



THE YESHIVA PIRCHEI SHOSHANIM KOSHER KITCHEN PROJECT

# Lesson Seven

## Food Cooked by a non-Jew

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Written by Harav Don Channen

Contributing Editor R' Aharon Schenkolewski with the help of R' Dovid Sheffey

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164 Village Path, Lakewood NJ 08701 732.370.3344  
Rechov Kahanaman 54, Bnei Brak, 03.616.6340

# *Food Cooked by a non-Jew*



## Bishul Akum: Food Cooked by a non-Jew

“Rabbi, I’ve been curious for many years about the history and the laws regarding what food a Jew would be allowed to eat from that was cooked or prepared by a non-Jew”.

Mrs. Jennifer Sandton, who asked the above question, is originally from Scotland and was brought up in a very traditional home, but was very anxious to advance her Jewish education with some courses of study in the area of Jewish law. The Rabbi of the community offered her an opportunity to organize a unique program on keeping kosher around the home that he had developed over the course of the last 10 years.

Mrs. Sandton volunteered to organize the class. Whenever there is something to be done invariably the task winds up at the doorsteps of the Sandton home.

After all the arrangements were made everyone gathered one Motzei Shabbos for a lesson.

### **The Rabbi began the class.**

Kosher food that was cooked by a non-Jew is known as *bishul akum* and would otherwise be kosher if it were not for the decree (*gezeira*) forbidding it. *Tosefos*<sup>1</sup> says that historically, the decree forbidding *bishul akum* was put into place some time before the decree prohibiting eating bread baked by a non-Jew (*pas akum*), which was added in the

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<sup>1</sup> Avoda Zara 37b

generation of *Bais Shamai* and *Bais Hillel*.<sup>2</sup> The difference between *bishul akum* and *pas akum* is that the prohibition against food cooked by a non-Jew was accepted by all the Jewish communities while the prohibition of eating bread not baked by a Jew (*pas akum*) was too difficult to be accepted by the majority of the people. Therefore, we are stringent (*machmir*) and completely forbid food not cooked by Jews. However, bread not baked by Jewish bakeries is permitted to some degree in many Jewish communities. If it was baked by a non-Jew in his private home it is prohibited in most cases.

#### The Decree: Its Origin

The *Talmud*<sup>3</sup> suggests that the source for the decree forbidding *bishul akum* is *Devarim* 2:28.

*“You will sell me food for money and I shall eat; you will sell me water for money and I shall drink...”*

This was the message sent by the Jews to *Sichon* the king of *Cheshbon*, while on their journey to the Land of Israel after the Exodus from Egypt.

The Rabbis of the Talmudic era saw a hint in this passage directing them in how the decree against *bishul akum* should be fashioned. Since the verse points out food and then singles out water, the indication is that the only type of food they would be permitted to purchase from *Sichon* the king of *Cheshbon* would be something similar to water.

Just like water does not change its form through cooking and is permitted, so too food cooked by a non-Jew is only permitted if it does not change through cooking.

The Talmud concludes that although we see a hint in the Torah nonetheless the decree on *bishul akum* is only Rabbinical.

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<sup>2</sup> Learning Academy of Talmudic Scholars, most famous were the Houses of Shamai and Hillel

<sup>3</sup> Avoda Zara 37b

## Two Exceptions

The Talmud <sup>4</sup> brings two cases that *bishul akum* is permitted.

Thus was taught in the city of Sura.<sup>5</sup> *Rav Shmuel bar Rav Yitzchak* said in the name of *Rav*: Anything, which is usually eaten raw, is not forbidden because of food not cooked by a Jew (*bishul akum*).

In *Pumbadisa* they taught the following: *Rav Shmuel bar Rav Yitzchak* said in the name of *Rav*: Any food that is not served at a king's table as a food that accompanies bread, it is not forbidden (*assur*) because of *bishul akum*.

What is the difference between the two opinions?

The difference is small fish (*dagim k'tanim*), mushrooms (*ardai*), cooked cereal (*dayesa*).<sup>6</sup>

**Rashi:** They are 1) not eaten raw and they are 2) not served at a king's table. According to the first opinion (*Sura*) they are forbidden because of *bishul akum*. According to the second opinion (*Pumbadisa*) they are permitted.

