

The Halachic Discourse of Louis Pasteur **By Rabbi Yehuda Spitz**

Can you feel Purim just around the corner? Who isn't eagerly anticipating this annual Yom Tov extravaganza, featuring joyous dancing, Mishloach Manos, colorful costumes, and, of course, the Megillah reading? However, for many it is the unique mitzvah to get drunk that they are eagerly awaiting. Since Purim is described in the Megillah[1] as a day of Mishteh (referring to a wine feast) and the Purim turnabout miracle occurred at such wine feasts, there is a rare dispensation from the norm, and an apparent obligation to drink wine,[2] as the Gemara Megillah (7b) famously rules that 'MeiChayav Inish Livesumei B'Puraya, a person is obligated to drink and get intoxicated (on some level) on Purim'. Hopefully, the wine will enable us to experience a sublime, spiritual Purim.[3]

Yet, and quite unknowingly to most, we all have someone to thank for enabling us to safely drink wine nowadays, Louis Pasteur (1822-1895). Although best known as the "father" of microbiology, bacteriology and germ theory, as well as the discoverer of the rabies and anthrax vaccines, he was also responsible for the prevention of numerous diseases. What is lesser known is that he also invented a process of heating up liquids, which would destroy bacteria and other germs lurking inside, thereby increasing shelf- life and preventing these liquids (mainly milk and wine) from causing disease. This process later became known as "pasteurization", for obvious reasons.

Hilchos Pasteur?

Aside for the health benefits of pasteurization, there potentially might be halachic benefits as well. It is well known that there is a Biblical prohibition to benefit whatsoever from wine that was poured as a libation in idol worship (Yayin Nesech). There is also a Rabbinic prohibition to drink wine that was poured or touched by a non-Jew, as a safeguard to prevent intermarriage and assimilation (Stam Yaynam).[4] This prohibition was extended to include wine that was touched or poured by Public Sabbath Desecrators (Mechalalei Shabbos B'farhesya).[5]

However, there is an important exclusion to this rule: if the wine is cooked (Yayin Mevushal) then even if it was later touched or poured by a non-Jew, it loses its status of Yayin Nesech, and is permitted to be drunk.[6] There are several reasons advanced by the Halachic authorities for this exception, among them:[7] 1) Cooked wine is considered substandard and is no longer fit for a libation. 2) Cooked wine is uncommon, and therefore was never considered part of the prohibition. 3) Cooked wine's taste is inferior to uncooked wines, and is not considered real wine for this purpose.

Debate Heats Up

There is some debate among the authorities as to what level of cooking this wine needs in order to receive Mevushal status. The Shulchan Aruch (Yoreh Deah 123: 3) simply states "when it gets hot on the fire", implying that it must be at least "Yad Soledes Bo",[8] when one would pull his hand away from touching it, for fear of getting burned. The Shach (ibid. 7), quoting the Rashba and Ran, however, adds another caveat, that the heat level has to be such that the

wine's volume has to be noticeably reduced due to the cooking[9]. Rav Moshe Feinstein, in several responsa[10], estimates this temperature to be approximately 175°F. He maintains that once the wine reaches this temperature while being cooked, it is already considered Yayin Mevushal, and we no longer have to worry about the halachic ramifications if a gentile would touch this wine.

There is, however, a third opinion, brought in the Gilyon Maharsha and Darchei Teshuvah[11] that in order to be truly considered cooked, this wine must really be so – meaning it has to reach its boiling point. Even though water boils at 212°F (100°C), due to its alcoholic content (alcohol has a much lower boiling point than water) the average wine's boiling point is approximately 195°F. Rav Feinstein maintains that since this opinion is not brought in the Shulchan Aruch or its main commentaries, we are not required to follow it.[12] Other contemporary authorities, nevertheless, do take this opinion into account.

This debate also influences the halachic ramifications of pasteurization. Wine producers are not eager to actually cook, let alone boil, their wine, as doing so drastically diminishes its quality and taste, and consequently, and more importantly to them, their profits. And that's where pasteurization comes into the picture. Since they have to pasteurize their wine anyway for health reasons, if it is also considered mevushal, they can "kill two birds with one stone" and keep the quality (and their profit margins) intact.

