

HALOCHOSCOPE TOI

Is there an issue of *Bishul Akum*, the restriction against food cooked by a gentile, with regard to pasteurized eggs microwaved by a gentile fast food service?

The issues:

(A) *Bishul Akum*

(B) Partially cooked food and pasteurization

(C) Microwave cooking

(A) *Bishul Akum*

Bishul Akum, kosher food cooked by a gentile, is Rabbinically forbidden to eat. Two reasons are given for this restriction. (i) As a precaution against ingesting non-kosher foods or ingredients that the gentile might mix in with the kosher food. (ii) As a preventative measure against socializing with gentiles. Socializing might lead to intermarriage. If food cooked by the gentile is forbidden, the development of the friendship is prevented. Some Poskim maintain that the two reasons are one. It is to prevent the gentile leading the Jew to partake of something forbidden, including non-kosher food and marrying a gentile woman.

Though the Talmud rejects the possibility that the restriction is Scriptural, it is linked to a Passuk in the Torah, by *Asmachta*. The Torah relates the negotiations between *Israel* and *Edom* when the Jews were poised to enter *Eretz Canaan*. They asked to pass through Edom, a gentile country, but were barred. They offered to buy water. Just as water is not affected by cooking, one may derive that anything purchased from the gentile must not be cooked.

This prohibition has, according to some Poskim, three or four limitations.

- (a) *Aino Ne'echal Kemos Shehu Chai*. It is limited to foods that were not edible before being processed by the gentile, such as raw fish. Thus, it does not apply to things like apples, that can be eaten raw. The restriction is against food that is meaningfully improved by the gentile. If the process was not needed to facilitate eating the food, the gentile has not effected an important change in it.
- (b) The food must also be *Oleh Al Shulchan Melachim*, worthy to be served at a royal banquet. This is the type of food that one might invite a gentile friend over to eat. Thus, plain foods such as cereals and beans, are excluded.

- (c) Some Poskim add a limitation known as *Midi Dimelaftsin Bo Es Hapas*. It must be a main course dish, meant to be eaten with bread, or with a bread based meal. This excludes fancy snacks. The Talmud, when describing food served at a royal banquet, adds this qualification. However, many Poskim maintain that the Talmud considers this a requirement only on the foods that would otherwise be used to accompany bread. In this case, they must accompany bread at a royal table. Other foods that are never intended to accompany the bread need not be excluded.
- (d) A fourth limitation is added by some Poskim. The decree was intended to prevent being misled by the gentile. If the food looks the same after it was cooked as it did before, one will not be misled. Thus, only foods the appearance of which are physically altered by heat are included in the restriction. [See Avoda Zara 38a (Rashi, Tosafos, Hagahos Ashri) Rambam, Maachalos Asuros 17:9-10. Tur, Shulchan Aruch Yoreh Deah 113, (Aruch Hashulchan 6-7), commentaries.]

(B) Partly cooked food and pasteurization

The restriction is against foods made edible by the processing of the gentile. Thus, if the food was cooked by a Jew, but lacks the finishing touches, and was then finished by a gentile, it is not forbidden. The point at which the food is considered cooked is when it is edible at its barest minimum. This is known as *Maachal Ben Drusai*, literally the food of *Ben Drusai*. Some say this is the name of a well-known fugitive. He had to cook his food to the minimum edible level and run off with it. This minimal level is variously given by the Poskim as a third or a half of its cooking. This is not counted in cooking time but in how well cooked the food is.

If a Jew cooked it *Maachal Ben Drusai*, then a gentile completed the cooking, it is permitted. If a gentile cooked it to this point and a Jew completed it, the Poskim debate its permissibility. Some permit it only in pressing situations, while others permit it totally. Thus, if something was partially cooked, then the process was interrupted for a second, such as its removal from the flames, this issue arises. If there is doubt about whether the food reached *Maachal Ben Drusai* before the gentile or Jew got involved in the cooking process, we tend to leniency.

Cooking is processing the food to make it edible through the medium of fire or hot water. Pickling or salting, though having much in common with cooking, do not count. If a gentile pickles food and it is now edible, then cooks it, it is not forbidden. The same is true for smoked fish, if it is edible through the smoking process alone.

