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Avodah Zarah Daf 39

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

FORBIDDEN FISH

POINT BY POINT OUTLINE OF THE DAF

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The *Mishna* had stated: Diced *tiryas* (salted fish), brine in which there is not a fish (and chilak...)

Rav Nachman bar Abba said: *Chilak* is *Sultanis* (sardine or herring). It is forbidden because there are non-kosher fish that resemble it (and may be mixed in).

The *Gemora* cites a *braisa*: If it now lacks fins and scales but will grow them later, such as *sultanis* or *afitz* (in Chulin, the text is *Afyan*), it is permitted. If it now has fins and scales but they fall off when it leaves the water, such as *akunas*, *afunas* (mullet), *kaspatias* (salmon), *akaspatis* (swordfish) and *atunas* (tuna), it is permitted.

Rabbi Avahu said: Fish innards and fish eggs may be bought from anyone. Normally, they come only from Plusa and Aspamy (and Tamei fish are not common there).

Abaye ruled: Chilak of the Davav River is permitted.

The *Gemora* asks: What is the reason?

The *Gemora* suggests: The water flows rapidly. Non-kosher fish cannot survive there because they lack a spine.

The *Gemora* rejects this: We see that non-kosher fish live (in rapidly flowing water)!

The *Gemora* answers: Rather, because it is very salty, non-kosher fish cannot survive there because they lack scales.

The *Gemora* rejects this: We see that non-kosher fish live (in very salty water)!

The *Gemora* answers: The nature of the Davav river floor does not allow non-kosher fish to live there.

Ravina says: Nowadays, the Guza and Gamda rivers flow into the Davav river. We are concerned for non-kosher fish from those rivers.

Abaye rules: The sea-donkey (the fish that corresponds to a donkey) is permitted. The sea-ox is forbidden;

The *Gemora* notes: A *siman* (way to remember this) is ‘Tahor non-kosher (what is Tahor on land is non-kosher in water), non-kosher Tahor.’

Rav Ashi in the first version explains: Shaper-fish is permitted. Kadesh-fish is forbidden.

The *Gemora* notes: A *siman* (way to remember this) is "Kodesh la'Shem" (Kodesh is forbidden).

An alternative version: Kever-fish is permitted.

The *Gemora* notes: A *siman* (way to remember this) is ‘Kivrei (graves of) Nochrin’ (they do not have Tum’as Ohel).

Rabbi Akiva came to Ginzak. They put in front of him a fish resembling Chipusa (which is non-kosher). He covered it with a barrel, and later found scales on the barrel. He permitted it.



Rav Ashi came to Tamdoriya. They put in front of him a fish resembling an eel (which is non-kosher). He put it in the sun, and found fine scales on it. He permitted it.

Rav Ashi came to a place. They put in front of him a fish resembling Shaper-fish. He covered it with a white Keli, and later found scales on the Keli. He permitted it.

Rabbah bar bar Chanah came to Akra d'Agma. They put Chilak in front of him. He heard someone calling it 'Bati' (a non-kosher fish). He decided not to eat it.

In the morning, he indeed found non-kosher fish inside, and thanked Hashem for saving him from transgression. (39a)

WHO IS TRUSTWORTHY?

The *Mishna* had stated: A piece of *chiltis* (of gentiles).

The *Gemora* asks: Why is this forbidden?

The *Gemora* answers: They cut it with knives that absorbed forbidden taste. Even though (we assume that a Keli was not used for (forbidden) food in the last day, and absorbed tastes over a day old are normally li'Fgam, and) Nosen Ta'am li'Fgam is permitted, because *chiltis* is (so) sharp, it causes the absorbed fat (in the knife) to improve the taste.

Rabbi Levi's slave used to sell *chiltis*, After Rabbi Levi died, people asked Rabbi Yochanan if they may still buy from him.

Rabbi Yochanan said: The slave of a *chaver* (one who is totally reliable) is like a *chaver*.

Rav Huna bar Minyomi bought *techeiles* from the wife of Rav Amram Chasida.

Chanan Chaita said: A case occurred in which Shmuel ruled that the wife of a *chaver* is like a *chaver*.

The *Gemora* cites a *braisa*: The wife of a *chaver* is like a *chaver*.

