

SAPPIRIM

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CHAZARAH ONTO AN EMPTY PAN

Review of a longstanding policy

In 1997, the local Chicago *Rabbonim* created a list of *Shabbos* policies for caterers, and among the signatories to that wonderful תיקון were Rav Schwartz and Rav Fuerst.¹ One of the things which it says in that document is:

Dry foods, with no gravy or sauce, may be re-warmed in one of three ways:

- a. *The range top must be covered with a metal sheet or aluminum foil (blech) prior to Shabbos. In addition, a baking pan shall be placed up-side down (hefsek k'deirah) on the blech. Pans of dry food may then be taken from the refrigerator, allowed to warm to room temperature, and then placed on the sheet pan for warming.*

This position – that if there is no concern of *bishul*, one may heat food without meeting the conditions of *chazarah*, by placing it on top of an upside-down empty pot/pan – appears to be the subject of debate in the *Acharonim*.

The discussion begins with an apparent contradiction in *Shulchan Aruch*. First, he says² that if food left on the fire over *Shabbos* looks like it is going to burn, a person can lift up the pot and slip an empty pan between the pot and the fire so as to minimize the heat reaching the food. In this halacha, *Shulchan Aruch* says that the person may only use this method if he meets the standard conditions of *chazarah*. Yet, two halachos later,³ *Shulchan Aruch* says that a person can take food which is off the fire and put it on top of a pot of food that is already on the fire. Putting food on top of another pot is not נראה כמבשל and therefore it is permitted even though the conditions of *chazarah* have not been met.

So, which one is it? Is putting food on top of a pot (instead of on the fire itself) permitted because it is not נראה כמבשל? Or is it forbidden (without the conditions of *chazarah*) because it is not obvious enough that this person is not “cooking”?

*Biur Halacha*⁴ raises this question and accepts the resolution of *Pri Megadim*⁵ that the two halachos are discussing somewhat different cases. The first ruling refers to an empty pan (קדירה ישנה ריקנית) being used to buffer between the fire and the pot, and that is not enough to remove the concern of נראה כמבשל. But the second halacha is in a case where the person is putting the food on top of a pot filled with food (על פי קדירת חמין), and that is why it is not נראה כמבשל.

Most people assume the difference between the cases has to do with how unusual the action is; it is somewhat uncommon to cook food on top of an empty pan, but no one would ever cook food on top of a pot filled with other food, and that is why the first case is נראה כמבשל and the second is not. However, *Chazon Ish*⁶ suggests that there is a subtler difference between the cases. When, food is on top of an empty pan, the stovetop's heat directly warms the food such that the food is being cooked “on the fire” and the empty pan is merely a “stand” to hold the upper pot. But when the bottom pot is filled with food, the energy of the fire is absorbed by the food in the lower pot, and the food in the upper pot is warmed by the vapors or energy emanating from the lower one. Thus, the food in the upper pot is being heated by food rather than the stovetop fire, and for that reason it is not נראה כמבשל.

The *Shabbos* policy noted above would appear to be inconsistent with *Biur Halacha*. The policy said that, “pans of dry food may then be taken from the refrigerator” (i.e. the conditions of

In This Issue

Chazarah Onto An Empty Pan.....	1
French Fries.....	3
Cordyceps	3
Soaking Meat	6

¹ Additionally, the document was signed by Rabbi AC Levin, Rabbi OZ Fasman, Rabbi S Morgenstern, Rabbi D Zucker, Rabbi D Lebor, Rabbi A Soloveitchik, Rabbi H Shusterman, and Rabbi D Seigel.

² *Shulchan Aruch* 253:3.

³ *Shulchan Aruch* 253:5.

⁴ *Biur Halacha* 253:3 s.v. v'yezaher.

⁵ *Pri Megadim* AA 253:33.

⁶ *Chazon Ish* OC 37:9 (end).



chazarah are not being met) and placed on empty sheet pans which were put onto the fire. Yet *Biur Halacha* says that unless one meets the conditions of *chazarah* food can only be put onto pots filled with food.

The *Shabbos* policy appears to be based on two points which are raised by *Shemiras Shabbos K'hilchaso*.⁷ First, he shows that many *Poskim* – including *Mishnah Berurah* himself – do not appear to accept the ruling suggested in *Biur Halacha*. [Details in the footnote].⁸

Second,⁹ he argues that even *Biur Halacha* might agree if the empty pan is put down for the expressed purpose of removing the appearance of cooking.¹⁰ In other words, the only time *Biur Halacha* suggests that one must be *machmir* is when (a) the lower pan is empty, and (b) the food is burning, such that the placement of the pan appears to just be a way to help the cooking process. For that reason, it is *נראה כמבשל* even though the food is on top of another pan. But if a person takes food from the refrigerator to put onto the fire, then it is only *נראה כמבשל* if the food is put directly onto the fire or onto the *blech*. But if the food is put onto a pot of food or even on top of an empty (overturned) pan,¹¹ then it is obvious to all that the person is not trying to cook this food, and even *Biur Halacha* would permit it.

An added factor to consider is that *Biur Halacha*¹² rules that non-Jews may put food directly onto the fire even without meeting the conditions of *chazarah*. *Star-K* and *RCC* rely on this position alone as a *l'chatchilah*.