**Sura** permits something that can be eaten raw, even if it is fitting to be served at a king's table.

**Pumbadisa** permits something that is not served at a king's table even when it must be cooked before eating.

The **Mechaber** accepts both leniencies. Therefore, *bishul akum* only applies to food that has both of the following qualities:

- 1) It is not eaten raw.
- 2) It is a significant food (*chashuv*) that is fit to be served at a king's table (*oleh al shulchan melachim*).

“Thank you for showing me clearly how this law was derived from the *Talmud*.” Mrs. Sandton said.

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<sup>4</sup> Avoda Zara 38a.

<sup>5</sup> Two Great Talmudic Academies, Sura and Pumbadisa, were located in Babylonia (now Iraq) where Jewish life flourished over 1000 years.

<sup>6</sup> Small fish i.e. sardines, a type of mushroom, and cooked cereal.

## Defining Jewish Help in Cooking

Mrs. Sandton explained how she came from Sephardic descent. “Rabbi, my family’s ancestors fled Spain to avoid the inquisition and eventually settled in Morocco before traveling to Scotland prior to our arrival in the community. The area of how much is a Jew required to be involved in the cooking process has been of extreme confusion to me. Many of my relatives and friends are not Sephardic and there seems to be a dichotomy of opinions in this area. Could you address this issue?”

“Mrs. Sandton I’m so happy you brought up this point.”

We have seen in the last lesson that by *pas akum* if the Jew adds a twig to the fire it is sufficient to permit the bread.

The **Mechaber**<sup>7</sup> and the **Rama** argue whether we apply the same leniencies that apply to *pas akum* to matters of *bishul akum*. The **Mechaber** holds like the *Ran* that preparing the oven is an exclusive leniency by bread because when preparing the oven it is obvious the Jew has taken a significant role in baking the bread. However, by *bishul akum* a Jew must put the food onto the fire where it will cook. Adding a twig to the fire alone is insufficient Jewish involvement regarding *bishul akum*.

According to the **Rama** the leniencies *pas akum* apply to *bishul akum* as well.<sup>8</sup> Therefore, there are a few things a Jew can do to permit the food.

1. If a Jew only lights the fire.
2. If a Jew merely stirs the foods
3. Even if a Jew only adds a twig that adds heat to the fire, we consider the Jew’s involvement to be sufficient to remove any concerns of *bishul akum*.
4. Another leniency is if the non-Jew lights the fire from the fire lit by a Jew it is permitted. This is the reason some permit using a stove with a pilot light if the Jew lit the stove.

However, this is not agreed to many of the *poskim*, let me elaborate.

The **Taz**<sup>9</sup> does not fully agree with the *Rama’s* leniency. He relies on this only when the food is cooked in the home of a Jew.

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<sup>7</sup> Yora Daya 113: 7

<sup>8</sup> As understood by **Shach** *ibid* 11.

The **Chachmas Adam** <sup>10</sup> rules that we should only rely on the *Rama* in a case of difficulty.

The **Aruch Hashulchan** <sup>11</sup> considers the leniencies of the **Rama** (such as: lighting the fire, adding a twig or stoking the fire) without specific intention to rectify the issue of *bishul akum* to be overly lenient. The **Aruch Hashulchan** maintains that these opinions should only be relied upon in a situation of great necessity and only when the cooking occurs inside a Jew's home.

Where This Applies: Homes -Restaurants

The leniencies of a Jew adding a little extra heat to the cooking of someone who isn't Jewish applies equally when cooking at home or when dining out.

