

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

Hilchos Pesach Shiur 11

Mareh Makomos for this shiur

Pesachim Mishna 21a and 28a

Siman 445 Tur, Bais Yosef, Mechaber Rama

Taz - Magen Avraham

Eshal Avraham 5

Machzis Hashekel 5

Written by Rav Don Channen

Edited by R' Dovid Bendory and R' Aharon Schenkolewski

This Series is dedicated to the memory of Mr. Moshe Baruch Sheffey

– R' Moshe Baruch ben Dovid Sheffey z'l

Edition 3.1

© Pirchei Shoshanim 2013

This shiur may not be reproduced in any form without permission of the copyright holder

164 Village Path, Lakewood NJ 08701 732.370.3344

Rabbi Akiva 164, Bnei Brak, 03.616.6340

Biur Chametz



Simon 445

1 How is *biur chametz* done? 1 Burn it, (1) or crumble it and throw it to the wind or throw it into the ocean. If then 2 *chametz* is hard and it will not disintegrate quickly in the ocean then it should be crumbled and thrown in the ocean.

Rama: (2) *The custom is to burn it and it is best to burn it during the day. This is comparable to nosar which is burnt during the day. However, if one wants he can burn it immediately after the search to prevent mice from taking it he is permitted to do so.*

2 If the *chametz* is given to a non-Jew before the 6th hour, *biur* is not required. (3) 4 If the *chametz* was burned before the 6th hour the coals are *muter* for use during Pesach. However, if the *chametz* was burned from the 6th hour and on, since it is *assur b'hanah*, it should not be used to start a fire in an oven or stove and should not be used as a source for cooking. If it is used for baking or cooking then that pas or that cooked food 5 is *assur b'hanah*. (4) Similarly the ashes [of that bread or cooked food] 6 are *osser b'hannah* since the *chametz* was burned after it became *assur b'hannah*.

3 (5) Before *zman issur* the *chametz* can be thrown 7 to a place where birds are found. If there is any *chametz* left after *zman issur* which was not eaten by the birds, then even though it is in a place that is *hefker* do not leave it there, *biur* must be done.

Rama: *If chametz was not found at the time of searching, burn the kli that was taken along for the search so that the obligation of biur will not be forgotten.*

¹ Sacrifices that are eaten must be consumed within a specified time frame. After that time has elapsed, anything remaining that was not eaten is burned.

The Source

MISHNA 21A

R' Yebuda says that *biur chametz* is only done by burning it.

The Chachamim say **even** by crumbling it and throwing it to the wind or putting it into the sea.

According to **R' Yehudah** *chametz* is *min hanisrafim*. According to the **Chachamin** *chametz* is *min hanikbarim*. This *machlokes* will be discussed later.

PESACHIM 28A²

The question was asked, "How did they (the Chachamim) say it? Crumble and throw to the wind, crumble and put it into the ocean, or perhaps crumble and throw to the wind, put it whole into the ocean." It was taught concerning avoda zorah (Avoda Zorah 43b) in the same way: Rav Yossi said crush it and throw it to the wind or put it in the sea, and the question was asked crush it and throw it into the wind, crush it and put it into the ocean, or perhaps crush it and throw into the wind, put it into the ocean whole. Rabba said, "It makes sense that avoda zarah thrown into the Dead Sea does not need to be crushed, chametz in other rivers needs to be crumbled."

Rav Yosef said, "On the contrary, the opposite makes more sense! Avoda zarah doesn't dissolve so it needs to be crushed. Chametz dissolves so it doesn't need to be crumbled." Etc.

Hard Bread in the Sea

Rabba holds that the factor is which body of water the *chametz* will be thrown into.

Rav Yosef holds that the factor is whether or not the bread will dissolve.

The **Rosh** holds like Rabba that *chametz* needs to be crushed if it is thrown to the ocean.

The **Rambam** holds that hard *chametz* need to be broken up. According to the **Bais Yosef** the **Rambam** holds like **Rav Yosef** and holds that it does not need to be broken up only in the case where the *chametz* will dissolve quickly. However, if we are dealing with hard *chametz* it needs to be crushed because if it is not crushed it will not dissolve quickly.

The Time of the Argument

The *Gemora* (12b) brings that **R' Yehudah** said "When do I say that the *chametz* must be burned? That is only *shelo b'sha'as biuro* (not during the time it must be destroyed) but *b'sha'as biuro* (in the time it must be destroyed) it can be destroyed by any means.

