

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses different circumstances of wine that is stored on the property of an idolater and whether the wine is permitted.

2) A city inhabited by idolaters

The Gemara challenges the Mishnah's ruling that in a city of idolaters the wine is prohibited even if stored in a building that opens to the public domain since, according to the Gemara, it is possible for Jewish peddlers to be present and that should cause the idolater to be afraid to touch the wine.

Shmuel explains that the Mishnah refers to a city that is locked and the Jewish peddlers cannot just walk by.

3) Public domain

R' Yosef gives different examples that are considered as though the building in which the wine is stored is open to the "public domain."

Regarding the case of the palm tree the Gemara presents a dispute regarding the status of a tree whose top has been severed.

The rationale behind each position is explained.

A related Baraisa is cited and explained.

The Gemara searches for the case of the Baraisa with which Chachamim disagree.

The Gemara further clarifies that the appointee must not come at regular intervals to be effective.

4) Clarifying R' Shimon ben Elazar's position

The Gemara inquires whether R' Shimon ben Elazar is coming to be lenient or stringent.

R' Yehudah in the name of Zeiri maintains that his intent is to be lenient whereas R' Nachman in the name of

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Distinctive INSIGHT

A lock and key and/or a seal

ישראל דר בחצר אחרת מותר והוא שמפתח וחותם בידי

The Baraisa lists the guidelines of a Jew who supervises and secures a barrel of wine in the domain of an idolater. The case is where a Jew pressed the grapes of an idolater in order to produce kosher wine to be sold to Jews. The wine is stored in the possession of the idolater, but the storage area has been rented by the Jew. The wine is kosher if the Jew is also living in the same courtyard, provided that the Jew has the key to the room and the barrel is sealed by the Jew. Without the Jew's holding onto the key and having fastened the seal to the barrel, we are afraid that because the wine belongs to him, the idolater will not be deterred from touching it when he feels he is not seen. The Rishonim discuss the Baraisa's requirement for the Jew to secure the wine in the domain of the idolater with a key as well as a seal on the barrel. The Gemara earlier (31a) cited a case of wine belonging to a Jew which is deposited with an idolater. R' Elazar said that the wine remains kosher as long as the Jew has a key and a seal on the barrel. Chachamim hold that this is inadequate, and the wine would only be secure when the barrel has two seals on it. There, Rabeinu Tam explains that R' Elazar's opinion is that the wine needs only one level of assurance that it has not been tampered with it, i.e., either a lock or a seal, but both are not needed. Rashba understands that R' Elazar requires two levels of security, a lock and a seal.

Accordingly, the Baraisa which says that a lock and seal are necessary would be interpreted using these two approaches. Rabeinu Tam would explain that either the lock or the seal is adequate, while Rashba would say that both are required. This also means that this Baraisa reflects the opinion of R' Elazar, because Chachamim would not allow the wine even with a lock and seal, unless it was secured with two seals.

Shulchan Aruch (Y.D. 118:4) rules according to Rashba, and he explains that even in a situation where a seal alone is adequate, a lock and key alone is not enough to secure Jewish-owned wine in the possession of an idolater. Ta"z (note 3) points out that according to the view of Rabeinu Tam either a seal or a lock is adequate. Therefore, Ashkenazim, who follow the ruling of Rema who rules according to Rabeinu Tam, would allow either a seal or a lock to secure wine in this situation. Shach (note 22) writes

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REVIEW and Remember

1. Explain the phrase המטרה יינו של עובדי כוכבים.
2. How does Shmuel explain the Mishnah's ruling regarding a city of idolaters?
3. At what intervals should an appointee come to assure that the idolater is not touching the wine?
4. What are גומלין?

