

# THE Daf HaKASHRUS



A MONTHLY NEWSLETTER FOR THE OU RABBINIC FIELD REPRESENTATIVE

## PRACTICAL SHMITA

### RABBI DOVID BISTRICER

Rabbinic Coordinator

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**EVERY** seven years, we have a special opportunity in Eretz Yisroel to fulfill the mitzvah of shmita. During this sabbatical year, agricultural fields are not worked, while fruits and vegetables become public property. According to the *Sefer Hachinuch*<sup>1</sup>, laying the lands fallow is an affirmation that one's sustenance is truly from the Almighty.

There are many details regarding shmita observance. This includes certain permissible allowances that one may follow, but still properly observe shmita. This article will focus on some of the more common, possible exceptions to the rule.

**1) SOURCING PRODUCE FROM NON-JEWISH OWNED FIELDS.** There are certain kashrus agencies that permit without shmita restrictions, produce from Arab owned fields in the West Bank. This is based on the position of the Beis Yosef<sup>2</sup> that produce grown nowadays in non-Jewish owned lands in Eretz Yisroel does not contain *kedushas shviis*. However, the *Mabit*<sup>3</sup> disagreed and maintained that all produce grown in Eretz Yisroel contains *kedushas shviis*, even from lands owned by a non-Jew. Later authorities, such as the Netziv<sup>4</sup>, R' Avraham Yitzchok HaKohen Kook, and R' Tzvi Pesach Frank<sup>5</sup> followed the Beis Yosef's position. However, the Beis HaLevi<sup>6</sup>, Rogatchover<sup>7</sup> and Chazon Ish<sup>8</sup> accepted the position of the *Mabit*. The accepted custom in Yerushalayim and most of Eretz Yisroel is to follow the opinion of the Beis Yosef. Nonetheless, the custom in Bnei Brak is to follow the opinion of the *Mabit*.

**2) HETER MECHIRA.** This entails temporarily selling Jewish owned lands to non-Jews, with produce from those fields not subject to shviis restrictions. The acceptability of this practice partially depends on the issue above, but also touches on other issues. This includes:

- ▶ Is shmita nowadays a Torah obligation or Rabbinic?
- ▶ Is it proper to avoid shmita observance by transferring ownership of Jewish owned fields?
- ▶ Is it permissible to sell lands in Eretz Yisroel to a non-Jew?
- ▶ Is such a sale valid if it does not conform to legal requirements of the governmental body?

Under dire economic conditions, R' Avraham Yitzchok HaKohen Kook permitted *heter mechira*.<sup>9</sup> The basic reasoning behind this position was based on the majority opinion that shmita nowadays is

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## KASHERING PIPES PROPERLY

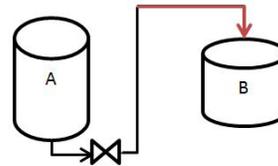
### RABBI SIMCHA SMOLENSKY

Senior Rabbinic Field Representative

**I'VE THOUGHT** many times about the physics of fluid product (i.e. oil, chocolate, anything liquid) as well as water (as is used for kashering) moving through pipes. We typically kasher pipes by pumping boiling water through them. Thinking about the physics of this movement, there are a few questions that come up with this kashering procedure:

1. Does the water retain kashering temperature through to the end of the pipe run? This is obviously a bigger question with very long lines and more so with lines exposed to cooler external temperatures (like un-insulated pipes outside).
2. Does kashering water actually hit all the interior surfaces of the pipe as it is going through?

The first question is simple to solve – checking the temperature at the exit of the pipe run will easily show if sufficient temperature has been maintained for the distance. Adjusting the quantity of water to sufficiently heat, and maintain temperature, in the pipe may be necessary.



The second question is more interesting from a physics standpoint. Consider the simple system pictured here. Tank A is the supply. Liquid comes out from the bottom of the tank, runs through a pump which raises the liquid up to a transfer line which in turn empties into Tank B. Assuming the liquid regularly running through this system is hot, we would require kashering the tanks and lines if they became non-kosher or dairy to return them, respectively, to kosher or pareve status. Kashering would typically be with hot water running the same route as product took – A through the pump, up and over to B.