² Eleventh line from the top.

There is a *machlokes* what Rav Yehudah meant:

Rashi says that “*shelo b’sha’as biur*” means during the sixth hour and “*b’sha’as biur*” means the seventh hour and on.

Rabbainu Tam holds that “*shelo b’sha’as biur*” means during the seventh hour and on and “*b’sha’as biur*” means the sixth hour.

The **Rosh** says that *Rasbi* agrees that during the fifth hour it can be destroyed by any means. However the *Tur* argues that according to *Rasbi* the before the sixth hour has the same *din* as during the sixth hour.

HALACHA

445:1

The **Bais Yosef** holds that bread needs to be crumbled but not grains of wheat. The **Magen Avraham** (2) says that the **Magid Mishna** learns the opposite, therefore both bread and wheat grains should be crumbled. He adds that *chametz* can be flushed down the toilet. However, if one has a fish tank he may not throw *chametz* into it since he will be *benefiting* from the *chametz*.

The **Taz** (1) argues with the **Bais Yosef**. He holds that the **Rambam** holds like **Rabba** and that the only factor is how fast the *chametz* will dissolve. Therefore, each type of water and each type of *chametz* must be evaluated in relation to each other. The reason the **Tur** did not mention which type of water the *chametz* thrown into is because he holds that it is not clear which body of water will break up the *chametz* and therefore it must be broken up in all cases.

The **Mishna Brura** (5) also says that since many *Risbonim* hold like *Rabba* therefore in all cases one should be *machmir* to break up the *chametz*.

Min Hanisrafim vs. Min Hanikbarim

All *issurai ba’na’ab* must either be burned (*min hanisrafim*) or be buried (*min hanikbarim*). An *issur* which is *min hanisrafim* must be burned. After it is burned the ashes are *mutar* because it has been destroyed according to the level required by the *Torah*. An *issur* that is *min hanikbarim*, must be buried since if it is burned the ashes are *assur* and one may come to have benefit from the ashes.

The **Magen Avraham** (1) brings in the name of the **Bach** that the *Chachamim* hold burning is better than *pirur* (crumbling) since it says in the *Mishna* that *biur* can be done “even” by “crumbling” it etc.³ However, the **Rif** and the **Rosh** do not have the word “even” in their text. Therefore, they hold that according to the *Chachamim* crumbling

³ Yet according to the **Chachamim** if *chametz* was burned it does not mean that the ashes are *mutar*. Burning merely destroys it from being *chametz* in the sense of *bal yireh bal yimatzeb*.

chametz should be done and not burning. The **Magen Avraham** then asks on the **Rambam** that holds that one should burn the *chametz* and nonetheless holds that the ashes are *assur*. If the ashes are *assur* than the *chametz* should not be *burned* as we learned above. He answers that the *Rambam* holds that it may only not be burned if one intends to benefit from the ashes. Therefore that it is better to crumble it and throw it in the ocean or into the wind rather than burning it so that the ashes will not be used by mistake. However, if someone chooses he may do *biur* by burning the *chametz* if he remembers that the ashes are *assur*.

THE RAMA SAYS

The custom is to burn it and it is best to burn it during the day. This is comparable to nosar⁴ which is burnt during the day.

The **Taz** (2) explains that the reason the *chametz* should be burned is so that we can follow all opinions.

THE RAMA SAYS

However, if one wants he can burn it immediately after the search to prevent mice from taking it he is permitted to do so.

The **Magen Avraham** (3) quotes the **Maharil** who says that when *chametz* should be burned during the day so that a person will remember to do a second *bitul*.

After the Sixth Hour

The **Taz** (2) adds that after the 6th hour the *chametz* can be destroyed in any manner. However, the **Mishna Brura** (6) says that if *chametz* is found after the 6th hour it should certainly be burned. In *Sba'ar Hatzion* (17) he explains that most *Rishonim* hold like *Rabbainu Tam* that explain that according to the *Raw Yebudah chametz* must be burned after the sixth hour. He adds that the *Taz* is hard to understand.

