

THE PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

The Laws of Pesach

Lesson Two

Mareh Makomos for this shiur

Pesachim, First Mishna
Tosafos Ohr L'Arbah Asar
Tosafos 4b M'doraisa
Gemora 4a בעו מיניה והשתא **until**
Siman 431:1-2 Mechaber Rama
Taz - Magen Avraham

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This Series is dedicated to the memory of Mr. Moshe Baruch Sheffey
– R' Moshe Baruch ben Dovid Sheffey z'l

Third Edition

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The Time of Checking



Simon 431

1 (1) 1 In the beginning of the night of the 14th of Nissan 2 one checks for chametz by the light of a candle in holes and cracks and every place that one usually enters with chametz.

2 One must take precaution 3 not to start any form of work 4 or eat until one checks for chametz. (2) Even if one has a set time to learn, 5 one should not learn until he has checked. (3) 6 However, if one began learning 7 while it was still day he doesn't need to interrupt.

Rama: Some say that one should stop learning to check. I hold of this opinion.

3 Step Removal Process

There are three steps in commencing the removal process of *chametz* from the possession of a Jew:¹

1. *Bedikas chametz* - This is the search for *chametz* (bread related products) the night before the commencement of *Pesach*. In a year when *Pesach* starts immediately after *Shabbos* then the search must be done on Thursday night.
2. *Bitul chametz* - The renouncement of the ownership of *chametz* (bread related products) following the search on the night before *Pesach* and the following morning (with *Pesach* following that night) immediately after the burning of the *chametz*.
3. *S'raifus chametz* - All the bread products that have not been sold to a non-Jew are burned the morning before the night of *Pesach*.

¹ The *Halachos* of Preparing for Pesach, by R' Pinchos Yehoshua Ellis - 2001 Oak Park, Mich

The Mitzvos of Pesach

The commemoration of the Festival of *Pesach* has 3 *mitzvos Asai* (Positive commandments) and 4 *mitzvos Lo Ta'aseh* (Negative commandments). (According to the *Rambam* there are 5 *mitzvos Lo Ta'aseh*.²)

Mitzvos Asai:

- 1) To eat *Matzah* on the first night.
- 2) To tell the story of *Yitzi'as Mitzrayim* (the Exodus from Egypt) on *Pesach* night.
- 3) To destroy *chametz* on the 14th of *Nissan*.

Mitzvos Lo Ta'aseh:

- 1) Do not eat *chametz* for the week of *Pesach*.
- 2) Do not eat a *ta'aruvos* (mixtures) of *chametz* during the week of *Pesach*.
- 3) *Lo Yaira'eh chametz* – You should not see *chametz* and *Leaven* should not be seen to you in your borders. *Shemos* 13:7
- 4) *Lo Yimatze'eh Shior* - You should not find *Leaven* in your Homes – *Shemos* - 12:19

The **Rambam** adds:

- 5) It is forbidden to eat *chametz* from *Chatzos haYom* – *halachic* noon³ – on the 14th of *Nissan* (*Erev Pesach*). While the *Torah* prohibits the eating of *chametz* from *halachic* noon *Erev Pesach*, there is an additional Rabbinical prohibition which starts one to two hours earlier than that.

According to other *Poskim*, from the 7th hour and up it is only a *mitzvah Asai* to destroy *chametz*.

We see from the *Mishna* in *Pesachim* (11b) that although *chametz* is permitted (*muter*) until the beginning of the 7th hour, *Chazal* made a decree (*gezara*) that beginning from the beginning of the 5th hour we are *tolin chametz*⁴ and from the beginning of the 6th hour the *Rabbanan* made another decree that forbids benefit (*hanah*) from *chametz*.

² *Aruch Hashulchan* 431:1

³ *Halachic* noon is halfway between the actual time of sunrise and the actual time of sunset.

⁴ Meaning we are not allowed to eat *chametz* but it can be sold to a non-Jew.

Searching Mid'oraisa / Mid'Rabbanan

Mishna Pesachim 2A

The *Mishna* in the beginning of *Pesachim* says that we begin our search to destroy *chametz* on the night of the 14th.

Mid'oraisa

The *Gemora* 4b says that *mid'oraissa bitul* is enough.

Rashi explains *bitul* (renouncing ownership) of *chametz* fulfills the *mitzvah* of *tashtiso*.⁵

Tosefos ⁶ holds that *bitul* (renouncing ownership) works because of the *din hefker*.⁷ By making *chametz hefker* there is no “*bal yaira'eh- bal yimatzeb*” because no one longer owns it.

According to the **Ran** ⁸ *mid'oraisa* either *bitul* or searching is enough. *Bitul* works even for known *chametz*. If one did not do *bitul* one must check all places that it is usual to place *chametz* and destroy the *chametz*. Searching creates a *chazaka* (establishes a fact) that there is no *chametz* in one's possession. Therefore, if one finds *chametz* during *Pesach* he does not transgress *bal yirah* (you should not see) retroactively, rather he must immediately destroy it.

