An acute mourner immerses and eats – אֲגָפוּת קָוּי? מִלְבָּא אֶפְסָּא

Although women are exempt from time-bound, positive mitzvot, a category which includes the consumption of matza, there are some exceptions to this rule, including, among others, the mitzvot to eat matza on the first night of Passover and to recite Kiddush on Shabbat.

An acute mourner with regard to the Paschal sacrifice and other sacrificial food – An acute mourner immerses and eats his Paschal sacrifice in the evening. However, he may not eat other sacrificial food (Rambam Sefer Korbanot, Hilkhot Korban Pesah 6:9 and Sefer Avoda, Hilkhot Beit HaMikdash 2:10).

Gathering bones – קַבָּנִית קָבָּרִית. There was a different burial custom in the period of the Second Temple and for hundreds of years thereafter. The custom was to temporarily bury the deceased in the ground and to wait a few years until all the flesh decayed. The bones would then be collected together and placed in a stone ossuary, which was then placed in a niche in the family burial cave.

The Gemara clarifies the precise intention of the last clause of the first tanna: To which part of the baraita does the halakha that eating after the first night is optional refer? If you say it is referring to the Paschal lamb, is there a Paschal lamb all seven days? Certainly not, and consequently it does not make sense to speak of whether eating it is mandatory or optional after the first night. Rather, if you say that it is referring to matza and bitter herbs, how will you say and explain accordingly the last part of the baraita, i.e., Rabbi Shimon says: For men it is mandatory and for women it is optional. If the second clause is referring only to matza and bitter herbs, then Rabbi Shimon would appear to be saying that women are exempt from eating them.

This is difficult: Does Rabbi Shimon not accept that which Rabbi Elazar said, that women are obligated in the command of eating matza by Torah law, despite the fact that it is a time-bound, positive mitzva, as it is stated: “You shall eat no leavened bread with it; seven days shall you eat matzot with it” (Deuteronomy 16:3), which teaches that all who are subject to the prohibition to not eat leavened bread are also subject to the positive mitzva to arise and eat matza? And those women, since they are subject to the prohibition to not eat leavened bread, since women are required to observe all the prohibitions of the Torah, are they subject also to the positive mitzva to arise and eat matza? Clearly, Rabbi Shimon was not referring to matza.

Rather, say instead that the baraita should be read as follows: Eating the Paschal lamb, matza, and bitter herbs on the first day of Passover is mandatory. From here on, i.e., the remaining days of Passover, it is optional to eat matza and bitter herbs. Rabbi Shimon says: The Paschal lamb is mandatory for men and optional for women, in accordance with his opinion stated previously.

And one who gathers the bones of his parents, who are buried in a temporary location for their flesh to decay and who is moving them to a permanent burial place must also observe a day of acute mourning by rabbinic decree. These mourners immerse and eat all types of sacrificial food at night. Since in these cases, even during the day, the mourning is by rabbinic decree, the Sages did not extend it into the evening.

BACKGROUND

HALAKHA

MISHNA

HALAKHA

One who hears about the death of his dead and one who gathers the bones of his parents – קַבָּנוּת לֹא אוֹכַל אוֹכַל. One who hears that a relative has passed away after the day of death and one who gathers a relative’s bones may not consume sacrificial food on that day, due to rabbinic decree. However, they may immerse and then eat sacrificial food at night, and they may certainly eat the Paschal sacrifice (Rambam Sefer Avoda, Hilkhot Beit HaMikdash 2:10 and Sefer Korbanot, Hilkhot Korban Pesah 6:9).
With regard to a convert who converted on Passover eve, Beit Shammai say: He immerses and eats his Paschal lamb in the evening. And Beit Hillel say: One who separates from the foreskin by being circumcised is ritually impure, like one who separates from the grave after coming in contact with a corpse. Consequently, he must first observe the seven-day purification process necessary to remove ritually impurity imparted by a corpse. Only then, from the eighth day onward, may he partake of sacrificial meat.