The Ashes

The **Tur** explains that **R' Yehudah** holds that if it is burned at the time that the *chametz* becomes *assur*, one may not benefit from the fire. However, after the *chametz* is burned **R' Yehudah** will permit using the fire for baking and cooking. However, the **Tur**

HALACHA

445:2

⁴ Sacrifices that are eaten must be consumed within a specified time frame. After that time has elapsed, anything remaining that was not eaten is burned.

paskins like the **Chachamim** and therefore *chametz* is *min hanikbarim* and the ashes are *assur* to cook with. The **Mechaber** holds like the **Tur**.

Ze V'Ze Goraim

The **Eshal Avraham** explains that the **Magen Avraham** (5) holds that if the food is not facing an open fire then this is a case of *ze v'ze goraim*⁵ since both the hot walls of the oven and the heat generated by the ashes of the *chametz* are cooking the food. The **Magen Avraham** holds that *ze v'ze goraim* is *mutar*. He brings in the name of the **Kesef Mishna**⁶ that if the fire is facing the food then the *heter* of *ze v'ze goraim* does not apply because it is obvious that the fire is doing all the cooking.

Still, the **Magen Avraham** holds that the food is *assur* for a different reason. He says in the name of the **Rama"h** and the **Tur** that since *chametz* is *assur b'kol'shebu* (the tiniest amount) *ze v'ze goraim* doesn't remove the fact that there is some benefit from a *mashehu* (tiny amount) of *chametz* in the food being cooked.

The **Machzis Hashekel** (5) brings the **Taz** and **Shach**:

According to the **Taz** since there is *karus* if someone eats a *kezayis* of *chametz* *b'kdai achilas pras* we are strict even in cases of *ze v'ze goraim*.

The **Shach** holds that since there is *shvach aitzim* (improvement from the coals) in the food being cooked it is *assur*. However, if the coals were *muter* and the oven was *assur* then even the **Rama"h** would agree that the food being cooked is *mutar*.

The **Mishna Brura** brings **Ritva** and the **Ran** who hold that since it is obvious that the *chametz* did more cooking than the stove we do not apply the *heter* of *ze v'ze goraim* because the *chametz* was the main cause for cooking the food. The **Sha'ar Hatzion** (22) leaves it as a question if the opposite case, *heter* coals and an *assur* stove, would be *assur*.

⁵ When there are two catalysts which help change one form to another (milk to cheese for example) it is called *ze v'ze goraim*.

⁶ The **Kesef Mishna** is a work by the **Mechaber** on the **Rambam**.

Throwing Chametz into a Makom Hefker

The **Taz** (5) and **Magen Avraham** (7) explains that according to the **Mechaber** if the *chametz* was thrown into the street then even if the birds do not eat it, the *chametz* remains *hefker* and does not need to be collected and destroyed. However, in this case the *chametz* was thrown into a private courtyard. The *Mechaber* holds that nonetheless one does not have to check that it was eaten as we can assume that the birds ate it. However, if it was found after the time that *issur chametz* started he must remove it. Even though the *chametz* was made *hefker* to the world, still it never went out of the person's domain so it is not completely *hefker* in relation to him.

The **Taz** argues on the *Mechaber*. He says that if the *chametz* was thrown into one's own courtyard one must check to make sure that it is no longer there. He explains that the **Hagaos Maimonios** which is the source of this *din* meant that before the *zman* of *issur chametz* one may throw *chametz* to a place that has ravens which is not on his property. However, if one finds *chametz* in his property after the *zman* of *issur chametz* one must destroy it and cannot rely on throwing it to the birds.

Chametz in the Garbage

The **Igros Moshe** holds that if a person throws his *chametz* in the garbage can in front of his house that the *chametz* becomes *hefker*. However, if he knows that the garbage collectors will not be coming until the start of *Pesach* or later, then he must take the *chametz* out of the garbage and burn it. It is not enough to make the *chametz* *hefker*, rather, it must be completely removed from a person's property. In this case even if the garbage can is sitting on public property it still must be burned because the can containing the *chametz* has the *din* of private property.

Review Questions

- 1) What is the *chumra* of **R' Yosef**? What is the *chumra* of **Rabba**? What is the *din*?
- 2) Which case is it clear that **R' Yosef** and **Rabba** argue?
- 3) Define *min hanikbarim* and *min hanisrafim*. Which has the greater *chumra*?
- 4) If crumbling *chametz* is a better *biur* why do people burn their *chametz* to do the mitzvah of *biur*?
- 5) Is *ze v'ze goraim muter* if *chametz* is one of the catalysts? List all opinions.
- 6) Why must one burn the *chametz* in a trashcan even though it is *hefker*?
- 7) Crumbled *chametz* in a trashcan placed at the street must be burned. What about crumbled *chametz* thrown onto the shoulder of the same street? Is there a difference between the cases? Why or why not?
- 8) Can *biur chametz* be done by grinding in a garbage disposal in a kitchen drain? Why or why not?