The Reason to check for Chametz

Rashi explains that the reason for searching is to prevent us from transgressing, “You shall not see or find *chametz* in your ownership” - “*bal yaira'eh-bal yimatzeb*”. **Tosefos** asks, “We see “*bitul b'alma*” is enough to save one from transgressing *bal yaira'eh bal yimatzeb*. If so why would our Sages (*chachamim*) require a search?”

There are two reasons brought by the *Rishonim*.

- 1) **Tosefos** says that the search in our *Mishna* is to prevent someone from accidentally eating *chametz*.⁹
- 2) The *Ran* says that a search is needed *Mid'Rabbanan* because we worry in certain cases. For example if he owns a lot of *chametz* that even though a

⁵ *Rashi* – *Pesachim* 4b – *Bitul B'alma*.

⁶ 4b *M'dOraisa*.

⁷ *Hefker* – The object that was renounced as being ownerless.

⁸ 1A *Ella*

⁹ Great effort is given over to rid our homes of *chametz*. Since *chametz* is allowable (muter) all year round the *Chachamim* take extra precaution to distance us from it.

person openly says he is *mevatel* (renounces ownership of) his *chametz*, he does not mean it whole heartedly and he transgresses “*bal yaira'eb*” (you may not see any *chametz* in your home during *Pesach*).

The Reason that bitul is required

The *Ran* continues that the *Tana* in our *Mishna* does not require a *bitul* (renunciation) at all, as searching is considered enough. Rav Yehudah in the name of Rav was *mechadesh* (created an original novel thought) in our *Gemora* (6B) that *bitul* is also needed. Why? Rava says: in case one finds a *galuska yaffa* (a nice piece of cake) during *Pesach* he may hesitate in his heart and not immediately destroy the *chametz* when he finds it. Consequently, during that moment of hesitation he transgresses “*bal yaira'eb*”.

The *Gemora* adds that *bitul* does not help starting the sixth hour of *erev Pesach* because it is no longer considered in your possession. To further explain, the general rule is that something that is forbidden to have benefit from it considered worthless and not under ones jurisdiction. Therefore, one can not do *bitul*. The *Torah* made an exception by *chametz* that nonetheless one transgresses the issur of *ba'al yirae*.

The **Magen Avraham** (2) brings two reasons why we are stricter by *chametz* more so than other *issurim*.

- 1) *Chametz* is eaten all year long to there is more of a chance that one may come to eat it.
- 2) Since there is a *lav* of *ba'al yaira'eb* we are more *machmir*.

Zman (The Search for chametz) When and Why?

Chametz and bread products in general become forbidden prior to the onset of the *Pesach* Holiday. However, we are commanded to search for *chametz* the night before the onset of *Pesach* when the stars first come out. The *Gemora Pesachim* 4a asks:

“Chametz is not forbidden (assur) until the (beginning of the 6th hour) of the day, so let us begin our search from the 6th hour!”¹⁰ The *Gemara* wants to know why we should search the night before when *chametz* does not become actually forbidden until the beginning of the 6th hour of the day on the 14th of *Nissan*.

The *Gemora* answers:

¹⁰ The 6th hour is the same as *halachic* noon.

It is a time that people are usually home and the light of the candle is good for checking.

The **Taz** (1) explains that we consider two factors in determining the Law (*din*) in timing the search for *chametz* as commencing when the first stars come out (*tzais Hakochovim*) on the 14th of *Nissan* (which is the night before the starting of the *Pesach* Holiday):

- 1) It is a time when people are changing from one routine to another. Therefore, the opportune time to check is before taking on another task which may cause us to forget checking altogether.
- 2) The best way to check holes and cracks is at night with a candle. During the day the sun makes it hard to check these types of places.

The **Magen Avraham** (1) says that the time to check is just before *tzais hakochovim* (when 3 medium sized stars can be seen). However, the *Mishna Brura* brings the law (*din*) to search just after *tzais hakochovim*.

Searching Is A Priority

HALACHA

431:2

It is important not to begin any new activity until the searching is done lest we will forget to search later.

The source

The *Gemroa* 4a says:

Therefore the students should not begin their set time (to learn at night) **on the night of the 13th** (of *Nissan*) **going into the 14th, as perhaps their learning will get drawn out and they will hold back** (forget) **to do the Mitzvah** (of *Bedikas Chametz*).

Rabbainu Yonah says that if one began learning while it was still day he does not have to stop (to check at the beginning of the night).

The **Tur** says that even if he started learning during the day he must stop at nightfall to check.

Searching vs. Learning

The *Mechaber* holds that one should not begin his learning (*Seder*) until after searching. The **Magen Avraham** (5) clarifies this point: someone who gives a lecture (*shim*) on a regular basis may do so providing that the type of lecture is straight forward without active and in depth discussion (*pilpul*). However, one who learns at home must stop his learning to search for *chametz*.

