

Daf Notes is currently being dedicated to the neshamah of

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

1. The law follows the lenient opinion in Eiruvim.

The Gemora says that this means that we even rule like a certain opinion only when that opinion translates into a leniency, not in a case where it becomes a stringency. Additionally, although we usually rule like the majority that argues on a minority opinion, in Eiruvim we follow the minority opinion if it is lenient (see INSIGHT).

2. In a similar fashion, the law follows the lenient opinion in the laws of mourning.

This is made clear from a statement of Rebbi Yochanan, where he rules like Rabbi Akiva regarding a law of mourning, despite the fact that the Chachamim argue on him. The Gemora attributes this to his following of Shmuel’s principle that the law follows the lenient opinion in matters of mourning.

3. In other Rabbinic matters, we revert back to the basic rules of codifying the law, such as ruling like the majority and not the minority.

The Gemora at first entertained the possibility that in Rabbinic matters we generally follow the lenient opinion. However, the Gemora proves from Shmuel’s principle that the law follows the lenient opinion

regarding mourning, laws which are Rabbinic in nature, that we follow the other basic rules of codifying law, such as ruling like the majority versus a minority, in other Rabbinic matters.

The Gemora had cites 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.

4. There are three Tannaim who we will almost always rule like when they argue with one other Tanna. They are: Rabbi Akiva, Rebbi, and Rabbi Yosi.

For example, very often in Mishnayos we find Rabbi Yosi arguing with Rabbi Yehudah, or Rabbi Shimon, or Rabbi Meir. In all of these cases, the general rule is that we will rule like Rabbi Yosi. However, if any of these three Tannaim argue on many Tannaim, we revert back to the rule that the law follows the majority.

5. While the rule stated above (#4) is law according to Rabbi Assi, there are two other opinions as to how to understand this principle.

The Gemora quotes two other opinions as to how to understand this principle. One opinion is that while a Rabbi may rule in private like any of these three Tannaim when he argues with one other Tanna, there is no rule about how the law should be taught to the public. Another opinion is that this principle merely means that if one had ruled this way, it would be acceptable post facto. However, this does not indicate how one should originally determine the law when these three Tannaim argue with any other Tanna. [It should be noted that the Rishonim seem to overwhelmingly use the first explanation given in (#4) above.] (46a – 46b)

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.