

# HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

## 80 - MATZA AND CELIAC ISSUES

OU ISRAEL CENTER - SPRING 2018

### A] GLUTEN PROBLEMS - A MODERN MEDICAL ISSUE

1. Coeliac disease, also spelled celiac disease, is a long-term autoimmune disorder primarily affecting the small intestine that occurs in people who are genetically predisposed. Classic symptoms include gastrointestinal problems such as chronic diarrhoea, abdominal distention, malabsorption, loss of appetite and among children failure to grow normally .....

Coeliac disease is caused by a reaction to gluten, which are various proteins found in wheat and in other grains such as barley and rye. Moderate quantities of oats, free of contamination with other gluten-containing grains, are usually tolerated. The occurrence of problems may depend on the variety of oat. Upon exposure to gluten, an abnormal immune response may lead to the production of several different autoantibodies that can affect a number of different organs. In the small bowel, this causes an inflammatory reaction and may produce shortening of the villi lining the small intestine (villous atrophy). This affects the absorption of nutrients, frequently leading to anaemia. ...

The only known effective treatment is a strict lifelong gluten-free diet, which leads to recovery of the intestinal mucosa, improves symptoms and reduces risk of developing complications in most people. If untreated, it may result in cancers such as intestinal lymphoma and a slightly increased risk of early death ....

Wikipedia - Coeliac disease - 2 March 2018

2. A gluten-free diet (GFD) is a diet that strictly excludes gluten, a mixture of proteins found in wheat and related grains, including barley, rye, oat, and all their species and hybrids (such as spelt, kamut, and triticale). The inclusion of oats in a gluten-free diet remains controversial, and may depend on the oat cultivar and the frequent cross-contamination with other gluten-containing cereals.

Gluten causes health problems for those with gluten-related disorders, including celiac disease (CD), non-celiac gluten sensitivity (NCGS), gluten ataxia, dermatitis herpetiformis (DH), and wheat allergy. In these people, the gluten-free diet is demonstrated as an effective treatment, but several studies show that about 79% of the people with coeliac disease have an incomplete recovery of the small bowel, despite a strict gluten-free diet. This is mainly caused by inadvertent ingestion of gluten. People with poor basic education and understanding of gluten-free diet often believe that they are strictly following the diet, but are making regular errors.

In addition, a gluten-free diet may, in at least some cases, improve gastrointestinal or systemic symptoms in diseases like irritable bowel syndrome, rheumatoid arthritis, multiple sclerosis or HIV enteropathy, among others. Gluten-free diets have also been promoted as an alternative treatment of people with autism, but the current evidence for their efficacy in making any change in the symptoms of autism is limited and weak. ....

Wikipedia - Gluten-free diet - 2 March 2018

An important distinction needs to be made between three groups of people:

- those diagnosed with celiac disease<sup>1</sup>, for whom eating gluten will be medically dangerous and may result in severe pain and discomfort. While not immediately life threatening, this exposure to gluten may lead to long-term intestinal damage.
- those with allergies to gluten or wheat products for whom eating gluten may lead to short term stomach and digestional pain and discomfort of varying degrees.
- those who prefer gluten-free diets because they feel this gives them more energy or otherwise enhances their health.

1. Which is now believed to affect 1 in 100 people.

## B] HALACHIC ISSUES AFFECTING GLUTEN-FREE DIETS

Those on GF diets face a number of interesting halachic challenges, including:

- Kiddush on Shabbat/Yom Tov - which must be 'bemakom seuda'. This normally requires one to eat some kind of mezonot cake.
- Berachot on food and drink at the Shabbat table if one drinks wine but does not eat bread.
- Hamotzi on Shabbat/Yom Tov - which is normally gluten-based.
- Eating at Seuda Shelishit - which is permitted after shkiah only if a person has made hamotzi.
- Eruv Chatzerot and Eruv Tavshilin - which require some kind of bread/matza which is edible to those relying on the eruv.
- Matza on seder night - see below.
- Eating a kezayit of bread in the Succah on first night Succot.
- Making a 'leishev basuccah'.
- Eating bread at other meals - Purim Seuda, Seudat Mafseket on Erev Tisha B'Av.
- Which berachot to make on GF foods - often shehakol but not always eg oat muffins, rice-based foods.
- Kashrut certification of specialist GF products - eg xanthan gum, flax seed oil<sup>2</sup>.

## C] MATZA ON SEDER NIGHT

### C1] WHEN DO WE HAVE TO EAT MATZA?

3. שבעת ימים מצות תאכלו אף ביום הראשון תשביתו שאר מפתיתכם כי פלאכל חמץ ונכרתה הנפש ההוא מישראל מיום הראשון עד יום השבעי:

שמות יב:טו

*The Torah includes a mitzvah to eat matza for 7 days. It also links this with the prohibition of eating chametz for those same 7 days.*

4. (ג) לא תאכל עליו חמץ - ... אמר רבי שמעון ... תלמוד לומר (דברים ט:ג) לא-תאכל עליו חמץ שבעת ימים תאכל-עליו מצות - את שהוא בקום אכול מצה הרי הוא בבל תאכל חמץ, את שאינו בקום אכול מצה אינו בבל תאכל חמץ.

