

YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

# Hilchos Ta'aruvos Shiur 22

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**Mareh Makomos for this shiur**

**Siman 107**

**Tur**

**Mechaber Rama**

**Shach Taz 4**

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# Cooking Eggs, Fish and Flies

*Siman 107*

**1 One who cooks many eggs with their shells (1) should not take any out of the water that they are cooked in, until it cools down or until you add cold water to cool the k'daira, then take the eggs out. This is because we must take into consideration that one might find an efroach (chick) in one of them. If [any eggs] are removed before the k'daira cools, then perhaps [the egg with] the efroach will be among those remaining, and it will osser them since there is no longer 60 to m'vatel it.<sup>1</sup>**

RAMA **1)** *If one did not wait for the k'daira to cool and instead poured the eggs into a bowl, then found that one of them was treif, yaish osrim all of them. We suspect that perhaps the treif egg was one of the last ones removed, and there was not 60 in the k'daira to m'vatel it. The food in the k'daira becomes assur and, (2) in turn, will osser all the food in the bowl. The same law applies to small fish cooked with a tameh fish (3) and were not poured all at once into a bowl; we must consider the possibility that the tameh fish remained behind. (4) V'yaish matirin in any case [both the case of eggs and the case of fish] because d'lo machzikin issura (we do not give it the status of issur)<sup>2</sup> – to say that the issur was in a setting of less than 60 against it. This is the ikar (essential) din. Even those who osser 2) do not osser the kailim that you cooked them in because the kailim stand on their chazaka of being mutar.*

**2 3) If you found a fly, or anything comparably repulsive, in a tavshil, throw it out and the tavshil is mutar because pagume (spoiled) taste is not assur.**

RAMA *This is the basic custom. Even though there are machmirim, the makilim are ikar and the custom should not be changed. If you took the tameh fish with a spoon from the k'daira, or any issur that is not pagume, 4) it is assur to reuse the spoon. If you reused it, you need 60 is against the issur*

<sup>1</sup> The **Yad Avraham** says that 60 is *lav davka* because we learned in Simon 98:7 that eggs need 61.

<sup>2</sup> Since the food was *mutar* we leave it on its status quo.

5) but not against the spoon. (We do not say the *kli* became a *neva'ila*.)<sup>3</sup> However, if you use the spoon to take out a small amount of the *tavshil* mixed with the *issur*, and then you returned the *tavshil* 6) to the *k'daira* (the *issur* having been separated), you need 60 against the *tavshil* because it 7) became a *neva'ila* in the spoon.

## Introduction

This *simon* discusses what is the *din* if you poured fish into the bowl from the pot with *rotev*, and you find a *tameh* fish in the bowl. Whether all the fish are *assur* will depend on how you poured the fish. We find three scenarios in this *seif*:<sup>4</sup>

1. You poured the fish together with the *rotev* into the bowl a little at time, and not in one shot.
2. First you drained all the *rotev* from the pot into the bowl, and then you poured the fish into the bowl. This was done in order to prevent splashing while transferring the fish into the bowl.
3. First you poured some *rotev* together with fish into the bowl, then the rest of the *rotev* was drained before the remaining fish were poured into the bowl. This scenario will have the same *din* as scenario 2.

However, if you pour out the *rotev* and fish in one shot there is no discussion. Since everything is connected, there is never a time that the fish can *asser* part of the *ta'aroves*, and therefore, if there are 60 against the *tameh* fish, the *tabor* fish are *mutar*.

Another case found in this *seif* is if you pour eggs from a pot into a bowl, and then a chick is found in one of the eggs. The difference between fish and eggs is that by fish the norm was to cook enough at once that, even if some became *assur* because they're won't remain 60 *heter* in the pot, there is still *rov* already poured out that are *mutar*. When they mix, the ones that became *assur* in the pot will be *batul* in the ones already poured in the bowl. However, by eggs, one did not cook enough that there would be *rov heter*.

### The Source

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HALACHA

107:1

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<sup>3</sup> The case is that the *tameh* fish is being skimmed off the top of the food and there are no other *blios* in the spoon.

<sup>4</sup> See **Badai Hashulchan** 6.