✎

Rav Reiss' inclination was to take a strict stand on this matter, but after discussing the matter with Rav Fuerst, and in consideration of the longstanding practice in Chicago, he concluded that the policy should be that *l'chatchilah* one should place the food onto a pan filled with food, but if not possible then it could be put onto an overturned empty pan as well. Based on this, the *cRc* policy for this matter was rewritten as follows:

Warming of dry, fully cooked, food on Shabbos is permitted via any of the following methods:

- a. A pan of hot water is put onto the *blech* before *Shabbos*. On *Shabbos*, pans may be placed on top of (but not inside) the hot water pan.
- b. If that is not possible, pans of food may be placed on top of an overturned sheet pan which is, in turn, on top of the *blech*. That sheet pan may be put onto the *blech* on *Shabbos*.
- c. Food may be put into a hot-box which (a) cannot get hotter than 225° F (a minimal cooking temperature) and (b) has its temperature control knobs removed or covered. [Non-Jews may not plug in or turn on a hot-box on *Shabbos*].

Any combination of the above methods may also be used so that, for example, after warming a pan of chicken on a pan of hot water it can then be placed in the hot-box to make room for a second pan.

⁷ *Shemiras Shabbos K'hilchaso* 1:38, and there in footnote 112.

⁸ The footnote in *Shemiras Shabbos K'hilchaso* opens with the following references in support of his lenient position:

עין סי' רגב במ"ב ס"ק פ"א, סוסי' רנ"ט בכללא דמילתא, סי' שיה במ"ב ס"ק מא ויגד, נ"א מלל כ' ס"ק ט, והל"ד סי' רגב ס"ק י"ח וסי' שיה ס"ק ז'

This refers to the following:

- *Mishnah Berurah* 253:81 is commenting on the same words of *Shulchan Aruch* as *Biur Halacha* cited above, yet *Mishnah Berurah* references the comments of *Magen Avraham* (summary at the end of 259 under the heading *דריני שיה והטמנה בקיבור*) that as long as there is a *היכר קדירה* (which, in context, refers to an empty pan) it is permitted to put food onto the fire without meeting the conditions of *chazarah*. This clearly implies that one can be lenient, in disagreement with the proposal noted in *Biur Halacha*. At the same time, when *Mishnah Berurah* gives his own summary at the end of 259 which he bases extensively on *Magen Avraham*, he conspicuously leaves out the critical words of *Magen Avraham* which imply that one may be lenient.
- *Mishnah Berurah* 318:41 says that an example of the rule that *אין אפיה אחר* אפיה is that if one has roasted food which will not meet the conditions of *chazarah*, he may place it in the oven on *Shabbos* on a *ריבנית*. Here, again, *Mishnah Berurah* is assuming that one can be lenient even if the pan is empty. In *Mishnah Berurah* 318:94 he speaks about a similar case and says that the food can be put into the oven with a *גלי מפסיק*. In this case, *Mishnah Berurah* is not clear if the pan is empty or full (but unexpectedly concludes with a reference to *Shulchan Aruch* 253:3, while we would have expected him to reference 253:5).
- *Nishmas Adam* 20:9 rules that one can put food onto an empty pan. However, the case he is discussing is one of *chazarah* such that the

implication is that if not for that one would not be allowed to put food onto the empty pot.

▪ *Tehillah L'David* 253:18 cites two resolutions to the apparent contradiction in *Shulchan Aruch* and appears to accept the approach which views *Shulchan Aruch* 253:5 as being lenient in all cases (even an empty pan). But then in 318:26, *Tehillah L'David* says that one should only be lenient "b'dieved".

It is noteworthy that later in the footnote, *Shemiras Shabbos K'hilchaso* cites *Gra"z* (*Kuntress Acharon* 253:10) and *Chazon Ish* (ibid. and 37:11) who appear to favor the strict approach. It may be that *Chazon Ish*'s position is based on his understanding of *Pri Megadim/Biur Halacha* noted in the earlier text. Namely, if the difference between an empty pan and one filled with food has to do with how the oven's heat affects the food in the upper pot, then the person's intention in putting down the empty pan plays no role. But *Shemiras Shabbos K'hilchaso* may have understood differently (as first noted in the text) that the deficiency of an empty pan is that it does not do enough to visually disturb the *נראה כמבשל*. If so, under the "right" circumstances it may well be that an empty pan can serve that role.

⁹ This second point is clarified in more detail in the updated, 3rd edition, of *Shemiras Shabbos K'hilchaso* where the footnote is relocated to number 126.

¹⁰ See, also, *The 39 Melachos* (Rabbi Dovid Ribiat), Volume 2 footnote 205 page 456 of the Hebrew Section who suggests a similar line of reasoning.

¹¹ Seemingly, this point is even more significant if the person puts the empty, overturned pan on top of a *blech*, as noted in the *Chicago Shabbos* guidelines.

¹² *Biur Halacha* 253:5 s.v. *l'hachem*.

FRENCH FRIES

Kashering equipment before a בישול ישראל production

נשאלה השאלה אם נכון לתת השגחה של "בישול ישראל" למוצר של "פרענטש פרייס" שמכילים אותם ע"י בישול ישראל בכלי שנתבשל בו אותו המוצר מקודם על ידי נכרים בלי להכשיר את הכלי, וסומכים על העובדה שהכלי אינו בן יומו ושיש סוברים ש"פרענטש פרייס" הם בגדר אינו עולה על שלחן מלכים לפי הרבה פוסקים וכן על מה דפסקין שבישול עכו"ם בטל ברוב.

