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Kitniyot in Halachic Literature, Past and Present

Rabbi Alfred S. Cohen

There is no Jew who is unaware of the issur of eating chametz on Pesach. For millenia, the strictures and minutiae of the Passover laws have been assiduously studied by Jews throughout this world, and it is fascinating to witness the many accretions in law and customs which have developed in tandem with hilchot Pesach. A major concern in many Jewish homes at Pesach time is kitniyot, a topic within the halachot of Pesach which has had an unusual history and aroused a surprisingly wide range of opinions. In this paper, we will seek to find the basis for the dinim of kitniyot and the framework within which the rules of kitniyot apply.

What are kitniyot? What do they have to do with chametz? Why should they be forbidden on Pesach? We will see that these elementary questions lead to a variety of complex answers.

What are kitniyot? Nowhere do the halachic decisors list the specific items in this group. Kitniyot is generally understood to mean rice, peas, beans, and the entire family of legumes, although as we shall note later, there was some question about this. The truly pertinent question to be answered is why should rice or beans be forbidden at all on Pesach.

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The process of forming a chamber starts with the formation of the cell wall, which provides structural support and protection. This process is crucial for the cell's ability to maintain its shape and function. The cell wall is composed of various components, including cellulose, pectin, and hemicellulose, which are synthesized by the cell and then deposited in the wall.

After the cell wall is formed, the next step is the deposition of the secondary wall, which is thicker and more rigid than the primary wall. The secondary wall is deposited by enzymes that digest the primary wall and then deposit the new material on the surface. This process is regulated by the cell's genetic program, which determines the location and extent of the secondary wall deposition.

Once the secondary wall is formed, the cell is able to divide and undergo growth. The cell wall is essential for the cell's ability to expand and maintain its shape, and any disruption to the wall can have severe consequences for the cell's function. Therefore, it is crucial to understand the process of chamber formation and how it can be affected by various factors.
and concerning *kitniyot* such as ... lentils and the like, our Rabbis customarily consider them forbidden to eat at all on Pesach.

Although Rambam and *Smak* and many others employ the term *kitniyot*, it is not absolutely certain what they had in mind by this term. The *Shaarei Teshuvah* considers the question of whether a coffee bean is included in the beans which are proscribed, and Rabbi David HaLevi (Taz) also found that he could not define the exact parameters of the term.

In *Iggerot Moshe*, Rabbi Moshe Feinstein writes that there are many places where people consider peanuts as *kitniyot*, and these people should continue their custom. However, if a person lives in a place which has no established *minhag* (custom) it is not necessary for him to refrain from eating peanuts.

The very existence of an enactment (gezera) restricting the use of *kitniyot* strikes one as anomalous. If the Gemara considered and then rejected the possibility that rice and related foodstuffs could become *chametz*, if the Rabbis of the Talmud used to eat rice on Pesach, how are later Rabbis permitted to rule that rice may not be eaten?

Indeed, the custom of *kitniyot* was apparently not readily accepted by many decisors, and it evoked the opposition of many. In a responsa attributed to the Rosh (although there are many who doubt that the Rosh is the authentic author of this book), he writes:

This seems to us very strange, since the Gemara specifically considers it permissible. And I do not know of any Beth Din in any place that made a regulation regarding it.

The author of *Smak*, tells about Rabbi Yehiel of Paris who used to eat white beans on Pesach. Rabbi Yehiel was the leading Tosafist of his day, and his practice therefore was an expression of his disdain for an enactment which he could not countenance. The *Bet Yosef* similarly concludes that “it is an excessive restriction and people do not follow it.”

A number of theories have been advanced in response to this puzzling phenomenon: The *Smak* offers the reasoning that:

*Since grain is cooked in a pot and *kitniyot* are cooked in a pot (similar to grain) ... and also people make bread out of it, (therefore the Rabbis restricted its use) lest they accidently mix them up.*

On the other hand, *Hagahot Maimonim* and *Tur* consider that the prohibition arose from the common custom of adding some grain flour to the rice flour to give it better consistency. Obviously, such a blend of flours, even if predominantly rice flour, would be considered *chametz*, and therefore the custom arose not to use rice and other *kitniyot* at all.

Other reasons for the custom are also offered, but they need not concern us here.

Despite the fact that leading Rabbis made light of any *issur* of *kitniyot*, others considered it a serious prohibition and applied it strictly. The *Maharil* writes that “one who violates this restriction is liable to the death penalty and has transgressed the prohibition.”

