

HALOCHOSCOPE

This week's question:

May a catering establishment use bread crumbs produced by gentile companies if they advertise and claim to use only *pas Yisroel* items? The crumbs will be used to coat fried chicken. They might be used in a batter, or coated directly on the surface after the chicken is first dipped in a liquid 'glaze'.

The issues:

A) *Bishul akum, pas nochri*, foods processed by gentiles

B) A *Yisroel* finishing the process

C) What qualifies as bread?

A) *Bishul akum; pas nochri* [excerpted from Halochoscope I:33, X:30.]

[*Nochri* means gentile. *Akum* is the acronym in Hebrew for 'ovaid kochavim umazalos' one who worships stars and constellations. This was the self-censoring term used by Jewish printers to avoid having a passage expunged. It would look as though the Talmud really referred to ancient pagans, rather than a non-Jew. Thus, the two terms are used interchangeably, and most modern literature uses them both.] *Bishul akum*, food cooked by a gentile, is Rabbinically forbidden. Two reasons are given for this prohibition: (i) It is a precaution against eating non-kosher foods that a gentile might mix in with the kosher foods; (ii) It is a preventive measure against socializing with gentiles, that could lead to intermarriage.

The prohibition is limited to foods that were not edible before being processed by the gentile, such as raw fish. The food must also be fancy enough to be used at a royal table. This is the type of food that one might serve when inviting a friend. This excludes cereals and some very plain foods, such as beans. According to some, the food must also be the type that would be used as a dish to be eaten with bread. This excludes fancy snacks and desserts. These three conditions are known as: *aino ne'echal kemos shehu chai, oleh al shulchan melachim, lelafais bo es hapas*.

Pas nochri, bread baked by a gentile, was also forbidden Rabbinically. Many commentators maintain that it was a later decree. This institution was purely to prevent socializing. It is less stringent than *bishul akum*. The primary reason for the lower standards is that it was probably initially not adopted by the majority of Jews. It might have been revoked, as is indicated by some Talmudic sources. In addition, this decree was limited from the start. It is harder to avoid eating bread than to avoid consuming other cooked foods. While this would make it all the more important as a preventive measure against socializing, a Rabbinical decree is not ordained if it will cause undue hardship, or if it might never be adhered to. Therefore, it was never instituted with the same severity.

The main difference between *bishul nochri* and *pas nochri* applies to *minhag*. Communities follow practices based on the rulings of their rabbis in earlier generations. Accordingly, we find differences in the practices of different communities. Some communi-

ties do not forbid *pas palter*, bread baked by a gentile commercial baker. [Some poskim maintain that this is only permitted where there is no Jewish bakery.] In a purely commercial setting, there is less concern for socializing. *Pas baal habayis*, bread baked by a gentile for personal use, or baked in a personal setting, may not be used, according to all customs. This applies even if one is purchasing the bread.

If a private person bakes bread to sell, it is considered *pas palter*. If a professional baker bakes bread for personal use, it is considered *pas baal habayis*. A question arises when someone bakes a large quantity of bread, some of which is for personal use, and the rest of which is for distribution to others. He will not be selling the remainder, but gives it away to workers, friends, or even the homeless. Does this count as *pas palter*, despite its having been made for non-commercial purposes? Or does it constitute *pas baal habayis*, because it was made in his kitchen for his own use? Another debate arises when a professional baker invites a Jew to his home. He will use bread baked for his business, but in the present context he acts as a *baal habayis*. Though normally one would only take the bread into consideration, the fact that the Jew was invited complicates the matter. It resembles the situation that prompted the original decree.

Bishul akum is forbidden even when cooked for commercial purposes. [Many contemporary poskim permit *bishul akum* on mass-produced items. The factory is far less personal than even a professional chef or food service.] If a gentile baked a Jew's bread for him, many maintain that the laws of *bishul* apply, rather than the laws of *pas*.

