

HALOCHOSCOPE

Last week's and this week's question:

Someone baked a batch of *Chalah*, using up an entire bag of flour and disposing of it. Later on, other bags of flour, bought together with the used bag and stored in the same location, were found to be infested. May the baked *Chalos* be eaten? Would there be a special dispensation for *Oneg Shabbos*?

The issues:

Last week:

- A) *Tola'im*, the prohibitions against eating bugs
- B) *Beryah*, the status of a complete whole creature that is forbidden to eat
- C) *Milben*, flour bugs

This week:

- D) Does baking affect the issue of *tola'im*
- E) *Safek* and *Sfek-Sfaika*, levels of doubt, in this case
- F) Does the presence of bugs in one bag affect the status of another bag
- G) *Oneg Shabbos* and *Tzorech Shabbos* as reasons to relax the rules

D) Baking or kneading

Having established that flour bugs are forbidden if they crawled on the ground, the next issue is whether they did so. In addition, there is a question whether they are *bateil*. We will assume that they exist in a smaller proportion than one to sixty. If they remain whole, they could be considered *berayah*, depending on the aforementioned discussion. If they are baked into bread, they could have been reduced by the kneading and baking process. This issue is debated by the poskim. Some consider it a fact, others consider it a reasonable doubt. Some consider it a weak doubt. It only counts when, *halachically*, there also exists another *halachic* doubt or factor. Some say that it depends on the bugs found. Small thin bugs are easily disintegrated.

When the poskim forbid flour bugs, it is on the presumption that there is a chance that they left the flour. As mentioned, we assume that flour in the US is not infested at the source. The bugs developed in the bag. As long as the bug stays in the flour, it is permitted. Assuming it bred in the current container, when it is kneaded, it is removed. If the kneading is done on the ground or on a counter attached to the ground, there is no question that it is *shoraitz al ha'aretz*. If it is kneaded on a board or in a basin, as is common, or even a free standing table, then baked on a baking sheet or in pan, or even according to some, in a free standing oven, it is debated whether they are considered *shoraitz al ha'aretz* now. The Talmud even entertains the possibility that jumping through the air from one vessel to another forbids them. However, some say that as long as it stays in the flour and goes from utensil to utensil this way, it not *shoraitz al ha'aretz*. Some also maintain that even if they leave the flour but not the utensil, they remain permitted. From

various cases discussed, it is clear that the poskim are split on whether to presume that the kneading process causes it to be *shoraitz al ha'aretz*.

The timing of the discovery is also important. If the infestation is found much later, there is always the possibility that it occurred after the flour for this dough was removed. If it is found too soon to say this, the poskim debate whether one may use the various doubts to permit the batch already baked. Some use a combination of factors to permit it. In some cases, some allow the *Rav* to turn a blind eye to one who wishes to permit it, but if asked, to forbid or advise forbidding it. Others forbid it outright. However, after discovery, the flour has already been established to be forbidden due to the presence of the *beryah*. If one intentionally tries to neutralize something in a mixture, the result remains forbidden. Besides, in this case, the method is not necessarily going to work. There will still be a doubt after kneading and baking, according to most. [See Tur, Sh Ar YD 84: Taz 17, commentaries. Darkei Teshuva 131 135. Noda Biyehuda II:YD:37]

E) *Safek and Sfek-Sfaika*

In cases of *safek*, doubt, certain leniencies may be applied, depending on the severity of the prohibition. A double doubt makes it even easier to find room for leniency. There are guidelines for ruling on a case of *safek*. In some cases, majority chances or presumptions determine the case as though evidence is introduced to resolve it. In other cases, the *safek* is preserved, but a ruling is issued, tending to either stringency or leniency. By preserving the *safek*, one can introduce more factors, that could reduce the *safek*. For example, if one ruled strictly, but still considered it a doubt, then found other evidence casting more doubt from another perspective, he could combine the doubts to rule leniently. This is called a *sfek sfaika*. Some explain the basis of this in terms of majority chances. A standard *safek* is generally considered a fifty-fifty chance. This is true whether it is a truly statistical fifty percent chance or it is a probabilistic fifty percent chance. If one doubles the *safek*, the chance of there being a problem is considered the same, due to the chance of each *safek* turning out to be forbidden. The chances of permissibility double. Thus, it is now considered a two to one chance of permissibility.