ספרי דברים פרשת ראה פסקא קל

*The Torah states 10 times that we must eat matza for 7 days. R. Shimon's position in the Sifrei<sup>3</sup> is that the mitzvah to eat matza and the prohibition on eating chametz match. According to him, there is a mitzvah to eat matza for 7 days.<sup>4</sup>*

5. עשית ימים תאכל מצות וביום השביעי עצרת לה' אלהיך לא תעשה מלאכה:

דברים טז:ח

*However, in one verse the Torah states that mitzvah is to eat matza for 6 days!*

6. (יח) בראשון בארבעה עשר יום לחדש בערב תאכלו מצות עד יום האחד ועשרים לחדש בערב:

שמות יב

*Also, the Torah specifically mandates eating matza on the first night of Pesach.*

7. שבעת ימים מצות תאכלו. לעשות הראשון חובה ושאר הימים רשות. אתה אומר לעשות הראשון חובה ושאר הימים רשות או אינו אלא לעשות הראשון רשות ושאר הימים חובה! ת"ל בראשון בארבעה עשר יום לחדש בערב תאכלו מצות - הכתוב קבעו חובה

מכילתא דרבי ישמעאל בא - מסכתא זפסחא פרשה ח

*Chazal in the Mechilta<sup>5</sup> understand that, for the obligation to eat matza, the 7 days of Pesach are divided into 1+6. On the first night there is a halachic obligation to eat matza and on the rest of the chag eating matza is 'reshut'.*

2. We will not analyze the halachic issues involved in all these issues - see an excellent article Celiac: A Guide to Mitzvah Observance, Rabbi Dovid Cohen, Journal of Halacha and Contemporary Society Vol LIX p5.

3. See also Pesachim 28b

4. This is the practice of the Samaritans. The Karaites are divided - some eat matza for all seven days and others only on the first day.

5. See also Pesachim 120a

8. מצות עשה מן התורה לאכול מצה בליל חמשה עשר שנאמר (שמות יב) בערב תאכלו מצות ... אבל בשאר הרגל אכילת מצה רשות - רצה אוכל מצה רצה אוכל אורז או דוחן או קליות או פירות. אבל בליל חמשה עשר בלבד חובה ומשאכל כזית יצא ידי חובתו.

רמב"ם חמץ ומצה פרק ו הלכה א

*A kezayit of matza must be eaten on Seder night. After that, eating matza is permitted - reshut - but not obligated.*

9. אלא ע"י דוחק י"ל יש לך דברים שמקבלים שכר בעשייתם ועונש כשאין עושים אותם - כגון מצה בלילה הראשון. ויש לך דברים שאין מקבלים שכר בעשייתם ועונש כשאין עושים אותם - כגון מצה מליל ראשון ואילך. ומ"מ מצות 'שבעת ימים מצות תאכלו' כתיב - כלומר אם אכל מצה כל שבעת הימים קיים הפסוק זה של שבעת ימים מצות תאכלו

חזקוני שמות יביח

*The Chizkuni<sup>6</sup> write that, although there is no obligation to eat matza for the full 7 days (and perhaps not even a mitzvah to do so), someone who does so has fulfilled the meaning of the passuk.*

10. **קפה** שבעת ימים תאכל מצות - כל שבעה מצוה, ואינו קורא לה רשות אלא לגבי לילה ראשונה שהיא חובה - ומצוה לגבי חובה רשות קרי לה. אעפ"כ מצוה מדאורייתא הוא. וכן פירשו י"ט א"צ אות - פסח במצה סוכות בסוכה ועוד כמה ראיות. והיה מחבב מאד מצות אכילת מצה כל שבעה, וביו"ט אחרון היה אוכל סעודה שלישית אף על פי שלא היה אוכל שלש סעודות בשאר י"ט מפני חביבת מצות אכילת מצה שזמנו הולך לו

מעשה רב הלכות פסח קפה

*The Vilna Gaon rules that there IS a Torah mitzvah to eat matza all 7 days of Pesach, albeit no obligation to do so.*

11. הנוהגים שלא לאכול כל ימי הפסח רק כזית מצה ראשונה בליל ט"ו של פסח בלבד, יש מהם שנוכל לדרוש עליהם לשבח ומהם לגנאי ומצוה בכונה תליא מילתא. הנוהגים להבדיל בין אכילת מצה המחויבת ובין אכילת הרשות להוציא מדעת הקראים שאומרים שמחויבים לאכול מצות כל ז' הימים מהפסוק שבעת ימים תאכלו מצות, אותם האנשים הגם שביטלו עונג יום טוב בכל זאת יפה הם עושים וכונתם במנהגם עולה יותר שכרם מהפסדם. אבל האנשים שכונתם רק מפני חששא יתירה מחשש חימוץ יש עליהם לדרוש לגנאי, ויצא שכרם בהפסדם. וכלל זה אצלנו - לא ניתנה תורה למה"ש! וזה האיש בחששו יבטל כמה מצות עונג יום טוב ולח"מ וכדומה

שו"ת ציץ אליעזר חלק יג סימן סה

*The Tzitz Eliezer understands that there are those who do not eat matza except on first night Pesach. (They do not even eat it on Shabbat Chol Hamoed and Shevi'i shel Pesach). This is in order to avoid the position of Karaites that the obligation lasts for 7 days. He accepts that this minhag is at least rooted in good intentions. However, he criticises those who avoid matza after seder due to fear of chametz. They are missing rabbinic the mitzvot, such as Oneg Shabbat, due to a concern which is beyond our control. As he writes - the Torah was not given to malachim!*

• Needless to say, even if there IS a mitzvah to eat matza all through Pesach, someone who experiences medical discomfort (or worse) from eating matza should not eat more than the basic obligation, which is on seder night only.

## C2] HOW MUCH MATZA DO YOU HAVE TO EAT ON SEDER NIGHT?

12. ... ויברך המוציא ועל אכילת מצה ואחר כך יבצע מהשלימה העליונה ומהפרוסה ... ויאכלם בהסיבה ביחד כזית מכל אחד ... ואחר כך יקח כזית מרור ... ואחר כך נוטל מצה שלישית ובוצע ממנה וכורכה עם המרור ... ואוכלן ביחד בהסיבה ...