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11. תומא מוסר את לברך. סראי זכר עצרת ויצא לברך. מ"א. ר"ב
12. ע"ש see also Giger. ש"י. ב. ע"ש א"א. קמ"ג. ר"ב
13. ע"ש
14. ע"ש
15. Those Sephardic Jews who do eat rice during Pesach take special precautions to assure that no admixture of any foreign substance is in the rice. They inspect each kernel and also rinse the rice three times. (Hida notes that even so, many Sephardim do not eat rice and even those that do, often do not rely on the women to check the kernels but do so themselves. This is reported by R. Ovadia Yosef in his Haggada — מִנְדָּרָן מִזְכָּר וְיֵשׁ שְׁלֹשׁ מִדּוֹן.)
16. הלכות מצות ס"כ ב. ה"ו.
of 'do not deviate from the matters which they (the Rabbis) teach you.' Writing in the Shulchan Aruch, Rabbi Yosef Karo rules that "... rice or other types of kitniyot do not become chametz, and it is permissible to cook them," but the gloss of R. Moshe Isserles immediately takes exception: "But there are those who forbid it, and the custom in Ashkenaz is to be strict, and one ought not to change." Later, the Vilna Gaon concurs with this, as do Shulchan Aruch HaRav and Aruch Hashulchan.

Based on their respective halachic decisors, then, the Ashkenazi and Sephardic communities have developed different traditions connected with the observance of Pesach. We will discuss later what happens when these two cultured norms collide.

Exceptions

Given that avoiding kitniyot was accepted as the Ashkenazi tradition, however dubious its origin, what is the scope of this issue? Does it imply that, as far as we are concerned, kitniyot should be regarded in the same way as chametz; if not, to what extent is it different?

The Mishnah Brurah writes that a sick person who needs kitniyot may eat them. This is so, he rules, even if it is not a sickness which endangers life.

This psak of the Mishnah Brurah has direct application to the question of medicine, especially the way in which medicine is formulated today. Most medications come in the form of pill, tablet, or capsule, wherein the active drug is mixed with a starch as a binder. Often the starch employed is corn starch, which is kitniyot. Does the above-stated rule of the Mishnah Brurah imply that such a pill can be taken by a sick person on Pesach? We cannot jump to conclusions, because one could well argue that the sick person needs the drug, the active ingredient, and not the kitniyot starch, which is simply an inert binder which makes it easier to ingest the medicine, but does not affect a healing process. Therefore, if the kitniyot starch is the major ingredient, a Rabbi would have to study the question of whether that medicine could be taken. A further factor to be considered is the amount of kitniyot contained therein. If there is more medicine than starch, then the starch is considered halachically void and there would be no question that the tablet could be taken. As we shall see, this consideration affects many other aspects of the halacha.

A general principle of Jewish law is that if a forbidden ingredient (ביש) falls into a kosher food (בשר) but constitutes less than half of the total mixture, one is permitted to use it (בטל בטל). However, for Pesach the ruling is in the reverse—"Even one part out of a thousand does not become bateh." But this strict principle is operative only with respect to chametz on Pesach and definitely not to kitniyot. Ramo rules that if 'rice or other kitniyot fell into the food it is permitted to eat it.'

With this in mind, we should take another look at the furor which in the past few years has arisen concerning chocolate and candy manufactured in Israel under the supervision of the Rabbinate. Many candies contain corn syrup as the sweetener. Should this be considered a problem for Ashkenazi Jews? Based on the principle that if kitniyot are less than half of the total food may be eaten, many people see no reason why such candy should be avoided. However, it is necessary to ascertain what percentage of each individual type of candy is kitniyot—if more than half, Ashkenazi Jews would not eat it.

The difference between candy and medicine is obvious. If kitniyot is a major ingredient in medicine, a Rabbi might still rule that the patient should take it during Pesach. It would depend on the severity of the condition for which the medicine is prescribed. However, no such leniency exists with respect to candy.
Just as the *issur* of *kitniyot* is not equal in force to the *issur* of *chametz*, it differs also as to the time of its application. *Chametz* which was in the possession of a Jew during Pesach is forever forbidden, but Ramo writes that "it is permitted to keep all kinds of *kitniyot* of a Jew after Pesach."24

