Kitniyot—Little Things that Create Big Problems

According to halacha (Jewish law) there are 5 grains—and 5 grains only—that can ferment and become hametz (leaven). These are: wheat, barely oats, spelt, and rye. Interestingly, these are the only grains that can be made into matzah. During Pesach, we are forbidden from eating, owning, or deriving benefit from these five grains in any amount and in any form (other than baked into matzah).

For the past 700 years, Ashkenazic Jews have added to that list of forbidden foods, prohibiting rice, millet, and legumes. These are known as kitniyot, from the Hebrew word katan, meaning little.

Although the earliest mention of the custom to prohibit kitniyot dates from 13th Century France, the discussion concerning their use goes back to Tanaaitic times when second century Rabbi Yochanan ben Nuri argues that rice and millet are close enough to the 5 grains that one could use them for matzah (and therefore one would be prohibited from eating it in its leaven state). After a long debate, Rav Ashi concludes: “We do not pay attention to the opinion of Rabbi Yochanan ben Nuri”. (Babylonian Talmud, Pesachim 35a, 114b)

Despite Rav Ashi’s words, by the 13th century, many Ashkenazic leaders had begun to prohibit the eating of kitniyot during Pesach. One suggested that because kitniyot and hametz are boiled similarly, some might be confused if we ate one and not the other. Another pointed to kinds of “bread” made from kitniyot. Rabbi Yaakov ben Asher (14th century) suggested that grain might be mixed with kitniyot during storage.

But clearly the custom of forbidding kitniyot during Pesach was not accepted across the board. Sephardim never adopted this custom. But even within the Ashkenazic Jewish world, the custom was challenged. Rabbi David Golinkin (Israeli Masorati-Conservative-rabbi) points out that this custom stands in direct contradiction to the opinions of the Talmud, and that more than 50 different early rabbis reject it outright. 13th century Rabbi Samuel b. Solomon of Falaise considered it a “mistaken custom” while others called it “a superfluous stricture” or even “Minhag Shtut—a stupid/foolish custom”. 18th century Rabbi Jacob Emden wrote that he would have abolished the custom had he had the authority to do so. In the 19th century, Rabbi Israel Salantar (founder of the Musar movement in Lithuania), publicly ate kitniyot on Pesach during a time of scarcity to demonstrate that kitniyot were not in the same category of prohibited food as hametz.

One of the most compelling teshuvot (responsa) I have read on the subject of kitniyot was published in 1989 by Rabbi David Golinkin of the Va’ad Halacha of the Rabbinical Assembly of Israel. After laying out the history of the custom of prohibiting kitniyot on Pesach, he states: “In out opinion, it is permitted (and perhaps even obligatory) to eliminate this custom”.
He then proceeds to lay out his argument for eliminating this custom:

*The main halakhic question in this case is whether it is permissible to do away with a mistaken or foolish custom. Many rabbinic authorities have ruled that it is permitted (and perhaps even obligatory) to do away with this type of "foolish custom" (R. Abin in Yerushalmi Pesahim, Maimonides, the Rosh, the Ribash, and many others). Furthermore, there are many good reasons to do away with this "foolish custom": a) It detracts from the joy of the holiday by limiting the number of permitted foods; b) It causes exorbitant price rises, which result in "major financial loss" and, as is well known, "the Torah takes pity on the people of Israel's money"; c) It emphasizes the insignificant (legumes) and ignores the significant (hametz, which is forbidden from the five kinds of grain); d) It causes people to scoff at the commandments in general and at the prohibition of hametz in particular - if this custom has no purpose and is observed, then there is no reason to observe other commandments; e) Finally, it causes unnecessary divisions between Israel's different ethnic groups (where Sephardim eat kitniyot and Ashkenazim do not).*

On the other hand, there is only one reason to observe this custom: the desire to preserve an old custom. Obviously, this desire does not override all that was mentioned above. Therefore, both Ashkenazim and Sephardim are permitted to eat legumes and rice on Pesah without fear of transgressing any prohibition. Undoubtedly, there will be Ashkenazim who will want to stick to the "custom of their ancestors" even though they know that it is permitted to eat legumes on Pesah. To them we recommend that they observe only the original custom of not eating rice and legumes but that they use oil from legumes and all the other foods "forbidden" over the years, such as peas, beans, garlic, mustard, sunflower seeds, peanuts etc. Thus they will be able to eat hundreds of products, which bear the label "Kosher for Pesah for those who eat legumes." This will make their lives easier and will add joy and pleasure to their observance of Pesah.

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* Golinkin emphasizes this point, arguing, in fact, that at a time when there is so much tension and causeless hatred between Sephardim and Ashkenazim, it is our obligation to eliminate this custom and to take this opportunity to be “goy echad ba’aretz (a united people in the land).

Though America is predominantly Ashkenazic, unlike Israel, this reasoning may still be quite compelling. For those of us who live outside of Israel, perhaps eliminating this custom of not eating kitniyot on Pesach is a way to show our unity with the people of Israel (Sephardim and Ashkenazim alike).

** A wide range of food in Israel is marked Kosher L’Pesach l’ochlei kitniyot bilvad—for eaters of kitniyot only)
A final word about kitniyot:

It is important to understand that while one is prohibited to use, own, or benefit from hametz, the custom of avoiding kitniyot applies ONLY to eating. One need not sell one’s kitniyot along with one’s hametz. Furthermore, one can use cornstarch-based bath powder and even medicines that use corn starch as a binder.

In Israel, where there is a substantial Ashkenazic minority, kitniyot can be a very divisive issue. North America has far fewer Sephardim, but the question of kitniyot can lead to serious divisions among Jews. Therefore it is critical to understand that one who does not eat kitniyot may still eat from the dishes of someone who does. While it is good and appropriate to be strict on Passover, we must be careful not to allow “little things” to create big divisions between us.

Hag Kasher v’Sameach

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