שולחן ערוך אורח חיים סימן תעה סעיף א

13. לאחר גמר כל הסעודה אוכלים ממצה השמורה תחת המפה כזית (משנה ברורה ה) - ולכתחלה עוז שיקח שני זיתים אחד זכר לפסח ואחד זכר למלה הנאכלת עמו)

שולחן ערוך אורח חיים סימן תעז סעיף א

*The Shulchan Aruch rules that, under normal circumstances, one is required to eat 4 kezayit<sup>7</sup> of matza at the Seder - 2 for Motzi Matza, 1 for Korech and 1 for Afikoman. The Mishna Berura adds that one should preferably<sup>8</sup> eat another kezayit with Afikoman - making 5 in all.*

6. R. Chikzkiah b. Manoch - 13C France.

7. We will iy'H give more focus to the definition of the kezayit in a future shiur.

8. As a chumrah.

14. מי שאין לומצה משומרת אלא כזית מברך על אכילת מרור ואוכל וכשגומר סעודתו ... מברך על אכילת מצה ואוכל אותה כזית ואינו טועם אחריו כלום.

שולחן ערוך אורח חיים סימן תפב סעיף א

*A person who can only eat 1 kezayit of matza will thereby fulfil the Torah obligation. This piece should be eaten at the end of the meal as Afikoman.*

## D] OPTIONS FOR CELIACS/GF: OPTION 1 - EXEMPTION

### D1] EXEMPTIONS FROM MITZVOT WHICH THREATEN LIFE

15. ... הא לא נתנו מצות לישראל אלא לחיות בהן שנ' (ויקרא יח:ה) 'אֲשֶׁר יַעֲשֶׂה אֲתֶם הָאֲדָם וְחַי בָּהֶם' - וחי בהן ולא שימות בהן. אין כל דבר עומד בפני פקוח נפש חוץ מע"ז וגלוי עריות ושפיכות דמים ....

תוספתא שבת פרק טו הלכה יז

*The Torah states that a person should live through the mitzvot. Other than for the 'big three' exceptions, a person should never risk their life in performing a mitzvah.*

• As such, if there could be a 'safek sakanah' - possible threat to life - by eating matza, they would certainly be exempt. This would however not be the case for the vast majority of celiacs.<sup>9</sup>

### D2] EXEMPTIONS FROM TORAH MITZVOT WHICH CAUSE ILLNESS

16. הגה: ומי שאין לו אחרוג או שאר מלוא עוברת א"ל לזכזכ עליה הון רב. וכמו שאמרו: המזכזכ אל יזכזכ יותר מחומש, אפילו מלוא עוברת (ברא"ש ורבינו ירוחם נ"י ח"צ). ודוקא מלוא עשה אבל לא תעשה יתן כל ממונו קודם שיעבור (כרש"א וראש"ד)

שולחן ערוך אורח חיים סימן תרנו סעיף א

*A person must be prepared to lose any amount of money in order to avoid breaking a negative mitzvah. However, they are not required to spend more than 20% of their financial resources to perform a positive mitzvah.*

• A number of poskim discuss<sup>10</sup> whether a person would ever be exempt from a Torah mitzvah which was not life-threatening, but which caused illness.  
• The Binyan Shlomo<sup>11</sup> rules that hurting one's body is worse than spending one's money and, as such, a person is not required to make himself sick - as a *choleh she'ain bo sakana* - in order to perform a positive mitzvah. (This would NOT apply to breaking a negative mitzvah).

17. ... אודות האנשים הסובלים ל"ע במחלת 'הכרסת' לענין אכילת מצה בפסח.

א) מכיון שאכילת "דגנים" גורמת נזק מצטבר למעי, הנה בנוגע לכל ימי הפסח בודאי שפטורים מלאכול מצה, אפילו להסוברים שאיכא מצוה לאכול מצה בכל שבעת הימים היות שזה עלול לגרום להגביר את המחלה. והרי ישנם בכלל גם אנשים בריאים שמסיבות שונות מחמירים על עצמם לאכול מצה רק הכזייתים בליל הסדר.  
אלא אפילו כזית ראשון בליל פסח גם כן יש מקום לפטור אם זה עלול לגרום ג"כ נזק לחולה אפילו שלא יגיע לידי סכנה, וכדמצינו שהעלה בכזאת בספר בנין שלמה להגר"ש הכהן ז"ל מווילנא סימן מ"ז. דאם מרגיש החולה שאפשר שזיקק לו אם יאכל הכזית מצה ומרור אזי אינו רשאי להחמיר על עצמו. וכן אם הרופא אומר לו בכזאת, ואפילו אם הוא חולה שאין בו סכנה ע"ש. .... וכעת ראיתי שהעלה בכזאת גם הגרצ"פ פרנק ז"ל בספרו מקראי קודש הלכות פסח ח"ב סימן ל"ב. וכן בספר שו"ת חזון עובדיה ח"א כ"ב סימן ל"ג ע"ש.

ב) ברם אם ירצה כן לאכול כזית ראשון, יוכל מיהת גם לברך ואין בזה חשש של ברכה לבטלה מכיון שלא יגיע עי"כ לידי סכנה כדהעלו בספרים הנזכרים

שו"ת ציץ אליעזר חלק יט סימן כב

*This is ruled by the Tzitz Eliezer explicitly in the case of celiac disease and eating matza on Pesach. He rules that a celiac is exempted from eating matza at seder, if it will cause lasting damage to health, even if not life-threatening. Furthermore, they should not be strict on themselves to eat the matza, but if do insist on eating it, they may make a beracha.<sup>12</sup>*

9. For celiacs, although eating gluten is not immediately life threatening, even one 'episode' of gluten can cause pain and extreme discomfort and also lasting damage to the small intestine. Medical advice must ALWAYS be sought on such issues.

