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Avodah Zarah Daf 61

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Daf Notes is currently being dedicated to the neshamot of

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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

Mishna

If a Jew prepares an idolater’s wine in a state of ritual purity (*meaning that a Jew buys grapes from an idolater in order to make them into wine and sell them to Jews*), and he stores the wine in the domain of the idolater whose door is open to the public domain - if both Jews and idolaters live in this area the wine is permitted. [*Rashi explains that the case is where the Jew was not going to pay the idolater for the grapes until he sells the wine. The idolater is therefore scared to touch the wine, as he suspects that Jews will see him do so. They will tell the Jew, who will then cancel their deal.*] However, if there are only idolaters in this city, the wine would be forbidden, unless he sat and watched it (*while it was in the idolater’s house*). Watching it does not mean one has to literally sit and watch it. Even if the person goes in and out of the house (*frequently, in order to make the idolater afraid that he may come in at any moment*), it is permitted. Rabbi Shimon ben Elozar says: The domain of an idolater is one (*this is explained later in the Gemora*).

[*In the case above, according to the later version of Rashi*] If a Jew prepares an idolater’s wine in a state of ritual purity and leaves it in his domain, and the idolater writes for him, “I have received the money from you,” the wine is permitted (*for he is still afraid to touch it; this, says Rashi, is only if it is locked by a Jew with a lock or seal*). If, however, the Jew would want to remove it and the idolater would refuse to let it go until he was paid, this actually happened in Beis Shan and the Rabbis prohibited it (*even for benefit, for the idolater is not afraid to touch his “security”; he would even break the lock and replace it, for he considers the wine his own*). (61a)

Afraid to Touch the Wine

The *Gemora* asks: Even in a city of idolaters, aren’t there Jewish peddlers that travel around (*and they could therefore see if the idolater is dealing with the wine*)?

Shmuel answers: The case is where it is a city that is closed with a door and bolt (*and everyone knows if there is a new salesman or person in town, and whether or not they are Jewish*).

Rav Yosef says: A window open to the public domain, a public garbage area, and a palm tree (*belonging to a Jew, as the Jew might climb up to get fruit and see him*) are like the public domain itself.

If the Jew cut off the top of the palm tree (*so there are no more fruit*), Rav Acha and Ravina argue. One says it is forbidden (*the wine is forbidden if this is the sole public domain that it is exposed to*), and one says it is permitted. The one who says it is forbidden (*in that it is not considered a public domain*) holds this way because there is no longer any reason for the Jew to ascend the tree. The one who says it is permitted says that there are times when he might lose an animal, and he will climb the tree in order to get a better viewpoint of where it may have gone (*and thereby see the idolater if he is dealing with the wine*).

The *braisa* states: If someone buys or rents a house in a courtyard owned by an idolater, and he fills his house with wine - if another Jew (*or he himself*) lives in that courtyard,



the wine is permitted. This is even if there is no key to the door, and no specific seal on the wine (*as evidence that it was not tampered with*). If the Jew lived in another courtyard, it is only permitted if there is a lock on that door and there is a seal on the wine.

(The braisa continues) If a Jew prepares an idolater's wine in a state of ritual purity and leaves it in his domain - if a Jew lives in that courtyard, the wine is permitted - provided that the Jew has a key to the house where the wine is stored and he seals the wine. Rabbi Yochanan said to the one who said over this *braisa*: You should change this to read even if he does not have a key to the house and does not seal the wine. However *(the braisa continues)*, if the Jew lives in a different courtyard, the wine is forbidden - even if the Jew has the key and the wine is sealed. These are the words of Rabbi Meir. The *Chachamim* forbid this, and say it is only permitted if a guardian is watching the wine, or there is a person appointed to come at set times.

The *Gemora* asks: Which case are the *Chachamim* discussing? It cannot be the latter case, as the *Tanna Kamma* also forbids this! Rather, they must be referring to the first part of the second case. However, this cannot be either, as Rabbi Yochanan explicitly stated that the *Tanna* should teach the *braisa* as stating that it is even permitted without a key and seal! (*Why would he say that if the Chachamim said that it is even invalid with a key and seal?*) Rather, they must be talking about the second part of the first case. The *Tanna Kamma* is saying that if the Jew lived in a different courtyard, the wine is permitted - as long as he has a key and seal. The *Chachamim* forbid this, and say it is only permitted if a guardian is watching the wine, or there is a person appointed to come at set times.