The slave of a *chaver* is like a *chaver*. If a *chaver* dies, his wife and household are still considered *chaverim*, until there are grounds to suspect them. This applies also in a courtyard where they sell *techeiles*.

The *Gemora* cites a *braisa*: If the widow, divorcee or daughter of an ignoramus marries a *chaver*, or if the slave of an ignoramus is sold to a *chaver*, she (or he) must accept to conduct like a *chaver*. Rabbi Meir says: If the widow, divorcee, daughter or slave of a *chaver* marries or is sold to an ignoramus, *l'chatchilah*, she need not accept to conduct like a *chaver*. Rabbi Yehudah and Rabbi Shimon ben Elozar say: *l'chatchilah*, she must accept to conduct like a *chaver*.

A case occurred in which a woman married a *chaver*, and helped tie *tefillin* on his arm. She later married a tax collector (he is assumed to steal), and helped tie the seals (receipts given to those who paid) on his arm. (39a)

HOW WELL THINGS MUST BE GUARDED

Rav said: A double seal is needed for the following: milk, meat, wine and *techeiles* (lest he switch them with similar forbidden food (or invalid *techeiles*) or pour the wine to idolatry. One seal suffices for the following: *chiltis*, fish innards, bread and cheese.

The *Gemora* asks: Why does one seal suffice for bread?)

The *Gemora* answers: What concern is there for bread? If he would take your warm bread and replace it with (his forbidden) cold bread, it would be evident that he switched! If he will take your wheat bread and replace it with barley bread, it would be evident that he switched! The only concern is lest he switch bread of the same type and freshness (because yours is slightly better). He would not bother trying to forge even one seal for this.

Rav says that one seal suffices for cheese. He would not bother



trying to forge the seal to switch with his own. Likewise, one seal should suffice also for milk!

Rav Kahana says: Indeed, it does. Rather, the 'Ches' of 'Chavis' stands for *chatichah* (a piece of fish without signs that it is kosher).

The *Gemora* asks: That is just like meat, which was already taught!

The *Gemora* answers: Indeed, both were taught even though they are very similar.

Shmuel says: A double seal is needed for meat, wine and *techeiles*. One seal suffices for *chiltis*, fish innards, and cheese.

The *Gemora* notes: Shmuel need not teach about bread. Surely one seal is necessary and sufficient! He would not take warm (or wheat) bread and replace it with cold (or barley) bread. It would be evident that he switched! The only concern is that he will switch bread of the same type and freshness. He would not bother forging a seal for this.

The *Gemora* cites a *braisa*: The following may only be bought from reliable (Yisraelim) in Surya: wine, fish innards, milk, Salkundris salt, *chiltis*, and cheese. The acronym is YeMaCH MeCHaG. A guest may rely on his host regarding all of them.

The *Gemora* notes: This supports Rabbi Yehoshua ben Levi, for he said: If a regular person sent (one of these) for a gift, it is permitted.

The *Gemora* asks: What is the reason?

The *Gemora* answers: We do not suspect a person of eating forbidden food (only selling it). Presumably, the giver gave from what he eats himself. (39a – 39b)

SALKUNDRIS SALT

The *Mishna* had stated: *salkundris* salt.

Rav Yehudah said: This is salt eaten by bakers (Rashi; Ran - important people) of Romi.

The *Gemora* cites a *braisa*: Rabbi Meir said: Black *salkundris* salt is forbidden. White is permitted. Rabbi Yehudah said: White *salkundris* salt is forbidden. Black is permitted. Rabbi Yehudah ben Gamliel says: Both are forbidden.

Rabbah bar bar Chanah said: Rabbi Yehudah forbids white *salkundris* salt because they mix in innards of white fish. Rabbi Meir forbids black salt because they mix in innards of black fish. Rabbi Yehudah ben Gamliel forbids both due to white and black fish innards.

Rabbi Avahu said in the name of Rabbi Yehudah ben Gamliel: There was a gentile who used to smooth out the salt with lard of pigs.

The *Mishna* had stated: These are forbidden (to eat; one may benefit from them).

The *Gemora* asks: What does this come to exclude?