**GEMARA** What is the reason that an acute mourner may eat the Paschal lamb in the evening? The tanna of the mishna holds that the observance of acute mourning at night after the day of one’s relative’s death is a rabbinic prohibition. And with regard to the Paschal lamb, the Sages waived their prohibition because they did not uphold their statement prohibiting consumption of sacrificial food in a situation in which doing so would violate a prohibition that carries the punishment of *karet*, as is the case with one who neglects to offer the Paschal lamb. On the other hand, with regard to other sacrificial food, they maintained the prohibition, because they upheld their statement in a situation in which neglecting to eat the sacrificial food entails only the neglect of a positive mitzva.

We learned in the mishna: One who hears about the death of his dead relative more than thirty days after the death and one who gathers bones immerses and eat sacrificial food in the evening. The Gemara expresses surprise: Can this apply to one who gathers bones? But by doing so he came in contact with the bones of a corpse, and he needs sprinkling on the third and seventh days in order to become ritually pure. The Gemara answers: Emend the teaching of the mishna and instead say: One for whom they gathered bones, meaning that other people gathered the bones of his parents to transfer them to a new grave but he himself did not touch them, has a rabbinical requirement to observe a day of acute mourning, but he is not ritually impure.

We learned in the mishna: With regard to a convert who converted on Passover eve, there is a dispute between Beit Shammai and Beit Hillel as to whether he may immerse and eat the Paschal sacrifice in the evening. The Gemara discusses the scope of this dispute: Rabba bar bar Hana said that Rabbi Yohanan said that the dispute is about an uncircumcised gentile that was circumcised and converted on Passover eve.

Beit Hillel hold that there is a rabbinic decree due to a concern that perhaps he will become contaminated by a corpse in the following year and he will say: Last year, even though I had come in contact with a corpse previous to Passover, did I not immerse and eat the Paschal lamb without completing the purification process for impurity imparted by a corpse? Now also, I will immerse and eat. And he does not know and understand that last year, before his conversion on Passover eve, he was a gentile and therefore he was not susceptible to ritual impurity, because gentiles do not contract ritual impurity according to Torah law, but now he is a Jew and is susceptible to ritual impurity. Therefore, the Sages decreed that he should complete the seven-day purification process for impurity imparted by a corpse before he can partake of sacrificial food in order to avoid such a mistake.

And Beit Shammai hold that we do not make a decree due to this concern. But with regard to an uncircumcised Jew who for some reason had not been circumcised until Passover eve, all agree that he may immerse and eat his Paschal lamb in the evening. The concern that he will err the following year does not apply, and we do not decree in the case of an uncircumcised Jew who was circumcised on Passover eve, due to concern that the case will be confused with that of an uncircumcised gentile who was circumcised and converted on Passover eve.
The early commentaries questioned why in some cases vents performing the circumcision, although failing to sprinkle, were instituted was not in order to prevent a violation of Torah law, the rabbinic prohibition is maintained in all circumstances. For example, in the case of the convert who was circumcised, the rabbinic decree is to prevent the possibility that he will eat the Paschal lamb in a state of ritual impurity the following year. In the case of sprinkling and the circumcision scalpel, the decrees are to prevent carrying the requisite items on Shabbat in a manner that violates Torah law. Therefore, these prohibitions were waived in the face of a prohibition that carries the punishment of karet. However, with regard to an acute mourner, a leper, and a beit haperas, an area in which doubt exists concerning the location of a grave or a corpse, they did not uphold their statement in which doing so would violate a prohibition that carries the punishment of karet.

The Gemara details all the cases Rava referred to: The case of an un-circumcised gentile who converted is as we have said previously. Beit Hillel disqualify a convert from offering the Paschal lamb, despite the fact that neglecting to do so renders one liable to receive karet.

The Gemara lists the cases where the Sages waived their prohibition in the face of a prohibition carrying the punishment of karet: The case of an acute mourner is that which we said in the mishna.

