

# THE Daf HaKASHRUS



A MONTHLY NEWSLETTER FOR THE OU RABBINIC FIELD REPRESENTATIVE

## INSPECTING DRIED FRUITS FOR INSECTS

### RABBI DOVID BISTRICER

RC, Dressings & Sauces, Fruits & Vegetables, Israel, Nestle

**A POSSIBLE** kashrus issue that arises with dried fruits is the presence of insects. The Rambam<sup>1</sup> writes that before consumption, there is an obligation to check fruits or vegetables that might harbor insects while attached to the ground. Nevertheless, once twelve months have elapsed post-harvest, the fruit or vegetable may be eaten without checking beforehand. This position of the Rambam is based on two premises; the first assumption is that there is an obligation to check fruits and vegetables that might harbor insects during the growth stage. The second assumption is that there is a distinction twelve months post-harvest.

The sources for both these premises are two *gemaros* in *maseches* Chullin. Chazal refer to a kind of fruit, *tamrei dekadah*, as being permitted to eat after twelve months. This fruit was assumed to regularly contain insects, with the life expectancy of those insects less than a year. However, after twelve months elapse, any insects at the growth stage are assumed reduced to dust<sup>2</sup>. Chazal also teach us that there is a distinction between infestation that develops in produce while attached to the ground and post-harvest. Insects generated in a fruit or vegetable after harvesting are permitted until the insect leaves the fruit or vegetable. This is because until the insects leave the fruit or vegetable, the insect is not considered a *sheretz ha'aretz* since it has not yet moved on the ground. However, if an insect develops on a fruit or vegetable while attached to the ground, or is gener-

ated on a detached fruit or vegetable and then exits, the insect becomes forbidden. This is the case even if the insect returns back to the detached fruit or vegetable after it left<sup>3</sup>.



Not all authorities agree with the Rambam's position. The Rosh<sup>4</sup> requires an inspection of fruits, even twelve months postharvest. This was accomplished by glancing and removing any insects noticed on and between the fruits, or by placing fruits intended for cooking into water first, to cause fruits with perforations to rise to the top and separate any insects. This would ensure the removal of an insect that may have developed in a fruit within twelve months after harvest, but may have left and returned to the fruit. The opinion of the Rosh is the position accepted by the Mechaber<sup>5</sup>.

Nevertheless, many communities maintained a practice of not conducting any inspection prior to eating dried fruits, even within twelve months. The Chasam Sofer<sup>6</sup> suggested that these fruits have an established *chezkas heter*, since most fruits are assumed clean and any infestation would only have occurred after harvesting. Although infestation can develop in storage, the Chasam Sofer held that it is still not required to check fruits with a *chezkas heter*, when most fruits will still not contain insects.

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## לא באתי אלא לעורר

## GEZEIRA SHEMA CHAYIS

### RABBI ELI GERSTEN

RC Recorder of OU Psak and Policy

**THE GEMARA** (Pesachim 30b) says that a clay oven, which is regularly filled with coals, may be kashered for Pesach by filling it with coals. We are not concerned that it might crack, since this is its normal use. However, Chazal made a *gezeira* that clay pots and dishes may not be kashered in this manner. Since they are not ordinarily filled with coals, we are concerned that doing so might cause them to crack. Chazal were concerned that one will wish to spare



them from breaking, and might not kasher them properly. The accepted opinion is that even if one claims that they are not concerned about cracking their *cheres* pots, they still may not kasher with *libun*. However, if one already cooked food in the pot, Pri

Migadim M.Z. 451:31 writes that in regards to eating the food, one can rely on Ra'avad (Tamim Dayim) who allowed kashering in cases where the owner was not concerned that the pot would crack. However, if the owner had been nervous, then even the food may not be eaten<sup>1</sup>.

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## DRIED FRUITS

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addressed by other halachic authorities. The Taz<sup>7</sup> writes that it is permitted to eat dried fruits without inspection beforehand based on a *sfek sfeika*. This is because there is a *safeik* whether any dried fruit contains an insect. Secondly, even if an insect is in the fruit it's possible that the insect has not yet left and is still permitted<sup>8</sup>. Nevertheless, some disagreed. The Minchas Yackov<sup>9</sup> argues based on Rosh that some sort of checking should be required to check for insects. Moreover, the Shach<sup>10</sup> writes that a *sfek sfeika* is not relied upon when it's possible to clarify the *safeik*. Therefore, it should be possible to check dried fruits without relying on two *sfeikos*.