The *Gemora* answers: According to Chizkiyah, it excludes when we know that wine was mixed in (with preserved foods, for then one may not benefit from them). According to Rabbi Yochanan, it excludes fish innards and cheese of Beis Onaiki. The *Mishna* is like Rabbi Meir (who forbids benefit from them). (39b)

PERMITTED FOODS OF GENTILES

The *Mishna* states: The following may be eaten: Milk milked by a gentile when a *Yisroel* was watching, honey, *dovdevaniyos* (Rashi - clusters of grapes; Rambam - cakes of honey taken from hives). Even though the *dovdevaniyos* are dripping, it is not considered a liquid for *hechsher* (to make foods susceptible to receive *tumah*). Also these may be eaten: preserved foods in which wine or vinegar is not normally mixed in; *tiryas* that is not diced; fish brine in which there is a fish; a



leaf of *chiltis*; and clumps of soft olives. Rabbi Yosi says, *shelachin* are forbidden (this will be explained). Grasshoppers from the basket are forbidden. Those from the storehouse are permitted. The same applies regarding *terumah* (this will be explained).

The *Gemora* notes: Our *Mishna* teaches like the following *braisa*: A *Yisroel* may sit outside the herd of a gentile milking his animals and buy the milk. He need not be concerned (lest milk of non-kosher animals was mixed in).

The *Gemora* asks: What is the case? If there are no non-kosher animals in the herd, obviously we are not concerned! If there are non-kosher animals in the herd, we should be concerned!

The *Gemora* answers: There are non-kosher animals in the herd. When the *Yisroel* stands, he can see the gentile, when he sits, he cannot see him. One might have thought that since he cannot see the gentile when he sits, we should be concerned lest milk of non-kosher animals was mixed in. The *braisa* teaches that this is not so, because the gentile fears lest the *Yisroel* stand and see him.

The *Gemora* explains that honey of a gentile is permitted, for there is nothing to be concerned about! We are not concerned lest the gentile mixed in wine, for this would make it spoil! We are not concerned for *bishul akum*, for honey is normally eaten raw! We are not concerned lest it absorbed tastes from his vessels. Any absorbed tastes would be detrimental to honey, so they do not forbid it.

The *Gemora* explains: A cluster of grapes is not considered a liquid for *hechsher*, even if juice drips from it.

The *Gemora* asks a contradiction from the following *braisa*: Shamai says: If one harvests grapes in order to make wine, the juice that drips from them is *machshir* them. Hillel says: it is not *machshir*. Hillel later agreed to Shamai.

The *Gemora* answers: There, he wants the juice to exude from the grapes, therefore it is *machshir*. Here (he wants to eat the

grapes,) he does not want the juice to come out. (39b)

INSIGHTS TO THE DAF

Who said Sardines are Permitted?

By: Meoros Daf HaYomi

Our *Mishna* explains that *Chazal* forbade eating a type of fish called *teris terufah* as the gentiles sold them in a crushed mixture and there was the suspicion that they contained non-kosher fish. *Chazal* also forbade eating a fish known as *chilak* as it is always accompanied by similar non-kosher fish and since they are caught together, it is hard to distinguish between them.

The Turkish *sardilash*: The author of *Sedei Chemed (Ma'areches Daled, os 4)* mentions that in his location in Turkey people would eat *sardilash* – i.e., sardines – sold in big barrels without fear of the suspicion that characterized *teris terufah*. But once he saw that the *Tiferes Yisroel* warned against sardines and herring pickled in barrels, he stopped eating them. Still, the author of *Levush Mordechai* (§148) mentions that in 5672 (1912) people ate canned sardines. The author of *Lev Yehudah* also mentions that during the mass migration to America before the First World War people were lenient and ate sardines because of the great difficulty in getting kosher meat and milk and because the prohibition was unclear.

The author of *Chelkas Ya'akov* (Responsa, 30-31) explains that eating sardines is not forbidden as a result of our *Mishna* as we must forbid only those varieties mentioned by *Chazal* (see *ibid*, who proves so from our *sugya*). In addition, our *sugya* explains that it is allowed to buy *chilak* from an expert who sees to separate it from the fish that accompanies it as the accompanying fish impairs its taste and he is worried about his livelihood if it becomes known that he sells poor-tasting fish. The firms that sell sardines also see that no other fish are mixed with them and there is therefore no fear of eating them.