We all know that kashering is accomplished by all surfaces of a *kli* coming into contact with boiling water, not necessarily simultaneously but eventually. My question really boils down to... does boiling water ever contact the top of the pipe run-

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Rabbinic and under extenuating circumstances it is permissible to transfer ownership of Jewish land to non-Jews for Jewish benefit. Although some raised an objection that legally binding property sales must be formally registered with the Israeli government, R' Tzvi Pesach Frank maintained that not doing so would not invalidate a sale intended to avoid transgressing a prohibition<sup>10</sup>. Many authorities, including the Beis HaLevi, Netziv<sup>11</sup> and Chazon Ish opposed *heter mechira*<sup>12</sup>. One of the earliest supporters of *heter mechira* was the posek hador, R' Yitzchok Elchonon Spektor of Kovno<sup>13</sup>, and discussions about the validity of these sales have already overlapped three centuries. Nevertheless, it is note-worthy that R' Kook, who formally institutionalized *heter mechira*, required a reevaluation of the need prior to each shmita year.

**3) SOURCING PRODUCE FROM EVER HAYARDEN.** There are agencies that permit produce from certain areas of Eretz Yisroel that are considered part of the Jordan Valley, which may not have been inhabited when Ezra returned from the Babylonian exile. These areas could be viewed differently and considered outside the normative borders of Eretz Yisroel where land related precepts apply fully. The *Minchas Yitzchok*<sup>14</sup> writes that since shmita nowadays and land related mitzvos immediately outside normative Eretz Yisroel boundaries are both rabbinic obligations, one can permit produce from areas that may have not been inhabited at the return of the Babylonian exile. However, the *Chazon Ish*<sup>15</sup> maintained that the Jordan Valley has the same status of any other area in Eretz Yisroel.

**4) OTZAR BEIS DIN.** This involves a beis din acting on behalf of the community by appointing agents during shmita to harvest and distribute produce from Jewish owned fields. This practice was supported by the *Chazon Ish*<sup>16</sup> and is based on a *tosefta*<sup>17</sup> that is quoted by the *Ramban*<sup>18</sup>. Unlike *heter mechira*, *Otzar Beis Din* is not a transfer of field ownership. To the contrary, all the shmita restrictions with the harvesting, distribution, and usage of shviis produce apply. *Otzar Beis Din* produce cannot be sold through regular retail channels and contain *kedushas shviis*.

## PIPES

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ning horizontally and then down into B (the red section of the diagram before the arrow)?

If we think about this logically, the pump is going to be pushing liquid up the vertical riser pipe and that section of pipe is certainly going to be filled with liquid since gravity is pulling the liquid down and the pump is being used to overcome the force of gravity. But once liquid reaches the top, gravity acts to exert force on the water to stay at the bottom, or lowest point, of the cross (horizontal) part of the line. As water reaches the top of the riser, the pulses of liquid being pushed out by the pump should flow by the path of least resistance, dissipating across the horizontal pipe and then dropping down into tank B (assuming there are no blockages or restrictions to the pipe diameter). As soon as the first liquid reaches the top of the riser it will encounter no further gravitational resistance and be able to flow much faster along the horizontal pipe. That would mean that the top of the cross member pipe would

not be touched by liquid or kashering water.

At the 2014 IFT show, I sought out the engineers from the Murzan Company. Murzan specializes in designing piping and pump systems for food plants. I discussed my thoughts with them, and they confirmed that my suspicions are correct – with the cross pipe in the diagram being level and not restricted in any way it will never be filled with liquid unless the viscosity of the liquid being pumped is extremely high and therefore not free flowing. In the case of water, oil or similar liquids the horizontal pipe will never be filled. They said that it might be possible to oversize a pump to force more liquid through at a very high flow rate, but they thought that even then the runoff across the span of the horizontal pipe would still result in that pipe never being filled. The larger the diameter of the pipe, the more profound this effect would likely be.