Safek means that there is no practical or theoretical way to resolve the issue. Practical ways rely on evidence and theoretical ways rely on set rules and guidelines, that depend on circumstances. If it remains a true *safek*, the ruling depends on whether the issue is Scriptural or Rabbinical. In a Scriptural situation, one must usually tend to stringency. In a Rabbinical situation, one may usually tend to leniency.

In our case, a bug is a Scriptural prohibition. The suspicion of a bug's presence is, therefore, a Scriptural doubt. To create a fifty-fifty doubt, one must be able to establish a certain statistical expectation in the flour. This is the first point of debate. Certain foods are assumed to be infested enough times to presume a fifty-fifty chance. Flour does not seem to fit this category, especially in the US. Let us assume that this suspicion can be established. The next issue is whether the bug is *bateil*. If it is recognizable, it can not be *bateil*. Part of our issue is whether after kneading and baking the bug is still intact and recognizable if one knows where to look. If it is not recognizable, it could be *bateil*. If the mixture is treated as one of two separate kinds of food, there must be sixty parts neutral to the one forbidden. A *safek* about how much neutral material exists is a Scriptural doubt. Assuming there are sixty parts it is totally permissible, even Rabbinically. Howev-

er, there is a Rabbinical issue of *beryah*. If we maintain the *safek* status, and then superimpose it on the issue of *beryah*, we have a *safek derabanan*, Rabbinical doubt, that is ruled leniently. If the creature has disintegrated, the issue of *beryah* does not arise. If there is a doubt about its disintegration, this is also a *safek derabanan*.

A further doubt that bears on our case, and many of those discussed by the poskim, is about when the infestation took place. Granted there is infestation in parallel bags at present, but we do not know that it existed at the time it could forbid this bread. In addition, the issue of whether the bugs could be considered *shoraitz al ha'aretz* arises. That is itself a double doubt. First, they might never have left the flour. Second leaving the flour but remaining in the utensil is subject to debate. This is also considered a *safek* if the two possibilities are somewhat equal.

Combining these doubts reduces the question to a *sfek sfaika*. The only real issue is whether each *safek* is left unresolved long enough for it to combine with the others. For example, a *safek* based on a debate might be considered resolved by the ruling of the majority. A *safek* based on timing might be resolved based on circumstances. However, some *sfaikos* are preserved when needed. In the interim a ruling will be issued, but when new evidence appears, the *safek* will be revived to combine into a *sfek sfaika*.

One such *safek* is whether the insects in flour disintegrate in the kneading and baking process. This point is debated hotly. There is a full range of opinions, from ruling out a doubt, to assuming that it helps. A middle view maintains that it helps in combination. There is also a view that each part of this process, (the kneading part and the baking part,) creates its own *safek*, and that the baked product is thus a *sfek sfaika* case. However, this opinion opens up a new issue. For a double doubt to work, each doubt must be on a separate aspect of the permissibility. Thus, were we to use the leniencies of both, we would have two reasons for leniency. Kneading and baking both pertain to the disintegration of the bug. Nonetheless, our case involves various other *sfaikos*, as we have discussed. In summary, there is a good chance that in our situation many poskim would apply the leniencies associated with *sfek sfaika*. [See refs to sections E and G.]

F) *Transferring the suspicion of infestation*

In our case, the grounds for suspecting infestation in the *chalos* are the existence of infestation in similar bags stored in the same area. This touches on the issue of *machzikin mimakom lemakom*, presuming a problem could apply to locations other than the one where it is detected. First, it must be established that each bag is a distinct entity. If they would be considered a 'mixture' of bags, one would have to use the rules of mixtures. If the majority were not infested, we would assume the bag in question was fine, and vice-versa. It is clear that even in one home, each bag is distinct. In the absence of proper evidence, can we assume that what was found in one bag could have existed in another bag?