In our case, suppose the eggs were pasteurized by a Jew. If pasteurization can be considered partial cooking, would the gentile's completion of the process forbid

the food? If pasteurization is considered cooking to the point of edibility, if a gentile pasteurized it, but a Jew then cooked it further, it should be permissible. If a gentile pasteurized it and later cooked it, suppose pasteurization makes it edible but does not count as cooking. Do we consider it edible before he cooked it, like salted fish? Assuming pasteurization is considered *Bishul Akum*, if the final process can not be defined as cooking, does this relax its restriction due to earlier cooking by a gentile?

From decisions in other areas of Halacha, it appears that pasteurization is considered cooking. The level of heat for water to be considered cooked is when it reaches the temperature of *Yad Soledes Bo*, that a hand would pull away from it. Eggs can be cooked at a lower temperature. However, the pasteurization process for eggs does not effect the same physical change that cooking does. It is meant to kill harmful organisms that can not survive the level of heat. It does not seem to be partially cooked to the point it is edible. Furthermore, there is little noticeable change in their appearance, though we generally do not follow the view relying on this. Actually, eggs are the matter of Talmudic debate with regard to *Bishul Akum*. If they are roasted in their shells one view permits them. Some say this is due to the gentile not having handled the food inside the shell, while others maintain that it is because eggs can be eaten raw in a pressing situation. Though we follow the stringent view, the lenient view is invoked to allow for a tendency to a lenient view in other debates. [See Shabbos 20a Avoda Zara 38a-b, Poskim. Tur Sh. Ar. Y.D. 113:8-14, (Darkei Teshuva 85), commentaries. Igros Moshe Y.D. II:34 51.]

(C) Microwave cooking

Microwave cooking differs from regular cooking. Regular cooking heats the food from outside, causing physical change from the outside inwards. Microwave cooking agitates the liquid content to cause it to get hot enough to cook. The food is cooked evenly all the time. Both cook with heat, but the heat source is different.

We have mentioned that to be considered cooked Halachically, any physical change, including the "heat" of salting, is included. However, this only applies to some areas, such as the ability to transfer flavor of one food to another or to utensils. This is an important factor in *Kashrus*, when food items are mingled. For *Bishul Akum* the guidelines of cooking are set according to those of *Bishul Basar Bechalav*, cooking meat and milk together. This is a Scriptural prohibition, but only applies when heat is used to cook. Even frying is questionable for these purposes. The same issues are raised for cooking the *Korban Pesach*, paschal lamb. If it is cooked it is forbidden to eat. For Shabbos as well, the Talmud discusses

other forms of cooking. The Talmud debates cooking with the heat of the sun, or with naturally hot water, such as the hot baths of *Teverya*. We follow the view that does not equate it with regular cooking. The reason is that it is not *Derech Bishul*, normal to cook with it. Upon close examination of the Talmudic passage, is that the heat source of the sun is not reliable, while the heat of geysers is not possible to control.

Accordingly, some Poskim maintain that microwave cooking, while not using fire as its heat source, is still reliable and controllable. It is used as a normal cooking process, and can be considered *Derech Bishul* for Shabbos. However, some Poskim maintain that even *Toldos Or*, something heated by fire, such as sand which is used to cook food after it has been removed from the heat source, is not included in the restriction for Bishul Akum. On Shabbos, this is forbidden. These Poskim maintain that it was not included in Bishul Akum when it was first instituted. Even steaming food is the matter of a debate. Furthermore, some Poskim maintain that refining sugar, which apparently uses steam machinery, is not included in the original decree. This process did not exist when the decree was made. Therefore, it can not be included in or added to the existing decree. Whether or not this is true of steaming might be debated, but microwave cooking does seem to be a new process that was never used at the time this decree was instituted. [See Shabbos 38b-39b 40b, Psachim 41a, Chulin 108a, Poskim. Tur Sh. Ar. Y.D. 113:1 12-13, (Darkei Teshuva 16 72). Igros Moshe O.C. III:52.]

We might add, many Poskim rely on the fact that the initial decree was to prevent socializing, making cooking by a commercial establishment less severe. Many Poskim permit a mass-production process. Thus, if pasteurization is considered cooking, the food is already cooked in a permissible way before it is microwaved. In our case, fast food services are considerably less personal than restaurants, and might also be closer to being considered mass-production.

In conclusion, it appears that there is ample room for leniency in regard to the microwaved pasteurized eggs. First, eggs have an in-built leniency clause according to some Poskim. Second, pasteurization is done by mass production, and might be considered altering it to make it a bit edible. Most importantly, the microwave process is probably not included in the decree, according to the views of many Poskim.