10. For more details on this point see Rabbi Cohen's article cited in footnote 1.

11. Rav Shlomo HaCohen of Vilna - 19C. OC 47.

12. One may not make a beracha on food which which is immediately dangerous. However, one may make a beracha on food which is dangerous in the long term, eg sugar for a diabetic or food which causes unhealthy weight gain. See Maharam Shik OC 260.

- Other poskim are stricter. Aishel Avraham<sup>13</sup> rules that there is no automatic exemption from positive mitzvot, even if they will make a person sick. If THAT person would be prepared to pay more than 20% of their savings to avoid the pain, then they are exempt.
- Maharam Schick<sup>14</sup> rules that a person must perform a mitzvah which makes them sick, as long as it does not cause sakana.
- Many contemporary poskim<sup>15</sup> accept the lenient approach and rule that a celiac who has **no other option** (see below re oat matza) and will become sick by performing the mitzvah, is exempted from the mitzvah.

### D3] EXEMPTIONS FROM RABBINIC MITZVOT WHICH CAUSE ILLNESS

18. הגב: י"א דכל איסורי הנאה מדרבנן מותר להתרפאות בהן אפילו חולה שאין בו סכנה .... וכל חולה שמאכילין לו איסור לריבים שתהא הרפואה ידועה או על פי מומחה. ואין מתירין שום דבר איסור לחולה אם יוכל לעשות הרפואה בהיתר כמו באיסור אף על פי שצריך לשהות קצת קודם שימלא בהיתר מאחר שאין סכנה בדבר

שולחן ערוך יורה דעה סימן קנה סעיף ג

*Rabbinic mitzvot are usually set aside in the face of illness as long as there is no alternative and a doctor has given a professional opinion.*

19. אמרה ההיא מטרוניתא לרבי יהודה: מורה ורוי! אמר לה: הימנותא בידא דההיא איתתא, אי טעימנא אלא קידושא ואבדלתא וארבעה כסי דפסחא. וחוגרי צידעי מן הפסח עד העצרת! (רש"י - וקושר אני לדעי פדחתי משום מיחוש ראשי מפני ד' כוסות ששתיתי שאני חושש מהן מפסח עד עצרת.)

נדרימ מט:

*R. Yehudah was very sensitive to wine and, after drinking the 4 cups at seder, would get a headache that lasted until Shavuot! If they caused so much pain, why did he drink them? 4 cups at seder is a Rabbinic mitzvah and he should have been exempt.*

20. מי שאינו שותה יין מפני שמזיקו או שונאו, צריך לדחוק עצמו ולשתות לקיים מצות ארבע כוסות

שולחן ערוך אורח חיים סימן תעב סעיף י

*Based on this, the Shulchan Aruch rules that someone who dislikes wine or for whom wine is 'mazik' - damaging in some way, must nevertheless drink the 4 cups on seder night.*

21. (לה) מפני שמזיקו - ר"ל שמלטער בשתייתו וכואב בראשו מזה, ואין בכלל זה כשיפול למשכב מזה

משנה ברורה סימן תעב ס"ק לה

*The Mishna Berura clarifies that you must drink the wine if it will simply give you a headache - a 'michush'. But if it will make you sick to the point that you have to go to bed, you will be exempted as a 'choleh she'ein bo sakana'. The definition of a choleh of this kind is usually that they are unable to function in normal life and, even if they force themselves to function, they should really be going to bed.*

- Based on the above, a celiac whose health could be severely impaired by eating even a kezayit of matza may be exempted from the mitzvah. Someone with gluten sensitivity would be required to eat matza - at least one kezayit and preferably more if they can manage it. This will depend on the extent of the reaction to the matza. A qualified medical and halachic opinion should be sought.

## E] OPTION 2 - NON-WHEAT MATZA

In 1985 Rabbi Ephraim Kestenbaum, a Rav and industrial chemist in London who had a daughter with celiac disease, began to look into the possibility of producing oat matzot which would be suitable for celiacs.<sup>16</sup>

13. Aishel Avraham (Butshetsh) Tinyana on Rema 656:1 s.v. ulai.

14. OC 260

15. Including Rav Moshe Feinstein (Igrot Mosyhe OC 1:172), Tzitz Eliezer, Rav Moshe Sternbuch and Rav Gedalia Dov Schwartz. See also Rav Osher Weiss in Minchat Asher 3:42-43 who raises the issue of 'sakanat ever'. Although the small intestine is not one of the 'evanim' listed in halacha, would permanent intestinal damage fall into this category?

16. For an account of how this developed see <http://www.chareidi.org/archives5765/ACH65aoatmtz.htm> and <https://www.haaretz.com/1.4832592>

He partnered with Dayan Osher Westheim in Manchester and began to search for the best strain of oats to make the matzot.<sup>17</sup> Eventually he found<sup>18</sup> a strain of oats in Scotland which contained no gluten at all and went on to breed this strain and grow it specifically<sup>19</sup> for matza production.<sup>20</sup>

However there were problems<sup>21</sup>. Oats naturally contain an enzyme which makes them very bitter and unpleasant to taste. Commercial oats are often steam-treated to avoid this, but that is clear impossible for matzot as it will render them pure chametz! Rabbi Kestenbaum developed an alternative process involving heating and pounding the oats.<sup>22</sup>

Since Rabbi Kestenbaum's initiative, a number of other matza bakeries have started making oat matzot under a variety of hechsherim, including the Bedatz Eida Charedis.

Gluten-free oat matza seems like a perfect solution for celiacs. Are there any halachic problems? In fact, there are 3.

## E1] USE OF NON-WHEAT MATZA FOR SEDER

22. אלו דברים שאדם יוצא בהן ידי חובתו בפסח - בחיטים בשעורים בכוסמין ובשיפון ובשבולת שועל ...

