



Daf HaKashrus

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ALMOST KOSHER IS NOT REALLY KOSHER!

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IS IT ACCEPTABLE TO EAT OUT AT A VEGETARIAN OR VEGAN-FRIENDLY INDIAN RESTAURANT IF THE HASHGACHAH (CERTIFYING RABBI OR AGENCY) IS UNRELIABLE?

In some circles, it has become increasingly common, and even acceptable, to eat out at Indian restaurants that are vegetarian or vegan-friendly even though the *hashgachah* may be unreliable. The thinking goes something like this: Indian restaurants don't serve meat or fish, and I can order foods that don't contain dairy, so there is very little that can go wrong. Indian restaurants are "almost" kosher. So long as there is a rabbi vouching that it is kosher, though he might have lax standards, isn't it good enough?

This reminds me of the time I received a call from an out-of-town *vaad ha'kashrus* that was contemplating giving certification to a local Indian restaurant. The restaurant was owned and managed by non-Jews, and there were a number of halachic questions the *vaad* was unable to resolve. The rabbis decided to speak with Rabbi Yisroel Belsky, zt"l, who was an OU senior posek at the time.

Small Jewish communities often lack the resources to support a kosher restaurant. To contend with this challenge, a *vaad* might try to find an existing (uncertified) restaurant in the neighborhood that is willing to make the necessary changes to become kosher. For this to work financially, it is essential to find a restaurant that is "almost" kosher, i.e., one that will need to make the smallest number of changes. From a *kashrus* perspective, vegetarian Indian restaurants do indeed have many advantages.

The *vaad* posed several questions and Rabbi Belsky was able to offer simple, straightforward solutions. However, one of the questions presented a challenge: "Does the prohibition of *bishul akum* apply to *dosas*, a fermented crepe made from a batter of rice and black lentils?"

Dosas were apparently a staple of the restaurant. *Bishul akum* is a rabbinical enactment that prohibits eating cooked foods if there is no Jewish participation in the cooking. However, not all cooked foods are subject to these laws; *bishul akum* applies only to those dishes that "would be served to nobility." Unsophisticated foods, such as toasted grains or breakfast cereals, do not fall into this category. The rabbis needed to know—does a *dosa* qualify as a food fit for nobility? Would the laws of *bishul akum* apply? Rabbi Belsky was unfamiliar with Indian cuisine, so we arranged for an Indian restaurant to deliver a *dosa* to the OU offices in New York City. I recall

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how Rabbi Belsky analyzed the question from many angles, but in the end, he concluded that a dosa is subject to the laws of *bishul akum*.

For a kosher restaurant that has a *mashgiach temidi*, ensuring Jewish involvement in the cooking is no big deal. The *mashgiach* simply needs to light the fires every morning and then monitor them throughout the day to ensure they are not turned off. But for a restaurant located out-of-town, which cannot afford a *mashgiach temidi* and has a *mashgiach* drop in two or three times a day, the issue of *bishul akum* can be a deal breaker. Some *vaads* maintain that it suffices for the *mashgiach* to stop in to light the oven pilot lights and have a system in place ensuring that they

do not turn off. I don't know if this particular *vaad* ever found a way around this issue, but this incident illustrated to me that there is no such thing as "almost" kosher. Truthfully, even in the best-case scenario, there are hundreds of changes that need to take place before an "almost kosher" restaurant can become kosher.

WHAT ARE POSSIBLE HALACHIC PROBLEMS IN EVEN AN "ALMOST KOSHER" RESTAURANT?