On the other hand, some maintain that there is a stringency for *pas*. While for *bishul* the rule of *oleh al shulchan melachim* exempts certain foods from the ordinance, this exemption does not apply to *pas*. Others contend that we have no proof to discount those who do apply this leniency to *pas*. For obvious reasons, the exemption of *lelafais bo es hapas* could not apply to *pas*. It is the bread itself, yet this is exactly what was forbidden. [See Avoda Zara 35b-38b, Poskim. Tur, BY Sh Ar YD 112:1-4 7-8 11-12, Taz 7 (PMG) 113:6-11 Mateh Yehonasan Ar Hash 113:6-7, commentaries. Avnei Nezer YD:92:7.]

B) A Yisroel finishing the process

Bread baked by a gentile with a Jew's participation is not considered *pas nochri*. One method involving minimal participation is called *hashlachas kitem*, throwing a twig into the fire. If the Jew added a twig to the fuel in the oven, it is not *pas nochri*. Thus, if a Jew lights the oven, or even adjusts the flame, it is considered *pas Yisroel*. In the case of a solid fuel, a Jew stoking it or even fanning it is sufficient. If the bread was edible but was still not fully baked, and a Jew completed the process, it is considered *pas Yisroel*. To avoid *bishul akum*, it is questionable whether a Jew's participation always helps. If a Jew cooked it to its minimum edible state, and a gentile completed it, or vice-versa, it is not *bishul akum*. However, if a Jew simply did *hashlachas kitem* some poskim consider it *bishul akum*. Others maintain that *hashlachas kitem* works for *bishul* as well.

In our case, the issue arises whether the crumb product is 'fully cooked' and ready to eat? Is there some part of its process that is completed by the person warming it? If it is not ready to eat, what role is played by the person heating it?

For *bishul*, the minimal level of edibility is *kamaachal ben drusai*, literally, [as well cooked as] the food eaten by *Ben Drusai*. (Some say this was a robber who ate in a hurry.)

He could not wait for his food to be fully cooked.) This is a third or half-cooked, depending on whom we follow. For bread, the minimal edible level is when a crust has formed. This does not mean that the surface has browned. Rather, if the surface has formed a membrane, it is considered minimally edible. There are two surfaces on a flattish type loaf, the top and the underside. They do not crust at the same time. The Talmud debates which surface must crust to make it minimally edible by *halachic* standards.

Accordingly, if a Jew processed food to its minimal edible stage, then removed it from the stove, and then a gentile finished the process, it is permissible. In the case of *bishul*, this would be a third of its cooking, and in the case of *pas*, when a crust forms. If a gentile processed it until this stage, then a Jew finished it, the poskim debate the matter. For *bishul*, the consensus is to permit it only in emergency situations, such as late on *Erev Shabbos*. For *pas* the consensus is to practice leniency. According to some, as long as the bread still 'needs the oven', if the Jew returned it to the oven it is considered as though he baked it. Others maintain that even if the bread was fully baked, if it is 'improved' by being returned to the oven, it is as though the Jew baked it. Some qualify this last statement. While the item might not need to be baked more but is fully edible, it has not quite finished baking. If it had finished baking at the hands of the gentile and is simply made more crusty or toasty by the Jew, it is not considered *pas Yisroel*.

Some frozen breads are sold par-baked, almost fully baked. They could theoretically be eaten in their present state, but really need to be baked a little longer, having been dampened with a little water. When done by a Jew, this would qualify as *pas Yisroel*. Matzo meal is fully baked before it is ground. Although it is always used in further cooking, the original matzo is a finished product. Bakeries usually bake a thicker matzo for this purpose, that is hard to eat. Therefore, it could be argued that if this was produced by a gentile, it would be considered incomplete. However, rather than under-baked, it is fully baked. Bread crumbs seem to be fully baked. However, since the producer relies on their being used in further cooking, it is most likely that they are not made ready to be eaten 'raw'. It is possible that they are only par-baked. [See Shabbos 20a, Avoda Zara (as above), Poskim. Tur, Sh Ar YD 112:6 9 12, 113:9, commentaries.]

C) What qualifies as bread?

To qualify for the decree of *pas nochri*, the product must qualify as a type of bread. Generally, bread is baked in an oven. Thus, some poskim allow an exemption, under certain circumstances, for bread type products baked outside an oven. This might be hearth baked or baked on a stove top in some form. The poskim permit a dried product, that is not really baked. This is probably what we call pasta or *farfel*.