With respect to the time when the *issur* of *kitniyot* begins, there is a little discussion. The first Lubavitcher Rebbe, writing in his *Shulchan Aruch HaRav*, theorizes that even if we accept the *issur* of *kitniyot* as a proper prohibition, certainly it cannot be stricter than the actual laws of *chametz* and matzoh. Therefore, if one were to be careful to treat the *kitniyot* just as one would treat regular flour and, observing all the rigors of the law, produce a matzoh using *kitniyot* flour (rather than grain flour), why should it be forbidden on Pesach? He holds that it is permitted, and the *Pri Megadim* further allows one to eat it on the day before Pesach (*erev Pesach*, when one is not permitted to eat either *chametz* or any matzoh which can be used at the Seder. Since a rice matzoh cannot be used for the Seder, not being one of the five grains, then it should be permissible to eat it on that day). However, *Shoel Umashiah* disagrees with this theory.26 Some students of halacha would like to claim that the *Pri Megadim* also approved *kitniyot* (as such, and not made as a matzoh is made) for *erev Pesach*, for he saw the *issur* of *kitniyot* as applying only to the holiday of Pesach and not to the day preceding it. However, a careful reading of the *Pri Megadim* will not support such an interpretation.

In *Siddur Pesach Kehilchata*28 Rabbi Grossman, after citing the *Annei Nezer* and *Kaf HaChaim*, writes that he heard from Rav Weisz that our custom is not to eat any *kitniyot* whatsoever, even on *erev Pesach*.

Other exceptions further hedge the scope of the *kitniyot* restriction.

In time of great need, when a person does not have

what to eat without great penury, it is permitted to
cook *kitniyot*.29

Halachic history indicates that this lenient clause was accepted and acted upon over the years. The *Nishmat Adam*30 writes that at the time of a dreadful famine in 1771 in Fioda, a Beth Din was convened and ruled that the prohibition of *kitniyot* would be waived for that year. Also, in 1810, the province of Westphalia experienced famine, and the Rabbis similarly allowed the residents to eat *kitniyot*. The *Mishnat Kenaot* writes30 ... and for three years now, our Rabbi, the great Rabbi Leib, has permitted *kitniyot* during Pesach, a time of very high prices, it being a time of destruction and famine.

The *Mishnah Brurah*31 concurs with this practice, and indicates that in time of great need, it is permitted to use *kitniyot* for Pesach, although he does advise singing them in a lot of water (so that the *kitniyot* will never be able to ferment) in accordance with the views of the *Hatham Sofer*. And there were years when the Rabbis of Eretz Yisrael allowed the people to eat *kitniyot*, due to the difficult economic situation.31a

**Derivatives**

Is it only the item of *kitniyot* itself which is forbidden, or does the *issur* apply also to its extract or derivative?

I have been told by people who were living there, about the great brouhaha which ensued upon the announcement by the then Chief Rabbi of Israel, Rav Kook z’l, that corn oil could be used for Pesach. Corn is *kitniyot*, and this ruling permitted extract of *kitniyot* to be used. They remember vividly the signs posted on all the walls by his opposition, warning the people that under no circumstances should they rely on this *heter*.

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24. *אַרְוָא תֹּבֵן אֱלֹהֵינוֹ הַיָּוָה.*
25. מְדוֹרָא כַּמָּא חַלָּא אִשָּׁה קִישׁוֹת.
26. *אָדָא נָא תְּבוּרָא*
28. See sub-heading קִטְנִיתוֹת there.
29. *כְּכָר.
30. *שוֹורֵי מִרְחֵי חָיָה נָטָם מְתוֹרָא
da. *עַזְזְאַת.*
31a. *הַמּוֹעֵדִים בַּהֲלָכָה רֶבֶךְ.*
The question applies not only to the oil, but to any derivative of a kitniyot product. Concerning Israeli candy, which was previously discussed, we should note that in the event corn extracts do not fall within the definition of the kitniyot issur, there would be no question regarding their permissibility on Pesach, regardless of the percentage of corn syrup in the mixture.

The Rav Kook controversy was just another chapter in the longstanding debate regarding the status of kitniyot derivatives. As early as a decisor as the Trumpet Hadeshen, Melamed Le-ho'il also discusses it.

In his gloss to Shulchan Aruch, Ramo holds that although we do not use kitniyot on Pesach, yet “it is permissible to use the oil of kitniyot to kindle a light.” This statement leaves the clear implication that kitniyot derivatives may be used for some beneficial or practical purpose, but cannot be consumed. Not all decisors have accepted that implication. In Sridei Esh we find a listing of the major authorities on either side of the question of permissibility of peanut oil for Passover. Those forbidding its use for Ashkenazim are the Aznei Nezer and Minchat Eleazar, while included in the camp of those permitting it are the Kovner Rov (if it is made before Pesach), the MaHarsham, Melamed Le-ho’il, and Rabbi Samson Raphael Hirsch. Rav Moshe Feinstein rules that those who do observe the prohibition of kitniyot with respect to peanuts should also refrain from using peanut oil. However, if it is the person’s custom to eat peanuts, he may also use peanut oil.