Most likely, the wine and wine vinegar used in a non-kosher restaurant are not kosher. Kosher wines and wine vinegar are typically more expensive and are not as easy to find as the non-kosher versions. One of the most common *kashrus* violations, even in well-supervised restaurants that have a *mashgiach temidi*, is when a chef tries to sneak in a bottle of non-kosher balsamic vinegar. (Apparently some chefs are bothered by the taste difference between non-kosher balsamic vinegar and the kosher substitute.) Processed foods generally require kosher certification, even when certified vegan. One cannot tell if a product is kosher merely by reading the label. Even if all the ingredients seem innocuous, there is no way to verify information about the manufacturing process. For example, the factory that manufactured the product might also produce non-kosher meats and cheeses. Tomato sauce might seem to have a fairly simple ingredient list: tomatoes, oil, salt and spices. But factories that manufacture vegan sauces may also produce sauces with meats and cheeses. Plain sauces made on the same production line as the sauces with meats and cheeses are non-kosher as well. *Bottom line: Despite the fact that a restaurant's employees may be honest and well-meaning, if the food establishment is not regularly inspected, non-kosher ingredients are guaranteed to turn up.*

As we mentioned above, some cooked foods are only kosher if there is Jewish participation in the cooking. Taro, rice, eggplant and many other cooked vegetables require kosher certification in order to ensure that the laws of *bishul akum* were complied with throughout the preparation of the food. If a restaurant does not have a *mashgiach* who visits every morning to light the fires, and then drops by during the day to see that none have been turned off, or at the very least, has a system to ensure that the fires always stay on, one must assume that the foods being served were prepared in violation of the laws of *bishul akum*.

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One of the most complicated kashrus concerns at any kosher restaurant is ensuring that the vegetables, especially the green leafy ones, are insect-free. A mashgiach must devote a large portion of his time to washing, checking and then often re-washing vegetables until they are clean. Restaurants that are not regularly visited, even if they are meticulous about cleanliness, will not take the time and effort to ensure that everything is 100 percent insect free. (This is especially true since over-washing vegetables can negatively affect their appearance.)

In a vegetarian, non-vegan restaurant, the kashrus issues are compounded. Similar to the prohibition of *bishul akum*, there is a prohibition of eating *gevinas akum* (non-Jewish cheese). Even if all the ingredients in a particular cheese are kosher, the cheese will still not be considered kosher unless it is made with Jewish participation or under Jewish supervision. A kosher consumer who is careful to avoid *gevinas akum* should be aware that there are certain kashrus agencies that certify cheeses prepared without Jewish participation. Some of these certifying agencies apply the leniency of *chalav stam* to cheese. *Chalav stam* is a leniency applied to milk produced in the US. Jews can only drink the milk of kosher animals, and therefore for milk to be considered kosher, it should require Jewish supervision. However, due to US government regulations of milk production, Rabbi Moshe Feinstein, z"tl, ruled that in the US, it is reasonable to assume the milk is 100 percent cow's milk, as labeled. Applying this leniency to cheese, however, is not condoned by Rabbi Feinstein or by other great poskim of the past generation, nor is it followed by the major kosher-certifying agencies.

Even if one orders a vegan dish in a vegetarian restaurant, there is still the concern that the pots, pans and cooking utensils are used for all of the foods in the restaurants. The pots and pans require *hagalah* (purging with boiling water) or *libun* (burning out with fire) in order to be deemed kosher. If the pot was not kashered, food cooked in the pot will become non-kosher as well.

Even if one knows what is acceptable and what to avoid at such a restaurant, others who are less astute might infer that everything is acceptable. Halachah states that one shouldn't eat in a



non-kosher restaurant even if it serves kosher food too, due to *maaris ayin*—actions that are permitted according to halachah, but nevertheless give onlookers the impression that one is doing or has done something that is prohibited. Other people might see him and say, “If he can eat there then so can I.” The details as to which foods are permitted and which are not, invariably will be lost. Thus, even if one is able to overcome the kashrut concerns discussed earlier, there is still the issue of *maaris ayin*. In a certain Orthodox community it was accepted that one could purchase coffee at the local Dunkin’ Donuts that did not have kosher certification. Wanting to boost sales, the store secured kosher certification, but the local rabbis considered it unreliable.

The rabbis let it be known that religious Jews should no longer patronize the store even to buy a coffee. This was due to *maaris ayin*. Until that point, if someone saw an Orthodox Jew entering the store, it was clear that he was only going to buy a coffee. Once the unreliable hechsher was in place, one could possibly conclude that an Orthodox Jew entering the store was going to purchase food there. This could result in people erroneously concluding that all of the food in the store was kosher, when it was, in fact, not.