It goes without saying that if the cross pipe has a downward slope at all, the effect would be even more magnified and even less depth of water would be observed in the pipe. If

**5) MATZA MENUTAK.** There are two separate discussions whether: 1) produce grown indoors<sup>19</sup> and 2) produce grown in bins are subject to *shmita* restrictions<sup>20</sup>. There is basis to assume that shmita restrictions only apply to fruits and vegetables grown in an open field and/or directly in the ground. Consequently, several authorities permitted a situation where both conditions exist.<sup>21</sup> This is practically relevant to greenhouse vegetables that are grown in bins placed in the ground. Nevertheless, some oppose this leniency on the assumption that these two exceptions are only intended for irregular growing conditions. However, this would not apply to greenhouse growing that is considered a normal agricultural practice.<sup>22</sup>

Fruits and vegetables containing *kedushas shviis* are subject to certain limitations. For example, they may be eaten, but they may not be sold or wasted. They also may not be brought outside of Eretz Yisroel. This is especially relevant with esrogim, although according to some opinions there are leniencies with restrictions<sup>23</sup>. It is therefore incumbent to realize that with each of the above situations, there are practical differences how certain fruits and vegetables should be handled. Typically, either the package or store's kosher certificate should state whether the produce comes from a source where any of these situations would apply.

<sup>1</sup> 84

<sup>2</sup> *Avkas Rochel* 24

<sup>3</sup> *Shut Mabif* 1:21

<sup>4</sup> *Meshiv Davar* 2:56, *Kuntres Hashmita*

<sup>5</sup> *Har Tzvi Zeraim* 2:39

<sup>6</sup> 3:1

<sup>7</sup> *Tzafnas Paneach Hachadasos* 94

<sup>8</sup> *Shviis* 20

<sup>9</sup> *Mishpat Kohen* 58, 63, 68

<sup>10</sup> *Har Tzvi Zeraim* 2:49

<sup>11</sup> *Ibid* 4

<sup>12</sup> *Shviis* 24

<sup>13</sup> *Sefer Hashmita* p. 67

<sup>14</sup> 8:94-95

<sup>15</sup> *Shviis* 3:25, 32

<sup>16</sup> *Shviis* 11, 12

<sup>17</sup> *Shviis* 8:1,2

<sup>18</sup> *Bamidbar* 25:7

<sup>19</sup> *Yerushalmi Orlab* 1:2

<sup>20</sup> *Sefer Hashmita* p. 15, *Chazon Ish Shviis* 26:4

<sup>21</sup> *Sefer Hashmita* p. 16, *Even Yisroel* 8:74, *Masa Ovadia* p. 90-97

<sup>22</sup> *Chazon Ish Shviis* 20:6, *Chut Shani Shviis* p. 79, *Derech Emunah Shmita* 1:106

<sup>23</sup> *Chut Shani Shviis* p. 283

the pipe was not hung level, but the end was at least one pipe diameter higher than the origin, the pipe would indeed fill. Or, if there was a restriction on the end of the pipe such as a partially open valve or a reduction of diameter (from larger pipe to smaller) the cross member could also fill since there would be back resistance and the pump may be able to push more liquid into the cross pipe than is free-flowing out.

I asked the engineers if there was a way to detect this effect, for example if a magnetic thermometer was coupled to the very top of the pipe and another to the bottom, could we see a temperature differential that would indicate the top of the pipe was not in contact with liquid inside? They said that the metal of the pipe is too conductive and there would be no discernible difference in the temperatures.

This last point may have a bearing on the question in terms of halacha – if liquid doesn't fill the pipe, perhaps we could say that our kashering which also doesn't fill the pipe is adequate since the kashering water

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## CHANAN LACH B'LACH

**RABBI ELI GERSTEN**

RC Recorder of OU Psak and Policy

**THE** Mordechai (*Chulin* 697) writes that we do not say *Chaticha na'ases neveila* regarding *sha'r issurim lach b'lach*. Only when a *chaticha* (solid) absorbs *issur*, do we say that because of its *chashivus*, the entire mass is transformed into *issur*. But if liquid *heter* and *issur* are combined, the *issur* will remain proportional. The Ra'avad also agrees that we do not say *CHaNaN lach b'lach*, but for a slightly different reason. When *issur* is absorbed in a solid, it will not be absorbed and expelled uniformly; therefore once *issur* is absorbed the *chaticha* remains *assur* forever. However when liquids are combined, they form a homogenous mixture. The Rema (Y.D. 92:4) says that one may rely on the opinion of the Mordechai and Ra'avad in cases of *hefsed mirubab*, One should contact the office before making any decisions regarding what is considered a *hefsed mirubab*.