The source of this *halacha* is the *Tur* in the name of the *Sefer Hamitzvos* who brings the case of fish cooked together with one *tameh* fish, which were then poured into a bowl. He brings a *machlokes* between the *Riv'a* and *Rabbainu Baruch* (*Sefer Hatrumah*).

- 1) The **Riv'a** holds that even though there is 60 against the *tameh* fish, all the fish in the bowl become *assur*. This is because we are worry that, while you poured the *rotev* into the bowl, the *tameh* fish remained in the pot until there was less than 60 *beter* against it (including the *rotev*). Therefore, 20 or 30 fish will become *assur* (depending on how much *rotev* was in the pot<sup>5</sup>) and those fish will *osser* the other fish.
- 2) **Rabbainu Baruch** holds that even though the fish left behind in the *rotev* became *assur*; they will not *osser* the rest of the fish when poured into the bowl. The reason is that ,since they are not an *issur machmas atzmo*, they will not *osser* the other fish without *rotev* and will be *batel b'rov*.

The **Shach** (1) explains that we refer to the case where you first poured the *rotev* into the bowl, and then you poured the fish into the bowl (scenario 2). The reason that some of the fish become *assur* is because perhaps during the pouring, the *tameh* fish will remain in the *rotev* at the point that there is not enough *beter* fish and *rotev* to be *m'vatel* it (the fish above the *rotev* are not *mitztaf* to be *m'vatel* the *tameh* fish). According to the *Riv'a*, later when you pour those *assured* fish into the bowl, they will make the ones in the bowl *assur* when they touch. *Rabbainu Baruch* holds that the *assur* fish are *batel b'rov* in the *mutar* fish.

According to the *Shach*, the *issur* fish are *batel* when you pour them into the bowl, because *irui* will not *osser*, since there is no *rotev* left behind in the pot (*ain blios yotzev blo rotev*). Once it is in the bowl, which is a *kli shaini*, they will not *osser* the other ones, because a *kli shaini* will not be *maslit* and *mavlia* at the same time.

The *Shach* agrees that in a case where you poured some of the fish and *rotev* together a little at a time (scenario 1), then according to the *Riv'a* it has the same *din* as above (scenario 2). However, according to *Rabbainu Baruch*, all the fish are *assur k'dai klipa* because *irui* is *mevashel k'dai klipa*. However, according to the *Rama* in the *Toras Chatas*, *Rabbainu Baruch* agrees that in this case all the fish will be *assur kulo*. The **Minchas**

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<sup>5</sup> In combination with the liquid there is just less than 60 against the *tameh* fish.

**Yaakov** (50:1) explains that the *Rama* is *machmir* because *irui* onto hot food will *osser kulo*.<sup>6</sup>

The *Shach* brings a third opinion:

- 3) **Rabbainu Shimshon** holds **איסורא ברובה איתא**, that we say that the *issur* is in the *rov*. Therefore, even if you pour the *rotev* a little at a time, all the fish will be *mutar*. This is because by the time there are less than 60 in the *rotev*, most of the fish are out of the *rotev*.

### Eggs

The *Shach* says that in the case of eggs everyone agrees that they would be *assur*, because people do not cook enough eggs that, after there is no more 60 in the pot against the *tameh* egg, there should be more out of the *rotev* than in the *rotev*.

### Ain (D'lo) Machzikin Issura

The **Rama** brings that the reason of the *yaiish matirin* is; **אין מחזקינן איסורא**, an *issur* has not been established. The **Aurich Hashulchan** (12) explains that the *Rama* takes *Rabbainu Shimshon* a step further. We do not say that the *issur* is in the *rov*, rather that we leave the *beter* on its *chazaka*. This is to say, in the case where it's originally *beter* and the *issur* is a *safeke*, we keep it one its *beter* status. In our case, on one hand we have a *chazaka* that the fish are *mutar*, and on the other hand, we have a *safeke* if the *tameh* fish was later cooked with 20 or 30 fish. The *din* is that a *safeke* cannot change a *chazaka*. Therefore, all fish are *mutar*. Accordingly, by eggs as well we can apply the same *beter*.

The *Rama* in the *Toras Chatos* gives two reasons to be *maikil* in our case:

- 1) Our case is similar to *nishpach*. (*Siman* 98)
- 2) We may count all the fish and eggs of the *safeke* to *m'vatel* the *issur*, because everything that will eventually be mixed together has a *din* of being mixed together now. (*Siman* 111)

These two reasons help *matir* the fish left in the *ke'daira* before they are poured into the *kli shaini*.