The most important ingredient in a bread product must be flour from one of the five 'cereal' grains: wheat, barley, rye, oats and spelt. Even if there are other ingredients that when cooked alone qualify as *bishul*, such as eggs, when mixed into a dough with flour they become *pas*. They acquire the leniencies of *pas palter*. If the other ingredients are not mixed with the flour in dough, but are spread on top or filled inside it, they pose a problem. Thus, the poskim do not allow a bread with an egg-based glazing from a gentile bakery. The glazing poses a *bishul* issue.

Accordingly, cakes and cookies would be considered *pas*. Even if the flour content

is not the majority, but is the base of the product, it is *pas*. Pies, glazed buns and filled rolls could also pose a problem of *bishul*. The filling or glazing must be examined to see whether it fits the criteria of *bishul*. If, for example, the glazing is made up of items that are eaten raw or are not usually eaten with bread, the issue of *bishul* would not apply.

There is a third consideration: *tzuras hapas*, the form of bread. This is a factor in *hilchos brochos* and *chalah*. In the context of the decree forbidding *pas nochri* the issue is whether the prohibition governing a food produced by a gentile qualifies as bread or a cooked food. While the method of preparation to make something edible might be by baking in an oven, if it is not bread type food it is considered cooked. The methods forbidden as *bishul nochri* are not limited to cooking on the top of a stove. Anything that is inedible in its raw state and is made edible through any heating process, is cooked. If it qualifies as bread, it is considered *pas*, and if not, it might still qualify as *bishul*. Bread crumbs might be exempt from the rules of *bishul*. They are not *melafes es hapas*. Once they are used to bread a schnitzel, they are indeed eaten in a sandwich. However, that stage of production was done by a *Yisroel*.

If the bread is baked specially for its crumbs, it might be excluded from the restriction. The Talmud discusses *pas he'asuy lekutach*, bread made to be used in a pudding. It depends on the form. If it is shaped into loaves, it is bread. If it is not shaped into loaves, it is not considered bread. A second case is *kenuvkaos*. This is bread made specifically to be ground into crumbs. It requires *challah*. In both of these cases, the *chalah* obligation is dependent on the intent of the producer. *Challah* depends on the dough. *Pas nochri* seems to depend on the baked product as well. If these crumbs were never baked in loaves or if they were never edible as bread, this could mitigate the problem.

If *pas nochri* is unintentionally mixed into other food, its prohibition is neutralized. However, most poskim maintain that one may not intentionally neutralize it. Furthermore, if the bread is still visible, it is forbidden. Therefore, it would not make any difference whether the crumbs were first mixed into a batter. Nonetheless, this could be combined with the other factors to mitigate the prohibition. [See our discussion, Halocho-scope X:20, etc. Brachos 37b-38a Challah 1:5 (Yerushalmi), Poskim. Rambam, Bikurim 6:13-14 (Mahari Corcos) Sh Ar YD 112:6 14 16, (Taz, Shach, Darkei Teshuva 56 86 97) 328:3 7, commentaries. Shearim Hametzuyanim Bahalacha 38:4.]

In conclusion, the breaded chicken may not be advertised as *pas Yisroel*. However, if it can be ascertained that the original bread was not fully baked, was not shaped as a loaf, or was not made to be edible, one may mix it into a batter and rely on the leniencies.

On the parsha ... *The mohn ... they cooked it in a pot – and they made it into cakes (rolls) ... [11:8]* It would seem that cakes or rolls are produced through a baking process, rather than cooking! Perhaps, extolling the virtues of the *mohn*, the Torah says that not only could it be turned into traditional cooked or baked foods, but it could also be turned into combination foods. For example, bagels are boiled and then baked. Bread-crumbs on chicken are baked and then cooked. The *mohn* could taste like bagels or schnitzel!

Sponsored in memory of Baila Malka bas Boruch a”h, whose *yahrzeit* is the 19th of Sivan. ם

© Rabbi Shimon Silver, June 2015.

Subscriptions and Sponsorships available. (412) 421-0508. halochoscope@hotmail.com