### SAFEK

Pri Migadim (*Kellalim B'hora'as Issur V'heter* s.k. 6) writes that whenever Rema permits something *b'hefsed mirubab* and there are additional *sfeikos* to be *maikel*, then one can be *maikel* even when it is not a *hefsed mirubab*. Maharsham (6:91) and V'yan Yosef (Y.D. 37) write this explicitly regarding *CHaNaN lach b'lach*.

### LACH B'LACH B'ISSUR D'RABBANAN

Igeros Moshe (Y.D. II:36) writes that there is room to be *maikel* not to say *CHaNaN* by an *issur d'rabbanan lach b'lach*. However, he cautions against relying on this *heter* unless there is a *tzorech*. Likewise, the policy of the OU has been to use this only as a *tziruf*, or in cases of *shas hadchak*.

### DAIRY

Regarding *chalav akum lach b'lach*, the OU does not say *CHaNaN*. This is because, in addition to the *sevara* of Rav Moshe ז"ל, that we do not say *CHaNaN lach b'lach b'issurim d'rabbanan*, there is an additional *tzad kula* here as well. Pri Migadim (S.D. 97:1) proves that regarding *chalav akum*, we do not say *CHaNaN lach b'lach*. He explains that this is because regarding *CHaNaN*, we are also *mitztaref* those *poskim* that held that *chalav akum* is *batel b'rov*, and because *chalav tamei* is not common. This is even without taking into account modern-day *sevaros* of *pikuach ha'memshalah*, as discussed by Igeros Moshe (Y.D. I:47) and Chazon Ish (Y.D. 41:4).

### MARGARINE

Rebbi Akiva Eiger (commentary on Shach 92:14) points out that there is a *halachic* difference between the position of Mordechai and that of Ra'avad, regarding a solid that absorbed *issur* and subsequently melted into a batter. According to Mordechai, once the *chaticha* became *assur*, it will remain that way forever, even if it eventually melts. However, according to Ra'avad, once the solid melts, it becomes evenly dispersed, so this will revert back to *lach b'lach*, which is *mutar b'hefsed mirubab*.

How should we consider kosher margarine that contains *chalav stam* (10%) that is melted into a batter, and the dairy component will be less than *shishim*? Is margarine considered a *chaticha*, or since it melts, should it be viewed as *lach b'lach*, and not require *kasher-ing* (as per Pri Migadim). Rav Belsky has said that in this case, one could rely on the Ra'avad. Especially since in this case, the margarine

started out as a liquid, so even according to Mordechai it is not clear that he would view this as having *chashivus* of a *chaticha*<sup>1</sup>. If the margarine contained animal fat, and it was a situation of *hefsed mirubab*, one should contact the office.

### COLD MIXTURES

Taz (Y.D. 92:15) says that Maharshal held that one could only be lenient for *lach b'lach* when the mixture is cold, but if the items were cooked then the ordinary rules of *CHaNaN* would apply. However, Pri Migadim shows that Rema was lenient both by cooked and by cold, to consider this *CHaNaN lach b'lach* and be *maikel b'hefsed mirubab*<sup>2</sup>.

### PIECES MIXED IN COLD THAT CAN BE REMOVED

If two cold liquids that do not mix, such as oil and wine, are combined together, we do not say *CHaNaN*, since there is no transfer of *ta'am* and it can be separated. Likewise, if cold solids of *issur* are mixed into a cold liquid, since the solids can be removed, we would not say *CHaNaN*.