The Talmud debates this issue with regard to other applications. Specifically, if an *tamei*, impure, item is found in one place, may it be assumed that it could have come there from somewhere else? If so, it could have defiled things in the other place. Obviously, there must be reasonable grounds to say that it was moved, say from one corner of a room to another. We follow the stringent view in that debate. The poskim debate whether the same debate applies to forbidden items found in a mixture. A minority permit it only in Rabbinical cases. In Rabbinical *tumah* cases, all Talmudic opinions rule le-

niently. Therefore, we may rule leniently in cases of *issur*, regular prohibited foods. The majority maintain that in such cases there is no disagreement even in Scriptural *issur* cases. Some poskim raise this issue in cases similar to ours. Actually, when the items are in different utensils, even the stringent view with regard to *tumah* would rule leniently. Thus, if we may consider our bags different utensils, we might have more reason to rule leniently. [See Nidah 4a, Poskim. Tur Sh Ar OC 467:11, YD 105:1 (Taz 3, PMG) 84: Darkei Teshuva 72 133 136 139, commentaries.] [Note: This case could be different. The *tum'ah* involves a dead or immobile item. The issue is whether the same item was moved around. Bugs move around by themselves. We are also discussing different bugs. Yet, the poskim relate the cases.]

G) *Oneg Shabbos*

When a matter of *halacha* is debated by the Talmud, each side has validity. A conclusive decision is made, but the dissenting view is not totally discounted. *Halachic* decisions are based on a majority or consensus. This might be the stringent view. The Talmud permits relying on minority lenient opinions in certain special situations. The usual two such instances are *hefsek merubeh* and *sha'as hadechak*. A common example of *sha'as hadechak* is preparations for *Shabbos* that have raised a *halachic* concern. Some poskim rely on these only after the fact. They do not permit doing something initially based on these dispensations. However, when *Shabbos* is involved in situations such as ours, some poskim maintain that it is considered a *bide'eved* situation. Accordingly, minority views and leniencies could be invoked in our case. It should, however, be noted that the extent of what is considered *tzorech shabbos* is a matter that requires Rabbinical guidance. In applying it to cases like ours, the poskim debate whether to rely on it. [See *Shabbos* 154b, Nidah 6b 9b, Poskim. E.g. MA 161:4. Pischei Teshuva YD 31:2, Darkei Teshuva 11, Be'er Heitev 35:4. Daas Torah YD Psicha Traifos 37 etc.]

In conclusion, our case may be decided based on all of the above factors. First, there is a view that after kneading and baking, one may assume that bugs were disintegrated and *bateil*. Second, the existence of the bugs in the bag that was used for these *chalos* was never established conclusively. The basis for suspecting their presence may be mitigated by the many *sfaikos* also present. In addition, we may invoke the possibility that one need not transfer the suspicion from one bag to another. Finally, the provision of *tzorech shabbos* could be used to follow a more lenient view. Therefore, these *chalos* may be used for this *Shabbos*.

On the Parsha ... For the cloud of Hashem is over the Mishkan by day and the fire is there by night, in the eyes of all the house of Yisroel in all their travels. [40:38] Wherever they traveled the cloud came to rest where they camped. Encampments are also called travels. [Rashi] Since the cloud came to rest on the erected *Mishkan* when they camped, why use the term for travels? Perhaps the idea is that the holiness of Hashem's presence is not limited to one location. Unlike *tumah*, that is considered stationary and does not move from place to place, Divine Presence is everywhere; Hashem is *Hamakom*, the Omnipresent. This omnipresent holiness is concentrated in the *Mishkan*, but not confined. It 'travels with us' everywhere we go. חזק חזק ונתחזק



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