הנה יש מחלוקת הפוסקים אם יש צורך לבישול ישראל בענין "פרענטש פרייס" המכונה ציפ"ס, ועיין בזה בתשובת אגרות משה יו"ד ד:מח (ה) דנראה שהסתפק בענין זה (ואלא דינדון דידיה היה בענין פאטיטא טשיפ"ס שהם פחות חשובים מפרענטש פרייס"ס). ובטעם המחלוקת יש סוברים שמה שאינו מלפת בו את הפת לא נכלל באיסור בישול עכו"ם נגד שיטת השו"ע (יו"ד ס' ק"ג, ס' א), ואפילו אם נכלל בתוך איסור בישול עכו"ם אולי יש להקל מטעם דציפ"ס אינם נחשבים עולה על שלחן מלכים. ומאידך יש מחמירים מטעם דפסקין כשיטת השו"ע דאפילו דבר שהוא לפרפרת נאסר מטעם בישול עכו"ם אע"פ שאינו מלפת את הפת, ושמאכלי תפוחי אדמה בדרך כלל נחשבים כעולה על שלחן מלכים, או מטעם שכן מגישים אפילו ציפ"ס לפעמים לפני אנשים גדולים בסעודה, וכסברת הכף החיים (ס' ק"ג ס"ק ב) דמלכים לאו דוקא אלא ה"ה שרים חשובים. וגם יש טוענים שבזה"ז אפילו מלכים אוכלים פרענטש פרייס"ס בסעודות לפניהם כשמכילים את הפרייס"ס באופן מיוחד וכדומה.

ומ"מ נראה שיש יותר מקום להחמיר בענין פרענטש פרייס"ס מבענין "פאטאטא ציפ"ס" שהם ממש דברים שרק באים לקינוח ונראה יותר לומר שאינם עולים על שלחן מלכים. ולכן המחמירים בדבר זה לענין פרענטש פרייס"ס יש סברא גדולה לשיטתם.

ועוד חלקו הראשונים אם בישול עכו"ם בטל ברוב והשו"ך (ס' ק"ג, ס"ק כא) פסק שכן בטל ברוב, וכן פסקין להלכה. אבל כתב החלקת בנימין (יו"ד ס' ק"ב, ס"ק קל"ג) דאפילו לדעת השו"ך דאם נבלעו בכלי צריך להכשיר הכלי וכמו שכתב המחבר בסוף סימן קל"ג וכדעת הרשב"א, וז"ל "והיינו אפילו לדעת השו"ך הנ"ל משום דהמשתמש בכלי שבלע איסור הרי זה כמבטל איסור לכתחילה וזה אסור אפילו בבישול עכו"ם". וכתב עוד (ס' ק"ג ס"ק קל"ח) דכל זה שייך אפילו בכלי שאינו בן יומו כמבואר שם בביאורים ד"ה הכשר. וכן עיין בדרכי תשובה (ס' ק"ג ס"ק צא) שהביא מספר ישועות יעקב "לענין דינא דגם איסור דבריהם שאין לו עיקר מן התורה [כמו בישול עכו"ם] אין לערבו בידים כדי לבטלו". וכן עיין באגרות משה (יו"ד חלק ב, ס' מא) שכתב בענין בישול בכלי עכו"ם שאינו בן יומו "ומ"מ מכוער הדבר להשיגח בלא הגעלה".

וא"כ נלע"ד דאין להקל לתת השגחה של "בישול ישראל" לפרענטש פרייס"ס האלו אפילו אם מכילים אותם ע"י בישול ישראל אם מבשלים אותם בכלי שנאסר כבר ע"י בישול עכו"ם אפילו אם הכלי שנתבשל בו אינו בן יומו, אם לא שהוכשר הכלי ע"י הגעלה כדוגמא. ואפילו אם יסברו המשגיחים שאין הפרענטש פרייס"ס טעונים בישול ישראל, יש להם רק לתת השגחה של "כשר" לאוכל הזה מבלי לכתוב שזה נחשב "בישול ישראל" להמחמירים לכך מפני שהמשמעות של "בישול ישראל" היא שהכשירו את הכלים כדת וכדין כפי מה שהיו חייבים לעשות באופן רגיל אצל כלי שנתבשל בו ע"י עכו"ם אפילו אם הכלי אינו בן יומו. ואם ירצו לכתוב "בישול ישראל בכלי עכו"ם שאינו בן יומו" אפשר שיש מקום להקל בדבר.

יונה ריס

CORDYCEPS

Just another mushroom?

Introduction

There are many edible fungi, including multiple types of mushrooms. One group of fungi which is primarily consumed for medicinal purposes is the "cordyceps". The cordyceps genus includes many varieties, each of which is a parasitological fungus that grows from/lives on a particular insect.

The two types which are most commonly used for medicinal purposes are *Cordyceps sinensis* and *Cordyceps militaris*. The former is indigenous to the Himalayas and is not well suited to commercial propagation. Accordingly, *Cordyceps sinensis* purchased by consumers will be from the fungi that actually grew from the host caterpillar, and many of the points noted below will not be relevant to it. Our focus will be on the latter type, *Cordyceps militaris*, which is found in the wild in Europe and the United States where it grows on the larva of insects and can effectively be grown commercially.