The Pri Megadim<sup>11</sup> explains that one may rely on a *sfek sfeika* when it cannot be easily investigated. Therefore, there isn't

This question was also

any inconsistency between the Taz and the Rosh's opinion. This is because reliance on a *sfek sfeika* would depend on whether the fruits can be effectively checked by just placing them in water, or if a careful visual inspection under sunlight is needed. Nonetheless, the Pri Megadim writes that it is still a proper *chumra* to check dried fruits even though it may not be required. However, there are times when checking properly may be exceedingly difficult. In those cases, R' Shlomo Kluger<sup>12</sup> writes that one may rely on a *sfek sfeika* when checking is overly burdensome.

All OU certified dried fruits plants have HACCP programs that focus on maintaining a clean environment. The chances of infestation developing is highly unlikely and checking by end consumers is not necessary. (However, infestation can sometimes occur at the distributor, retail store, or consumer level under inadequate storage conditions).

Nevertheless, it's still proper for an RFR to periodically review a dried fruits plant's HACCP plan and any statistical data that may be kept on file.

<sup>1</sup> Hilchos Ma'achalos Assuros 2:15

<sup>2</sup> Chullin 58a

<sup>3</sup> Chullin 67b

<sup>4</sup> Chullin 3:53, Tur Y.D. 84

<sup>5</sup> Shulchan Aruch Y.D. 84:8

<sup>6</sup> Shut Y.D. 77

<sup>7</sup> Shulchan Aruch Y.D. 84:12

<sup>8</sup> Both the leniencies of the Taz and Chasam Sofer assumed that insects commonly found in dried fruits were storage pests that developed after harvest. However, in a situation where the insects are known to commonly develop while the fruit is still attached to the ground, these leniencies would not apply.

<sup>9</sup> 46:14, 18

<sup>10</sup> Y.D. 110, Klalei Sfek Sfeika 35

<sup>11</sup> Meshbatzos Zehav Y.D. 84:11

<sup>12</sup> Tuv Ta'am VeDa'as 5:158

## GEZEIRA

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explains that if we were to permit someone to kasher pottery by filling with coals inside and out, because of the potential loss, one might be *moreh heter* (rule leniently) and allow themselves to kasher by placing coals on the outside of the *kli*, without filling the inside with coals. However, most Rishonim<sup>2</sup> explain that the concern is that one will feel compelled to remove the *kli cheres* from the fire too quickly, before it has a chance to have an adequate *libun*. A *nafka mina* between these two approaches is whether one may kasher *klei cheres* in a *ktivshon* (potter's kiln). Pri Chadash, based on Rashi's explanation, says that one may not kasher *cheres* dishes even in a *ktivshon*. However, Shulchan Aruch (O.C. 451:1) rules that *klei cheres* may be kashered by returning them to a potter's kiln. We are not concerned that one may remove the dishes too soon, since the intense heat allows them to be kashered immediately.

### SELF-CLEANING OVEN

Although self-cleaning ovens (approx. 850°F) are hot enough for *libun chamur*, they are not hot enough to be a *ktivshon* (approx. 1700° F). For a self-cleaning oven to effectively kasher, the *kli* must remain in the oven for the duration of the cycle. Therefore, the concern that one may feel compelled to end the cycle early still applies, and one may not kasher ceramic dishes in a self-cleaning oven. However, special ceramics which are made to withstand 850°F can be kashered in a self-clean oven.

### SLIGHT DAMAGE

Pri Migadim (M.Z. 451:11) points out that even a properly performed *libun* will cause some amount of wear on the *kli*. This is considered normal. We are only concerned about out-of-the-ordinary or excessive damage, but a *הפסד מועט* is not a concern. For example, one may kasher *keilim* in a self-clean oven even though this will cause them to lose their shine. One may kasher the lip of a pot with a torch, even though this will cause discoloration around the lip.

### SAFETY

If kashering *keilim* with *libun* or *hagalalah* might compromise one's personal safety, or of those around you, Rav Belsky thought then this

too can be included in the *gezeira shema chayis alla*, based on the principle "חמירא סכנתא מאיסורא" (precautions for safety are even greater than for issur). For example, one may not perform *hagalalah* in an area where they might get sprayed with boiling water, unless they have taken all the necessary precautions. Otherwise, the kashering might not be valid even *bi'dieved*. If there is a concern that overloading the equipment can cause a fire, or explosion, then aside from common sense reasons not to kasher this way, even if one wants to be a "hero", the kashering will not be valid.

