

Pie Crusts, Pas Paltur and the Aseres Yemei Teshuva

Rabbi Yehuda Spitz

A neighborhood housewife recently asked if I would be able to help her understand why some of her relatives did not partake of her dessert specialty, pareve ice cream pie, on the previous Shabbos. I asked her if the pie crust was Pas Yisrael. She said it was not, but as far as she knew, these relatives were not stringent with that halacha, rather relying on the common leniencies (see below). I explained to her that even so, Shabbos changes everything! But, to properly understand why, some background is in order.

Which Pas is Which?

In the times of the Mishna, Chazal forbade us from eating Pas Akum - bread and bread-like items that were baked by non-Jews,[1] even if said bread does not have any kashrus concerns,[2] in order to dissuade us from assimilation and intermarriage.[3] This prohibition pertains exclusively to bread products containing one or more of the five major grains: wheat, barley, oats, spelt or rye,[4] and generally includes baked goods that have the form of bread (Tzuras HaPas).[5]

If however, a Jew participated in the baking process by lighting the fire, stoking the coals under the bread being baked, or by putting the bread on the fire, and thereby taking an active part in the actual baking process, or even in some small way,[6] the bread becomes permitted, and is known as Pas Yisrael.

In later years, due to the fact that many baking ovens were owned or operated by non-Jews, making it difficult to procure Pas Yisrael products, Chazal later qualified this prohibition, and created a new class of bread products known as Pas Paltur, literally "Baker's Bread". This refers to bread products baked in a bakery or commercial setting, where there is no personal or intimate contact between the baker and customer, thereby drastically reducing the chance of intermarriage, and is therefore permitted.[7]

Some authorities, including the Rema,[8] maintain that Chazal's heter of Pas Paltur applies in all cases, even when Pas Yisrael is readily available. However, many decisors, including the Shulchan Aruch and the Shach,[9] argue that this heter is only applicable if one cannot purchase Pas Yisrael of similar type, quality or price;[10] and stress that one should otherwise strive to obtain Pas Yisrael exclusively.

Don't Let It Pas You By

Although the leniency of Pas Paltur remains in effect year round, the Shulchan Aruch, in Hilchos Rosh Hashana qualifies it and writes that during the Aseres Yemei Teshuva, the Ten Days of Repentance between Rosh Hashana and Yom Kippur, one must be stringent and eat only Pas Yisrael.[11]

What is most interesting is that the cited source for this ruling, the Talmud Yerushalmi (Shabbos Ch. 1, Halacha 3), makes no real mention of this! The exact quote is that "one should make sure to eat 'Chullin B'Tahara,'" meaning to make sure that their food should not become impure, "for seven days a year."

Rabbeinu Yona[12] explains this passage as denoting that even if one cannot ensure that his foods remain "pure" the whole year, he should nevertheless do his utmost to make sure it remains so at least seven days a year. Many early authorities, including Rav Nissim Gaon, the Machzor Vitri,[13] and R' Yehuda Hachassid[14] understand that the seven days mentioned in the Yerushalmi are actually alluding to the week between Rosh Hashana and Yom Kippur.[15] So now that we have a time frame, we can work on defining what exactly 'Chullin B'Tahara' is in fact referencing.

The first mention of this phrase actually referring to Pas Yisrael, is by the Rosh,[16] who writes that the minhag is to refrain from eating Pas Akum during the Aseres Yemei Teshuva, based on this statement of the Yerushalmi. This is also how his son, the Tur,[17] and later the Shulchan Aruch, cited the halacha. That is how an obscure passage in the Yerushalmi was defined and later codified as the requirement to be makpid on eating only Pas Yisrael during the Aseres Yemei Teshuva.

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The only issue remaining is that the Yerushalmi mentioned only seven days that one should refrain; however, the Aseres Yemei Teshuva are ten days! How can this be reconciled?

The Tur explains that since there already is a mitzvah that one must purify himself before a Yom Tov,[18] it was unnecessary for the Yerushalmi to mention the actual days of Rosh Hashana. Similarly, it is needless to mention the prohibition on Yom Kippur, as aside for being the holiest day of the year, it is also a Biblical fast day.

