

PASTEURIZED WINE - WHAT IT BOILS DOWN TO

PREVENTING INTERMARRIAGE

Avodah Zarah 29b explains that the prohibition against the wine of idol worshipers was instituted out of concern that the wine had been used as a libation for their gods. However, the Gemara later (36b) states that the wine of idolaters was prohibited in order to distance Jews from forbidden relationships and intermarriage. Tosafos addresses this question and explains that the main reason for the decree was certainly to prevent intermarriage but would not have prohibited benefit from the wine as well. Even before the decree, some wine owned by non-Jews was forbidden by the Torah if used for a libation, and that prohibition included any benefit from the wine. Chazal did not wish to differentiate between wines prohibited for different reasons, and therefore all wine owned by a non-Jew was forbidden for consumption or to benefit from it in any way. The Gemara later (56b) will indicate that, as a stringency, Chazal also prohibited benefiting from the wine of a Jew that was merely touched by an idolater (*Tur, Yoreh De'ah* 123).

BENEFIT NOWADAYS

The *Shulchan Aruch* rules accordingly, but the *Rema* rules that nowadays the *avodah zarah* issue is not really relevant, since idol worship is not common in the lands where we live (*Yoreh De'ah* 123:1). Although there are opinions to the contrary, most *poskim* rule that when necessary one may derive benefit from non-Jewish wine and business may be done with wines that were touched by a non-Jew. The *Chochmas Adam* (75:14) writes that a *baal nefesh* should refrain from deriving benefit. Similarly, the *Maharam Schick* was asked by a Rav who received a non-kosher bottle of wine, whether it would be *bal tashchis* to throw out the wine and not to benefit from it. He responded that even according to the *Rema* who permitted benefit, it is clear that there is reason to be stringent and therefore it is better to throw it away, and one should not be concerned about the waste of the wine. Sefardim who rule like the *Mechaber* are forbidden from any benefit even nowadays.

THE EXEMPTION OF COOKED WINE

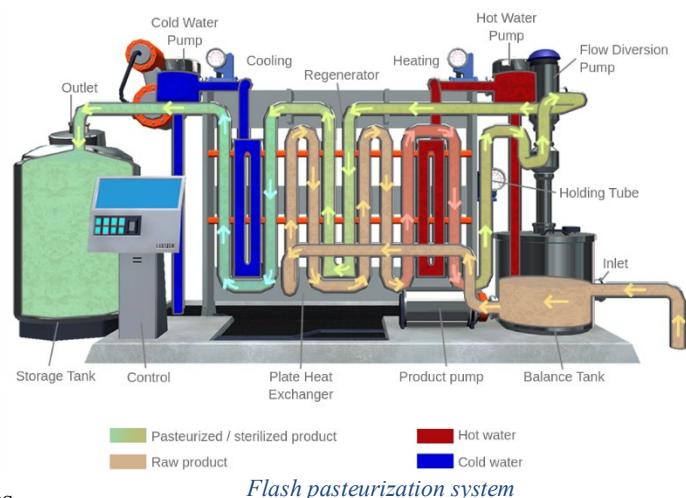
Avodah Zarah 30a relates that Shmuel was sitting with a non-Jew and cooked wine was served. The non-Jew withdrew his hand so as not to touch the wine. Shmuel said to him, "They have ruled that cooked wine is not subject to the prohibition of libation wine," thus there is no reason to refrain from touching it. The Gemara concludes, the law is that cooked wine is not subject to the prohibition of *nesech* wine and *Shulchan Aruch* rules accordingly (*Yoreh De'ah* 123:3). We need to understand why cooking prevents wine from becoming forbidden. The *Rambam* writes that it is because idol worshipers do not use cooked wine in their religious services (*Rambam, Hilchos Maachalos Asuros* 11:9). The *Rosh* (*siman* 13) objects to this on the basis that the main decree was to prevent intermarriage and that concern applies equally to cooked wine. The *Rosh* therefore suggests that the reason for its exclusion from the decree is that it is not usual for wine to be cooked and as a rule Rabbinical decrees are not made for uncommon cases. The *Rashba* states that cooking wine changes its flavor so that it is no longer classed as regular wine and is designated as cooked wine. Other *Rishonim* held that the exemption of *yayin mevushal* was because it was an inferior product that would not have been used for *avodah zarah*. Which of these reasons is adopted in practice will impinge on the discussion of the status of the pasteurization process nowadays.

WHAT'S COOKING?

What makes wine classified as *mevushal*? Some *Rishonim* set the criteria that the wine must boil, referring to it bubbling, but others set another standard: that the liquid begins to diminish in quantity due to evaporation. The *Shach* maintains that these two standards are describing the same point from different approaches, as there is also some reduction in volume by the evaporation of vapor when it bubbles. It should be noted that small bubbles that form early in the boiling process are pockets of air that have been dissolved in the cold liquid, but become less soluble as the temperature rises. Larger bubbles are pockets of hot vapor generated by the heat. It therefore follows that the larger bubbles indicate a reduction in volume through evaporation. How can we set a standard that can be measured by a *mashgiach*?