Chametz During Pesach



Simon 446

1 One who finds *chametz* in his house during *chol hamoed* (1) should take it out 1 and destroy it immediately. (2) If it's found on *Yom Tov*, then cover it with a *kli* until the night and then destroy it. Rama: (3) This is because 2 it cannot be carried on *Yom Tov* 3 and burning it in its place is also assur.

2 There is an opinion (4) that the second day of *Yom Tov* 4 has the *din* of *Chol Hamoed* in this respect.

3 If there is a roof of a non-Jew which is close to the roof of a Jew and some *chametz* rolled from the non-Jew's roof to the Jew's roof, (5) it should be 5 pushed with a stick. If it is *Shabbos* or *Yom Tov* cover it with a *kli*. (6) (Since it is *osser* to carry it on *Yom Tov* and *Shabbos*).

4 If *pas* was found in the house during *Pesach* and it is not known whether it is *chametz* or *matza*, it is *muter* even to eat because we follow 6 after that which was last [baked]. If it is very moldy, so much so that it could not have become so moldy from the time *Pesach* entered, then it is without question *chametz*.

If enough time has passed from *Pesach* such that it can be reasonably assumed that the mold grew from *Pesach* until now, then if we are accustomed to make fresh *pas* daily during *Pesach*, we can be lenient – even if it is very moldy – and assume that each day fresh *pas* was placed on it and therefore it became very moldy.

Get Rid of it on *Chol Hamoed*

If *chametz* is found during *Chol Hamoed* everyone holds that it should be removed from the house whether or not there was a *bitul* beforehand. Even though the **Tur** only wrote to remove the *chametz*, the **Taz** (1) explains that it wasn't necessary to write that it should be burned after it is removed since this is obvious. Rather the **Tur** is emphasizing that one should not delay removing it.

Don't Touch It On Yom Tov

PESACHIM 6A⁷

Rav Yehudah said in the name of **Rav**,

“If someone finds chametz in his house on Yom Tov cover it with a keli.”

The first opinion of the **Tur** is that the reason the *chametz* is covered with a *keli* is because *chametz* is *muktzah* on *Yom Tov*. Even though it is permitted to transfer fire on *Yom Tov* it cannot even be burned in its place since there is absolutely no benefit on *Yom Tov* by burning *chametz*. The **Bais Yosef** says in the name of the **Rav Hamagid** (*Magid Mishna*) that the **Rambam** holds of this opinion.

The second opinion the **Tur** quotes is his brother **Harav Yecheil** who holds that the *chametz* can be moved from its place and burned. He holds that doing *biur* is a “*kaztas mitzvah*” and therefore the law of “*mitoch*” applies.

The law of *mitoch* is learned from the **Mishna** in **Baitza** 12a and stated on 12b:⁸

“Mitoch (since) it is permitted to light a fire on Yom Tov for the needs of Yom Tov it is permitted to light a fire even if it is not need for Yom Tov.”

The *halacha* is that on *Yom Tov* we accept the law of *mitoch*. The **Bais Yosef** brings the **Ran** who adds that there must be some benefit from the *malacha* (work) on *Yom Tov*. If there is absolutely no benefit at all on *Yom Tov* we cannot apply the law of *mitoch*. Therefore, according to **Ran** if there was a *bitul* before *zman issur* then there is no need to do *biur* on the *chametz* because one is not transgressing *ba'al yira'eh*. We see from the **Ran** like **Harav Yecheil** that if *bitul* was not done then it is a *mitzvah* to burn the *chametz*. Although it is not necessary to burn the *chametz* for the sake of *Yom Tov*, the benefit of doing the *mitzvah* of “*tabbisul*” is enough to apply the rule of *mitoch*.

The **Mechaber** *paskins* like the first opinion brought in the **Tur** that regardless of whether there was a *bitul*, place a *keli* on the *chametz* and burn it after *Yom Tov*. The **Taz** (3) holds that since the *mitzvah* can be fulfilled after *Yom Tov* the *heter* of *mitoch* does not apply on *Yom Yov*.

⁷ Second wide line.