The Ran,[19] on the other hand, offers an alternate explanation. He reasons that it is unnecessary to mention Rosh Hashana, as everyone cooks and bakes in their own homes in honor of the Yom Tov, and therefore the bread is automatically considered Pas Yisrael. Either way, 'seven days' can still accurately be referring to the Aseres Yemei Teshuva.

Shabbos: Pas (Paltur)Nisht!

However, other authorities learn that the extra missing days are including the Shabbos between Rosh Hashana and Yom Kippur (Shabbos Shuva).[20] They extrapolate that just as on this Shabbos one must be vigilant, so too on every Shabbos one must as well, as every Shabbos of the year is considered more important and contains more kedusha than the Aseres Yemei Teshuva.[21]

Therefore, as a corollary to the halacha of being vigilant with eating Pas Yisrael during the Aseres Yemei Teshuva, many authorities, including the Magen Avraham, Shulchan Aruch Harav, Chayei Adam, Kitzur Shulchan Aruch, Aruch Hashulchan, and the Mishnah Berurah, rule that on Shabbos and Yom Tov one should refrain as well from eating Pas Paltur, and be makpid on eating Pas Yisrael exclusively. In fact, the Rema himself writes that it is proper to follow this minhag, as well.[22]

[Nevertheless, if one is unable to obtain Pas Yisrael products during these special times, one may rely on Pas Paltur.[23]]

This explains why our frustrated housewife's relatives preferred to forgo a delicious Shabbos dessert in this world, while picking up some "just desserts" for the next.[24]

Postscript: There are several other reasons given to explain why it is proper to be makpid on Pas Yisrael during the Aseres Yemei Teshuva, including to serve as a reminder of the unique status of these days,[25] and to beseech Hashem not to judge us stringently, just as we have adopted a practice which is not stringently required of us.[26] The Mishnah Berurah and Rav Moshe Feinstein mention that it is proper during this time period to be stringent when it comes to all questionable issues, not just Pas Paltur.[27] Based on this, Rav Doniel Neustadt, in his The Daily Halacha Discussion (pg. 5) posits that it is appropriate for those who are lenient with Chalav Stam year round, to be machmir on Chalav Yisrael during the Aseres Yemei Teshuva, as well.

Much of this article is based on Rabbi Eliezer Brodt's excellent sefer, Bein Kesseh L'Essor (Ch. 2).

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For any questions, comments or for the full Mareh Mekomos / sources, please email the author: yspitz@ohr.edu.

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http://ohr.edu/this_week/insights_into_halacha/.

[1] See Mishnah in Avodah Zarah (35b) and accompanying Gemara (36a-b). The prohibition of Pas Akum is one of the eighteen Gezeiros that Chazal established on that famous, fateful day when Beis Shamai overruled Beis Hillel. See aforementioned Gemara, Mishnah in Shabbos (13b) and accompanying Gemara (17b), as well as Yerushalmi (Shabbos Ch. 1, Halacha 4; 12a in the Friedman edition and 9b in the Me'orei Ohr edition).

[2] See Pischei Teshuva (Yoreh Deah 112, 2), and on more of a contemporary note Kovetz M'Beis Levi on Yoreh Deah (pg. 47; citing Rav Shmuel Halevi Vosner).

[3] Tur and Shulchan Aruch (Yoreh Deah 112, 1). This prohibition applies even when intermarriage does not, i.e. eating with a non-Jewish priest who has no children. See Rashba (Shu"t vol. 1, 148), Rema (Yoreh Deah 112, 1), Shach (ad loc. 4), Taz (ad loc. 1), Chochmas Adam (65, 1), Pri Megadim (Yoreh Deah 112, Mishbetzos Zahav 1), and Kaf Hachaim (ad loc. 9). The Ramban (Chiddushim to Avodah Zarah 35b s.v. od ra'isi) declares that anyone who thinks that the Gezeira of chasnus no longer applies, is making a "taus gedolah, u'mi shehorah kach, ain lismoch alav." The halachos of Pas Yisrael and Pas Paltur, etc. are discussed by the Tur, Shulchan Aruch, and their main commentaries in Yoreh Deah 112 at length.

