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"Taking Responsibility for Torah"

ASEH LEKHA RAV AND THE RIGHT TO SECOND HALAKHIC OPINIONS

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Must one ask all one's halakhic shaylahs to the same posek? Is it forbidden to check the answers one receives with other poskim?

"*Asei lekha rav*", meaning that one should seek to have a primary Torah mentor, is often excellent advice. However, "primary" is not the same as "exclusive". The Torah never permits any human being to completely abandon the exercise of moral and religious judgement. Moreover, pretending that such a relationship exists when it really doesn't can do great harm.

In its original contexts (Pirkei Avot 1:6 and 1:16), *aseh lekha rav* does not relate to lay people asking live halakhic sheilot. Here for example is R. Ovadiah miBartenura's commentary to 1:6

*"Asei lekha rav" –
meaning that he should accept upon himself one rav to learn from
constantly,
rather than learning today from one and tomorrow from another.
Even though in Tractate Avodah Zarah (19) they said:
One who learns Torah from only one Rav never sees signs of
blessings in his learning,
they have already explained that these words apply to reasoning,
that it is good for him to hear the reasoning of many,
but with regard to memorizing settled law, one rav is preferable,
lest his formulations become corrupted.*

In other words, *asei lekha rav* applies only to a specific form of learning – the memorization of halakhic statements. It has no application to asking shaylahs.

The Rav miBartenura provides a different context-appropriate explanation in his commentary to 1:16:

*"Asei lekha rav" –
this statement refers to poskim who issue rulings in difficult cases.
If an issue of law comes before you, and you are in doubt
regarding it,
"asei lekha rav vehistalek min basafek"
rather than deciding the issue yourself,
just as Rava,
when a case of a possible treifah was brought before him,
gathered all the butchers of Mata Mechasya,
saying: Let us receive only a splinter of the plank".*

In other words, *asei lekha rav* requires shared responsibility and serious consideration of others' opinions.

The mistaken insistence on asking all shaylahs to the same rabbi is often supported by a concern about shitah-shopping. This concern is grounded in a beraita cited on Eiruvim 6b:

*The law actually follows Beit Hillel
But one who wishes to act according to Beit Shammai – may do
so;
According to Beit Hillel – may do so.
From the leniencies of Beit Shammai and from the leniencies of
Beit Hillel – he is wicked;
From the stringencies of Beit Shammai and the Stringencies of
Beit Hillel –
of him Scripture says: "the fool walks in darkness".*

Please note, however, that the beraita has no general objection to asking different questions to multiple rabbis. The beraita discusses only circumstances in which the answers of Beit Shammai and Beit Hillel were known in advance, and where the primary ground for choosing among them was leniency. This bears no relationship to directing particular questions to poskim who are experts in the relevant fields, or who know your mind and soul better with regard to specific issues, or who share your values in particular areas.

Furthermore, a key marker of authentic Torah is that “All her ways are pleasantness”. It violates the nature and purpose of halakhah when a psak causes unnecessary moral discomfort or emotional anguish, let alone harms a marriage. We each have a responsibility to prevent this. One way of accomplishing this is to ask for a second opinion when a psak seems not to meet the “pleasantness” standard.

This is not a descent into “shitah-shopping”. Tosafot Niddah 20b (see also Tosafot Chullin 44b and AZ 7a) concludes that halakhah does not constrain people from asking, so long as they are transparent with the second posek; rather, it gives guidelines to halakhists as to when they can overrule the previous answer.

*the objection is not on the asker but rather on the sage
but the asker – should ask everything he wishes
since as a result they will be rigorous on the issue
and sometimes the first will have erred, and this way the matter
will be seen in its true light*

Tosafot Bava Kamma 100a makes a stronger claim.

*This is not like showing a dinar-coin to a banker (to determine
its authenticity)
where once he showed it to the banker, he should not have shown
it to another
but regarding a cow
when this sage forbade it to him (=declared it not kosher),
he should not have hurried to feed it to dogs . . .
rather he should yet have asked it another sage.*

(This position of Tosafot is cited as law by Shakh Choshen Mishpat 25:5. See also Yam Shel Shlomo Chulin 3:8, ad the article by Rabbi Chaim Yosef Shaanan in the journal Tzohar, vol. 16.)

One 20th century posek explained the principle on the basis of a competitive market improving products:

*The questioner is obligated to ask the question to several sages,
because thereby each sage will be more rigorous about the matter,
and the matter will emerge in its true light,
as the more sages they ask, and the more that sages know that
they will ask others,
the more and more rigorous they will be before issuing rulings, and
not rely on themselves.
From here it is also clear
that a sage has the obligation to express his opinion and disagree
with his colleagues
if he believes that the halakhah is not in accord with their
opinion.*

In Reshimot Shiurim to Bava Kamma, Rav Herschel Reichman presents Rav Yosef Dov Soloveitchik’s integration of this principle into an overall philosophy of Torah.

*that the hora’ah of a sage is given over to further clarification,
because every hora’ah of a sage is an object=cheftza of Torah
and part of the tradition=Masoret of Torah,
and the Torah is given over to clarification via the back-and-forth
among sages.
Therefore the owners should not have relied only on the sage they
asked first,
because it is plausible that in the course of clarifying the law with
other sages
that his hora’ah would change or become a nullity.*

All this makes clear that laypeople have not only the right, but often the obligation, to ask for a second halakhic opinion when the first answer they receive feels wrong. As the motto of the Center for Modern Torah Leadership has it, we all need to TAKE RESPONSIBILITY FOR TORAH.

Shabbat shalom