Natural Growth

In their natural settings, *Cordyceps sinensis* and *Cordyceps militaris* both present in a similar manner. The dead host will be located just under the surface of the ground, and the cordyceps will protrude above the ground. At first glance, it appears to be just like any other fungus/mushroom growing out of the ground, but with a bit of digging it becomes clear that it is attached to the dead larva which was its host. The accompanying pictures¹³ show *Cordyceps militaris* growing out of the ground (1), and other cordyceps which were pulled out of the ground along with the larva (2,3).



¹³ The pictures shown in the text are from Wikipedia (1), <https://doi.org/10.1016/j.fitote.2010.07.010> (2), and https://www.mushroomexpert.com/cordyceps_militaris.html (3).

Thus, the first issue to be clarified is the status of *Cordyceps militaris* that grow from the ground (as opposed to being propagated in a factory).

- Should it be treated as an actual insect, since the fungus infects the insect and causes this cordyceps to grow as somewhat of an appendage to the insect?
- On the other hand, the cordyceps is clearly distinct and separate from the rest of the larva. If so, maybe it should be viewed as a *yotzeh* from the larva, rather than an actual piece of "insect".

The *issur* of consuming a **יוצא מן הטמא** is less stringent than that of eating an actual insect and has particular leniencies associated with it. One of those leniencies is that if it is inedible at the time it "comes out" of the *issur*, then it is classified as *pirshah* and is permitted.¹⁴ That does not appear to be the case with cordyceps, as they are edible and used in regular cooking.

- Lastly, it can be argued that the portion which grows above ground is completely permitted because it is like any other mushroom. The fact that it grows from a larva is not something which is noticeable to the casual observer, and some might therefore suggest that the larva is inconsequential.

If one was to adopt this position, the rest of the issues presented below are moot.

Propagation

As noted, *Cordyceps militaris* can be found in the wild, but it is much cheaper for companies to grow this fungus in a factory setting. The basic steps to accomplish this are as follows.

1. Samples of *Cordyceps militaris* are harvested from the wild.
2. Two pieces of cordyceps are placed onto a single petri dish, one piece on each side.
3. Spores from each of the cordyceps begin to grow on the petri dish and spread towards the middle of the dish.
4. The separate vegetative growths of cordyceps merge in the center of the petri dish where they fuse into a "fruiting body" which is a fungus in the form which can produce more spores.
5. The fruiting body is transferred to a bed of rice (or some other growth medium) where the

cordyceps multiply and grow for a number of weeks or months.

6. The cordyceps (with or without the rice) are packaged for sale to the public, and the process begins again from Step 2.

The petri dish is a location which is conducive to the cordyceps growth but does not play any active role in that growth. Therefore, the kosher status of the petri dish ingredients does not pose a *kashrus* concern. [In fact, they typically are not kosher sensitive].

But what is the relationship between the non-kosher status of the cordyceps harvested from the wild (Step 1) and the finished products sold to consumers (Step 6)? We will consider some reasons suggested as to why the finished product should be kosher, even if the original cordyceps was not.

Pirsha

Rav Belsky ruled that if a sample was removed from within a cow's rumen (through a cannula) and was propagated on a petri dish, the resulting biomass is permitted. Although the cow is a *teraifah* (due to the presence of the cannula), the biomass is not considered a *yotzeh* from a *teraifah* because the growth is considered *pirshah* rather than *yotzeh*. That is to say that, as noted earlier, bodily fluids or other excretions of a non-kosher animal only have the (strict) *yotzeh* status if they are edible when they left the animal's body. But if they are inedible at the time they separate from the animal, then they are classified as *pirshah* (waste product) and are permitted even if they subsequently become edible.

It was suggested that this line of reasoning could be applied to our case as well, and the growth on the petri dish should be treated as *pirshah*. However, it appears that Rav Belsky's logic is limited to cases in which the growth is inedible. When we consulted with an expert in the cordyceps field he said that (a) the growth on the petri dish is basically a small cordyceps (albeit, not a fruiting body), and (b) the growth is edible just like other cordyceps. If so, it would appear that although Rav Belsky's ruling would be correct when applied to many types of microorganism which are grown on a petri dish, it would not be appropriate for cordyceps.

העמדות Multiple

Others suggested that even if the original propagated cordyceps are non-kosher, after

¹⁴ See, for example, Iggeros Moshe YD 2:24.

several rounds of propagation the non-kosher status would disappear, and the finished goods would be kosher. This concept is based on *Beis Yosef*¹⁵ who says that if some *chalav akum* yogurt was used to ferment a batch of *chalav Yisroel* milk, the newly fermented yogurt is non-kosher. But if this process is repeated three times, each time taking a bit of the newest yogurt and using it to create another batch of yogurt, the fourth batch of yogurt is kosher. He explains that although we generally rule that a *davar hama'amid* can never be *batel*, nonetheless, after so many *העמדות* we assume there is no longer any trace of the original *issur* (כבר כלה חלב של גוים), and the fourth batch is therefore kosher.

Accordingly, even if the original cordyceps created in the factory were non-kosher since they came from the “real” (forbidden) fungi, after a few years of propagation the product will be kosher.