[4] Tur (Yoreh Deah 112) quoting his father, the Rosh, Shulchan Aruch (ad loc. 1), Taz (ad loc. 2). The Pri Chadash (ad loc. 5), however, advances the notion that in far-off islands where all bread is made out of an inferior grain (e.g., rice), then this prohibition might possibly apply to it as well.

[5] Although some authorities, including the Avnei Nezer (Shu"t, Yoreh Deah 92, 7) and the Matteh Yona son (Yoreh Deah 112, 1) opine that snacks which are not 'Oleh Al Shulchan Melachim' ("Fit For a King's Table") would not be included in the prohibition, nevertheless, the majority opinion follows the Pri Megadim (ad loc. Mishbetzos Zahav 3), Tiferes L'Moshe (ad loc. 2), Aruch Hashulchan (ad loc. 13, 14, 31), and Kaf Hachaim

(ad loc. 19) that these are included, as the Tur, Shulchan Aruch and their main commentaries do not seem to make such a distinction. The different types of foods which this applies to are addressed in an article titled 'The Parameters of Pas Paltur.'

[6] According to the Shulchan Aruch and Rema (ad loc. 9 and Yoreh Deah 113, 7), this includes increasing the heat level even minutely, by throwing a toothpick into the fire or blowing on it. Most Acharonim agree as well [see for example the Chida's Shiyurei Bracha (Yoreh Deah 112, 18) and Ben Ish Chai (Year 2, Parashas Chukas 5)]. However, the Aruch Hashulchan (Yoreh Deah 112, 27), and Kaf Hachaim (ad loc. 60) maintain that one should only rely on these leniencies under extenuating circumstances; rather, one should strive to perform the actions listed above, as they are actually mentioned by the Gemara. Additionally, several Rishonim, including the Ramban (cited in the Ran 15b s.v. v'assa and v'af) and Rosh (Avodah Zarah Ch. 2, 33) disapproved of relying on said leniencies, as throwing a toothpick into a fire does not really add much to the baking process. [This argument is partially based on how these Rishonim understood the hetter of the Gemara. The Rambam (Hilchos Maachalos Assuros Ch. 17, end 13; see also Teshuvos HaRashba vol. 1:228) understood that the act of throwing a toothpick into the fire makes it recognizable that a Jew added something, albeit small, to the baking process, and that is sufficient. The Ramban and Rosh, however, maintained that the thrust of the Gemara's hetter was that a Jew needed to be an active part of the actual baking process, and a toothpick's overall contribution is quite negligible.] This is also the Minchas Yitzchak's (Shu"t vol. 4, 28, 4) conclusion lemaaseh.

[7] Yerushalmi (Shabbos Ch.1, Halacha 4; 9b-10a in the Me'orei Ohr edition), Rif (Avodah Zarah 14b in his pagination), Tosafos (Avodah Zarah 35b s.v. michlal), Tur and Shulchan Aruch (Yoreh Deah 112, 2). Rav Moshe Feinstein (Shu"t Igros Moshe, Yoreh Deah vol. 1, 48) ruled that if a Jewish-owned large commercial bakery needed to hire non-Jewish workers, even though the bread might actually have been baked by those non-Jewish workers, the bread does not have the status of Pas Akum, and is fully permitted to be eaten.

[8] Including the Rema (Yoreh Deah 112, 2), Biur HaGr" a (ad loc. 4), Levush (ad loc. 3), Kitzur Shulchan Aruch (38, 1), and Ben Ish Chai (Year 2, Parshas Chukas 2).