Pondering Pasteuring

Contemporary authorities are divided as to the permissibility of pasteurization being considered cooked. Rav Moshe Feinstein held that the temperature of pasteurization is sufficient to be considered mevushal. Rav Ovadiah Yosef[13] agrees that this process satisfactorily meets this requirement.

Rav Shlomo Zalman Auerbach,[14] Rav Yosef Shalom Elyashiv,[15] Rav Ben Tzion Abba Shaul,[16] Rav Menashe Klein,[17] and the Tzehlemer Rav,[18] however, are unconvinced, as the vast majority of wine is pasteurized, and therefore cannot be considered uncommon, as cooked wine is supposed to be.[19] Additionally, if the wine is flash-pasteurized (process performed extremely quickly - in a 'flash'), the evaporated wine is recovered through sealed pipes and therefore is not actually reduced, and the taste ends up not significantly altered. Moreover, the majority of wine drinkers cannot distinguish pasteurized wine from uncooked wine. These decisors also take the stringent definition of mevushal into account, and therefore maintain that pasteurized wine cannot possibly be deemed mevushal. Although they all do not make the same arguments, these poskim hold that the pasteurization process as we know it does not adequately translate into actual yayin mevushal.

Other authorities, including the Minchas Yitzchak, the Shevet HaLevi, and Rav Moshe Sternbuch,[20] maintain a middle ground, albeit each via separate reasoning, that although pasteurization should not be considered cooking to actually permit consumption of wine touched by a non-Jew, it nonetheless would be considered as such to permit wine touched by a Public Sabbath Desecrator, as it is only a corollary of the original proscription.[21]

Not Out to Pasteur!

Although there is no one clear-cut contemporary consensus to this 'touchy' subject, I can imagine that if he were alive today, Dr. Pasteur would be amazed to find that his works are still being discussed and debated, not just in the halls of science and academia, but even in the hallowed halls of Batei Midrashim all over the world. Hafoch Bah V'Hafoch Bah d'Kulah Bah!

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This article was written l'zechus Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua sheleimah teikif u'miyad!

For any questions, comments or for the full Mareh Mekomos / sources, please email the author: yspitz@ohr.edu.

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[1] Esther (Ch. 9: verse 19 and 22).

[2] See Abudraham (Hilchos Purim), Rokeach (237), Shu"t Radbaz (vol. 1: 462), Elyah Rabba (Orach Chaim 695: 1), Chayei Adam (vol. 2, 155: 30), Tzror Hachaim (Haderech Hashmini, Midrash L'Purim pg. 120 - 121), Kitzur Shulchan Aruch (142: 6), Aruch Hashulchan (Orach Chaim 695: end 6) and Biur Halacha (695 s.v. chayav). This is also the basic understanding of Rashi's commentary (Megillah 7b), who simply translates livesumei as getting drunk with wine. Similarly, the Rambam (Hilchos Megillah Ch. 2: 15) only mentions drinking wine. However, there are those who maintain that one need not get drunk exclusively with wine. See Gilyonei HaShas (Megillah 7b s.v. meichayav), Shu"t Hisorerus Teshuvah (vol. 3, Orach Chaim 491), and more contemporary, Mikraei Kodesh (Purim, 44: in the footnotes), Orchos Rabbeinu (vol. 3: Purim, 92, pg. 56), Shu"t Rivevos Efraim (vol. 1, 395: 2; vol. 3, 465: 1; and vol. 7, 360: 1), Shu"t Mishnah Halachos (vol. 5: 83), Shu"t Mishnas Yosef (vol. 4: 50), Shu"t Lehoros Nosson (vol. 9: 22), Shu"t Shevet Hakehasi (vol. 6: 258), Moadim U'Zmanim (vol. 2: 190), and Moadei HaGra"Ch (pg. 336).