משנה פסחים פרק ב משנה ה

*The Mishna specifies 5 types of grain which one can use for matzot. 'Chita' is wheat and 'seora' is barley. The others are less clear. 'Kusmin' is usually understood to be spelt, 'shifon' to be rye, and 'shibolet shual' to be oats.*

23. אלו דברים שיוצאים בהם ידי חובת מצה - בחטים ובשעורים ובכוסמין ובשבולת שועל ובשיפון. והמנהג ליקח לכתחלה חטים מהרי"ל. אבל לא באורז ושאר מיני קטניות, וגם אינם באים לידי חימוץ ומותר לעשות מהם תבשיל. הגה: ויש אוסרים והמנהג צאשכנז להחמיר ואין לשנות

שולחן ערוך אורח חיים סימן תנג סעיף א

*The Shulchan Aruch rules that any of the 5 grains will be acceptable to make matzot. However, other grains such as rice and other kitniyot are NOT kosher for matza, even though they are not chametz.<sup>23</sup> The Rema adds that the Ashkenazi custom is only to eat matzot made from wheat. Why was there such a minhag?*

24. (ב) והמנהג וכו' - משום דהוא חביב לאדם ביותר ואיכא משום הידור מלוה. ואם אין לו חטים יקח למלות מאחד מהד' מינים החשוב לו ביותר כדי שיאכל לתיאבון:

משנה ברורה סימן תנג ס"ב

*The Mishna Berura explains that the preference for wheat is simply because that is the grain that most people normally prefer. But if there was a need or preference to use one of the other grains, that would be fine.*

• However the Maharsham<sup>24</sup> suggests a second reason for the preference for wheat, based on a Gemara<sup>25</sup> which indicates that the process of *chimutz* for wheat is different to that for other grains. We should therefore only bake matzot from wheat since we have the most experience with that grain.

17. Oats are naturally gluten free and instead have a parallel protein called avenin. (Gluten is present in wheat, barley, rye and spelt. The gluten in spelt has a different molecular make-up which makes it more fragile and water-soluble and thus easier to digest. As such, many people with gluten sensitivity are able to eat spelt more easily than wheat. Nevertheless, spelt does contain gluten and celiacs are unable to eat it.). Over 95% of celiacs are able to assimilate oats without problems. However, oats are often contaminated by gluten proteins. This can occur due to their production in fields which have been crop-rotated with wheat or barley, or due to contamination in the factory during processing and packaging. Additionally, some oat flour has gluten intentionally added in order to assist in rising during baking.

18. After testing strains in the US, UK, France, Italy and Israel.

19. Not an easy task since the oats may only be harvested when totally dry and it is not easy to find a sufficient spell with no rain in Scotland! The oats are harvested in August and require 5 prior days without rain.

20. The oats were milled and ground in Manchester under the supervision of the Manchester Beit Din. The first matzot were hand-baked by Rabbi Kestenbaum in London. Subsequently, he used a matza bakery in Israel in Atarot which trained people specifically in baking the oat matzot.

21. Apart from the technical problems of producing a gluten-free dough. Gluten is the protein which binds the dough and, without it, it usually crumbles.

22. Not itself without halachic problems - see below.

23. The Rema adds that Ashkenazim have a minhag not to eat kitniyot, even though they are not chametz. This is clearly the case for cooked dishes eg rice and ultimately stems from a concern that the kitniyot may inadvertently have chametz grains mixed up in them. Alternatively, there is a concern that people may confuse the flour of kitniyot with that of the 5 grains. For a more detailed discussion of this see <http://www.rabbimanning.com/index.php/audio-shiurim/halacha/understanding-minhag/>. An interesting question is whether the minhag not to eat kitniyot would apply even in situations where the final product could NEVER be chametz eg an 18-minute matza made from kitniyot flour and prepared with all the stringencies of regular matza - see F below.

24. In his comments on OC 453:2.

25. Pesachim 40a. See also Magen Avraham 453:5 & 9.

25. אם מותר לאפות מצות משאר מיני דגן לא מחיטים לאלו שאינם יכולים לאכול הנעשים מחיטים? ....

הנראה דאף שכתב הגאון המהרש"ם שם בשאלה דקמחא דפיסחא שנתערב בו קמח שעורין, דאסור לכתחילה דוקא משום המנהג של הרמ"א כנ"ל, ולא להחמיר בדיעבד, וגם לפי טעם דממהר להחמיץ אין לאסור בדיעבד, מ"מ לענ"ד קשה בנד"ד להתיר אף בדיעבד ... אבל באפייט קמח שעורים דיש כמה עניני זהירות במקום וסדר לישות המצות, ובהנחה בלא עסק, דדינם מבואר בש"ע (או"ח סי' תנ"ט) ופוסקים, וכ"ז מיירי בקמח חטים. אבל בקמח שעורים דממהר להחמיץ לא נתבאר דינם בכל אלה ... ממילא יש לחשוש אף בדיעבד ....

לדעתי לא שכיח חולה כזה אשר לא יוכל לאכול אף פעם אחת בשנה כזית מצה מחטים. בכך לענ"ד אין להכניס עצמו בדוחקים היכא דיבוא עי"ז אפילו לחשש חמץ לכתחילה, ומכש"כ דיש חשש גדול אף לבדיעבד כנ"ל.

שו"ת מנחת יצחק חלק ט סימן מט

*In a 1983 teshuva, Dayan Yitzhak Weiss prohibits making matza from any grains other than wheat, due to the concern of chimutz. He also expresses surprise that there could be an illness sufficiently serious that a person could not eat one piece of wheat matza a year!<sup>26</sup>*

## E2] ARE OATS AN ACCEPTABLE SPECIES FOR MATZOT MITZVAH?

26. חמשה דברים חייבים בחלה: החטים והשעורים והכוסמין ושבלת שועל ושיפון ...