The *Gemora* asks: It is a disadvantage for an appointed person (*Jew*) to come at set times!? [*The idolater will know that at any other time he can access the wine!*]

The *Gemora* answers: Rather, the *braisa* should read, "a person appointed who does not come at set times."

The *Mishna* said that Rabbi Shimon ben Elozar said: The domain of an idolater is one. They inquired in the Academy: Is Rabbi Shimon ben Elozar being lenient or stringent?

Rav Yehudah says in the name of Ze'iri: He is being lenient. Rav Nachman says in the name of Ze'iri: He is being stringent. Rav Yehudah understands that the *Tanna Kamma* is saying that just like the wine is forbidden when it is stored in the idolater's (*owner of the grapes*) domain, it is also forbidden when it is stored in a different idolater's domain, as we suspect a conspiracy. [*Although he will not touch the wine, he will allow the other idolater – the owner of the wine, to come and make a libation with the wine; for this way, when his wine will be processed by a Jew and stored in the other idolater's domain, he will let him come and make a libation.*] Rabbi Shimon ben Elozar says: It is only forbidden if the wine was stored in his domain, but it is permitted when the wine was stored in the domain of another idolater, as we do not suspect a conspiracy. (*Rashi explains that according to this explanation, Rabbi Shimon's questioning statement is, "Is the domain of all idolaters considered one domain?!"*)

Rav Nachman understands that the *Tanna Kamma* is saying that it is only forbidden if the wine was stored in his domain, but it is permitted when the wine was stored in the domain of another idolater, as we do not suspect a conspiracy. Rabbi Shimon says that just like the wine is forbidden when it is stored in the idolater's (*owner of the grapes*) domain, it is also forbidden when it is stored in a different idolater's domain, as we suspect a conspiracy. [*His regular statement is said in a normal tone according to this opinion.*]

The following *braisa* supports Rav Nachman's opinion that Rabbi Shimon is being stringent. The *braisa* states: Rabbi Shimon says that all domains of idolaters are considered one, as we suspect a conspiracy.

Parzak, the viceroy, stored his wine that a Jew processed using his grapes (*as per the case in the Mishna*) in the domain of his sharecropper (*who was an idolater, as was Parzak*). The Rabbis thought to say when they were in front of Rava that we only suspect a conspiracy when the two idolaters would be comfortable with each other. However, being that the sharecropper and Parzak did not exactly socialize, we should not suspect a conspiracy. Rava said: The opposite is true! Even according to the opinion that we do not suspect a conspiracy, this is only if the person who has the wine is not scared of the other person. However, if he is (*as was the sharecropper from Parzak*), we certainly suspect, as the sharecropper would certainly (*allow him access to the wine and will then*) cover up for Parzak.

There was a city where wine of a Jew was stored, and an idolater was found amongst the barrels. Rava says: If when he was found, he would have been arrested like a thief, the wine is permitted. If he was comfortable being there, it is forbidden [*Rashi says it is even forbidden from benefit.*] (61a – 61b)

WE SHALL RETURN TO YOU, RABBI YISHMAEL

INSIGHTS TO THE DAF

Rulings regarding Yayin Nesech

After completing the *sugya* of *yayin nesech* which contains many details, it is recommended to go through the Chochmas Adam klal 75-77 where he brings all the cases of the *sugya* and many of them that are discussed in Tosfos.

Here are the basic rules:

1. An idolater can make wine forbidden by: a. touching it with his hand or something else he is holding. b. shaking an open bottle of wine that has a narrow spout. c. *ko'ach* - causing the wine to move, such as pouring it into a cup.

2. Category “a” and “b” are prohibited to even derive benefit, but category “c” is only forbidden for drinking.

3. The *ko'ach* of an idolater (category c) with intent is prohibited to drink, but without intent is permitted to even drink.

4. Rashi holds that idolaters nowadays are not truly idolaters and therefore have the status of a child who doesn't comprehend the service of idolatry, and therefore the wine he touches is only forbidden to drink, but permitted to benefit from. The Rama rules that we can rely on this opinion in a case of loss. Therefore, in a case of loss, whenever the *Gemora* will say it is forbidden for benefit, it is permitted to benefit, but forbidden to drink; whenever the *Gemora* will say that it is forbidden to drink, it is even permitted to drink.