[3] As Rav Shlomo Wolbe (AleI Shur vol. 2: pg. 468) wrote about Rav Yisrael Salanter on Purim. See the Maharal M'Prague's Ohr Chodosh (Hakdamah, pg. 49) for an interesting assessment why we drink on Purim, explaining that by drinking we are completely negating ourselves, which shows that our existence is totally from Hashem, similar to the time of the Purim miracles. A

similar assessment is given by the Seder HaYom (Seder Seudas Purim s.v. chayav). Rav Chaim Shmuelevitz (Sichos Mussar 5731, Maamar 11) takes this point a step further, explaining that at that point of drinking we are showing that we are entirely 'Avdei Hashem', and not 'Bnei Chorin' making rationale decisions. The Chasam Sofer (Toras Moshe, Parshas Tetzaveh, L'Purim, s.v. chayav) writes that our drinking Leshaim Shamayim on Purim is meant to negate the drinking that was done at Achashveirosh's party in order to sin. Another idea is that the wine serves as a catalyst to draw us close to one another, as the Gemara in Sanhedrin (103b) states "Great is drinking...for it brings together those who are distant". See Rav Chaim Friedlander's Sifsei Chaim (Moadim vol. 2, pg. 205) and the Birkas Avraham (Megillah ad loc. s.v. ad) at length. For different and fascinating hesberim of why we drink on Purim, see Rav Avraham Yitzchok Hakohen Kook's Olas Reiyah (by the Brachos of the Megillah), Rav Yitzchok Hutner's Pachad Yitzchok (Purim, Inyan 6), and Rav Moshe Sternbuch's Shu"t Teshuvos V'Hanhagos (vol. 4: 173). See also Nesivos Shalom (Purim, pg. 57- 58) who offers a completely separate understanding of the Gemara. He notes that the Gemara does not say 'livesumei' with wine, rather 'livesumei BePuria', in Purim, meaning that one should get intoxicated from Purim itself, as in the connotation of Yeshaya (Ch. 51: 21) "drunk, but not from wine". On Purim a person must become so "drunk" on the elevated revelations of Purim that he cannot tell between the 'Arur Haman' and 'Boruch Mordechai' of his Avodas Hashem, his interpersonal relationships, and even himself.

4 Mishnah (Avodah Zarah 29b); see Tosafos (ad loc. s.v. vyayin) who explains that this decree is due to preventing intermarriage, 'chasnus', as the Gemara later on (Avodah Zarah 36) states this as well. This is also how the Tur, Shulchan Aruch, and their Nosei Keilim conclude (Yoreh Deah 123: 1). However, even though 'Stam Yaynam' is Derabbanan, the Chochmas Adam (75: 1) avers that one who drinks it will have his neshamah uprooted from Gan Eden and will have no share in Olam Habaah. The Chida (Shirurei Brachah, Yoreh Deah 123: 2 s.v. uv'emes) writes similarly, adding that the violator will also be reincarnated as a donkey. Very strong exhortations, indeed. However, the B'aer Heitiv (ad loc. 1, in the parenthesis) cites the Chavos Yair (Shu"t 183), that even so, one does not have to give up his life, or even limb, for this prohibition.

5 See, for example, Rashi (Chullin 5a s.v. ela lav), Ran (ad loc.), Rambam (Hilchos Shabbos Ch. 30: 15), Shulchan Aruch (Orach Chaim 385: 3, Yoreh Deah 2: 5; 119: 7; see also 124: 8), Shach (Nekudos Hakessef beg. Yoreh Deah 124), Magen Avraham (Orach Chaim 306: 29), Pri Chodosh (Yoreh Deah 112: 2), Pri Megadim ad loc. Sifsei Daas: 2), Kitzur Shulchan Aruch (72: 2), and Kaf Hachaim (Yoreh Deah 112: 11). On the other hand, there are several poskim, including the Chasam Sofer (Shu"t Yoreh Deah 120) and the Chazon Ish (Yoreh Deah 2: 23 and 49: 7), who maintain that this chumrah regarding wine touched by Mechalalei Shabbos is truly only a kenass, and not actually m'din, as 'Chasnus' should technically not apply to any sort of Jew. Rabbi Akiva Eiger (Yo reh Deah 123, gloss to Taz 3) implies this way as well. There is much contemporary Rabbinic literature how to properly define modern day Mechalalei Shabbos B'farhesya, if they are included in this category, or perhaps have the exception of 'Tinokos Shenishbu' (see Rambam - Hilchos Mamrim Ch. 3: 1 - 3). Certainly, it would be preferred lechatchilla to ensure wine being served to any sort of Mechalel Shabbos be mevushal, in order to not come into halachic question.

