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ותלמוד
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Chometz after Pesach | Kedoshim [א"י] / Acharei Mos [ח"ל] 5782

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Chometz She'avar Alav HaPesach

A Jew's Chometz

- It is forbidden to benefit from chometz that was owned by a Jew on Pesach (ש"ע סי' תמ"ח ס"ג). This is a penalty from Chazal for transgressing the issurim of מצא and בל יראה ובל ימצא.
- This penalty forbids the chometz to everyone, not just its owner; otherwise, it would be simple to circumvent it (ערו"ה סי' ז).
- The chometz in an irreligious Jew's store is considered chometz she'avar alav HaPesach and one may not purchase it. However, one may purchase non-chometz goods from his store.

A Non-Jew's Chometz

- Chometz that was owned by a non-Jew on Pesach may even be eaten (ש"ע שם ס"א).
- Therefore, if a Jew gave a non-Jew chometz before Pesach without any stipulations or made a true sale of chometz to a non-Jew, it is not called chometz she'avar alav HaPesach, even if the Jew knew the non-Jew would not touch the chometz and return it after Pesach (ש"ע תמ"ח ס"ג).

Hefker

- Chometz that was truly hefker on Pesach may be eaten after Pesach (מ"ב סי' תמ"ח ס"ב). However, if one made his chometz hefker planning on repossessing it after Pesach, it was not truly hefker (מ"ב סי' תמ"ח ס"ב) and it is forbidden after Pesach.

Chometz of Tzedakah

- Q:** The person in charge of a certain organization which distributes food to the needy forgot to include the organization's warehouse in his chometz sale. What is the status of that chometz after Pesach?
- A:** The gabbai did not personally transgress מצא and בל יראה ובל ימצא, since the chometz was not his, nor was he responsible for it (ש"ע ח"מ סי' ש"א ס"ז) when it was not designated for specific poor people. The poor did not transgress since the chometz was not theirs. Therefore, the chometz may be eaten (ש"ע חלקת יואב ח"א אור"ח סי' י"ט).

Doubt

- Some poskim are meikel in a case where one is unsure if a particular chometz item was owned by a Jew on Pesach or not because it is a safeik d'rabanen (פמ"ג י"ד סי' צ"ט שפ"ד סק"י). However, the poskim debate whether one may only derive benefit from the chometz without eating it or whether one may actually eat it (חוק יעקב סי' תמ"ט). (ישועות יעקב שם, ועי' באריכות שדי חמד מערכת חמץ ומצה סי' ח' אות ל).
- If one is uncertain if a sale of chometz was valid or not, some say it is like a case where one is uncertain whether chometz was owned by a Jew on Pesach, and it may even be eaten (ש"ע בית שלמה סי' ס"ב).

Chometz Mixture

- There are many food products that have some chometz mixed in. Their halachic status after Pesach if they were owned by a Jew on Pesach depends on the circumstances, as will be explained.
- Min b'mino**, e.g., chometz flour mixed with non-chometz flour, is botul b'rov d'oraisa. Even though one may not retain such a mixture on a d'rabanen level out of concern he might eat it, if he did retain it, it is still mutar after Pesach (מ"ב סי' תמ"ב סק"א). Some say it is only mutar b'hana'ah (א"ר סי' תמ"ז); others even permit its consumption (מג"א סי' תמ"ז הובא במ"ב שם סק"ב). The Sha'ar HaTziyun leans toward the latter (שם סק"ב קפ"ג).

- Min b'she'eino mino** is only botul in sixty times its volume. Though it may not be eaten on Pesach, if the mixture indeed has sixty times its volume and he retained it throughout Pesach, it may still be eaten afterward. If the volume of the mixture was less than sixty times the chometz, it is assur b'hana'ah even after Pesach (מ"ב סי' תמ"ז סק"ב).
- Less than a kezayis** according to many does not transgress and בל יראה ובל ימצא in a mixture, even if there was less than sixty times its volume. The poskim argue about its status after Pesach; the Bi'ur Halachah writes "tzarich iyun" (ביאור ח"א סי' תמו ס"א ד"ה בין).
- Chometz flavor.** If chicken soup was cooked with kneidlach and the kneidlach were removed, but the soup does not have sixty times the volume of the kneidlach, the flavor of the kneidlach causes an issur d'oraisa if eaten on Pesach. Accordingly, there is a chiyuv d'rabanen to get rid of it on Pesach. The poskim argue about its status after Pesach. Some hold it is mutar b'hana'ah but should not be eaten; others hold it is assur b'hana'ah. To prevent a great loss, one may be meikel and follow the former opinion (מ"ב סי' תמ"ב סק"א).
- Owning "**chometz nukshah**" [a chometz mixture that is only partially edible or not chometz gamur (מ"ב שם סק"ב)] over Pesach does not violate מצא and בל יראה ובל ימצא. Therefore, after Pesach it is mutar b'hana'ah (ש"ע סי' תמ"ז ס"ב). Some permit its consumption (מ"ב שם סק"ז) but most forbid it (מג"א שם סק"מ).