### CHECKING WITH PROBES

What if a *kli* can only be safely kashered until a certain temperature, but above that temperature one runs the risk of ruining the *kli*; would one be trusted to kasher at exactly the right temperature? Mishnah Berurah (Shar Hatziyun 451:196) writes that even though boiling water will crack glass, many poskim permitted kashering glass with hot water כבולעו כר פולטו. Just as one was not afraid to place hot water in the glass when they used it, so too that same degree of heat would not be a concern when kashering. This will take great vigilance, to make sure that the temperature is not too low and not too high. In these types of cases, where delicate machinery require a precision kashering in a narrow range, mashgichim should double check with their own temperature probes to make sure the temperatures are not too low and not too high.

Example, a mashgiach was recently sent to kasher a convection oven/dryer (375°F for two hours). Though the temperature gauge was set to 375°F (the maximum setting), because the dryer was empty, the internal temperature climbed to nearly 600°F, and the machine overheated (needed major repair). It turns out, the gauge was calibrated to reach 375°F when there is product flowing through the dryer, and the operators did not realize that the gauge does not monitor the actual temperature inside the dryer. Similarly, there are many stories of ovens that were much cooler than the assumed set point. It should be standard practice that mashgichim bring temperature probes or infrared temperature guns when they are kashering to double check the accuracy of the gauges that are on the machines.

<sup>1</sup> See Pri Migadim (M.Z. 451:2)

<sup>2</sup> Rosh Pesachim 2:7, Rashba and Tur

## JEWISH-OWNED BAKERIES

**RABBI ELI GERSTEN**

RC Recorder of OU Psak and Policy

**THE TUR** (Y.D. 112) writes that dough which is owned by a Yisroel but is baked by a non-Jew becomes forbidden like *bishul akum*. This would mean that it would not have any of the leniencies of *pas akum*. For example, even if *pas Yisroel* is unavailable, this bread would still be forbidden. Shulchan Aruch (Y.D. 112:11) writes similarly that dough that belongs to a Jew that was baked by a non-Jew, without any Jewish participation in the baking, is forbidden. However, Shulchan Aruch does not explain whether he means to pasken like the Tur that the bread is completely *assur*, or if it is like *pas akum* which has certain leniencies.

Taz (112:7) and Shach (112:7) interpret the words of Shulchan Aruch like the Tur, that in this case the bread would have the status of *bishul akum*. This would imply that even if the non-Jew was a *palter* (professional baker), there would be no room for leniency. Pri Migadim explains that *pas palter* was only permitted because of “*chayei nefesh*” (difficulty of living without bread), and this *heter* could not be applied to bread that belongs to a Jew. Since the Yisroel has the ability to bake the dough himself, this is not considered *chayei nefesh*.

However, Aruch Hashulchan (112:10,29) says that we do not follow this *p’sak* of the Tur. Aruch Hashulchan explains that this *p’sak* of the Tur is linked to another *p’sak* of the Tur, which we do not follow. The Tur writes that bread belonging to a non-Jew is always *pas akum/ pas palter* even if a Yisroel turns on the ovens. Aruch Hashulchan maintains that just as Shulchan Aruch does not agree with that ruling of the Tur, so too we do not say that Jewish owned dough baked by a non-Jew becomes *bishul akum*.

Igeros Moshe (Y.D. I:45) offers another approach. He says that if the Jewish owned bakery requires many workers to run, we cannot expect the Yisroel to bake all the bread himself, nor can we expect him to only hire Jewish workers. Since he needs to hire non-Jews to do the baking, this bread would qualify for the leniency of *chayei nefesh*, and even the Tur would agree that it is permitted. Based on this, the OU permits certifying *pas palter* from factories that are owned by Jews.