The obstacle to *kashrus* in big sardine factories: Nonetheless, HaGaon Rav Moshe Sternbuch (*Teshuvos Vehanhagos*, II, 382) remarks that big factories do not care if a non-kosher fish gets mixed in with their thousands of sardines as one fish does not harm the taste of the sardines. In addition many different types of oil and additives are used nowadays and one should therefore only buy sardines with a reliable *hechsher* (*HaKashrus* by Rav Fuchs, Ch. 11, halachah 14; see *ibid*, that even if the can advertises “natural fish oil,” it could be that it is produced from non-kosher fish; or that there are materials produced from a hog’s pancreas).

***Chalav Yisroel and Chalav ‘Akum:
a Historical Survey***

The *sugyos* learnt during these days explain that *Chazal* forbade milk milked by a gentile (*chalav ‘akum*) lest the gentile mixed it with milk from a non-kosher animal, unless a Jew was present during the milking.

Is all *chalav ‘akum* forbidden? We should clarify if the decree pertains to all milk of gentiles, or only where there is a real suspicion that milk of a non-kosher animal was mixed in. This is pertinent regarding gentiles whose herds contain only kosher animals. The Rishonim and *poskim* (see Radbaz, IV, 1147; Responsa *Chasam Sofer*, Y.D. 107) had different opinions. According to the *Chasam Sofer*, *Chazal* imposed their decree even if there is no non-kosher animal in the whole region but the *Chazon Ish* zt”l asserts that such milk is regarded as having been milked in a Jew’s presence as it is obvious that no non-kosher animal was involved (see *Chazon Ish*, Y.D. 41, S.K. 4).

***Chalav ‘akum* milk powder in wartime:** According to the lenient opinion, there is no prohibition to consume *chalav ‘akum* as long as there is no suspicion that it was mixed with non-kosher milk. This conclusion is also pertinent to our time, as the government controls milk marketing and imposes heavy fines for mixing in anything but cow’s milk. Anyone defying the regulation risks a fine or might lose his license. HaGaon Rav Moshe Feinstein zt”l (Responsa *Igros Moshe*, Y.D., I, 47) ruled

that *Chazal* did not impose their decree in such a situation, though he asserted that he was not lenient for himself and that a conscientious person may behave strictly (see further in the article by HaGaon Rav Y. Efrati in *Binesiv HeChalav*). Apropos, the *Stiepler* zt”l attested that his brother-in-law, the *Chazon Ish*, permitted milk powder made from *chalav ‘akum* in wartime, when milk was scarce, only for weak *yeshiva* students (*Karyana D’igarta*, II, letter 123). In practice, the Orthodox communities of Europe and Eretz Israel behave strictly while those in the United States tend to be lenient, according to Rav Feinstein (Rav Efrati, *ibid*).

In Eretz Israel most farms are owned by Jews, though the milking is done by foreign gentile workers. The workers are not afraid of a fine, as it would be imposed on the owners. In this case we rely on the halachah that if the milking is done on the Jew’s premises, the gentile is reluctant to mix in non-kosher milk as he is afraid that the Jew, who is surely G-d fearing and scrupulous, might catch him in the act.

Is fear of fear considered fear? The trouble is that not all farmers are *tzadikim*. The gentile milkers fear the farmer, who doesn’t fear the halachah but rather the government. Did *Chazal* allow *chalav ‘akum* in such a situation? According to HaGaon Rav Y.S. Elyashiv, the *mashgiach* does not have to be present during the whole milking process. It suffices if he visits the site from time to time without prior notice. The fear of the *mashgiach*, together with the milkers’ and the farmer’s apprehension, create a perfect combination for the consumer who cares about the strict *halachah*. Another reason to ignore the suspicion that non-kosher milk is mixed with kosher milk is that non-kosher milk is now much more expensive than kosher milk (*Binesiv HeChalav*, p. 40). HaGaon Rav M. Gross asserts that where the milkers are Jews, supervision should be performed once a month and where they are gentiles, five times a month during the milking (*Binesiv HeChalav*, p. 105).