[9] Including the Shulchan Aruch (Yoreh Deah 112, 2, and 5), Shach (ad loc. 9), Arizal (cited by the Ben Ish Chai *ibid.*), Chochmas Adam (65, 2), Aruch Hashulchan (Yoreh Deah 112, 9), and Kaf Hachaim (ad loc. 23). According to this opinion, the distance given that one should travel to obtain Pas Yisrael products (instead of being lenient and eating Pas Paltur) is four mil [see Shulchan Aruch (*ibid.* 16)], generally assumed to be seventy-two minutes, (but there are opinions of up to ninety-six minutes). The Pri Chodosh (ad loc. 28) points out that this is only if one was already traveling in that direction; however, if one is not traveling, then he does not have to travel that length of time, but rather only eighteen (or twenty-four) minutes [as per the Chochmas Adam's (65, 4) understanding of the Pri Chodosh's opinion]. The Pischei Teshuva (ad loc. 6) cites the Shu"t Beis Yosef (35) that there is no difference if one is walking or riding on a horse, that one must traverse the same distance. The Aruch Hashulchan (*ibid.* end 18) echoes this as well, that the "Chachamim hishvu midoseihem," or made a one-size-fits-all edict. However, the Mishnah Berurah (163, Biur Halacha s.v. b'richuk) writing on a similar topic where Chazal (Pesachim 46a) and later, the Shulchan Aruch (O.C. 163:1) give a distance of four mil (Netillas Yadayim prior to "breaking bread"), comments that it is improbable to differentiate between someone walking or riding on a "flying camel," and understands that the Gezeirah was referring to an amount of time, which is one-size-fits-all, that one must travel the amount of time it takes to walk such a distance, meaning seventy-two minutes and not an actual distance. On this topic, see Chelkas Binyomin (pg. 59, Biurim s.v. ad dalet milin). [Yet, in this author's estimation, it seems possible to say that "Chachamim hishvu midoseihem" on this topic that "there is no difference between walking or riding on a horse" cited by the Aruch Hashulchan, might actually be referring to time, like the Mishnah Berurah's opinion, and they may not actually be disagreeing; v'tzarich l'ayen b'zeh]. This discussion affects another contemporary debate upon the distance one in the city must travel to daven with a minyan (Tefilla B'Tzibbur), shiur mil. [See Shulchan Aruch (Orach Chaim 90, 16; based

on Gemara Pesachim 46a), Chayei Adam (vol. 1, 40:11), Shulchan Aruch Harav (Orach Chaim 90, 17), Mishnah Berurah (ad loc. 52), and Aruch Hashulchan (ad loc. 20; adding that this is the distance of a "Russian Parsa").] Rav Shmuel Halevi Wosner (Shu"t Shevet Halevi vol. 8, 19 and vol. 9, 37) asserts that regarding Tefilla B'Tzibbur (as opposed to Netillas Yadayim), even the Mishnah Berurah would agree that the halacha is referring to distance and not time, citing precedent from the Shoel U'Meishiv (Shu"t Mahadura Kama vol. 3: end 103), who maintains that halachic shiurim are set "lefi derech hateva," and do not take innovations into account. On the other hand, Rav Moshe Sternbuch (Shu"t Teshuvos V'Hanhagos vol. 1, 97 and 98), in a discussion on the importance of Tefilla B'Tzibbur, opines that even regarding Tefilla B'Tzibbur, the shiur mil is referring to time and not distance, adding that Hashem will surely repay expenses incurred while ensuring to daven Tefilla B'Tzibbur. [Regarding the significance of Tefilla B'Tzibbur, see also Shu"t Igros Moshe (Orach Chaim vol. 2, 27).] Also regarding the din of Pas Paltur, the Be'er Sarim (Shu"t vol. 4, 49) maintains that even according to the machmir opinion if one did not have access to Pas Yisrael and relied on eating Pas Paltur, and Pas Yisrael later became available, the Pas Paltur bread already in his possession still remains permitted to be eaten, "I'kol hadei'os".

[10] Although the hetter of price difference is not clearly mentioned by the Shulchan Aruch, it is nonetheless mentioned by several Acharonim, including the Pri Toar (112, 6; who explains that "nicer bread" is actually referring to saving money on it), the Zivchei Tzedek (ad loc. 14), and the Kaf Hachaim (ad loc. end 30). This author also seen this hetter quoted in the name of Rav Yosef Shalom Elyashiv. However, Rav Shmuel Halevi Wosner is cited (Kovetz M'Beis Levi on Yoreh Deah, pg. 47, end footnote 8) as not relying on this leniency. Rav Moshe Feinstein is quoted (Mesores Moshe vol. 1, pg. 238, 61) as explaining the shittah of the Shulchan Aruch and Shach as that it is preferable not to rely on the hetter of price difference unless one is an "ani" and therefore cannot afford the more expensive Pas Yisrael bread, or if one does not (at the time of purchase) have the money on him to pay for the more expensive Pas Yisrael bread. See Rav Yaakov Skoczylas' recent Ohel Yaakov on Hilchos Maachalei Akum (pg. 22) who