⁸ To learn this topic more fully, start from the last five lines on 12a and continue through to the end of the *sugya*, just before the *Mishna* on 12b.

The **Mishna Berura** (6) says that many *Rishnom* hold (like the *Ran* above) that if one was not *mevatel* the *chametz* then one should flush it down the toilet and some say one can even burn it. Nonetheless, the *minbag* is like the first opinion in the **Tur**. However, if there is a place that follows the second opinion of the **Tur** then in that place follow after the *minbag* to burn the *chametz* on *Yom Tov*. This is also the opinion of the **Shulchan Aruch Harav** (5-6).

Bracha

The **Magen Avraham** (1) writes that one should make a *bracha al biur chametz* when burning the *chametz* found on *Yom Tov*. The **Shulchan Aruch Harav** (1-2) holds that if it is found on *Pesach* one should make a *bracha*, but not if it was found *even Pesach* even after the time that *chametz* becomes *assur*. However, we have learned in *Simon* 435 that the *halacha* according to the **Mishna Brura** is that one should not make a *bracha*.

Yom Tov Shaini

HALACHA

446:2

The **Bais Yosef** brings the **Orchos Chaim** who holds if *chametz* is found on *Yom Tov shaini* it is like a weekday. The **Taz** (4) argues on this *din* since the *halacha* is like the *Chachamim* and *tashbiso* can be done by throwing it in the ocean or flushing it in the toilet. Therefore, it is enough to permit moving the *chametz* and throwing it away but not burning it since this is an *av melacha*.

The **Chok Yaakov** (5) argues completely on the *Shulchan Aruch* and says that there is no difference between the first day of *yom tov* and the second. He concludes however that if one did not do *bitul* or it is something that became *chametz* on *Pesach* than one can rely on the opinions to get rid of it on the second day by throwing it to the ocean, wind or toilet. This is also the opinion of the **Shulchan Aruch Harav** (6) and **Mishna Brura** (8).

The Non-Jew's Roof

HALACHA

446:3

YERUSHALMI PESACHIM 2:2

If the roof of a non-Jew is next to the roof of a Jew and chametz falls from the roof of the non-Jew onto the roof of the Jew it should be pushed away with a stick.

The **Bais Yosef** brings two reasons the Jewish roof owner has to push it with a stick:

- 1) *D'lo b'dilai insbai minai* (by nature, people do not avoid *chametz*) therefore we worry that someone will eat *chametz*.
- 2) Since the *chametz* is not his he is not allowed to burn it. If we let him handle it he may come to eat it.

The **Bais Yosef** explains that when handling *chametz* with intention to burn it we are not worried a person will eat it. However, when handling *chametz* without intention to burn it we are worried that it might be accidentally eaten (*Pesachim* 11a).

Is It Chametz?

HALACHA

446:4

Years ago people made *matzos* during *chol hamoed*. In this way their *matzo* was always fresh. Their *matzos* were also thicker and more like a pita. Therefore, it was easy to find a piece of *matzo* and question whether it was *matzo* or *chametz*. (Such *matzos* can still be found today in many Sephardic communities.)

In that case the **Mechaber** says that the bread which is found is *matzo*. The reason is because we go after the last known *chazaka* which in this case is that after searching the house all the *chametz* has been destroyed. This piece must be *matzo*. If there is an indication that it is *chametz* -- for example by judging from the amount of mold, then it is *assur*. The **Biur Halacha** (ד"ה מותר אפילו באכילה) points out that this *din* only applies after *Pesach*. Since during *Pesach* eating *chametz* carries an *issur karus* the **Rabbanan** are not **makil** against such a punishment.

Review Questions

- 1) If a person finds *chametz* during *chol hamoed* what should he do with it?
- 2) What is the *din* if he finds *chametz* on *Yom Tov Pesach*?
- 3) What should you do if you find *chametz* on *Shabbos chol hamoed*?
- 4) Is *chametz muktzeh* on *Yom Tov*? Is it *muktzeh* on *Shabbos chol hamoed*?
- 5) What is the *din* of *mitoch*?
- 6) Does *mitoch* apply in our case?
- 7) If *chametz* is found on *Yom Tov shaini*, can it be burned? Why?
- 8) If *chametz* that belongs to a non-Jew falls into a Jew's property, what should be done? Why?
- 9) When can I rely on a *chazaka* if I am not sure whether the bread is *chametz* or *matzo*?