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A Passover ban vs. a ‘leprous house’

Shammai Engelmayer

Passover is two-and-a-half weeks away. Homes were being thoroughly cleaned (kitchens especially) even before the COVID-19 coronavirus pandemic, and pantries are being stocked with kosher-for-Passover foods. It is time, therefore, to examine how the law of the “leprous” house, Leviticus 14:34ff, relates to the high cost of Passover.

First, however, this Passover is different from all other Passovers because of COVID-19. It will still be here long after Passover has come and gone. It is our task to make sure we and our friends, neighbors, and loved ones are still here after it is gone.

To that end, the Centers for Disease Control and Prevention is urging everyone—especially older adults and people with heart or lung disease or diabetes—to stay indoors as much as possible. When it is not possible, such as shopping for Passover, try to keep a safe distance (approximately six feet at least) from other people. (Some area supermarkets, kosher food purveyors and other stores have been asked to limit the number of people allowed in the store at any one time.) Heeding this advice, synagogues and other Jewish institutions in our area are temporarily closed, public events have been cancelled, and several municipalities have ordered some eateries to shut down and either asking people to self-quarantine themselves, or imposing curfews.

The Passover Seder thus becomes a matter of serious concern. My suggestion—and I really wish I did not think it prudent to make it—is for people, the elderly and chronically ill especially, to make their own sedarim this year. Unless you have a wide-open space and can seat people at a table at a proper distance from each other, cancel the invitations. There are many excellent haggadot out there to help people plan and run a seder, and several websites are also helpful. Among them are https://www.myjewishlearning.com/article/how-to-conduct-a-seder/, and https://reformjudaism.org/jewish-holidays/passover/hosting-passover-seder-use-checklist-prepare.

For those for whom the use of electricity is not an issue on a festival and have a laptop handy, consider reinviting your guests to your “virtual seder table,” via a Facetime or Skype conference call, or a Zoom Video Conference if you have access to that program. Just make sure everyone on the call has access to the same haggadah, and let them know what foods and materials they need on their actual tables (matzah, maror, charoset, wine, etc.).

It is my hope that some synagogues will consider running “virtual seders,” as well.

There will be other Passovers and other sedarim and, God-willing, let us all be there to enjoy them. For this year, though, keep Leviticus 18:5 in mind. “You shall keep My laws and My rules, by the pursuit of which man shall live: I am the Lord.” Said our sages, “a man shall live by them, not die by them.” (See the Babylonian Talmud tractate Avodah Zarah 27b; also BT Yoma 84b.)

Protecting life—ours and our friends’ and relatives’ and neighbors’ lives—takes precedence.

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Okay, so let us discuss the law of the “leprous house” and how it relates to Passover shopping.

When a mold-like eruption appears on the walls of a person’s home, it must be immediately reported to the local kohen. He then must go to the house and, if he believes it to be “leprous,” he orders the house to be closed for seven days. From the moment the order is given, everything and everyone in the house is presumed to be ritually unclean. Anything that cannot be made ritually clean must be destroyed—but only from the moment the order is given. However, says the Torah:

“The kohen shall order the house cleared before the kohen enters to examine the affliction, so that nothing in the house may become unclean; after that the kohen shall enter to examine the house.”

The reason, concluded our Sages of Blessed Memory, is that “the Torah has concern for the money of Israel,” as the Talmud puts it. In other words, the kohen creates a legal fiction of sorts by ordering the house emptied before he arrives in order to minimize the financial loss the homeowner would suffer if the house is declared off limits (or worse).

In the Talmud, this consideration plays out in a number of ways. For example, on Yom Kippur, the kohen gadol (the High Priest) must designate two male goats, one for banishment and one as a sin offering. (See Leviticus 16:8.) He does so by choosing lots from a container made of wood. This startled the Babylonian sage Ravina. “We do not make sacred vessels out of wood,” he said, and because this was a sacred ritual, the container itself should be a consecrated object, such as one made out of silver or gold. Wood, however, can never be consecrated. (See BT Yoma 39a.)

No, said another sage (presumably named Rava), a consecrated vessel was not required for the ritual because “the Torah has concern for the money of Israel.” (Only if the item in question is essential to the ritual does that concern become irrelevant; see BT Rosh Hashanah 27a.)