Sephardim Traveling Abroad

The Sephardim follow the ruling of the **Mechaber**.<sup>12</sup> Accordingly, lighting a fire, adding a twig, or even stirring the coals would not be enough to take off the prohibition of *bishul akum*. According to the opinion of the *Mechaber*, a Jew must actually put the food on the fire to avoid any issue of *bishul akum*. However, **HaRav Ovadia Yosef shlit" a** <sup>13</sup> writes that travelers to Israel are often faced with these issues when eating in hotels or restaurants supervised by Ashkenazim who rely on just raising the temperature of the fire or just adding a twig to the fire.<sup>14</sup> He rules that if the owners of these establishments are Jewish, one may rely on a "*safek safeka*" (a doubt upon a doubt in the arena of Jewish Law) regarding this Rabbinical enactment. One reason to allow the food to be prepared by someone who is not Jewish is that a staff of non-Jews

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<sup>9</sup> Ibid 6.

<sup>10</sup> 66: 8

<sup>11</sup> 101:44

<sup>12</sup> Kaf Hachaim (53)

<sup>13</sup> Yabia Omer 9: 6 and Yechave Da'at 5: 54 - R' Ovadia Yosef Shlit" a, former Sephardic Chief Rabbi of Israel, (Rishon Lezion).

<sup>14</sup> The modern equivalent is lighting the pilot light, which adds a little amount of heat to the oven or stovetop. Where there is a pilot light, which burns continuously under the food that is being cooked by the non-Jew, it is sufficient that the Jew lights it once to avoid the issue of *bishul akum* until it burns out. Then the Jew must relight himself again. Even if the pilot light is not under the pot and the pilot light is used to ignite the flame under the pot, it is sufficient according to the *Rama* as mentioned later in this shiur.

was hired for pay.<sup>15</sup> The second reason to allow the food that was cooked by non-Jewish people is because the Jewish person added some degree of heat. However, **HaRav Ovadia Yosef shlit"á** does not permit eating in a restaurant under *Ashkenazic Kashrus* supervision if the owner is not Jewish, since one of the two reasons mentioned, is lacking.<sup>16</sup>

## In summary

**Sephardim:** According to the **Mechaber** it is not enough to light the fire. A Jew should put the food on the fire. However, **HaRav Ovadia Yosef shlit"á** holds that one may be lenient in a case of a Jewish owned restaurant. However, it's preferable to be strict and have a Jew put the food on the fire anyway.

**Ashkenazim:** According to the **Rama** any participation of a Jew in the cooking process, such as lighting the fire, increasing the flame or even if a Jew lights a candle, and someone not Jewish uses that flame to light a fire takes the food out of the category of *bishul akum* even when the food is cooked in the home of someone that is not Jewish.

However as we have seen, many of the later authorities do not agree with this leniency. This is one of the big discussions in Kashrus and each Kashrus agency has their own guidelines. There is also an additional leniency by companies because the cooking is all done automatically by machines and there is no chance of fraternity. However, with regular cooking one should only rely on the Rama's leniencies in the home of a Jew or where there is great difficulty.

## Ma'achal Ben Drusoi - Consider it Cooked!

“Thank you so much Rabbi for your thorough explanation. I now have a greater appreciation for the customs regarding *bishul akum*.” Mrs. Sandton said.

Delving deeper into the topic, Mrs. Edna Lexington asked, “Rabbi, until what point must I help someone not Jewish to cook the food? When am I stirring the coals for no reason so to speak?”

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<sup>15</sup> Some say that someone hired for pay has the law of a servant that one owns that may do the cooking for a Jew as we will see later.

<sup>16</sup> This line of reasoning follows the logic of the Shach mentioned above. The novelty of HaRav Ovadia Yosef shlit"á's ruling is that we can follow this logic even for Sephardim who follow the Mechaber even though the Mechaber disagrees with each individual part of the safek safeka.

“Mrs. Lexington, the bottom line is that someone not Jewish cannot have total control on making the food edible. Let me explain ...”

If a Jew cooks the food to the point where it is edible (*ma'achal ben drusoi*),<sup>17</sup> then everyone agrees to the leniency that it is permitted for someone not Jewish to complete the cooking. In an opposite case, where someone not Jewish cooks the food just enough to be edible (*ma'achal ben drusoi*), then it is a matter of debate whether it is enough for the Jew to finish the cooking:

- 1) According to the **Rashba**,<sup>18</sup> since the definition of cooking is *ma'achal ben drusoi*, therefore, whoever cooks the food this amount, is considered to be the cook.
- 2) According to the **Rosh**, the law of *ma'achal ben drusoi* is applied as a leniency in our case and not for strictness.