משנה חלה פרק א משנה א

*The Mishna delineates 5 species which require challah to be taken. As mentioned above, 'chita' is wheat and 'seora' is barley. The others are less clear. 'Kusmin' is usually understood to be spelt, 'shifon' to be rye, and 'shibolet shual' to be oats.*

27. בשם רבי ישמעאל אומר - נאמר 'לחם' בפסח ונאמר 'לחם' בחלה. מה לחם שנאמר בפסח דבר שהוא בא לידי מצה וחמץ, אף לחם שנאמר בחלה דבר שהוא בא לידי מצה וחמץ. ובדקו ומצאו שאין לך בא לידי מצה וחמץ אלא חמשת המינים בלבד. ושאר כל הדברים אינן באין לידי מצה וחמץ אלא לידי סירחון

תלמוד ירושלמי (וילנא) מסכת חלה פרק א

*The Yerushalmi clarifies that the 5 grains which are kosher for challah are also kosher for matza. Furthermore, only a grain which is capable of becoming chametz may be used for matza, and these 5 are the ONLY grains which can halachically become chametz. All other grains simply go rancid - 'sirachon'.*

28. שיבולת שועל - אציינ"א. שזולת שועל - שיבולת שלה עשוי כזב שועל

רש"י פסחים לה.

*Rashi (11C) defines shibolet shual as 'aveine' which is the French<sup>27</sup> for oats<sup>28</sup>. He also notes that they are called 'shibolet shual' because the ear of the grain looks like the tail of a fox.*

29. שבולי תעלא - אַבִּינָא

רבינו גרשום מנחות ע:

*Rabbeinu Gershom (10/11C) also defines shibolet shual as 'avina' - oats.*

30. 'שבול' - [האבער<sup>29</sup>] ... (פסחים לה) בכוסמין ושיבולת שועל - פ' סיקאלא ויא ווינא ....

ספר הערוך

*The Aruch<sup>30</sup> defines shibolet shual in 2 ways. One of these is oats - 'viena', but the other is 'sikala'. This is segala - which is rye<sup>31</sup> - a sub-species of barley.*

26. Rabbi Kestenbaum called Dayan Weiss to inform him that there WERE indeed people who could not eat even one kezayit of matza. He reports that Dayan Weiss responded that they could and should eat oat matza at seder.

27. Modern French: avoine.

28. Latin genus - avena.

29. Hafer - oats in German.

30. An early Talmudic dictionary produced in 11C Rome by R' Natan ben Yechiel.

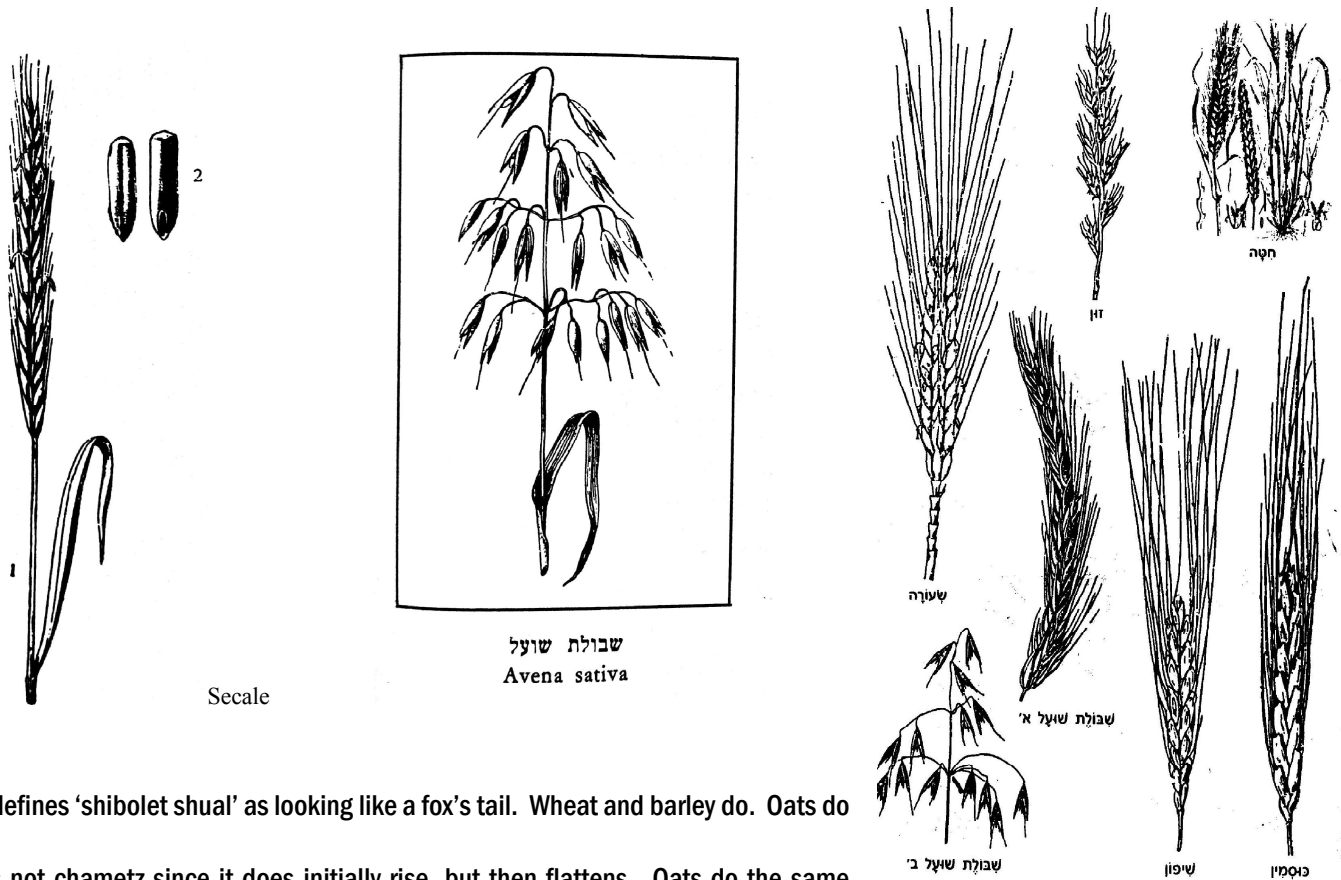
31. Genus in Latin: secale, in modern Italian - segala, in French - seigle.