HALACHAH Highlight

Seclusion in a locked room but others have a key

אלא עד שיבא ממונה שאינו בא לקיצין

Rather, [the wine is prohibited] unless there is an appointee who does not come at set intervals

Rabbeinu Yonah¹ writes that the prohibition against being in seclusion with a woman is in force only when the door is locked. Nevertheless, even if the door is open to the public domain, one should avoid being alone with a woman who is prohibited for him to marry despite the fact that technically it is permitted. Rashba² also writes that the prohibition against seclusion does not apply if the man and woman are behind a closed door; the prohibition is violated only when the door is locked. Beis Meir³ cites the lenient position but proves from many sources that seclusion is prohibited whenever the door is closed regardless of whether the door is locked. The leniency of being alone with a woman in a room that is open to the public domain applies only when the door is open to the public domain.

Poskim question whether the lenient position of Rabbeinu Yonah and Rashba applies in a circumstance in which the door is locked but other people have the key to enter the room. Teshuvos Doveiv Meisharim⁴ maintains that any time someone has the key to the room and can enter at will the prohibition against seclusion does not apply. Based on this he permitted a salesman to enter into homes even

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that while it is true that Rabeinu Tam allows a lock and key alone, nevertheless, Ashkenazim accept his opinion only in regard to allowing a seal alone, but not in regard to his opinion regarding allowing a lock and key alone.

Shach also writes (ibid. 131. note 22) that even Shulchan Aruch who requires a lock to be accompanied by a seal, would accept two locks as adequate, instead of a lock and seal. ■

though the door locks when it is closed since the woman's husband or other members of the household have a key and can enter at any time. Sefer Dvar Halacha⁵ proves this approach correct from our Gemara. The conclusion of our Gemara indicates that any time an appointee does not come at set intervals the wine in the possession of the idolater is permitted since he is afraid of being caught tampering with the wine. If in the case of our Gemara the possibility of someone coming in serves as a reliable deterrent even though the idolater is left alone with his own wine, certainly when it comes to the restriction of seclusion where there is a concern of being caught committing an outright transgression the possibility of someone coming in at any time is a sufficient deterrent to permit a man and woman to be in a room together. ■

1. רבינו יונה בספר היראה.
2. שו"ת הרשב"א ח"א סי' אלף רנ"א.
3. מובא דבריו בשו"ת רעק"א ח"א סי' ק'.
4. שו"ת דובב מישרים ח"א סי' ה'.
5. ספר דבר הלכה סי' ג' סק"ג. ■

STORIES Off the Daf

The Wine Cellar

"נתפס עליו כגנב חמרא שרי..."

Acertain man owned a wine cellar in a town completely occupied by idolaters. The cellar was locked but this was the only protection for the barrels of wine—some of which were open and easily accessible. Although no Jews lived in the city, Jews would fill the streets during the day for business purposes.

One day in the afternoon the Jews working there were shocked to find the lock on the door to the wine cellar broken apart. When they investigated they found an idolater drawing water from a well in this cellar. He explained, "I need

water to do my work here and none other was available. Of course, I will gladly replace the lock, which I was planning on doing regardless..."

Although the Jews remembered that the cellar had been securely locked earlier that morning, they did not know what to think about this strange mishap.

When the owner of the cellar heard about this he was extremely dismayed. Was all of his wine now prohibited to drink? When he consulted with the Rivash, zt"l, he ruled that even the wine in unsealed barrels was permitted. "We find in Avodah Zarah 61 that if an idolater is found between a Jew's wine barrels in the city, if we know that if he is caught touching the wine he will be treated like a thief, the wine is permitted. If not, it is forbidden.

"In our case, although the idolater had an excuse for entering the cellar, if he was caught touching the wine he would certainly have been treated like a thief, since he had no right to break the cellar's lock at all. Therefore, even the unsealed barrels are permitted."¹ ■

1. שו"ת הריב"ש, סי' תל"ה ■

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Zeiri maintains that his intent is to be stringent.

Each Amora explains how he reads the Mishnah.

A Baraisa is cited that supports R' Nachman's understanding that R' Shimon ben Elazar was expressing a stringent position.

Two related incidents are presented.

הדרן עלך רבי ישמעאל