Chometz that Was Sold

A Chometz Sale

- There is a widespread custom to arrange with a Rav to sell one's chometz before Pesach and to rely on such a sale (ביאור ח"א סי' תמ"ח ד"ה). Anyone who doubts this heter should be rebuked (ש"ע ח"ת סי' אור"ח סי' ק"יג ד"ה ולפי"ז).
- Nevertheless, some question this heter, even when properly executed (בכור שור פסחים דף כ"א ע"א, מחצ"ה סק"ד ד"ה וצ"ע). This is especially true today, when the chometz sale sometimes appears insincere, and for several other reasons:
- 1.** It used to be that the non-Jew took the chometz to his house. Nowadays he just takes a stack of bills of sale; **2.** It used to be that at the very least, the non-Jew had the key to the room. Nowadays, he is merely told where it is; **3.** There is a dispute among the poskim if it is better to sell the room to a non-Jew (מקור חיים סי' תמ"ח), (מבד" וחת"ט) or to rent it out to a non-Jew (סק"ט ד"ה וגם, ישועות יעקב), and each opinion questions the other method; **4.** It used to be that the sales involved a smaller quantity, and if the non-Jew wanted, he could pay for it. Nowadays, chometz is sold in such great quantities that the non-Jew generally does not have the money to pay for all of it. It is doubtful that the non-Jew would get a mortgage from the bank if he really wanted to buy it all (עי' ש"ע אורי' וישעי' סי' קכ"א ותשובת הגר"ש קלוגר נדפס בש"ע נאות דשא ח"א סי' ב' באריכות).

Chometz Sale to Avoid מצא ובל יראה ובל ימצא

- Due to all the above reasons and others, many will not include true chometz in their sale as an extra precaution to avoid transgressing מצא and בל יראה ובל ימצא. They will, however, sell questionable chometz, e.g., medicines, cosmetics, etc. They will also sell chometz to exempt themselves from bedikah (הגרש"א הליכות שלמה). (פסח פ"ו דבר הלכה אות י"ג).

21. Many rely fully on the sale and will sell true chometz if it is in a specific place and properly marked that it is sold to a non-Jew. There is certainly basis for this conduct.
22. **Significant loss.** Some will only rely on selling chometz to prevent a serious loss, as that was the original basis for this heter.

Factories and Stores

23. Factories, suppliers, wholesalers, and storeowners throughout the world sell all their chometz, relying on the early and recent great poskim who ruled that they may sell their chometz to prevent a serious loss (ש"ת אורי וישעי סי קכ"א, ישועות יעקב סי תמ"ח סק"ה).

Whiskey

24. Even though there are those who hold that whiskey is not chometz since it only uses grain extraction (ש"ת פני יהושע ח"ב סי ט), the consensus of the poskim is that it is true chometz (ש"ת חכ"צ סי כ, ש"ת שו"ת מהר"ח ח"ג סי פג, מ"ב סי תמב סק"ד ושיע"ת שם, ש"ת מנח"י ח"ז סי כז).
25. Some people who do not sell true chometz will still sell whiskey. This may be because it falls into the category of "serious loss" (ב"ח סי כז). Even though one bottle of whiskey – even an expensive one – is not a serious loss to a wealthy person, since whiskey is an expensive drink, people sell it with their chometz.
26. Perhaps another reason is that the institution of selling chometz was mainly for whiskey, as is clear from the Acharonim (שם ב"ח). They had lots of whiskey stored before Pesach, which would constitute a serious loss. Since this heter was established for whiskey, the heter remains in place.
27. It should be noted that if one only has a bit of whiskey left in a bottle, that may not qualify for the heter to sell chometz, since it is obviously not a serious loss or a significant amount.
28. **Duty free.** One has to be careful not to buy whiskey in duty free at the airport in Eretz Yisroel, because they are not makpid to sell their chometz to a non-Jew over Pesach, unless they have a written document confirming they did sell. Even in the latter case, they often continue selling whiskey and chometz products to all their clients during Pesach, disqualifying any previous sale to a non-Jew (ש"ת דובב מישרים ח"ב סי ד, תשובות והנהגות ח"א סי רפ"ח). Some don't buy such whiskey till after Shavuot, the time that one can assume the entire stock has been replaced.

Selling Chometz and Chometz She'avar Alav HaPesach

29. All that has been said until now regarding the sale of chometz is only as regards the issue of **imcav**. How the chometz sale affects chometz she'avar alav haPesach is a totally separate question, as that is only a derabanan penalty.
30. Any chometz that was owned by a non-Jew on Pesach does not cause a its previous Jewish owner to transgress **imcav**, nor does it become chometz she'avar alav haPesach (see above, 5).
31. Therefore, even if a particular person does not rely on selling chometz, he may rely on someone else's chometz sale; he does not need to treat that chometz as chometz she'avar alav haPesach.
32. He may also buy chometz products from a storeowner who performed a proper chometz sale, since the storeowner had the significant loss heter. [If he does not know the storeowner to be an ehrliche Jew, he must see a certificate stating that the storeowner sold his chometz.] This is accepted practice throughout the world.