6 Rava's statement in Avoda Zarah (30a), and followed lemaaseh by Rashi (ad loc. s.v. harei amru), Tosafos (ad loc. s.v. yayin mevushal), Rambam (Hilchos Maachalos Asuros Ch. 11: 9), and Tur and Shulchan Aruch (Yoreh Deah 123: 3), and later authorities. However, Rabbi Akiva Eiger (ad loc. s.v. v'afa"ng) further qualifies this leniency, that it is only referring to a Jew's yayin that a non-Jew touched, that is still permissible to be drunk, but not to a non-Jew's cooked wine, even if it is technically 'kosher'. Rav Tzvi Pesach Frank was known (Shu"t Har Tzvi vol. 2 Yoreh Deah 111) to have practically ruled this way.

7See Rosh (Avodah Zarah Ch. 2: 13), Rashba (Shu"t vol. 4: 149 and in Toras Habayis, Bayis 5 Shaar 3), Meiri (Avodah Zarah 29b - 30a), Knesses Hagedolah (Yoreh Deah 123, Haghos on Beis Yosef 16), Taz (ad loc. 3), and Sdei Chemed (Maareches Yayin Nesech).

[8] Ramban (Avodah Zarah 30; citing the Raavad), Biur HaGr"a (Yoreh Deah 123: 7); this is also the basic understanding of the Shulchan Aruch (ad loc.).

9Rashba (ibid.), and Ran (Avodah Zarah 10a in the Rif's pagination). This is also the Ramban's (ibid.) own shittah, as well as that of the Rosh (ibid.), Ritva (Avodah Zarah ad loc.), Tashbatz (Shu"t vol. 1: end 29), and Orchos Chaim (Yoreh Deah, pg. 247).

10 Shu"t Igros Moshe (Yoreh Deah vol. 2: 52, Yoreh Deah vol. 3: 31, Yoreh Deah vol. 5: 9, and Even Ha'ezer vol. 4: 108). Although in several of the responsa Rav Moshe writes that once the wine reaches 165° F it is sufficient, see however, Rav Yisroel Halevi Belsky's Shu"t Shulchan Halevi (Ch. 25: 4) who writes that the ikar in Rav Moshe's shittah is 175° F, as he himself indicates in other teshuvos. This author finds it interesting that in all of his teshuvos on topic, Rav Moshe never once mentions that he holds that the process of modern day pasteurization is sufficient to make the wine be considered mevushal; rather he only refers to the heat level that is reached during pasteurization as sufficient to be considered as 'bishul'. Several years ago I asked Rav Mordechai Tendler, Rav Moshe's grandson and author of Mesores Moshe his thoughts on the matter, and he agreed that based on Rav Moshe's teshuvos it would indeed be a chiddush to say that Rav Moshe allowed all aspects of the pasteurization process to be considered actual bishul, as opposed to how it is widely quoted in his name.

11 Gilyon Maharsha (Yoreh Deah 115: 1), Darchei Teshuvah (123: 15), quoting several early Sefardic Acharonim, including the Divrei Yosef (vol. 3: 845, 2), Chida (Kikar La'aden pg. 162a; citing the Maharam de Luzano), Ikrei Hada"t (Ikrei Dinim, Yoreh Deah 13: 13), Knesses Hagedolah (ibid. 14), Ria"z (cited by the Shiltei Giborim on Avodah Zarah 10a), and Rav Chaim Palaj'i (Ruach Chaim 123: 2). The Chochmas Adam (75: 10), and Ben Ish Chai (Year 2 Parshas Balak 7) were also known to be machmir for this shittah, mandating 'bishul gamur'. This was also known to be the opinion of several Rishonim, including the Meiri (Avodah Zarah 29b) and Ohr Zarua (Avodah Zarah Ch. 2: 155). See also next footnote.