### BAKING PAS YISROEL

If a bakery wishes to bake *pas Yisroel*, this can be accomplished by having a Yisroel turn on the ovens. Once the oven is turned on, it will remain in “*pas Yisroel*” status, even if the fire in the oven temporarily turns off, so long as the temperature in the oven does not dip below 176° F (80° C), which is the lowest cooking temperature. Alternatively, if the ovens have pilot lights that are lit and secured by the mashgiach (*aish m’aish she’hidlik Yisroel*) then bread baked in this oven would be *pas Yisroel* (as per Rema Y.D. 113:7). However, it is not sufficient for the mashgiach to turn on a lightbulb or glow plug that will always remain on. Although this can be considered a *hashlachas kisem* (adding a twig to the fire), there are two explanations in the Rishonim as to why *hashlachas kisem* works. Rambam (Ma’achalos Assuros 17:13) says that *hashlachas kisem* acts as a *heker*



(reminder) that *pas akum* is forbidden. Rav Belsky points out that from the *lashon* of the Rishonim<sup>1</sup> that the *kisem* is “*machshir ha aish*” or “*machshir ba’tanur*”, it is clear that one can only create a *heker*, once there is already an existing fire. Rav Schachter adds that a *kisem* is only *machshir* the *aish* if it combines with the fire, which does not happen with an electric element. Other Rishonim, including the Rosh and Ramban (A.Z. 35b) explain that *hashlachos kisem* works only if it is *mikarev bishulo* (it quickens the cooking time). Since turning on a light bulb or glow plug has no effect on the cooking time of the bread, this cannot be viewed a *mikarev bishulo*. If a heating element is installed which can heat the entire baking area of the oven to 176° F, and would stay on all the time then this would also be acceptable.

### BREAD BAKED ON SHABBOS

If bread is baked on Shabbos at a Jewish owned bakery, the bread may be eaten after Shabbos *b’chdei she’yaseh* (the amount of time it took to prepare). For example, if preparation and baking time for a loaf of bread is 4 hours, in order that one should not benefit from the act of *chillul* Shabbos, one must wait until 4 hours after Shabbos before consuming this bread. Mishnah Berurah (318:5) explains that this is true, even if the bread was baked for a specific recipient. If a Jew was involved in the baking of the bread, the bread would be forbidden to that person forever, however others, even if they were the intended recipients, may eat the bread after Shabbos *b’chdei she’yaseh*. The OU does not require *kashering* the *keilim*, since the bread itself is permitted to the consumer after Shabbos, the *beliyos* in the *keilim* become permitted as well. In general, regarding Jewish owned factories, the lag time from when an item is produced until it reaches the consumer, will be much longer than *b’chdei she’yaseh*. ■

<sup>1</sup> ספר איסור והיתר הארוך שער נדר – יכול להכשיר האש בגון לורוק קיסם - בית יוסף יורה דעה סימן קיב - כתב עוד המרדכי (שם) מעשה בא לידי על תנור שאפו בו ישראל ג'פ ביום והכשירו התנור ע"י זריקת קיסם

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to our dedicated RFR in Fresno, CA **RABBI LEVI ZIRKIND AND FAMILY** on the loss of his father Rabbi Simcha Zirkind, Z”l of Montreal, Canada.

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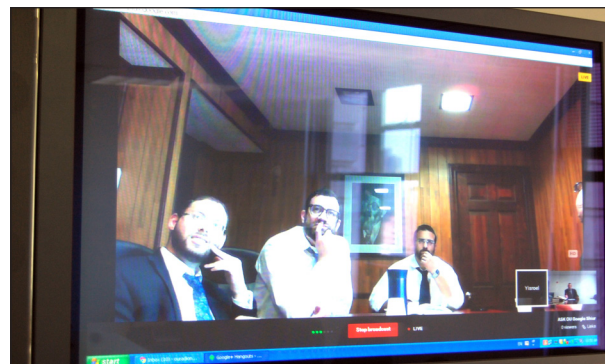
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*Rabbi Moshe Klarberg gives Skype shiur on Hilchos Dam to ...members of the Cincinnati Kollel (partial view)*

### KASHRUS ALERT

A non-certified restaurant, **OSI'S KITCHEN**, located at 4604 West Sahara Avenue in Las Vegas, printed a business card that includes the © mark. The Orthodox Union does not certify Osi's Kitchen. Corrective actions are being implemented.

The Orthodox Union does not certify **NOYAN BLACK CURRENT GRAPE NECTAR** produced by Eurotem CJSC, Armenia. Some cartons were mistakenly labeled with an ©. Corrective measures have been implemented.

The Orthodox Union does not certify any **PEARL RIVER BRIDGE SAUCES**. A Pearl River Oyster Flavor Sauce produced by Guangdong PRB Bio-Tech Co., Ltd. China is being sold in

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