This idea is based on the assumption that in each propagation the *issur* is diluted, such that at some point we can assume there are no longer any traces of it. The question is whether this is appropriate for our case where the cordyceps are not *ma'amid* some permitted item, but rather just grow and multiply. If so, is the original *issur* being mixed with *heter* to the point that we eventually say all traces of the original *issur* are gone, or is there just more and more *issur* as the weeks and months go on? This requires further consideration.

Even if we accept that the *issur* is being diluted, this leniency is faced with another challenge. *Dagul Mirivavah*¹⁶ shows that *Magen Avraham*¹⁷ says that one must be *machmir* when *chametz* was *ma'amid* another food even if there have been more than 3 *העמדות*. How is this different than the case of *Beis Yosef*? *Dagul Mirivavah* answers that the leniency only applies when the *issur* in question is based on a *safek*, such as *chalav akum*, which is forbidden because the non-Jew may have mixed in non-kosher milk. But when dealing with an *issur d'oraisah* (such as *chametz*) or any *issur d'rabannan* which is not based on *safek*, then we follow the ruling of *Magen Avraham* that even after multiple *ha'amados* the product remains forbidden. In contrast, *Shevet HaLevi*¹⁸ says that we may always rely on the leniency of *Beis Yosef* and the one exception where we cannot is *Pesach* because there are specific *chumros* associated with *Pesach*.¹⁹

According to *Shevet HaLevi*, we can apply the leniency of *Beis Yosef* to the case of cordyceps, and therefore after approximately two years of production, the cordyceps would be permitted. [At the company we were in contact with, it takes approximately 6 months for each propagation]. But according to *Dagul Mirivavah* the leniency is limited to very specific *issurim*, and therefore it would seem not to apply to cordyceps. That said, a prominent Rav noted that even according to *Dagul Mirivavah* there is some point at which we would say that so many *ha'amados* have occurred that the *issur* is “gone”. This seems logical, but some thought would have to be given as to how many propagations are required before we can confidently say that we have reached that point.

Consumer uses

One last consideration is that most consumers do not purchase *Cordyceps militaris* in their pure, whole form. Rather, they are typically ground into a powder and sold in tablet form or as a minor component in a larger formulation. In these forms, the cordyceps may be inedible or *batel b'shishim*, such that it may be permitted for a consumer to use them even if the cordyceps portion is actually non-kosher. If so, a further question would be whether such items could be certified as kosher. Technically, it is permitted for a consumer to use the product, but that relies on a form of *bitul issur l'chatchilah*, and *hashgachos* would have to consider whether they would certify a product under that condition.

ס"ט ס"ט

בקשו ממני להביע דעתי בענין זה וכיון שזה דבר נחוץ הנני כותב ראשית דברים ותקוותי שאוכל להאריך יותר לאחר זמן.

בתחלה אמרו לי שהקארדיסעפ"ס הוא פאנג" הגדל על גב זחל ובמשך הזמן ממגד חלק מגוף הזחל בתוכו. ומי יצרי אוכל משתמשים בפאנג" בדרך של מעמיד ליצור מיני אוכלים, ז"א שמעמידים הרבה פעמים, כגון מ' פעמים, כדי ליצור פאנג" חדש שנותנים אותו בתוך אוכלים אחרים ולפעמים בתוך כדורים שאנשים בולעים מפני שחושבים שזה טוב בשבילם באופן של רפואה הומיאופאט". ועל כן היה מקום לאסור לאכול אפילו על ידי הרבה העמדות מכיון שהפאנג" הראשון נוצר על כל פנים מגוף דבר האסור (וכמו שאנו אוסרים אכילת קארמיין שבא מן התולעת ממש אף על פי ששם התולעת נתייבשה כעץ ולא כס' תפארת צבי שהקילו, עיין ביו"ד ס"ו פז) ועל כן אע"פ שיש פוסקים שהקילו אחרי ג' העמדות של איסור (עיין בב"י יו"ד ס"ו קטו) מכל מקום יש להחמיר בחשש איסור דאורייתא. אבל זה רק במקום שאין הפאנג" הסופי בטל בתוך האוכל שאם הוא בטל בששים חשבתי שיש להקל בענין אין מבטלים איסור לכתחלה (למרות מה שמחמירים בדרך כלל כדאיתא בס' דרכי תשובה סי' קח סעי' כ"ע"פ שו"ת רשב"ש סי' תק"ם כשהקאמפאני עושה את הביטול כדי שיאכלו אחרים) מכיון ששמעתי שרב חשוב אחד פסק שיש להקל אפילו לפי

¹⁵ *Beis Yosef* end of YD 115, cited in Taz 115:14.

¹⁶ *Dagul Mirivavah* to Taz ibid.

¹⁷ *Magen Avraham* 442:9.

¹⁸ *Shevet HaLevi* 5:56.

¹⁹ This is particularly appropriate in the case discussed by *Magen Avraham* – mead produced with brewer's yeast from a *chametz* whisky – because of the principle of the *Gemara* (*Pesachim* 30b, *Chullin* 99b) that sourdough/yeast is חיימוצו קשה (*Shevet HaLevi* ibid).

השיטות המחמירים בג' העמדות כשיש הרבה מאד העמדות כגון כאן שיש בערך מ' העמדות עד שמגיעים לפאנג'י הסופי. ועיין בשדה חמד (מערכת הא', אין מבטלין איסור לכתחלה, אות ה), שהביא כמה דעות שהקילו בענין אין מבטלין איסור לכתחלה בספק איסור וא"כ יש לצרף את זה לקולא.