Taking all of these considerations into account, it should be clear that “almost kosher” is not really kosher.

OU KOSHER HALACHA YOMIS ON HAVDALAH

HOW MUCH WINE DOES ONE NEED FOR HAVDALAH?

One must use a cup that holds at least a *revi'is* of wine for Havdalah. There are different opinions as to the exact size of a *revi'is*. According to Rav Moshe Feinstein zt"l a *revi'is* is between 3 and 4.4 oz. According to Chazon Ish, it is as much as 5.1 oz. Regarding Torah obligations such as Kiddush on Friday night, one should use the larger amount (i.e. 4.4 or 5.1 oz.). For Kiddush on Shabbos day which is only a Rabbinic obligation, one may use the smaller size (i.e. 3 oz). According to some opinions, Havdalah is also a Torah obligation, and therefore it is preferable to use a larger cup. The *minhag* is to overflow the cup, as a sign of blessing (Rama OC 296:1). One must drink a *melo lugmav* (a cheekful of wine, approximately equal to half a *revi'is*), to fulfill the mitzvah of *havdalah*. Nonetheless, the Shulchan Oruch (OC 210:1) writes that it is best to avoid drinking only a *melo lugmav* because it is uncertain if that amount necessitates a *beracha achrona*. It is therefore proper to drink a full *revi'is* for *havdalah* (Mishnah Berurah 296:6).

I WAS A GUEST AT SOMEONE'S HOME AND NOTICED THAT THE ONE WHO SAID HAVDALAH ONLY TOOK A SMALL SIP OF WINE. IT SEEMED THAT HE DRANK MUCH LESS THAN A MELO LUGMAV (A CHEEKFUL, APPROXIMATELY 1.7 OZ.). DO I NEED TO RECITE HAVDALAH AGAIN, OR WOULD THAT BE A BERACHA LEVATALA (AN UNNECESSARY BLESSING)?

Mishnah Berurah (296:9) writes that if one did not drink a *melo lugmav* during Havdalah, one did not fulfill the mitzvah. Accordingly, it would seem that they are obligated to repeat havdalah. However, the Shulchan Aruch Ha'Rav (190:4) writes that there are opinions that hold that *melo lugmav* is only mandatory for Kiddush. Other situations, that require a cup of wine, such as Havdalah, require only a sip. This is based on Rashi (Eiruvim 40b s.v. *leisvei*) who writes that the requirement to drink the wine of Havdalah is only out of respect for the mitzvah. Kaf Hachaim (296:16) writes that *bedi'eved* if one did not drink a *melo lugmav*, they should not repeat Havdalah, because *safek brachos l'hakeil* (when there is a doubt we do not

repeat brachos). Teshuvos V'Hanhagos (4:70) and Sefer Yalkut Yosef (Hilchos Havdalah) both follow this lenient ruling and agree that one should not repeat Havdalah.

WHAT IS THE PROPER WAY TO HOLD THE KOSHEL BERACHA (CUP OF WINE USED E.G., FOR KIDDUSH, HAVDALAH OR BENTCHING)? I HAVE SEEN SOME PEOPLE HOLD THE CUP FROM THE BOTTOM WHILE OTHERS HOLD IT FROM THE MIDDLE—WHICH ONE IS CORRECT?

The Mishnah Berurah (183:14-16) writes that one should hold the cup in one's right hand, and lift the cup at least a *tefach* (approximately 3-4 inches) off the table. One should not support the cup with one's left hand. Mishnah Berurah quotes the Shelah who writes that according to Kabbalah the proper way to hold the cup is on the palm of the right hand with the fingers extending upwards around the cup. The source for this is the Zohar. However, the Magen Avrohom (183:6) writes that the wording of the Zohar is inconclusive. It can also be interpreted to refer to wrapping one's fingers around the middle of the *kos*. The Bach (183:6) maintains that one may hold the *kos* in the middle. Indeed there were great *tzadikim* who specifically held the *kos* in this manner (see Va'yaas Avrohom p. 445). We see that both customs have a valid basis in halacha and everyone should follow his mesorah from his parents and ancestors.