The **Taz** (2) says that according to the *Mahari Weil* if the learning is open ended, i.e. it does not have a set time to finish, then it is *assur* to begin learning before saying *keriyas shema*. However, if the learning has set beginning and ending times then it is permitted to learn saying *keriyas shema*. Nonetheless, the *Taz* says that by *bedikas chametz* since the time to check is the beginning of the night one may not learn even if it is a set time.

Searching vs. Praying (*Davening*)

The **Bach** brings an opinion that if someone misses the *minyan*¹¹ for *Ma'ariv* (evening service) that he should first search for chametz and then *daven* (pray). However, the *Bach* argues on this opinion and says in the name of the *Mahari Weil* that one should first *daven* and then search because we are concerned that after the search he will forget to *daven*. The *Bach* adds that if one *davens* at home on a regular basis then he may search and then *daven* since we are not worried he will forget to *daven* later that night.

The **Magen Avraham** (5) argues with the *Bach's* understanding of the *Mahari Weil*. He holds that even if one *davens* at home on a regular basis it is *ossur* (forbidden) to learn until he has *davened*; so too one must *daven* before searching for *chametz*. However, since the obligation of searching begins before *tzais hakoachavim* he should check first, but if he does not start checking until *tzais hakoachavim* he should try to find some else to check and he should *daven*, and if he can not find anyone he should *daven* first.

The **Chok Yaakov** (7) says that one should *daven* first because of the rule תדיר ושאינו תדיר תדיר קודם – if you have two *mitzvos* to do and one is done on a steady basis and one is not, the one that comes on a steady basis goes first.

A half hour before

The **Magen Avraham** (3) says that it is prohibited to do any of the things mentioned by the *Mechaber* even a half hour before *tzais hakoachavim*. The **Mishna Brura** (7) says that from the fact that the M"A does not differentiate, we see that even to learn is *assur*. However, the **Chok Yaakov** (5) says that to learn is permitted during the half hour. The *Mishna Brura* (*Sba'ar Hatzion* 7) says that although there are those that argue on the *Magen Avraham* (above) that permits learning in Shul, during the half hour before we can be *maikil*.

Interrupting Your Seder of Learning

We are talking about a set time for learning (*Seder*) that has a definite end and that the learning started more than 30 minutes before *tzais Hakoachavim*. The *Mechaber* holds that if one started

¹¹ *Minyan* – Gathering of 10 Jewish Males over 13 years of age to pray the Morning, Afternoon or Evening Services.

learning during the day he doesn't have to stop to search for *chametz*. The *Rama* holds that he does.

The **Gra** (8) explains that according to the *Mechaber* the *mitzvah Mid'oraisa* (commandment from the *Torah*) of destroying *chametz* (*tashbiso*) begins from the start of the 7th hour so therefore one should not stop learning to search since there is no *Torah* obligation to search. The *Rama* holds that one should stop learning to search because the *gezaira* (decree) of the Rabbis is similar to a Law which is based of *Torah* Law (*din D'Oraisa*) and not a Rabbinical decree.

The **Taz** (4) explains the *machlokes* (argument) differently. According to the *Mechaber* since the person has a fixed time to finish we are not worried he will go over that time. The *Rama* holds that still there is a chance he will go past the allotted time set to learn and will miss searching at the time designated by the Rabbis to be the proper time.

A Shomer

The **Baer Haitev** (5) holds that if one asks a friend to remind him to search after the lesson, then he doesn't have to stop learning.

A snack

The **Taz** (4) and **Magen Avraham** (4) bring in the name of the *Maharil* that one may taste food before doing the *bedika*. The *Magen Avraham* explains that tasting means eating bread less than a *k'beitza* (the volume of an egg) or fruit. The **Mishna Brura** (6) says that even a large amount of fruit is permitted. However, this is only during the half hour before *tzais*.

Review Questions

- 1) Define: a) *B'dikus chametz*, b) *Bitul chametz* and c) *S'rafus chametz*.
- 2) What are the *mitzvos ase* (positive *mitzvos*) and *lo ta'asai* (negative *mitzvos*) associated with *Pesach*?
- 3) On *Erev Pesach*, what is the status of *chametz* during a) the 5th hour, b) during the 6th hour and c) after the 6th hour?
- 4) Is one allowed to *m'vatel* his *chametz* in place of searching? Explain according to all opinions.
- 5) Is searching for *chametz* on the night before *Pesach* a *mitzvah* from the *Torah* or a Rabbinical decree?
- 6) Why is it preferable to search for *chametz* at night even though it is permitted until the 6th hour *Erev Pesach*?
- 7) May one begin learning Torah as the hour of searching for *chametz* approaches? What if he is a teacher who has a set time for teaching? Explain.
- 8) Learning Torah is a *mitzvah d'oraisa*. In order to minimize the interruption of Torah learning, it seems like it would be preferred to make a verbal declaration of *bitul chametz* and then continue learning rather than interrupting learning to search for *chametz*. Why then is the preferred solution to interrupt learning and search for *chametz*, then declare *bitul chametz* only after searching?
- 9) May one *daven ma'ariv* (the evening prayer) before searching? Does it matter if he is praying with a *minyan* or not? Explain.