**Sephardim:** The **Mechaber** holds like the **Rashba** as a rule (stringent) and like the **Rosh** in extenuating circumstances (lenient).

**Ashkenazim:** The **Rama** holds like the **Rosh**. **R' Akiva Eiger** holds in this case where someone not Jewish started the cooking, the Jewish person must now actually complete the rest of the cooking in order for the food to be permitted. This is preferable when possible.

In summary

If a Jew places the pot on the fire and the food reaches the *ma'achal ben drusoi* it is permitted even if someone not Jewish finishes the cooking. However, if the pot is removed from the fire before it reached *ma'achal ben drusoi* it negates the original action of placement and will be considered forbidden if someone not Jewish returns it to the fire.<sup>19</sup>

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<sup>17</sup> About half the normal amount it needs to be fully cooked. The term Ma'achal ben Drusai, means the food of ben Drusai who was a highway Robber. Being always on the run he cooked the food to the point it was edible, which was 1/3 to 1/2 done. Since many times he had to flee, his food was cooked the minimum, hence the term Ma'achal (the food) of ben Drusai.

<sup>18</sup> Rashba – R' Shlomo Ben Avraham Ibn Aderet -Born: Barcelona Spain, 1235, Died Barcelona, Spain, 1310. Notes: Student of Rabbeinu Yonah Gerondi and the Ramban. Rabbi of Barcelona and leader of the Spanish Jewry. Author of Chidushei Rashba, a commentary on the Talmud. His students include the Ritva and Rabbeinu Bachaye.

<sup>19</sup> According to the opinions that maintain lighting the fire alone is insufficient or if the original fire was lit by a non-Jew.



If a non-Jew places the pot on the fire, if the pot is removed from the fire, or even if the fire is turned down to the point that it can no longer cook the food, it will negate the action of the not Jewish person who placed the food on the fire originally. It is no longer considered *bishul akum* when the Jew returns the pot to the fire or according to the Rama increases the flame.

## Non-Jewish Maids

“I am a little concerned,” Mrs. Sandton said. “Now that I know that *bishul akum* applies to so many kinds of food, how can I let my non-Jewish domestic help cook anything in my kitchen? What happens if I did not do any of the above permitted methods?”

“Mrs. Sandton, keeping a kosher kitchen is not as hard as you think. Let me teach you a few more rules.”

The **Beis Yosef** brings a dispute between **Rabbeinu Tam** and **R' Avraham**:

- a) According to **Rabbeinu Tam** if someone not Jewish cooked food inside a Jew's house, it's considered *bishul akum*.
- b) According to **R' Avraham** the decree applies only to someone not Jewish that cooks food in his or her own home.

The **Mechaber** <sup>20</sup> states that there is an opinion that holds that a non-Jewish maidservant may cook in a Jewish home. There is another opinion that maintains that it is prohibited. The **Rama** comments that post facto we would rely on the opinion that permits it.

The **Shach** <sup>21</sup> states that even a domestic non-Jewish helper contracted by the year would not be allowed to cook for Jewish people unless a Jew is involved in the cooking as well. Only by the original Jewish servants which were owned (*eved kenani*) do we say that the cooking is not considered *bishul akum* since they are obligated in most of the Torah's commandments.

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<sup>20</sup> 113: 4

<sup>21</sup> 113: 7

THE RAMA SAYS:

*After the fact (b'diavad), if a non-Jewish maidservant already cooked the food we can rely on the Poskim (authorities on Jewish Law) who do not consider it bishul akum.*

The **Shach** says that since servants were hired and not enslaved in the period of time of the **Rama**, it is not clear which authorities of Jewish law (*poskim*) permit this case. The **Shach** brings three reasons to permit it if it happens by mistake.