The case of the leper, what is it? It is as it was taught in a baraita: A leper is ritually impure and must undergo an involved, eight-day purification process, which culminates on the eighth day with the bringing of various offerings in the Temple. If his eighth day occurs on Passover eve, such that it would be possible to bring his offerings and be fit to partake of the Paschal lamb that evening, and he saw an occurrence of semen on that day, and one who experiences such a discharge is ritually impure and prohibited from entering the Temple, he may immerse in order to purify himself from the discharge and then bring his offerings and eat the Paschal lamb at night.

Sprinkling is prohibited due to rabbinic decree — הַזָּאָה מְבִיאִין. Most commentaries explain that the case of the scalpel is mentioned because re-fraining from performing the circumcision of one’s son or servant prevents one from being able to offer the Paschal lamb. Other authorities interpret the Gemara as referring to the fact that the rabbinic decree prevents performing the circumcision, although failing to perform the circumcision itself carries a punishment of karet (Rashash).

That was also taught in a baraita: Rabbi Shimon ben Elazar said: Beit Shammai and Beit Hillel did not disagree about the fact that an uncircumcised Jew who was circumcised on Passover eve may immerse and eat his Paschal lamb in the evening. With regard to what did they disagree? With regard to an un-circumcised gentile who converted on Passover eve. Beit Shammai say that he may immerse and eat his Paschal lamb in the evening, and Beit Hillel say that one who separates from the foreskin is ritually impure like one who separates from the grave.

Sprinkling (hazoa) — הָאֵזוּ. The term hazoa refers to the sprinkling of a mixture of the ash of the red heifer with special water to purify a person from impurity imparted by a corpse. The ritual involves taking a bundle of three hyspop branches and using it to sprinkle the purification waters on the ritually impure person on the third and seventh days after he became ritually impure. Even though these waters purify those who are ritually impure, one who is ritually pure who touches or carries them, and the priest who sprinkles them, become ritually impure for one day.

We may not bring it through…courtyards — וְאֶלָּה לְאֵזְרוּ. Most commentaries explain that the case of the scalpel is mentioned because re-fraining from performing the circumcision of one’s son or servant prevents one from being able to offer the Paschal lamb. Other authorities interpret the Gemara as referring to the fact that the rabbinic decree prevents performing the circumcision, although failing to perform the circumcision itself carries a punishment of karet (Rashash).

HALAKHA

Sprinkling is prohibited due to rabbinic decree — הַזָּאָה מְבִיאִין. If one has become ritually impure due to contact with a corpse and the seventh day of his purification process is on Shabbat, he may not be sprinkled with the waters of a purification offering on Shabbat. If Passover eve is on Shabbat, he is not able to offer the Paschal lamb until the second Pesah (Rambam Sefer Korbanot, Hilkhot Korban Pesah 6:5).

Bringing the scalpel for a circumcision — הַזָּאָה מְבִיאִין. If one forgot to bring the circumcision scalpel before Shabbat, he may not violate Shabbat to bring it on that day, even if only rabbinic decrees will be violated while transporting the scalpel (Shulhan Arukh, Orach Hayyim 331:6).

A leper whose eighth day occurs on Passover eve — מַעֲרַד שָׁמַע הַזֶּה מְבִיאִין. If the eighth day of a leper’s purification process occurs on Passover eve and he experiences a discharge of semen on that day, he may immerse and then enter the Women’s Courtyard and sacrifice his offerings. The Sages waived the rabbinic prohibition of one who has immersed on that day from entering the Temple, in order to allow the offering of the Paschal lamb (Rambam Sefer Korbanot, Hilkhot Korban Pesah 6:5).
The Sages said: Although normally, with regard to ritual impurity from seminal discharge, one who has immersed on that day may not enter the Temple until nightfall, this one may enter. The reason is that it is better for a positive mitzva that has a punishment of karat, i.e., the bringing of the Paschal lamb, to come and override a positive mitzva that does not have a punishment of karat, i.e., the mitzva of "They shall send out from the camp every leper and whoever has had issue, and whoever is unclean by the dead" (Numbers 5:2), which requires the removal from the Temple of one who has immersed that day and will become pure only upon nightfall.