31. ושבולת שועל - 'סנבל אלת'עלב<sup>32</sup> - והיא השעורה המדברית

רמב"ם על משנה מסכת כלאים פרק א משנה א

The Rambam<sup>33</sup> also defines shibolet shual as a strain of barley!<sup>34</sup>

So we see a machloket Rishonim as to whether Shibolet Shual is oats or rye/wild barley. What is the evidence?



- Rashi defines 'shibolet shual' as looking like a fox's tail. Wheat and barley do. Oats do not.
- Rice is not chametz since it does initially rise, but then flattens. Oats do the same thing.<sup>35</sup>

32. שיבולת שועל ושיפון - מין שעורין

פסחים לה.

- The Gemara states that shibolet shual is a sub-species of barley. Oats is not, but segale is.

33. ... השעורים ושבולת שועל ... אינם כלאים זה בזה

משנה כלאים פרק א משנה א

- The Mishna states that shibolet shual and barley can cross-bread. Oats cannot cross-breed with barley.

34. 'שורה' - זו שבולת שועל. ולמה נקרה שמה שורה? שהיא עשויה כשורה

תלמוד ירושלמי (וילנא) מסכת חלה פרק א

- The Yerushalmi states that shibolet shual grows in a row. Oats do not grow straight and in a row.

Professor Yehuda Felix<sup>36</sup> took the strong view that shibolet shual was NOT oats. He also concluded from academic research that oats were not grown in Eretz Yisrael at the time of the Mishna.<sup>37</sup>

32. Fox's spike - literal translation of the Arabic.

33. And also Rabbeinu Natan Av HaYeshiva - 11C Eretz Yisrael commentary on the Mishna. The Leket Yosher (R. Yisrael Isserlin - 15C Europe and author of the Terumat Hadeshen) OC 1:74 agrees with the Rambam.

34. Believed to be *Hordeum spontaneum*, commonly known as wild barley or spontaneous barley. Possibly (and according to Professor Felix - below) *Hordeum distichum* - two-row barley. However, R' Ovadia MiBartenura quotes the Rambam and translates this as 'avina' - oats. This is also the understanding of the Tosafot Yom Tov and the Tiferet Yisrael.

35. The absence of gluten is key here. Gluten is a strong protein, which is able to trap the air bubbles even during baking. Without gluten, dough will not rise.

36. Died 2005. Noted professor in Bar Ilan and author of many works on the flora and fauna of Eretz Yisrael.

37. Which is disputed by other academics - see Mishnat Eretz Yisrael Kilayim 1:1



35. In recent years, this translation was challenged by Dr. Yehudah Felix, an Israeli botanist, who argued that oats did not grow in Eretz Yisroel at the time of the Mishna. Furthermore, he cited other indications that oats could not possibly be one of the five grains discussed in the Mishna, which have a unique halachic status. According to Dr. Felix's position, oats cannot be used for matza, and the other halachot of the five grains (*challah, berachot, chametz*) do not apply to them. [His position, that oats, which are relatively gluten-free, are not one of the five grains, would seem to dovetail with those who suggest that the presence of significant amounts of gluten is what differentiates the five grains from rice, corn, and other "grains".] This suggestion was widely rejected by all contemporary Poskim, including Rav Moshe Feinstein, Rav Elyashiv (both cited by Rav Ephrati at the end of his article in *Mesorah* 13), and Rav Yosef Dov Soloveitchik (see *M'pninei haRav* p 69) based on our age-old tradition that שובלת שועל is oats. Additionally:
- Dr. Mordechai Kislev (*Sefer HaYovel, Mincha L'Ish* pp 155-168 & 179-185) disputes Dr. Felix's archeological and other proofs, on academic grounds.
  - Dr. Munk (*Techumin* I pp 97-100) suggests that what differentiates the five grains from all others is that they contain beta-amylase (which oats do contain), which allows the fermentation to occur before the proteases cause the grains to go rancid.
  - Rav Ephrati (ibid.) and Rabbi Kestenbaum<sup>38</sup> (*Sefer HaYovel*/ibid pp.169-170) report that they tested oats and have found that they can become chametz (as the five grains are supposed to) and do not become rancid (as other grains are supposed to).

Celiac A Guide to Mitzvah Observance, Rabbi Dovid Cohen, Journal of Halacha LIX p7 footnote 5

Most poskim reject Rabbi Felix and rule that the halachic mesorah identifying oats with shibolet shual must be upheld and thus oat matza is valid. Certainly, all poskim rule that one must be machmir to assume that oats ARE potential chametz and thus NO posek would permit oatmeal on Pesach!

36. ולענין עצם הבעיה של אכילת מצה למי שאסור לו חטים, שמעתי שאופין היום במיוחד מצות שמורה משבולת שועל (קווקער) ויוצאין בזה שזהו מחמש מינים, ובקובץ "שערי ציון" (אלול תשמ"ח) הוכיח שהקווקער שלנו אינו השבולת שועל שהרי הקווקער אינו מחמיץ כלל, וטועים העולם שקווקער הוא מחמשת מינים, ואם כן לדידיה אין יוצאין בזה ידי חובת מצה, וצריך לחפש מין אחר שלא יזיק.