cites both sides to this debate, including the opinions of many contemporary Poskim who ruled leniently. See also Chelkas Binyomin (112:51) who posits to be stringent, without citing any sources, simply stating that this is the mashmaos of the Shulchan Aruch. This position has struck this author as odd, as several earlier authorities explicitly ruled to be lenient with this exact issue.

[11] Shulchan Aruch (Orach Chaim 603: 1), based on the Tur (ad loc.) quoting the Yerushalmi (Shabbos Ch. 1, Halachah 3). Also ruled by the Rosh (end Maseches Rosh Hashanah), Ravyah (cited by the Mordechai ad loc. end 559), Ran (ad loc. s.v. garsinan b'Yerushalmi), Rema (Toras Hachatas 75: 1), Levush (ad loc. 1), Shach (Yoreh Deah 112: 9), Beis Hillel (ad loc. 2), Chayei Adam (vol. 2, 143: 1), Kitzur Shulchan Aruch (130: 2), Matteh Efraim (603: 1), Aruch Hashulchan (Orach Chaim 603: 1 and Yoreh Deah 112: 17), Mishnah Berurah (603: 1), and Kaf Hachaim (ad loc. 1 and Yoreh Deah 112: 23).

[12] Rabbeinu Yona's commentary to Avos (Ch. 3, 13), cited in Bein Kesseh L'Essor (Ch. 2, pg. 21).

[13] Machzor Vitry (vol. 1, 337).

[14] Sefer Hachassidim 1069.

[15] There are also other minority opinions that explain that these seven days are referring to other times of the year. See Bein Kesseh L'Essor (pg. 28 - 32) at length.

[16] Piskei HaRosh (Rosh Hashana Ch. 4, 14).

[17] Tur and Shulchan Aruch (Orach Chaim 603). This is also the opinion of other Rishonim including the Ravyah (Avi HaEzri 527, pg. 208), Mordechai (cited by the Ran below), and the Tashbetz (Shu"t vol. 1, 117). However, it must be noted that the Magen Avraham (Orach Chaim 603, 1) is uneasy at this connection, and raises a critical point: if eating 'Chullin B'Tahara' truly means only keeping Pas Yisrael, then as soon as the

bread is placed in one's mouth, it will no longer keep its 'purified' status, as everyone nowadays is ritually impure.

[18] See Gemara Rosh Hashana (16b), Rambam (Hilchos Tumas Ochlin Ch. 16, 10), and SMA"G (Positive Mitzvos 246).

[19] Ran (Rosh Hashana 12b in the Rif's pages s.v. garsinan). Although one might argue that nowadays this is not necessarily the case, it might be worthwhile to see Biur Halacha (242 s.v. v'hu m'kvod Shabbos), who decries the common 'custom' of buying challos for Shabbos and Yom Tov from a bakery instead of baking them personally at home L'Kavod Shabbos V'Yom Tov.

[20] Biur HaGr"a (Orach Chaim 242, 1; 529, 1; 603, 1) and Damesek Eliezer (Orach Chaim 242, 3). See explanation in Bein Kesseh L'Essor (Ch. 2, pg. 40, footnote 87).

[21] Bigdei Yesha (Orach Chaim 242, 4), cited in Bein Kesseh L'Essor (pg 38 - 39).