12 Shu"t Igros Moshe (Yoreh Deah vol. 3: end 31). This is akin to the position of the Shulchan Gavoa (Yoreh Deah 123: 7), that 'the Shiltei Giborim's shittah is 'batlah da'ato eitzel kol hani

derabvusa'. On the other hand, the Kaf Hachaim (Yoreh Deah 118: 7) writes that he found that the Rambam in Hilchos Issurei Mizbe'ach (Ch. 6: 9) holds that the meaning of 'bishul' is that it must be cooked to the extent that its intrinsic taste changed. The Kaf Hachaim posits that the same should apply by Hilchos Stam Ya ynam as well. He then cites several of the aforementioned poskim (in the previous footnote), concluding that certainly lechatchilla we should be choshesh for the Rambam's and the other poskim's more stringent opinion, but b'dieved, 'ain lehachmir klal' since the vast majority of authorities hold that simply heating it up is indeed sufficient.

13 See Rav Ovadiah Yosef's Shu"t Yabia Omer (Vol. 8 Yoreh Deah 15), where he attempts to 'answer up' all of the claims and taynos of the machmirim, yet still concludes that if one can be machmir and not have to rely upon the pasteurization process as actual bishul, then 'tavo alav brachah'. See also Rav Yisroel Halevi Belsky's Shu"t Shulchan Halevi (Ch. 25), as well as Rabbi Yissochar Dov Eichorn's maamar in Kovetz Yeshurun (vol. 14; ppg. 838 - 841), where he concludes that pasteurization is indeed sufficient to make the wine be considered mevushal.

14 Shu"t Minchas Shlomo (Kamma vol. 1: 25). It is known that Rav Shlomo Zalman ruled extremely stringently in this manner, and even b'shaas hadchak or hefsed merubah (see sefer Va'aleihu Lo Yibol vol. 2, Yoreh Deah 5 and 6), yet nonetheless acknowledged that he was aware that the 'oilam is noheg to be meikel'.

15 Kovetz Teshuvos (vol. 1: 75 and 76).

16 Shu"t Ohr Letzion (vol. 2, Ch. 20: 18, Biurim s.v. v'yesh).

17 Shu"t Mishnah Halachos (vol. 12: 34 - 36). However, he was somewhat more lenient than the other machmirim, as he wrote 'devadai lechatchillah ain lishtosos chas veshalom, v'gam ain lekadesh oh lehavdil alav, aval ain lehchmir bo k'she'avar b'dieved'.

18 His opinion is cited in Rav Avrohom Blumenkrantz's annual Kovetz Hilchos Pesach (ex. 5766, pg. 784). However, the Tzhelemer Rav was machmir for the heat level of pasteurization (but not the process), and maintained that the pasteurization needed to be performed at a higher temperature to be considered mevushal.

19 On the other hand, see Shu"t Avnei Nezer (Yoreh Deah 116: 4), who maintains that we are not worried that future generations might use yayin mevushal as part of idolatrous practice. He explains that we always and exclusively follow the letter of Chazal's takkanos, and since at the time of the prohibition they were not gozer against yayin mevushal, it is considered never to have been, nor can be, included and proscribed.

20 Shu"t Minchas Yitzchok (vol. 7: 61: 1), Shu"t Shevet Halevi (vol. 2: 51 and vol. 7: 234, 2), and Shu"t Teshuvos V'Hanhagos (vol. 2: 401).

21 Although Rav Shlomo Zalman Auerbach, and other machmirim, ruled stringently with this as well, on the other hand, Sefer Halichos Shlomo (Mo'adim vol. 2, Pesach, footnote 429 s.v. ulam) mentions an important qualification to Rav Shlomo Zalman's ruling. He held that regarding those who are not yet Shabbos observant, but are coming closer to Yiddishkeit and Shemiras Torah U'Mitzvos by attending Yeshivos and programs to learn more about their heritage, their touch will no longer prohibit wine. Certainly an important sniff to be aware of.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.