תשובות והנהגות כרך א סימן שב

*However, Rav Moshe Sternbuch does take seriously the view that oats are NOT valid as matza<sup>39</sup>.*

As such some poskim<sup>40</sup> are machmir<sup>41</sup> not to treat oats as one of the 5 grains for matzot mitzvah.<sup>42</sup> Even if one is machmir on this, if a celiac CAN eat oat matza and has no other options, there is no down-side in using the oat matza at seder.<sup>43</sup> The machmirim may however not permit the beracha 'al achilat matza' on oat matza and the celiac would need to hear the beracha from someone else.<sup>44</sup>

### E3] MATZA MUST HAVE THE POTENTIAL TO BECOME CHAMETZ

37. ... לחם שנאמר בפסח - דבר שהוא בא לידי מצה וחמץ

תלמוד ירושלמי (וילנא) מסכת חלה פרק א

*Matza must be made from something which could, in theory, become chametz.*

Rabbi Kestenbaum's oat matzot production initially required that the oats be heat-treated to remove the bitter taste. A side-effect of this was that they were unable to become chametz. Does this mean that they are invalid for matzot mitzvah?

38. מצה שלשה במי פירות יוצא בה ידי חובתו בפסח, אבל אין לשין אותה ביין או שמן או דבש או חלב משום לחם עוני

רמב"ם חמץ ומצה פרק ו

*The Rambam rules that matza kneaded with fruit juice is kosher for matzot mitzvah. He rules that only wine, oil and honey etc. invalidate the matza as matza ashira.*

38. Rabbi Forst also reported that Rav Shlomo Zalman Auerbach was very upset with Professor Felix's position and he write this in Halichot Sholmo. Professor Felix also suggested that horseradish is not valid for Maror! This was also rejected by most poskim.

39. Although may not rule this way himself.

40. Including Rav Herschel Schechter.

41. See an article on this by Rabbi Michael Broyde, who recommends the strict position that one should not consider oat matza valid at seder - see <https://www.torahmusings.com/2011/08/oat-matza/>. Rabbi Broyde engaged in an exchange of correspondence with Rabbi Cohen. This, and a very detailed analysis with other sources, can be found at [https://www.yutorah.org/\\_cdn/\\_materials/Brachos\\_packet-514401.pdf](https://www.yutorah.org/_cdn/_materials/Brachos_packet-514401.pdf)

42. Although most would be lenient for rabbinic mitzvot eg bircat hamotzi, oat challah on Shabbat. Most poskim are also lenient on bircat hamazon on oat bread. Some poskim rule however that the beracha on oatmeal is 'ha'adama' for this reason - see R. Yitzchak Abadi in Ohr Yitzchak Vol 1:60 (also in the packet referred to in note 41).

43. One of the big oat-matza bakeries in Israel - Tiv HaShibolet t:0779015645 - recommends in their telephone message that only true celiacs should eat oat matza. Those who can, should eat spelt matza.

44. Lehavdil, the Catholic Church will not allow any non-wheat option for the wafer of communion - see [https://www.washingtonpost.com/news/acts-of-faith/wp/2017/07/11/the-catholic-church-says-no-to-gluten-free-communion-heres-why/?utm\\_term=.96fd2309b8a1](https://www.washingtonpost.com/news/acts-of-faith/wp/2017/07/11/the-catholic-church-says-no-to-gluten-free-communion-heres-why/?utm_term=.96fd2309b8a1)

Most Rishonim (including the Rambam) rule that kneading with fruit juice will prevent *chimutz*. As such, he clearly rules that even matza which is unable to actually become chametz is still valid, as long as the species is, in principle, able to become chametz.

39. ואם בלא מים תיפוק ליה משום שכל שאינו צא לידי חימוץ אין יולאין צו צמא

מלחמת ה' מסכת פסחים דף י עמוד ב

*However, the Ramban rules that even the specific piece of matza must also be capable of becoming chametz.*

As such, according to the Rambam, heat-treated oats WOULD be valid as matzot mitzvah. According to the Ramban they WOULD NOT. What is the halacha? Shulchan Aruch HaRav 462:1 and Pri Megadim (MZ) 461:2 are machmir in accordance with the Ramban. Nishmat Adam allows one to be lenient in a case of need.

However, many of the current oat matzot bakeries in the US (Lakewood) and Eretz Yisrael do not heat-treat their oats<sup>45</sup> and this problem would thus be avoided.



## F] OPTION 3 - 'GREIRA' AND WHEAT/RICE MATZA

For those who can eat some wheat, another option could be to mix wheat flour with rice flour.

40. העושה עיסה מן החטים ומן האורז, אם יש בה טעם דגן יוצא בה ידי חובתו בפסח

שולחן ערוך אורח חיים סימן תנג סעיף ב

*As long as the wheat can still be tasted<sup>46</sup>, the resultant mixture of wheat and rice is still valid for matzot mitzvah.*

Thus a small kezayit of this mixture could be eaten<sup>47</sup>, which would contain an even smaller wheat content.

## G] OPTION 4 - A MINIMAL 'KEZAYIT'

A final alternative for those who can digest a little wheat or spelt, would be to eat a minimal kezayit. But how big is a kezayit?

This will iy'H be the subject of the next shiur ....

45. With variable consequences to taste!

46. There are different shittot as to what is the minimal proportion of wheat, which could be as low as 10%

47. This would of course require taking a lenient approach on the issue of kitniyot. It also assumes that 'orez' is rice, which is itself a machloket Rishonim, with some Rishonim ruling that 'orez' is in fact millet! This concept of 'greira' only works with orez which is halachically tasteless.