However, the *Shach* qualifies the *Rama* and says that the first *kenla* can only be in a case of *min bmino*, otherwise the *issur* is *d'oraisa (ta'am ke'ikar)*, in which case we say *safeke d'oraisa l'bachmir*. The second *kenla* is not applicable according to the *Shach*, since you can find the *issur* by taste; the rest of the eggs and fish are not part of the *safeke*.

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<sup>6</sup> See **Mishb'tzos Zahav** 92:25 who argues with this *psbat* in the *Rama* (see *Basar B'chalav shiur* 19 page 146).

### Bitul B'rov has Chumras

The **Taz** (4) brings 2 *chumras* if we hold by the *heter* of *bitul b'rov* (*Rabbainu Baruch*), as apposed to *ain machzikein issura*.

- 1) The first *chumra* is in the case of eggs. The *chumra* is that when some of the eggs in the pot become *assur* and then added to the eggs in a *keli shaini*, all the eggs will become *assur*. This is because under normal circumstances there is not enough *mutar* eggs to *m'vatel* the *assur* eggs. According to the *svora* אין מחזיקין איסורא, we assume that we removed the *assur* egg before there is less than 60 against that egg left in the pot.
- 2) When draining the *rotev* before removing the fish, if you left some *rotev* behind, then the *rotev* will *asser* the other fish through *irui*. However according to the *svora* אין מחזיקין איסורא, the fish in the *k'daira* are *mutar*.

The *Taz* then brings the **Rashal** that even if you poured the fish with the water (scenario 1), the water will not cause the *assur* fish to *asser* the other fish. The **Mishb'tzos Zahav** explains that this is because there is only a small amount of *rotev*, or because the *rotev*, when poured, is *nifsak bakiluach* (the flow was interrupted). Therefore, even if you poured the *rotev* together with the fish (scenario 1), they will be *mutar*. However, the *Taz* says that there must be 60 against the *rotev* that became *assur*.

### Nisgalgel

The *Taz* brings that the *Rama* permits all cases, because it can be compared to *nishpach* (*Siman* 98:2)<sup>7</sup>. Since the *assur* fish is *min b'mino* with the other fish, you only need 60 *mid'rabbanan*. Therefore, we can say that you poured the *assur* out before there was less than 60 in the pot.

The *Taz* argues and says that we cannot compare our case to *nishpach*. In our case the original *safek* is a *safek d'oraissa*, whether the *assur* fish was left at the end. Therefore, although there is now a *safek* if there was 60 against the fish, which is only needed *m'd'rabanen*, we can't use this *safek d'rabbanan* to permit our original *safek*.<sup>8</sup> This is

<sup>7</sup> See shiur 3.

<sup>8</sup> This *Taz* is hard to understand. The **Imrei Bina** explains that since there is a *safek* on the fish if it was left at the end, since the fish is an *issur d'oraissa* we say that it was left at the end, even though it will be *batel b'rov mid'oraissa*. Once we decide that it was there at the end, we can no longer say *safek d'rabbanan l'kula*.

The **Pri Megadim** has another approach, he explains the *Taz* (not like we wrote in the *shiur*) that the *tameh* fish is *min b'aino mino* with the kosher fish. Therefore, we have to say that it was left at the end and even though when the fish are poured out they will be *batel b'rov* in the other fish and will be *mutar mid'oraissa*, since we need 60 *mid'rabbanan* because of the *rotav*, all the fish are *assur* even though there is a *safek*.

known as *nisgalgel*.<sup>9</sup> However, in the case of *nishpach* there is no *safek d'oraiisa* since there is certainly *rov*. Therefore we can say that it is a *safek d'rabbanan* and is permitted on the chance there is 60 against the *issur*.

Therefore, the *Taz* argues with the *Rama* and will *asser* the fish if *rotev* is left in the pot if the *rotev* drops below the level that will *m'vatel* the *issur*. (Eggs would be *asser* even if all the *rotev* has been drained.)