A salad dressing factory produces a bacon flavored dressing that contains slightly less than 2% real bacon bits. The process is all cold. Although the bacon is not *batel b'shishim*, still in this case, we do not say *CHaNaN*, since everything is cold, and the bacon pieces can be separated and removed from the dressing. The equipment is cleaned with at least 300 gallons of plain hot water (no caustic) at about 140-145° F. Does this cleaning make the equipment non-kosher? Although it is estimated that approximately 12 gallons of dressing remain in the lines, less than ¼ gallon of this dressing is bacon bits. In this case, the wash water would be about 1200 times more than the bacon bits, so the bacon bits would be *batel* in the hot water and will not *assur* the tanks.

### DRY BLENDING OF VARIOUS POWDERS

Mishnah Berurah (447:32 and 453:17) *paskens* that *kemach b'kemach* (mixtures of powders) is considered a complete mixture similar to *lach b'lach*. The Pri Migadim (M.Z. 447:19) says that the rules of *CHaNaN lach b'lach* would apply to mixtures of flour as well. Therefore, if *chametz* flour is mixed with Pesach flour and is not *batel b'shishim*, then after the fourth hour on *erev* Pesach, the entire mixture becomes *neveila*. Even if more Pesach flour would get mixed in, the *chametz* flour would no longer become *batel*. However, Pri Migadim is referring to two identical powders, which cannot be separated. However in practice, when we are dealing with dry blends of various powders, the powders will have different sizes and densities, and theoretically it would be possible to centrifuge apart the various powders. Since this mixture can be undone, we do not say *CHaNaN*. Even if one is not certain if the powders can be separated, we are lenient, since there are *poskim* who do not consider powders to be *lach b'lach*, and when there are additional *sfeikos*, as noted above, one may be *maikel*<sup>3</sup>.

**EXAMPLE:** A company adds a stabilizer to their yogurt that contains a blend of various powders including gelatin. The gelatin is 14% of the blend (by weight). The stabilizer is added to the yogurt at 5%. Because we do not say *CHaNaN* on this mixture of powders, the *issur* will be less than *shishim* (.7%) in the yogurt, and even after converting from weight into volume, the gelatin will still be *batel*. Therefore, there will be no need to *kasher* the kettles. ■

<sup>1</sup> See *Noda B'Yehuda Tinyana* Y.D. 50 that perhaps one can be *maikel* not to say *CHaNaN*, if the mixture was liquid and later congealed.

<sup>2</sup> See also *Shach* 134:16 that we say *CHaNaN* even *lach b'lach* cold.

<sup>3</sup> See *Pleisi* Y.D. 109:1

## PIPES

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contacts the same place that product does. This may be problematic in a couple of ways: 1) if the pipe is conductive enough with heat, would we say the *bluos* of NK or dairy in effect travel and permeate all the metal of the pipe? And 2) Perhaps water is not as viscous as the material that flowed through the pipe that caused the pipe to be dairy or non-kosher, and therefore the water doesn't even reach all the parts of the pipe that product did contact?

If in fact this is a valid concern, there is really one simple solution – when kashering such pipes with hot water, the end of the line must have some flow restriction placed on it to make sure the transfer pipe fills completely with water. Mashgichim who are involved in kashering pipes need to assess the specific situation of the pipes that are to be kept kashered, identifying where this effect presents an issue, and adjusting the procedure during kashering accordingly. If the mashgiach is not comfortable understanding the exact nature of the piping being kashered, he should seek assistance from senior field staff or office staff resources.

## DAF NOTES

Rabbi Gersten recorded that Rav Schachter read this article and asked that this important issue be publicized. He also had two points that are worth noting:

If all areas of the pipe that had contact with product, will have contact with boiling water, then bidieved the pipe is kashered. Although lichatch-ila one should kasher the entire kli, even areas that did not have contact with product, but when this is not possible, it is not required (see Shach Y.D. 121:18).

If it is not possible to restrict the flow, and build up pressure in the line, one other possibility for kashering would be to run the kashering water through the pipe for an extended length of time (e.g. an additional 10-15 minutes). By doing so, although the top of the pipe will not fill with water, it will fill with steam. The condensation that forms on the top of the pipe from the steam can be used to kasher the pipe (see Igeros Moshe Y.D. 1:60).