WHAT IS PASTEURIZATION?

The cooking discussed in the earlier *poskim* refers wines cooked in an open pot over a fire. Nowadays the cooking process involves flash pasteurization in a heat exchanger, where a thin flow of liquid is run very quickly over steel plates heated on the reverse side with hot water. The liquid is then rapidly cooled. This process is a closed pressurized system, where evaporation cannot escape and the rapid cooling mitigates any change of taste. Under pressure, liquids



Flash pasteurization system

boil at lower temperatures and do not necessarily bubble. In a sealed system, evaporation gets recycled after condensation, so there is no overall reduction in volume. Is pasteurization regarded as cooking in *halachah*?

HOW HOT IS BOILING?

The only effective way of measuring the level of cooking is by its temperature. Under the pasteurization system, microorganisms are killed at much lower temperatures, so it is necessary to set the machine to a higher temperature to comply with the cooking definition. Contemporary *poskim* differ on the level of temperature required to achieve the status of *bishul*, with Rav Moshe Feinstein defining it as 175°F/80°C *lechumra* (*Igros Moshe, Yoreh De'ah* 2:52, but in *Yoreh De'ah* 3:31 he rules 165°F/74°C is sufficient). The Zelemer Rav stipulated 190°F/ 88°C. The former view is based on a strict interpretation of *yad soledes bo* as found in *hilchos Shabbos*, whereas the latter view is closer to the boiling point of the liquid. It should be noted that Rav Moshe Feinstein's comments in connection with temperature levels were stated in connection with the question of cooking wine in a private kitchen and we do not know his opinion regarding pasteurization. Although previous practice generally was to set the temperature of the pasteurizer to around 158°F/70°C, most have increased it to at least 175°F/80°C nowadays. However, because of the lower boiling point of alcohol, the temperature that is needed to reach the higher *bishul* point will depend on the percentage of alcohol in the wine and will be higher for non-alcoholic grape juice.

LETTING OFF STEAM

One way to overcome the problem of no evaporation in the closed system is to open the safety valve of the pasteurizer for a short time, to allow the steam to exit. This will cause a definite reduction in volume. Barkan Winery has pioneered a system with a special valve for that purpose. The practice of pasteurization of wine has given rise to another controversy, where some *poskim* insist that a change of designation and taste (Rashba above) is needed to exclude boiled wine from the *gezeirah*. Furthermore, as pasteurization has now become common practice, the original exemption of being an unusual situation (Rosh above) falls away. Those *poskim* therefore do not regard pasteurization as *mevushal* regardless of the temperature issue (*Shevet HaLevi, Yoreh De'ah* 51 and 7:234; *Minchas Yitzchak* 7:61; *Mishneh Halachos* 12:34; *Teshuvos VeHanhagos* 2:401). If a person wants to follow the *poskim* who hold that the pasteurization process is not considered *bishul*, then he needs to take care to avoid having his wine touched by a non-Jew.

However, there is a much more serious implication. Many wineries abroad and boutique wineries owned by non-religious Jews have the problem that they are staffed by non-qualifying individuals who cannot be involved in the production and all interactions with the wine must be carried out by the *mashgichim*. As soon as the wine has been pasteurized, non-Jews would be allowed to handle the wine, and thus, the bottling process can be operated by the general staff. If a person wants to follow the *poskim* who hold that pasteurization is not *bishul*, he will consider that wine forbidden, as for him that wine was unprotected by cooking. In other words, such a person cannot buy any pasteurized wine unless he knows that the *hechsher* does not allow general staff to do the bottling, which is only the case with the better *hechshirim*, or where the winery has a security system forbidding any non-accredited individuals access to the winery.

KIDDUSH WINE

Several early authorities write that the *berachah* on cooked wine is *shehakol* and it cannot be used for *kiddush* because the cooking process changes the wine into an inferior product. The Beis Yosef cites the Maggid Mishneh, who brings the opinion of the majority of Rishonim that one can use cooked wine for *kiddush*, as cooking enhances the flavor. The disqualification of using cooked wine for *nesachim*, the wine libations that accompany most personal and communal sacrifices, is only because the wine is not in its original natural state. *Bechoros* 17a derives from *Vayikra* 23:37, which reads: זבח וּנְסָכִים a sacrifice and libations – just as a sacrifice may not deviate from the norm, so too must the *nesachim* be comprised of wine that did not deviate from the norm. *Shulchan Aruch* brings both opinions and the Rema notes that the custom is to use cooked wine even if he has other wine, but it is inferior to the cooked wine (*Orach Chaim* 272:8). *Mishneh Berurah* comments that if he has uncooked wine which is not inferior to the cooked wine, one should observe the stringent view and not use the cooked wine for *kiddush*. Wine pasteurized at the lower temperature may still be considered like cooked wine with regard to *kiddush*, as it is not in its natural state after being processed (*Dinei Hayain* p. 78).



Dayan Aharon Dovid Dunner on a tour of Barkan Winery, guided by the then Rav HaMachshir of Chug Chasam Sofer, Rav Shmuel Eliezer Stern (center), with Yakov Schonberg (right), in 2012.