אבל בכל זאת היה נראה לי להחמיר בענין הכדורים שאין בפאנג'י בטל בתוכם. ואע"פ שאוכלים אותם שלא כדרך אכילה מכל מקום כפי מה שאמרנו לי, הפאנג'י שבתוך הכדור הוא ראוי לאכילה וא"כ קשה להקל לבלוע אותם למי שאינו חולה.

אבל אח"כ התברר על ידי מומחים שהפאנג'י הוא חלק נפרד לגמרי מן הזחל והוא כמו הפטריות הגדלות על העץ שאין הפטריות שייכים לעץ.

ולפי זה נראה שבאמת יש מקום להקל גם בענין הכדורים שיש כאן צירופי טעמים להקל שהרי דבר המעמיד כפי מה דפסקין רק איסור דרבנן וכאן אולי אין אפילו איסור של דבר המעמיד מכיון שיש ארבעים העמדות וכן בולעים הכדורים שלא כדרך אכילה וכן יש עוד מקום לטעון שאפילו ביצירתו אין בפאנג'י איסור ואינו כדבר היוצא מן האסור (ז"א מן הזחל) אלא דבר נפרד לגמרי.

וקצת זכר לדבר יש להביא מהגמרא (ב"ב עג.) אצל סיפורי נחותי ימא של רבה בר בר חנה דאיתא שם "חזינן ההוא כוורא דיתבא ליה חלתא אגביה וקדח אגמא עילויא סברינן יבשתא היא וסלקין ואפינן ובשלינן אגביה". ואע"פ שסתם דג גדול כ"כ כזה (מה שקוראים "ווי"ל", וכמובן הלכותן שאכלו שצדיקים לעתיד לבא היא בריה אחרת) אינו כשר, מ"מ משמע שאכלו ממה שאפו על גבה, והלא אין הקב"ה מביא תקלה לצדיקים כגון רבה בר בר חנה לאכול דבר שאינו כשר. אלא ודאי מוכח שאין חשש באופן כזה כשבישלו ואפו על גבי אגם שגדל על גבה - לאכילת דבר איסור. ואע"פ שיש לדחות, מכל מקום דבר מסתבר היא שאין להסתכל אל פאנג'י כזה כדבר היוצא מן האיסור. וה' יצילנו משגיאות.

יונה ריס

SOAKING MEAT

Extending days to perform melichah

Meat must undergo מליחה within 72 hours of שחיטה²⁰ and it is possible to extent this window by an additional 72 hours if one soaks the meat thoroughly during the first three days.²¹ Decades ago, this leniency was widely abused by people who would hose-down whole combos (large containers) of meat instead of actually soaking it, and it is therefore common practice in the United States that לכתחלה no one relies on this היתר. However, when something does not go as

²⁰ Shulchan Aruch 69:12, as per Rema.

If melichah was not performed in time, the meat can only be eaten via צ"א (ibid). Taz 69:32 is of the opinion that if the meat was kashered via both salting and broiling, then one could cook the meat. Rebbi Akiva Eiger and Chasam Sofer (in their glosses to Shulchan Aruch) disagree and rule that regardless the meat can only be eaten via צ"א, while Pri Megadim (to Taz) says that in cases of hosed merubah one can be lenient as per Taz.

²¹ Shulchan Aruch 69:13.

²² Shulchan Aruch 69:13, as per Shach 69:54, says that if someone soaks the meat within 3 days, they can wait for just under 71.5 hours before doing the next melichah. In theory, the person has a full 72 hours, but (as Taz 69:33 and Shach explain) that time is shortened by the 30 minutes required for the הדחה ראשונה and the few minutes it will take to put salt onto the meat. This indicates, that the melichah must begin before the 72 hours clock ends and does not have to be finished by then.

planned, then it is perfectly acceptable to rely on soaking the meat as a way to give more time to perform מליחה and ניקור.

In one particular case, shechitah occurred in Colorado but melichah was in Chicago. The shechitah began on Tuesday morning at 6:50 A.M. Mountain Time which meant that the meat had to begin²² its salting before 7:50 A.M. Central Time on Friday. The truck didn't arrive until 2 P.M. on Thursday and there was no way to be מנקר and begin melichah before the day ended. It was therefore decided that they would be מנקר what they could on Thursday and soak the rest so that they could be מנקר/salt it in the morning (i.e. after 7:50 A.M.).²³

The procedure of soaking the meat is relatively simple – the meat is put into water and must remain there for 30 minutes.²⁴ If that process is finished before the 72-hour melichah-clock expires, the meat can sit for about another 72-hours²⁵ before the next melichah.²⁶

The way this particular factory met this requirement was by transferring the meat from the cardboard combos into plastic bins which had plastic liners in them and were filled with water. The complication which arose was that for the first few bins, the employees filled the bin with meat before putting in the water. This seemed to be the wrong order, as we expected that the meat should be put into the water not into the empty bin.