And furthermore, Rabbi Johanan said: By Torah law, there is not even a positive mitzva that restricts one who has immersed that day and will become pure only upon nightfall from entering the Temple, as it is stated: "And Jehoshaphat stood in the congregation of Judea and Jerusalem, in the House of the Lord, before the new courtyard" (1 Kings 18:39). What is indicated by identifying the courtyards as the new courtyard? It indicates that they innovated something in it, and they said: One who has immersed on that day but will become pure only upon nightfall may not enter the Levite camp, which includes the entire Temple Mount. This suggests that the prohibition is of rabbinic origin and is not a positive mitzva.

The case of a beit haperas, in which the Sages did not uphold their decree, is as it was taught in a mishna: And Beit Shammai and Beit Hillel agree.

**Perek VIII**

**Daf 92 Amud b**

that we examine a beit haperas\(^1\) that lies in the path to Jerusalem for those offering the Paschal lamb to determine whether there is actually any ritual impurity present, in order to enable those who pass through it to know whether they are still ritually pure and able to offer the Paschal lamb. But we do not examine a beit haperas for the sake of those eating teruma\(^2\) in order that they should be able to eat teruma in purity. The Gemara asks:

What is meant when we say that we examine for those offering the Paschal lamb\(^3\)? Practically, how is it examined? Rav Yehuda said that Shmuel said: One must blow the dust on the path before taking each step in the beit haperas\(^4\) as he walks through it, in order to see if there is a hidden bone there. Rav Yehuda bar Abaye in the name of Rav Yehuda said: A beit haperas has been trodden underfoot is considered ritually pure, since it is assumed that any bones that were there have been removed or broken. The impurity of a beit haperas is due to a rabbinic decree. The Sages waived this decree in a case where the necessary examination is made, in order to allow people to be able to offer their Paschal lambs. However, this leniency is limited to the case of the Paschal lamb, since its neglect carries the prohibition of karat. It is not extended to other cases, such as the prohibition to eat impure teruma.

**NOTES**

The new courtyard – הַחֲצֵר הַחָגָר הַנִּשָּׁב The new courtyard – הַחֲצֵר הַחָגָר הַנִּשָּׁב is a place that the Sages decreed ritually impure, as though it were a cemetery. There are three cases that are defined as a beit haperas: The first type is a field known to contain a grave, but the location of the grave within the field is not known. Therefore, the concern is that any particular part of the field may be where the grave is located. A second type is a field in which a grave was plowed over, and there is concern that the bones may have been scattered throughout an area the size of a one-hundred-cubit furrow. The third kind is a field where people would eulogize the dead. It is considered a beit haperas because there is concern that part of a corpse may have fallen there. In all these cases, the concern is that there may be a bone even as small as the size of a kernel of barley, which can transmit ritual impurity but may be too small to notice.

We examine for those offering the Paschal lamb – בֵּית הַפְּרָס The Rambam in his Commentary on the Mishna, explains in tractate Oholot that if one traveling to offer the Paschal lamb realizes that he has already walked through a beit haperas, he may take the dirt upon which he walked and pass it through a sifter in order to check for small bones (see Tosafot).

**HALAKHA**

One must blow the dust in the beit haperas – הַחֲצֵר הַחָגָר הַנִּשָּׁב One who is traveling to offer the Paschal lamb may blow the dirt along the path of a beit haperas as he travels through it. If he does not find any bones, he may slaughter and eat his Paschal lamb. Similarly, one who passed through a well-trodden beit haperas remains ritually pure and may offer the Paschal lamb (Rambam Sefer Korbanot, Hilkhot Korban Pesah 6:8).