- a) **After the fact** (when the food was already cooked) we permit the food cooked by maidservants when they have the legal status of a Jewish servant (*Eved Kenani*).<sup>22</sup>
- b) **After the fact** the prohibition does not apply if the cooking was done inside a Jew's house.
- c) The **Rama** really meant that even before the fact, someone not Jewish can be allowed to cook in a Jew's house when the family members are at home since we can be sure that a family member will stir the coals (or raise the temperature of the heat) during the food preparations. However, this leniency does not apply today and our stoves do not have coals and it is not usual for family members to raise the heat.

The **Shach** brings another reason to be lenient in such a case. That is because our domestic help are given chores that they perhaps don't want to do them yet they must do them because they hired themselves out for this purpose. Hence, such a relationship will not foster friendship that may eventually lead to intermarriage. Therefore, the decree of *bishul akum* doesn't apply to them.

This reason is mentioned by the **Ramban** in his Responsa,<sup>23</sup> but not by the *Mechaber* or the *Rama* in their respective works the **Beis Yosef** and **Darchei Moshe**.

In conclusion one should not let household help do the cooking unless one makes sure that there will be a Jew involved in the cooking. In post-facto situations there is what to rely on to be lenient but one should nonetheless speak to a rabbi.

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<sup>22</sup> An *Eved Kenani* is a non-Jew that became a servant of a Jew and underwent a conversion process that gave him a status of being obligated in the same mitzvos a woman is obligated.

<sup>23</sup> *Ramban* (Nachmanides) Responsa 149 as quoted by the Maharshal

It should also be noted that if the maid cooked for herself, even if all the ingredients are kosher, there is no room for leniencies and the maid is not doing a job.

## The Jew's Intention

There is one more point I would like to discuss before we conclude today's lesson.

The **Rama** and **Taz**<sup>24</sup> hold that it is not necessary for the Jew to have the intention of removing the issue of *bishul akum* when he is helping in some way with the cooking. Furthermore, even the slightest bit of help on the Jew's part takes the food out of the category of *bishul akum*.

The **Shach**<sup>25</sup> argues on both points:

- A) The Jew must take part in a significant way, i.e. he must place the food onto the fire where it will eventually cook.
- B) He must be aware that his involvement in cooking the food will remove the issue of *bishul akum*.

## In Conclusion

"Mrs. Sandton, as the organizer of our class, I'd like to ask you to summarize our discussion."

"Rabbi, you've brought up many very important points which I'm sure will impact a lot of people in our community; so let me give it a try if I may. Food cooked by someone who is not Jewish is not kosher, even if all the ingredients are kosher, unless a Jew is involved in the cooking process. Food normally eaten raw, or if it is not fit for the table of a king, does not fall into the category of *bishul akum* even if it is cooked by someone that is not Jewish. In order to definitely take food out of the category of *bishul akum* a Jew must either put the food on the fire according to the **Sephardim**, or help with the cooking process according to the **Ashkenazim**."

"That was a superb summary, Mrs. Sandton. I'd like to personally thank you for all your efforts arranging this class giving everyone here the opportunity to learn about the laws of keeping kosher."

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<sup>24</sup> 113: 8

<sup>25</sup> 101:9-10

## Review Questions

- 1) What is the source that *bishul akum* (food cooked by someone who is not Jewish) is forbidden? Why was it enacted?
- 2) What is the difference between the decree (*gezeira*) of *pas akum* and *bishul akum*?
- 3) Which foods are not included in the decree (*gezeira*) of *bishul akum*? Why?
- 4) What is the meaning of food “not fit for a king’s table”?
- 5) Do the laws of *bishul akum* apply if the food is usually eaten raw?
- 6) Does *bishul akum* apply if: a) The cook is a slave according to the laws of the Torah? b) The cook is a hired worker?
- 7) Does the Jew need to know that he is helping cook in order to remove it from the category of *bishul akum*?
- 8) Is the food forbidden if someone not Jewish participates and does something essential to cook the food even though someone whose is Jewish helps as well?
- 9) Do the leniencies of bread not baked by a Jew (*pas akum*) apply to food not cooked by a Jew (*bishul akum*)? Please state the opinions according to the **Mechaber** and according to the **Rama** and why.
- 10) Is food that is partially cooked by a Jew forbidden if a person who is not Jewish completes the cooking? Explain.