## Scenario 4

If you take out the fish or eggs out of the pot with a spoon, the **Taz** (5) says that even according to the *Rama* that we say אין מהזקין איסורא, in this case they will be *assur*. This is because we will say that the *assur* egg came from *rov* of eggs and will *asser* the spoon. The spoon will then *asser* the rest of the pot when you take each egg out. The **Chavas Da'as** (4) explains that for example we are dealing with 100 eggs. We say that the *assur* egg was one of the first 51, and from that point on, the spoon will *asser* the rest of the eggs and there will not be a majority of *mutar* eggs.

### In Summary

The **Mechaber** holds like R' *Baruch* that the *beter* is because of *bitul*. Therefore, if you pour all the water out first, then everything is *mutar*. The **Rama** holds that everything is *mutar* because *ain machzikin issura*.

The **Taz** and **Shach** both hold like *Rabbainu Baruch*, therefore, in the case of eggs they are *machmir* in all scenarios because there is no *rov*. However, the *Shach* concludes that an *efroach* and bloodspots are only *assur mid'rabbanan* and therefore we can be *maikil*. According to the *Shach*, in the case of fish, if *rotev* was left behind (scenario 1) then it will *asser* the fish in the bowl *derech irni*. If you drained all the *rotev* (scenario 2) then they would agree that the *assur* fish are *batel b'rov* when you pour them in the bowl. According to the *Taz* even if you pour the *rotev* together with the fish, everything is *mutar* if there is 60 against the *rotev* that was left in the pot.

## A Fly in the Soup

The **Shach** (7) brings the **Maharshal** who holds that you need 60 to be *mevatel* the *blios* of a fly. The *Maharshal* explains that we do not know which *sberatzim* are *nosain ta'am lifgam* and which are not. Therefore, if you use a spoon to remove a fly from a pot of soup and there are not 60 in the spoon against the fly, the food in the spoon becomes

<sup>9</sup> We will come across this again in the *safek s'jaikos* of the *Shach* at the end of *Simon* 110, s. s. #19.

*assur*. If that food or spoon is put back in the pot, you need 60 against it. (We see from here that, according to the *Shach*, a spoon has a *din* of a *keli rishon*.) Even though the *Rama* in our *Siman* said the *minbag* is to be *maikil*, the *Shach* is *machmir* if there is no *hefsed m'rubeh*. The **Taz** (104:6) is *maikil* like the *Rama*. The **Sifsai Da'as** (107:7) says that one who is *machmir* will have a *brocha*.

## Review Questions

- 1) What is the *machlokes* between the *Riv"u* and *Sefer Hatrumah*?
- 2) In what scenario are they arguing?
- 3) What is the opinion of *Rabbainu Shimschon*?
- 4) In what case does he argue with the *Sefer Hatrumah* and in what case does he agree?
- 5) Define: *Ain machzikin issura*.
- 6) What are two more reasons to be *maikil* in the case of pouring?
- 7) What are two *chumras* if the *heter* of the *matirin* is *bitul b'rov*?
- 8) In which case does the *Taz* argue with the *Shach*? Why?
- 9) Why doesn't the *Taz* hold by the reason *ain machzikin issura*?
- 10) In which case does the *Taz* say that the *Rama* will agree that the contents of the bowl are *assur*?
- 11) Is 60 needed to *m'vatel* the *blios* of a fly? Explain.

## Questions on Shiurim

### Summary of the laws of *bria* mention in **Simon 100, 104 and 107**

There are two issues:

#### 1. The *bria* itself

If you can find it and remove it or if the *b'ria* dissolved then this is not longer an issue, if not then anything that may have the *bria* in it is *assur*.



## 2. The blios

This depends on if the food is giving of *blios* and if the *blios* are *l'fgam*. If the food is cold there are no *blios* unless there is *kavush* (24 hours in regular liquid 6-18 minutes in *charif* liquid). If there is *kavush* or if the food is hot then it depends on if the *bira* is *l'shvach* or *l'fgam*. Acc. to the Mechaber a fly is *l'fgam* so if the fly is removed everything is *mutar* if the fly dissolved then *rov* is needed against it. The Shach is *machmir* to treat a fly as *l'shvach* and therefore 60 is needed. However, in beer, vinegar or whisky if there is *kavush* 60 is needed even if the *b'ria* is removed and is *l'fgam*.