But is this a concern? Is there anything wrong with the meat being in the container before the water is put in? Even if the water is put in first, the pieces will rest on one another, so maybe there is no difference which one comes first? Actually, even if there is just one piece, the meat will rest on the bottom of the container, so there is never 100% contact with water for the whole 30 minutes. Is it possibly required that there be at least a טופח על מנת להטפוח of water under the meat before it rests on another piece?²⁷

²³ Shulchan Aruch 69:13 implies that l'chatchilah one may soak meat to extend the 72-hour clock but see Shach 69:53 that there is reason to rule that one should only rely on this when there is a שעת הדחק or a מוסד מרובה. Nowadays in the United States, hashgachos will follow this ruling of Shach. ²⁴ Shulchan Aruch does not say how long the meat should soak for, but Beis Yosef cites an opinion that the "מחדרין" do it for 2 hours, and Darchei Moshe 69:27 (cited in Taz 69:33) says that it should be done for "קצת שעה". Darchei Teshuvah 69:237 cites a number of Poskim who say that, in practice, the meat should be in the water for 30 minutes. [One of those, Kuntress SM"A, will be noted in the text below.]

²⁵ See a previous footnote, that it is actually just under 71.5 hours.

²⁶ Shulchan Aruch 69:13.

²⁷ Pischei Teshuvah 69:28 and Darchei Teshuvah 69:232 & 235 cite many as saying that the water must be on both sides of the meat, and it is not enough to just put water on one side. The cases they are discussing are ones where the water does not reach one side at all (e.g. internal organs).

Not being sure what to do, the *Mashgiach* said that he would make sure that the bins in question would be processed first on Friday morning (i.e. before 7:50 A.M.) so as to avoid any possible concern. Once the issue was noticed, the employees were instructed to fill the bins with water before putting the meat in.

I later came across a supporting opinion to the lenient position from the following quote in a קונטרס written by the SM" A²⁸ which describes the procedure as "cut the meat into a few pieces, put it into a container, and fill it with enough water to cover the meat". His words are:

להזהר הטיב לבדוק אחריהן שלא ישהו בשר כשר יותר מ'ג' ימים כי אם כאשר נשרה לפחות חצי שעה במים הטיב, והיינו שיחתוך הצד אחד לחלק הפנים לג' או לד' חתיכות ויניחם בכלי גדול וישים בכלי מים כ"כ כדי שיכסו את הבשר כולו, ולא כמו שנוהגין בקצת קהלות להדחיו מעט, כי זהו איסור גמור אליבא דכ"ע.

Let us now consider a second question.

As noted, in *hilchos melichah*, *Shulchan Aruch*²⁹ says that (a) meat must be *kashered* within three days of *shechitah* so that the blood does not "dry up" in a way that would render *melichah* ineffective, and (b) one can extend the three-day window by soaking the meat. In *hilchos chailev*, *Rema*³⁰ says that *l'chatchilah* one should perform *nikkur* within three days of *shechitah* so that the *chailev* does not "harden", but *b'dieved* the meat is permitted. He does not say whether soaking can extend the three-day time period for *nikkur* of *chailev*, nor does he say whether *b'dieved* one may even cook the meat (or if one may just do *צלי*). In order to understand the debate in the *Acharonim* regarding these points, we must first reconsider *Rema's* halacha, as follows.

Rema discusses someone who waited three days to perform *nikkur*. *Nikkur* must occur before *melichah*,³¹ such that it would seem that *Rema's* case is where *melichah* was also done after three days had passed. If so, why is *Rema* focusing on the delayed *nikkur*, and not noting that the meat is no longer suitable for *melichah* since three days have already passed? There appear to be two basic answers to this question; one from *Levush*

and another based on *Shach* – and we will begin with *Shach*.

*Shach*³² says that when *Rema* rules that if *nikkur* was delayed until after three days the meat is kosher *b'dieved*, that means that one may even cook the meat (and is not required to only eat it via *צלי*).³³ *Nachlas Tzvi* and *Yad Yehuda*³⁴ say that this must mean that the meat was soaked within three days of *shechitah*, such that *melichah* is effective (and the meat can be cooked) even after the three-day period had ended. If so, why is there a *l'chatchilah* issue with performing *nikkur* after three-days? This indicates that although soaking meat extends the three-day period for *melichah* to remove blood, it does not extend the three-day period for *nikkur* to remove fat. *Nachlas Tzvi* explains that this is because soaking blood acts to soften/moisten it, while the soaking of fat has the opposite effect. Accordingly, *Rema* is discussing a case where the meat was soaked within three days of *shechitah*, and he rules that *nikkur* should still *l'chatchilah* be performed before the three-day period ends. If it was not done by then, it can *b'dieved* be done afterwards, and "it goes without saying" that the (*nikkur* and) *melichah* must be completed within three days of the soaking. Once those processes are completed, the meat may be eaten after either cooking or *צלי*.

According to this approach, (a) soaking cannot extend the three-day period of *nikkur* for *chailev*, and (b) *b'dieved* if *nikkur* was done after three days (but the meat was soaked), the meat may be cooked after *melichah*. *Nachlas Tzvi* accepts this position.

Yad Yehuda probes a bit deeper as to why anyone should be of the opinion that *nikkur* must happen within three days. A source of this halacha is *Rosh*³⁵ who says, "there is no reason to be *machmir* because no *b'lios* can occur with cold meat/fat". Based on that, *Yad Yehuda* suggests two possible understandings of the strict opinion. One is that the *machmirim* argue that *b'lios* can happen when fat sits for an extended time; this would be something akin to *kovush*³⁶ where the fat spreads into the adjoining meat after being in contact with it for so long.³⁷ The

meat with its hide-on) while our case is somewhat less serious. In our case, all sides of the meat are underwater, but at the place where the pieces touch each other there is no water.