### KASHRUS ALERT

**WONKA SWEETARTS CHEWS** produced by Nestle USA Inc., Glendale CA is certified by the Orthodox Union as a Pareve product. Some labels were mistakenly printed with an  $\text{U}_D$  - Dairy mark although this product is Pareve. Future packaging has been revised.

The Orthodox Union certifies various **POP CRAZY SEASONINGS** produced by Focus Products Group International, LLC, Lincolnshire, IL. Some seasonings contain dairy and are certified  $\text{U}_D$ , and others do not contain dairy and are certified  $\text{U}$  pareve. Pop Crazy 3 Piece Seasoning Pack contains both dairy and pareve seasonings and were mistakenly labeled with a plain  $\text{U}$  The Buffalo Seasoning and Ranch Seasoning are  $\text{U}_D$  and contain dairy, as indicated in the ingredients and allergens statements. The Caramel Seasoning is certified as  $\text{U}$  pareve. Corrective measures have been implemented.

**COUNTRYSIDE CREAMERY HOMESTYLE SPREAD** (margarine) produced by Aldi Inc. is certified by the Orthodox Union as an  $\text{U}_D$  – Dairy product. This product contains milk as indicated on the ingredient panel. Some packaging was printed without the D – Dairy designation. Packaging has been revised.

**NEW YORK YOUTH CLUB'S CHOCOLATE CHIP COOKIES** produced by New York Youth Club, Happaugue NY bear an unauthorized  $\text{U}$  Pareve mark. The Orthodox Union does not certify any NYC cookies. Corrective measures are being implemented.

**BULGARIAN BAZAAR LECHO** in 24 oz. containers produced by Bulgarian Bazaar, Milltown NJ bear an unauthorized  $\text{U}$ . The Orthodox Union does not certify this product. If you see this product in the marketplace with an  $\text{U}$  symbol, please contact kosherq@ou.org. Corrective measures have been implemented.

The  $\text{U}_D$ -Dairy symbol was inadvertently omitted from the following production dates of **SMART BEAT FAT FREE** UPC # 033776051556 Lactose Free UPC# 033776051808 Date Codes: MAY2815CA, JUL0215CA and JUL3015CA produced by GFA Brands, Inc. The products, with the above listed UPC #'s and date codes, are in fact  $\text{U}_D$ -Dairy certified even without the  $\text{U}_D$ -Dairy symbol. Subsequent packaging has been corrected.

The Orthodox Union certifies **SENSIBLE PORTIONS ZESTY RANCH VEGGIE STRAWS** produced by Sensible Portions, Boulder CO as an  $\text{U}_D$  - Dairy product. This product contains dairy ingredients as indicated in the ingredient and allergen statements. Corrective measures have been implemented for the missing  $\text{U}_D$ .

The Orthodox Union certifies various **ORGANIC TRADITION PRODUCTS** produced by Health Matters America Inc., Cheektowaga NY, but does not certify their mulberry products. Some of their mulberry packaging was mistakenly printed with an  $\text{U}$  symbol. Corrective measures have been implemented.



### KASHRUS ADVISORY

Not all Jolly Rancher products are kosher. **JOLLY RANCHER BITES** – soft chewy candy produced by The Hershey Company are kosher when bearing an  $\text{U}$  after the ingredient panel. **JOLLY RANCHER BITES** – filled gummies are not kosher and do not bear the  $\text{U}$ . Consumers must always check for the presence of a kosher symbol on a package, especially with brands that include kosher and non-kosher varieties.



### MAZEL TOV

to our dedicated RFR in California **RABBI AMATZIA ARGENTAR** on his engagement to Chaya Musie Shurpin of Crown Heights.

to our devoted RFR in Pennsylvania **RABBI SHIMON WEISS AND HIS WIFE** on the engagement of their daughter Sarah Nechama to Menachem Mendel Novack of California.

## CONDOLENCES

to our dedicated RFR in Israel **RABBI YOSSI TIRNAUER AND FAMILY** on the recent loss of his mother Devorah from Brooklyn, NY.

המקום ינתם אתכם בתוך שאר אבלי ציון וירושלים