Q and A of some practical questions:

1. What happens if one leaves a bottle of non-*mevushal* (cooked) wine in their refrigerator and they have an idolater cleaning lady? An idolater cannot do anything to make the wine forbidden so long as it is closed (doesn't have to be sealed) because even “shaking” would not be a concern unless it is an open bottle. Therefore, if a Jew is in the house or can pop in so that the idolater is scared to open the bottle, the wine is completely permitted, even if the idolater moved the bottle around. But, if the Jew leaves the house without sealing (at least one seal) the bottle, we are concerned that the idolater opened it to drink (we are concerned for both touching and shaking) and is therefore forbidden to drink even if it is expensive wine.

2. Can a Jew pour non-*mevushal* wine into a glass being held by an idolater? There is no prohibition for an idolater to drink wine that he touched, but the problem is with the bottle. Tosfos quotes two opinions whether “*nitzok*” - the flow of wine, connects the wine in the bottle with the wine in the glass of the idolater. We rule stringently regarding any pouring from a small container - which is generally not a

significant loss. Therefore, if one pours wine into a glass in the hand of an idolater, all the wine remaining in the bottle is forbidden. Even if the idolater finished the wine and there is some residue of wine in his glass when the Jew refills his glass, the wine in the bottle will be forbidden (unless the drops are nullified in “sixty times” by the wine remaining in the bottle).

3. If an idolater is given a bottle of non-*mevushal* wine and opens it, is it forbidden? So long as he hasn’t moved the bottle, only touched the outside of the bottle, the wine is still permitted. However, as soon as he would move the bottle even on the table (*machlokes*) and certainly if he would lift up the bottle, we are concerned that he will shake it for a libation, and it is therefore forbidden to get any benefit from that wine. If it is an expensive bottle and a significant loss, it can be sold to an idolater. [It would seem that it is still forbidden to gift it to an idolater unless one will receive benefit in return, because the gifting doesn’t compensate for loss and would not justify relying on the opinion of Rashi.]

4. If one invites a non-religious person, who would qualify as a “*mumar*” (such as someone who learned in Yeshiva and publicly violates Shabbos), can we give him wine to drink that isn’t *mevushal*? Reb Moshe (o.c. 5:37:8) has a *teshuvah* where he permits wine to be given to him even though he will make it forbidden the moment he touches it. This is based on the concept that we have no source in the *Gemora* to consider a *mumar* like an idolater for this purpose, and since the prohibition is predicated on the intermarriage concern, it shouldn’t really apply to a *mumar* who is biologically Jewish. Although the custom is to be stringent about this, it wouldn’t apply to an uncommon situation such as this.

5. Can one gift a non-*mevushal* bottle of wine to a co-worker who is a *mumar*? Reb Moshe’s logic would presumably apply to this situation as well. Furthermore, since one isn’t handing him something forbidden; rather, he is deciding to open it at some point later, it doesn’t seem to be a Torah prohibition of

lifnei iver, rather a rabbinic prohibition of helping someone transgress a prohibition, which according to the Shach in Y”D (based on Tosfos in Avodah Zarah 6b) wouldn’t apply to a *mumar*.

DAILY MASHAL

“Nonsense”

Rabbi Aryeh Leib, author of *Shaagas Aryeh*, wandered from town to town for a long while. Once he came upon a wedding, where he sat and ate among the poor. The rabbi of the town, HaGaon Rav Chayim HaKohen Rapaport, delivered a *derashah* and Rabbi Aryeh Leib disagreed, murmuring “Nonsense, nonsense.” The *shamash* reported his remarks to Rav Rapaport who quoted aloud, “Since he’s so impudent, it seems he must be a *mamzer*.” Rabbi Aryeh Leib retorted on the spot, quoting “A *mamzer* who is a *talmid chacham* takes precedence over a *kohen gadol* who is ignorant.” Rav Rapaport called him over and, discussing his speech, discovered that it was refuted by an explicit *Gemara*. He realized that the poorly clothed guest was none other than the author of *Shaagas Aryeh* and took him home, fed him and dressed him properly (*Moreshes Avos*).