²⁸ *Kuntress SM" A*, point 6 in the "food" section, cited in part by *Darchoi Teshuvah* 69:237.

²⁹ *Shulchan Aruch* 69:12-13.

³⁰ *Rema* 64:18.

³¹ See *Shulchan Aruch* 70:3 that if *melichah* was performed before *melichah*, the meat (or at least part of it) would be non-kosher.

³² *Shach* 69:50.

³³ It appears that *Shach* understood that if *Rema* only allowed for eating via *צלי*, then he would surely have made a note of that.

³⁴ *Nachlas Tzvi* to *Rema* 64:18, and *Yad Yehuda* 69:58 (*Aruch*), cited, with others, in *Darchoi Teshuvah* 64:119.

³⁵ *Responsa Rosh* 20:25.

³⁶ Although the same type of "kovush" can occur when blood sits for three days, that is not a concern, because the blood will be removed via *melichah*, but the *chailev* will not be (*Yad Yehuda*).

³⁷ This would explain why *Rema* appends this halacha to the ruling of *Shulchan Aruch* regarding hot/warm *chailev* left on top of kosher meat where there is a concern that there is *b'liyah* between them. This is in

other possibility is that the reason to be *machmir* is because soaking only softens blood but not meat. This latter suggestion is consistent with *Nachlas Tzvi* noted above.

Yad Yehuda cites numerous supports to the first understanding. Most are from *Poskim* who imply that they agree with that approach, but another one is based on logic. Namely, why would anyone care if the fat hardens (and is not softened by soaking), when the fat will be physically removed during the *nikkur*? That indicates that waiting to perform *nikkur* will cause the *chailev* to spread into the meat, such that *nikkur* will no longer be effective.

In contrast, *Yad Yehuda* notes multiple inferences that *Levush* argues on much of what has been said above. Among his points are that *Levush* says that *nikkur* must happen within three days, for if not, the fat will harden which will make it too difficult to perform the delicate work of *traiboring*. In other words, it is not that waiting three days causes the *chailev* to spread into the rest of the meat, but rather that it makes it too hard to successfully remove all of the forbidden fats.³⁸ *Levush* further understands that *Rema* was discussing a case in which both *nikkur* and *melichah* were postponed until three days had passed, and there was no soaking of the meat. Accordingly, when *Rema* says that the meat remains kosher *b'dieved*, it is understood that the meat can only be eaten via צלי.

The combination of these different points in *Levush* leads *Yad Yehuda* to say that he holds that if one were to soak the meat within three days of *shechitah* that would be effective for both the blood (*melichah*) and fat (*nikkur*). According to this approach, (a) soaking can extend the three-day period of *nikkur* for *chailev*, (b) if *nikkur* and *melichah* were done after three days and the meat had been soaked in time, the meat may *l'chatchilah* be cooked after *melichah*, but (c) if *nikkur* or *melichah* were done after three days and the meat had not been soaked, the meat can only be eaten via צלי.

Thus, *Nachlas Tzvi* infers from *Shach* that soaking meat does not extend the three-day period for removing *chailev*, while *Yad Yehuda* understands that *Levush* argues that it does.

Yad Yehuda cites *Poskim* who appear to accept *Levush's* approach,³⁹ and he concludes that since *Rema* agrees that *b'dieved* the *nikkur* may be done after three days, *l'chatchilah* it is reasonable to rely on *Levush's* position that soaking the fat will extend the three-day period for its removal.⁴⁰ [However, see *Iggeros Moshe*⁴¹ who, in passing, appears to accept the stricter approach].

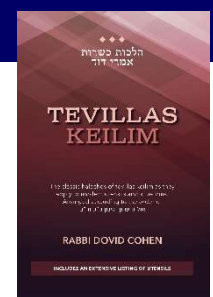
In fact, it is common practice that if meat cannot be *kashered* within three days, the three-day window can be extended by soaking the meat, and this is relied upon even if the *nikkur* has not yet occurred.

contrast to *Levush* (cited below) who specifically moves this halacha to a different location. (*Yad Yehuda*)

³⁸ *Yad Yehuda* cites a source for the concept that hard fat is harder to remove than fresh/soft fat from *Gemara, Chullin* 93a which states that: א' שלפי ליה חמימי משתלפן, ואי לא בעי חטוטי בתרייהו.

New Publication

The next sefer in the series on kashrus is now available. The topic is *Tevillas Keilim*, and it follows the order of *Shulchan Aruch YD 120 & 202*. It is available for \$22 at www.kashrushalacha.com.



³⁹ See *Pri Megadim* SD 69:53 who rules that if one is pressed for time, he may soak the hindquarters of an animal. It is not clear if his point is to say that if there is a *שעת הדחק* one may rely on soaking even for *chailev* (which is most prominent in the hindquarters), or if there is some other issue.

⁴⁰ His words are: הלמ' כיון דבלאו הכי מותר בדביע, הסומך על הלבוש בזה אף לכתחילה לא הפסיד. ⁴¹ *Iggeros Moshe* YD 2:42 (end).