\(^{1}\) הַחֲצֵר הַחָגָר

\(^{2}\) הַחֲצֵר הַחָגָר

\(^{3}\) הַחֲצֵר הַחָגָר

\(^{4}\) הַחֲצֵר הַחָגָר
MISHNA One who was ritually impure or on a distant journey and did not observe the first Pesah by participating in the offering of the Paschal lamb on the fourteenth of Nisan should observe the second Pesah by participating in the offering on the fourteenth of Iyar. If one unwittingly forgot or was prevented due to circumstances beyond his control and did not observe the first Pesah, he too should observe the second Pesah. If so, that the second Pesah is observed even by someone who forgot or was prevented from observing the first Pesah, why is it stated in the Torah that the second Pesah is observed only by one who was ritually impure or on a distant journey? These cases were specified in order to teach that these two groups of people are exempt from karet if they do not observe the second Pesah, but those who were not ritually impure or on a distant journey are liable to receive karet, as the Gemara will explain.

GEMARA It was stated that the amoraim disagreed about the following issue: If one was on a distant journey and others slaughtered the Paschal lamb and sprinkled its blood on his behalf, and he arrived in time to eat the Paschal lamb, does he need to observe the second Pesah since he was far away at the time that the sacrifice was offered? Rav Nahman said: His offering was accepted, and he need not observe the second Pesah. Rav Sheshet said: His offering was not accepted, and he must sacrifice the Paschal lamb on the second Pesah. The Gemara explains their opinions. Rav Nahman said: His offering was accepted because the Torah has mercy on one who was on a distant journey and allows him the option of observing the second Pesah; but if he nonetheless did participate in the sacrifice of the Paschal lamb on the first Pesah, may blessing come upon him. And Rav Sheshet said: His offering is not accepted because the Torah deferred his observance to the second Pesah just as it does for one who is ritually impure. Just as one who is ritually impure may not voluntarily participate in the Paschal lamb, neither may one who is on a distant journey.

Rav Nahman said: From where do I say my opinion? As we learned in the mishna: One who was ritually impure or on a distant journey and did not observe the first Pesah should observe the second Pesah. The expression: And did not observe, indicates by inference that regarding one who was on a distant journey, had he wished, he could have observed it and would thereby be exempt from participating in the sacrifice of the Paschal lamb on the second Pesah.

And Rav Sheshet said in response: If so, consider the latter clause of the mishna, which teaches: If one unwittingly forgot or was prevented due to circumstances beyond his control and did not observe the first Pesah, he should observe the second Pesah. According to your reasoning, from the fact that it is taught: And did not observe, conclude by inference that had he wished, he could have observed it. However, this is not possible, as the mishna states explicitly that he unwittingly forgot or was prevented due to circumstances beyond his control and was unable to observe the first Pesah.

NOTES

The first Pesah – pascha: In the Torah, there is a clear distinction between Hag HaPascha, the Festival of Pesah, which occurs on the fourteenth of Nisan, the day on which the Paschal lamb is sacrificed, and Hag HaMatzot, the Festival of Matzot, the seven-day festival beginning on the evening of the fifteenth of Nisan. Over the generations, due to the cessation of the Paschal lamb offering, the terms were confused and the term Pesah, Passover, is the name used for the seven-day Festival. As the mishna is referring to the sacrifice of the Paschal lamb, using the terms first Passover and second Passover would be misleading. Therefore, they are rendered as first Pesah and second Pesah.

These are exempt...but those are liable – אָמַר: מִי כְּטָמֵא אוֹרָה, גֵּר אוֹ פְּרָט פֶּסָח. According to Rashi, the ruling that they are exempt from karet applies not only to one who was ritually impure or on a distant journey, but even to one who unwittingly forgot or was unable to bring the offering due to circumstances beyond his control. Apparently, they are exempt even if they intentionally refrained from observing the second Pesah. The phrase: These are liable, according to Rashi, does not apply to any of the cases mentioned explicitly in the mishna, but to cases such as one who intentionally refrained from observing the first Pesah.