Machmirim

33. Although common practice is to rely on the sale of chometz regarding chometz she'avar alav haPesach, many gedolim were stringent and did not rely on it (הג"א מעשה רב אות קפ"א, רע"א אגרות סופרים כתבי רע"א סי) due to the above concerns.
34. **Wholesalers and warehouse owners in Eretz Yisrael.** There is another reason to be machmir in Eretz Yisrael to only eat chometz baked after Pesach: even if the factory sells its chometz under supervision of its kashrus-granting agency, and even if the storeowner has a certificate confirming he sold his chometz, there is no official body obligating the wholesaler or supplier between the factory and the store to sell its chometz. Many of them are not religious, ר"ל. Thus, anything they supply to the store is forbidden due to concern of chometz she'avar alav haPesach.
35. Therefore, every storeowner with yiras Shomayim is responsible to see to it that he only allows goods in his store from someone with a certificate stating that he sold his chometz.

Makolet, Supermarket

36. **Makolet.** Generally speaking, small grocery stores with Torah observant owners sell their chometz. Thus, the chometz in the store right after Pesach has no concern of chometz she'avar alav haPesach.

However, after a certain period of time, the stores receive goods from wholesalers, not directly from factories, and many wholesalers are not Torah observant and do not sell their chometz. The incoming goods are sometimes chometz she'avar alav haPesach and assur. Therefore, it is advisable to only buy from a Torah observant storeowner with yiras Shomayim who is careful to only buy new goods from wholesalers who sold their chometz.

37. **Supermarket.** Big supermarkets, especially ones that are part of a chain, usually buy directly from factories. If a factory is under a high-level hashgachah, one can assume its chometz was sold. Therefore, if a supermarket is run by Torah observant Jews, one can buy there without concern.

Ground and Baked After Pesach

38. For the above reasons, there are those who are careful to only eat chometz produced after Pesach. They should know that even if the product was made after Pesach, that does not mean it is from flour ground after Pesach, unless it says so explicitly.

Production Code

39. For most chometz products in Eretz Yisrael, one can check the production date on the package. This year [5782], Motzei Shabbos after Pesach fell on April 23, 2022, which is 113 days from the beginning of the secular calendar year. The numbers at the end of the production code first indicate the year 2022, then the number of days into the year. For example, 2,113 or 22,113 both indicate 113 days into the secular year 2022.
40. Any product with a number below 113 was made before the end of Pesach, above 113, after the end of Pesach.

Flour

41. Whether or not dry flour is considered chometz depends on if water was added during the grinding process. This could be different for any given place or time.
42. **"Wet flour."** Strictly speaking, flour made from wet wheat may be used for matzah on Pesach, since it does not display signs of becoming chometz. However, the Ge'onim forbade its use for matzah (ש"ת ט"ו סי). Even those who do not sell true chometz to a non-Jew may certainly rely on its sale (ש"ת תשובות והנהגות ח"א סי ט"ט).
43. **Regular flour.** For the most part, wheat kernels today are not soaked before being ground. However, many times the kernels are sprayed with a bit of water to ease the removal of the shell during the grinding. Even then, signs of becoming chometz are not visible on the wheat, even after several hours. Therefore, the poskim rule that regular flour is not chometz (תשובות והנהגות שם).
44. Thus, even the machmirim rely on its sale to a non-Jew (הגרי"י קנייבסקי, ארחות רבינו ח"ב אות י"ט, הגריש"א, אשרי האישי ח"ג פס"ב אות ז). Being machmir on this is an excessive chumra for a potential issur derabanan.
45. **Dry flour.** However, after Pesach some only use "dry flour" [the wheat was not sprayed at all with water] even if it was ground before Pesach. This flour is no different than flour ground after Pesach. [Many products produced after Pesach have a label indicating they were made from flour ground after Pesach or dry flour ground before Pesach (מדריך הכשרות עדה"ח תשפ"ב)].

Whole Wheat

46. Whole wheat products, even if the flour has no concern of chometz, often contain raw materials from before Pesach, e.g., gluten or malt [which are chometz], added. Therefore, even if they are ground and baked after Pesach, it must be verified that the raw materials added were purchased from a non-Jew after Pesach.

For Small Children

47. Based on the above, there is no reason to be machmir to only feed children flour that was ground after Pesach, as there is plenty to rely on to use even regular flour ground before Pesach. One should not make his children hungry or weak, especially when they are learning, because of chumras over an issur derabanan.



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