In another instance, involving a questionable blemish on a slaughtered animal, the sage Rabbi Yochanan ben Nuri ruled that the animal’s meat was forbidden. A frustrated Rabbi Akiva shot back at Yochanan ben Nuri, whose strict rulings were the subject of several of their debates. Said Akiva, “How long will you waste the money of Israel?” (See BT Chullin 56a.)

Rabbi Akiva’s question can be asked today, as well, which gives the “leprous house” its Passover connection: How long will the “money of Israel” be wasted by maintaining the Ashkenazic ban on kitniyot? Originally, the ban—which is not found in the Torah and not followed by Sephardim or the Mizrach—was basically restricted to rice and pure legumes (mainly peas and beans, although possibly not fava beans). Over time most, if not all, kinds of beans, edible seeds, and peanuts were added to the list. Eventually, so were food products that were derived from kitniyot,and also so-called “questionable kitniyot,” such as certain oils and syrups. These accretions to Passover rules were done despite a specific halachic statement that “ein gozrin gezeirah l’gezeirah,” we do not enact new decrees on top of old ones.

The kitniyot ban, as readers will recall from some of my previous Passover columns, was declared a “foolish custom” (a “minhag sh’tut”) almost from the moment it first appeared in the 13th century, although it supposedly was already an established custom by then. Sephardic authorities actually laughed at the practice from the beginning. A handful of Ashkenazic rabbis felt the same way (most notably the Chacham Tzvi, Rabbi Tzvi Hirsch Ashkenazi of Moravia).

According to a 1989 responsum by Rabbi David Golinkin, prepared for the Va’ad Ha’halachah of the Rabbinical Assembly of Israel, the kitniyot ban is “in direct contradiction to an explicit decision” of all but one of the talmudic sages, and contradicts “the theory and the practice of the [the post-Mishnah talmudic sages] both in Babylonia and in Israel, the Geonim [the rabbinic authorities in Babylonia in the post-talmudic era]...and of [more than 50] of the early medieval authorities in all countries!” (In November 2015, the Committee on Jewish Law and Standards of the Rabbinical Assembly of the United States also lifted the ban for Conservative Jews here. The responsum was written by Rabbis Amy Levin and Avraham Reisner, both of whom have ties to Northern New Jersey.)

The aforementioned Yochanan ben Nuri was the one exception. In BT Pesachim, the tractate dealing with all things Passover, he stands alone in declaring rice a “forbidden grain” during Passover, and also in ruling that bread made from rice flour is subject to the mitzvah of “taking challah” during the rest of the year (see BT Pesachim 35a). His opinion is dismissed in both instances because, said the sages, neither rice does nor rice flour actually leaven.

Much later in the tractate (114a), a mishnah informs us that “two cooked dishes” are placed before the leader of the seder, but does not specify what are those dishes. The gemara (at 114b) seeks to fill in the gap. The sage Rav Huna suggested beets and rice. From then on, the sage Rava made it a custom to have beets and rice at his seder. The gemara then adds, as an aside, “this shows that no one pays attention to [the ruling of] Rabbi Yochanan ben Nuri.”

In Israel, the kitniyot ban is observed “in the breach” by many Ashkenazim these days. Said one Ashkenazi Israeli rabbi, David Bar-Hayim , who heads Jerusalem’s Shiloh Institute, “Why should we uphold a meaningless restriction when the Torah permits us to eat kitniyot?” In 2007, he and four other Ashkenazi rabbis issued their own ruling lifting the ban, for which they were pilloried by many other Orthodox rabbis, but it has been growing in acceptance among the Ashkenazi Orthodox laity. In fact, as Rabbi Donniel Hartman, co-director of the Jerusalem-based Shalom Hartman Institute, told an interviewer over a decade ago, “In another generation, people in Israel won't even know what you are talking about.”

Lifting the kitniyot ban would open up the Passover food choices exponentially, while also bringing down the high cost of Passover food shopping. Why buy expensive faux breakfast cereal, for example, when you can buy Kellogg’s *gluten-free* Rice Krispies, or General Mills’ Rice Chex or Corn Chex, or for that matter Post’s Cocoa Pebbles? Why pay extra for special yellow-capped Coca-Cola made with cane sugar when you can have your Coke and drink it, too, with its traditional corn syrup sweetener?

Chag sameach v’kasher—and stay safe.