There has even been some discussion concerning cottonseed oil, which some persons were concerned might be considered part of the kitniyot ban. But Rav Chaim Soloveitchik is cited as having allowed it; it is also reported that after Jerusalem in 1927 the Rabbis, under the leadership of R. Zvi Pesach Frank, did permit cottonseed oil for Pesach.

Kitniyot further differs from chametz in that one may derive benefit from it on Pesach, as noted above. Chametz may not be owned or used by a Jew in any shape or form on Pesach, but that is not true of kitniyot. A person may feed it to his animals, for example, and as mentioned, may use its oil to illuminate his house. Virtually all halachic decisors concur that kitniyot are forbidden only for consumption, but other uses are permitted, although the Maharil notes that some exceptionally pious persons would not use kitniyot oil even for lighting on Pesach. However, the normative ruling is that kitniyot are only restricted as human food on Pesach and may even be in the possession of a Jew throughout the holiday without qualm.

Children

It is interesting to find among the responsa of the Chief Sephardic Rabbi of Israel, Rabbi Ovadia Yosef, a psak addressed specifically to Ashkenazi Jews. At the end of a long treatise on kitniyot and why Sephardim do eat them, Rabbi Yosef appends a message “to our brothers, the Ashkenazim.” Rabbi Yosef probes the issue of giving kitniyot to a youngster — is it also forbidden for a child to eat kitniyot as it is for an adult? He refers to the controversy between the Rambam and Rashba whether one is permitted to feed a child a food which is rabbinically but not biblically forbidden. He proves that the Shulchan Aruch rules, in agreement with Rambam, that it is forbidden. Nevertheless,
kitniyot are not within the category of food even rabbinically forbidden, he maintains. It is only a chumra, a stringency which the community adopted, and therefore Rabbi Yosef advocates allowing children to eat items with kitniyot in them. Although many people might not wish to avail themselves of this opinion in ordinary circumstances, yet in the case of medicine for a child, it can be considered as a further factor for allowing a child to take even that medicine which is primarily made from kitniyot. He also advises that it is not necessary to be overly strict with children regarding candy which may contain some kitniyot.

Marriage

A situation which did not arise with great frequency in the past is now raising a question in many a household. Since the Sephardic and Ashkenazi communities, so long separated by distance, economics, and politics, now live in close proximity to one another, it was inevitable that more “interrmarriage” should occur. Which customs do the newly-married young people follow? R. Moshe Feinstein rules⁴² that a woman upon marriage should assume all of the customs which her husband accepts, both those which are more strict and more lenient than those she previously observed. Although Siddur-Pesach Ketilchatot⁴³ basically agrees with the psak of R. Moshe, yet without further elaboration, he adds⁴³

Furthermore, he adds

A Sephardic woman who is married to an Ashkenazi follows the customs of her husband and is forbidden to eat kitniyot. But if her husband does not care about it, then she need not accept this stricture...

Also an Ashenazic woman married to a Sephardi is allowed to follow her husband’s custom and be lenient about kitniyot if that is the wish of her husband.

Without explaining how he comes to this conclusion, Rabbi Grossman apparently feels that the operative factor in the “clash” of conflicting cultures is the reaction of the husband. It would be interesting to understand why — but he does not elaborate.

A somewhat different picture emerges from the writing of Rabbi Ovadia Yosef.⁴⁴ He rules that even a wife who abstains from kitniyot is permitted to prepare foods containing kitniyot for her husband and other members of the family. To some extent, Rabbi Yosef seems to leave the option of whether to eat kitniyot or not in the hands of the woman involved, not her husband.

As for Ashkenazic relatives or friends who happen to be eating at the house of a Sephardi on Pesach, Rav Yosef rules that if the food is not kitniyot, there is no need to inquire if the pots in which the food was prepared were used for kitniyot within the past 24 hours.⁴⁵

The topic of kitniyot is an absorbing study of the complexity of Jewish law. An investigation of the origins, implications, and scope of the halacha lead one to many intriguing insights into the development of normative Jewish practice.

 Particularly in our time, when the Jewish people seem to be coming together “from the four corners of the earth,” an appreciation for the rationale underlying divergent customs will have a salutary effect in bringing us together and will hopefully foster greater respect for our own traditions as well as for those of our brethren from other lands.

⁴⁴. Also, Rav Yosef presents an exhaustive overview of the halachot involved in the customs of an Ashkenazi woman married to a Sephardic man. Among others, he cites the reshavit (in his Ḥayyah) who went so far as to consider her possible need to continue Sephardic customs even after the death of her spouse.