[22] Including the Magen Avraham (Orach Chaim 242, 4), Matteh Yehuda (ad loc. 5), Shulchan Aruch Harav (ad loc. 13), Chayei Adam (vol. 2, 1, 4), Kitzur Shulchan Aruch (72, 6) Aruch Hashulchan (Orach Chaim 242, 45) and the Mishnah Berurah (ad loc. 6). The Rema himself (Darchei Moshe, Orach Chaim 603, 1) writes that it is proper to follow this minhag, as well. There is however, the notable minority opinion of the Elyah Rabba (Orach Chaim 242, 10; and in Elyah Zuta ad loc. 8) who maintains that regarding Shabbos, while it is nevertheless proper to be makpid on Pas Yisrael on Shabbos and Yom Tov due to Kavod Shabbos V'Yom Tov, it is not an actual halacha to do so, as he holds that is not comparable to the requirement during the Aseres Yemei Teshuva. The Yad Efraim (ad loc. s.v. umavi) implies this way as well and the Levushai Srad (ad loc. s.v. u'm"m) cites both sides of the machlokes with no clear ruling. Yet, both the Machatzis HaShekel (ad loc. 4 s.v. shehataam) and Pri Megadim (Eshel Avraham ad loc. 4 s.v. b'Darchei Moshe) answer up the Elyah Rabba's taynos, and maintain that one must indeed be stringent on Shabbos with Pas Yisrael products as well. The Mishnah Berurah (Shaar HaTziyun 18) adds that "afilu b'soch haSeudah

nachon lizaher," and concludes (ad loc. 6) that if one is 'anus' and the only possible bread he has to make Kiddush on is not Pas Yisrael, he may then nevertheless use it for Kiddush (Hamotzi).

[23] Tur (Y.D. 112:2), citing the Gaonim. Also cited by the Ramban (Chiddushim to Avodah Zarah 35b s.v. mah), Ran (ad loc. 14a in the Rif's pagination), Rashba (Toras Habayis, Bayis 3, Shaar 7), and Beis Yosef (ad loc.), and practically by the Mishnah Berurah (ad loc. 1) as well. In his Shaar Hatziyun (ad loc. 4), the Mishnah Berurah cites the Nachlas Shivah (Shu"t 72), who maintains that in years of famine, even during the Aseres Yemei Teshuva, it is fully permitted to purchase rolls from a non-Jewish baker, and then re-cook them afterward (even though this generally would not be sufficient to be considered Pas Yisrael).

[24] The importance of exclusively eating Pas Yisrael products on Shabbos was emphasized in an amusing anecdotal exchange that I recently heard from my father, renowned kashrus expert Rav Manish Spitz. Approximately thirty-five years ago, he met Rav Berel Wein, who was head of the OU's Kashrus department at that time, and asked him why the OU granted hashgacha on Stella D'oro (Swiss Fudge) cookies (a.k.a. "Shtreimel Cookies"), as they were merely Pas Paltur. [Meaning, he wanted to know why the OU did not ensure that their Pas products were Pas Yisrael.] Rav Wein's adroit retort was succinct: "So don't eat them on Shabbos!" Interestingly, according to a New York Times article in 2003 (accessible at: <https://www.nytimes.com/2003/01/12/nyregion/of-milk-and-cookies-or-how-orthodox-jews-saved-an-italian-recipe.html>), Orthodox Jews are so widely associated with the Italian Stella D'oro "Shtreimel Cookies," that just the idea that these cookies were being reformulated as dairy caused such an outcry and sales to plummet, that parent company Kraft Foods ultimately rescinded their plan, keeping the beloved cookies pareve.

[25] Levush (Orach Chaim 603).

[26] Chayei Adam (vol. 2, 143, 1) and Kitzur Shulchan Aruch (130, 2).

[27] Mishnah Berurah (Shaar HaTziyun 609, 1) and Shu"t Igros Moshe (Orach Chaim vol. 3, end 12). However, the Aruch Hashulchan (Orach Chaim 603: 2) qualifies that this is only referring to issues that are intrinsically permitted me'ikar hadin, that there is a hiddur to be makpid during the Aseres Yemei Teshuva. However, matters that are debated whether they are muttar at all, yet many customarily follow the lenient opinion, such as being makpid on Glatt meat or eating Chodosh in Chutz La'aretz, he avers that one should not take on to be makpid on the during this period. This is because once one is stringent for a week – it is as if he was saying that I am now following the stringent opinion. If so, he cannot go back to relying on the lenient opinion. Thanks are due to Rabbi Dovy Lebowitz for pointing out this important source.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.