HALAKHA One who was ritually impure or on a distant journey – עַבָּד בְּדֶרֶךְ הָרִאשׁוֹן. One who was ritually impure or on a distant journey at the time of the slaughtering of the Paschal lamb, or one who unwittingly forgot or was prevented from participating due to circumstances beyond his control, should observe the second Pesah by offering the Paschal lamb on the fourteenth of the month of Iyar (Rambam Sefer Korbanot, Hilkhot Korban Pesah 5:1, 6:1). These are exempt...but those are liable – אָמַר: מִי כְּטָמֵא אוֹרָה, גֵּר אוֹ פְּרָט פֶּסָח. If one unwittingly forgets to observe the first Pesah or is prevented from doing so due to circumstances beyond his control, but he then intentionally refrains from observing the second Pesah, he is liable to receive karet. In addition, one who intentionally refrains from observing the first Pesah is liable to receive karet, even if he later unwittingly fails to bring the Paschal lamb on the second Pesah. However, one who is ritually impure or on a distant journey at the time of the first Pesah is exempt from karet even if he intentionally refrains from observing the second Pesah (Rambam Sefer Korbanot, Hilkhot Korban Pesah 5:2).

If one was on a distant journey – הֵמָּה בְּדֶרֶךְ הָרִאשׁוֹן. If one is on a distant journey and others slaughter the Paschal lamb on his behalf, and he arrives in the evening, his participation in the offering is not accepted and he is obligated to observe the second Pesah by bringing a Paschal lamb on the fourteenth of Iyar. The halakha is according to the opinion of Rav Sheshet, since the halakha always follows him in matters of ritual law in disputes with Rav Nahman (Rambam Sefer Korbanot, Hilkhot Korban Pesah 5:3).
Rather, the mishna must be explained differently, as follows: Even though it does not say so explicitly, the mishna is teaching with the phrase: And he did not observe, the case of one who intentionally refrained from observing the first Pesah together with the other cases in the mishna. Here, too, in the first part of the mishna, the phrase: And he did not observe, must be understood as including another category of people: It is teaching the case of an acute mourner, i.e., one whose relative died that same day and has not yet been buried, together with the other cases. The first part of the mishna includes three cases: One who was ritually impure, one who was on distant journey, and one who was an acute mourner. Therefore, it cannot be inferred that had he wished to observe the first Pesah, he could have done so.

Rav Ashi said: The mishna is also precisely formulated according to this interpretation, as it teaches: These are exempt from karet, but those are liable to receive karet. To which part of the mishna is this referring? If we say that this statement is referring to one who unwittingly forgot and one who was prevented due to circumstances beyond his control, are one who unwittingly forgot and one who was prevented due to circumstances beyond his control subject to the punishment of karet? One is liable to receive karet only for performing a transgression intentionally. Rather, is it not referring to the case of one who intentionally refrained from observing the Pesah, which is included in the phrase in the latter clause: And he did not observe, and to the case of an acute mourner, which is included in the parallel phrase in the first clause? These two categories of people are liable to receive karet if they fail to sacrifice the Paschal lamb on the second Pesah.

And Rav Nahman could have said to you in response: Actually, the mishna refers only to the case of one who intentionally refrains from observing the first Pesah and not to the case of an acute mourner, and by right it should have taught this ruling with the expression: He is liable, in the singular. And the reason that it teaches this ruling with the phrase: These are liable, in the plural, is that since the first clause of the mishna teaches its ruling with the expression: These are exempt, in the plural, the latter clause also teaches its ruling with the expression: Those are liable, in the plural. Therefore, the phrase in the first clause: And did not observe, comes to include the case of one who intentionally refrains from observing the first Pesah.

Rav Sheshet said: From where do I say my opinion? As it was taught in a baraita that Rabbi Akiva says: It is stated that one who is ritually impure on the first Pesah observes the second Pesah, and it is stated that one who is on a distant journey observes the second Pesah;

Acute mourning — Aninut is the period of mourning on the day of the death of a close relative. The mourner is exempt from all positive mitzvot from the time of the death of the close relative until after the burial. At that point, the mourner’s status changes from that of an oner, i.e., one who is in aninut, to that of a regular mourner [aveil]. In Temple times an acute mourner was prohibited from eating second tithe, first fruits, and sacrificial meat. A priest who is an acute mourner may not take part in the Temple service; however, this prohibition does not apply to the High Priest.