forgotten by the children. (46a – 46b)

Rabbi Yaakov and Rabbi Zerika said: The halachah is always in agreement with Rabbi Akiva when he differs from a colleague of his; with Rabbi Yosi even when he differs from several of his colleagues, and with Rebbe when he differs from a colleague of his. To what [extent were these meant to influence] the law in practice? — Rav Assi replied: [To the extent of adopting them for] general practice. Rabbi Chiya bar Abba replied. [To the extent of being] inclined [in their favor], and Rabbi Yosi son of Rabbi Chanina replied: [To the extent only of viewing them merely as] apparently acceptable. (46b)

In the same sense did Rabbi Yaakov bar Idi rule in the name of Rabbi Yochanan: In a dispute between Rabbi Meir and

Rabbi Yehudah the halachah is in agreement with Rabbi Yehudah, in one between Rabbi Yehudah and Rabbi Yosi the halachah is in agreement with Rabbi Yosi; and there is no need to state that in a dispute between Rabbi Meir and Rabbi Yosi the halachah is in agreement with Rabbi Yosi, for, since [it has been laid down that the opinion of the former is] of no consequence where it is opposed by that of Rabbi Yehudah, can there be any question [as to its inconsequence] where it is opposed by that of Rabbi Yosi?

Rav Assi said: I also learn that in a dispute between Rabbi Yosi and Rabbi Shimon the halachah is in agreement with Rabbi Yosi; for Rabbi Abba has laid down on the authority of Rabbi Yochanan that in a dispute between Rabbi Yehudah and Rabbi Shimon the halachah is in agreement with Rabbi Yehudah. — Now [since the latter's opinion is] of no consequence where it is opposed by Rabbi Yehudah, can there be any question [as to its inconsequence] where it is opposed by that of Rabbi Yosi?

The question was raised: What [is the law where a ruling is a matter of dispute between] Rabbi Meir and Rabbi Shimon? — This is undecided. (46b)

Rav Mesharsheya stated: Those rules are to be disregarded. From where does Rav Mesharsheya derive this view? If it be suggested: From the following where we learned: Rabbi Shimon remarked: to what may this case be compared? to three courtyards that open one into the other and also into a public domain, where, if the two outer ones made an eiruv with the middle one, it is permitted to have access to them and they are permitted access to it, but the two outer ones are forbidden access to one another; in connection with which Rabbi Chama bar Goria stated in the name of Rav, 'The halachah is in agreement with Rabbi Shimon', and who is it that differs from him? Evidently Rabbi Yehudah; and since [this cannot be reconciled with what] has been laid down that 'In a

¹ Sc. if an eiruv containing the prescribed quantity of food for two meals was duly prepared and deposited in a proper place but in the course of several weeks the quantity was gradually reduced

so that less than the required minimum remained. In such a case only, it might have been presumed, was the law relaxed to permit the continuance of the validity of the remnants.



dispute between Rabbi Yehudah and Rabbi Shimon the halachah is in agreement with Rabbi Yehudah' it must consequently follow that those rules are to be disregarded? But is this really a difficulty? Is it not possible that the rules are disregarded only where a ruling to the contrary had been stated, but that where no such ruling is stated the rules remain in force? — [Rav Mesharsheya's view] is rather derived from the following where we learned: 'If a town that belonged to an individual was converted into one belonging to many, one eiruv may be provided for all the town; but if a town belonged to many and was converted into one belonging to an individual no single eiruv may be provided for all the town unless a section of it of the size of the town of Hadashah in Judea, which contains fifty residents, is excluded; these are the words of Rabbi Yehudah. Rabbi Shimon ruled: Three courtyards each of which contained two houses'; in connection with which Rabbi Chama bar Gorasia stated in the name of Rav, 'The halachah is in agreement with Rabbi Shimon'. For who is it that differed from him? Rabbi Yehudah of course; but has it not been laid down that 'In a dispute between Rabbi Yehudah and Rabbi Shimon the halachah is in agreement with Rabbi Yehudah'? — What, however, is really the difficulty? Is it not possible that here also [we may reply that] these rules are disregarded only where a ruling to the contrary had been stated, but that where no such ruling is stated the rules remain in force? (46b – 47a)

INSIGHTS TO THE DAF

Following the Lenient Opinion

There is much discussion regarding the parameters of the law that we follow the lenient opinion regarding Eiruv.

The Rishonim argue regarding a question on this rule. How can we rule like one opinion when it is convenient, and another when that is convenient? Which one is correct?

Some Rishonim are bothered by this question, and therefore present different ways in which we can rule

essentially like one opinion, with exceptions within that opinion. However, the Chidushei ha'Ramban says he does not have a problem with taking the rule at face value. He says that as long as each question is asked individually, it is possible to rely on the lenient opinion for that question (as opposed to one person who asks two opposite questions at the same time, see Pesachim 10a). [See the Chidushei Ha'Ramban here at length for the other opinions as well.]

Additionally, the laws of Eiruv are based heavily on the laws of what determines a "mechitza" -- "wall." Does this rule mean that we rule leniently in the laws of mechitzos when it pertains to eiruv, or does this only mean that we rule leniently in the laws of eiruv itself?

This is a subject that is contested among the Rishonim and Acharonim. While the Igros Moshe (Orach Chaim 2:83) says that we do not rule leniently regarding a mechitza due to this rule, others such as the Chelkas Yaakov (Orach Chaim #180) and Mishna Halachos (8:115) rule leniently regarding mechitzos as well.