Practical Applications

Below we will discuss a few common practical applications. However, we will only address the prohibition of drinking beer with non-Jews, and each case may also involve other potential *halachic* problems. You should consequently ask your Rav for practical guidance.

Drinking a beer outside a bar

We learned above from the Gemara (63) that רב פפא would drink beer outside the store, while רב אחאי would only drink it at home. How do we *passkin*? According to the *Rama,* even drinking beer in a bar is permitted because the prohibition only applies to date beer. But what is the *halacha* regarding drinking outside a bar according to the S"A, who forbids drinking specifically inside a bar? The language of the S"A appears ambiguous, because on the one hand, he writes "ואינו אוסר אלא במקום מכירתו" – "it is only forbidden in the place where it is sold, implying like רב פפא that one may drink it outside. On the other hand, he writes: "אבל אם הביא השכר לביתו ושותהו שם, מותר" – "If he brings the beer to his house and drinks it there, it is permitted," implying that only drinking at home is permitted, like רב אחאי.

The 68) (ה) **גר"א**) infers from the latter wording that the S"A is *passkining* like רב אחאי that non-Jewish beer may only be drunk at home. In contrast, the **דרכי תשובה** 70) (קיד-ג)) *passkins* like רב פפא that even drinking right outside the bar is allowed. The 6 קיד הע' **פסקים ותשובות**) points out that everyone agrees that an outdoor seating area belonging to the bar is considered part of the bar and remains forbidden even according to the דרכי תשובה.

Having a beer with a non-Jewish co-worker at a bar or having a beer alone

As mentioned, according to the *Rama,* drinking beer with a non-Jew is permitted, while the S"A and גר"א prohibit it. Therefore, according to the S"A and גר"א, having a beer with a non-Jewish co-worker at a bar would be forbidden. The 71) (סימן קיב-ג) **ב"ח**) *passkins* that even drinking alone in the home or establishment of a non-Jew is forbidden. Therefore, even two Jews drinking together in a non-Jewish bar would be forbidden, as is drinking by oneself there, even without any non-Jews.

According to the S"A and גר"א, what do those who have a beer with a non-Jew at a bar after closing a business deal rely on? The 72) (קיד-א) **פסקים ותשובות**) quotes Rav Moshe (based on the ש"ך quoted above) that there is room to be lenient whenever refusing may cause animosity between the Jew and non-Jew. The קיד) **חלקת בנימין** ביאורים ד"ה ומותר) explains that according to Rav Moshe, whenever there may be

animosity, the drinking is considered ארעי because you do not really want to be there, and this is permitted even according to the S"A. However, the חי"ה פל"ה-א) **אור לציון**) forbids *Sephardim* from having alcoholic beverages at a non-Jewish establishment even for business purposes. *Lema'ase, Sephardim* should ask their Rav.

Walking around with a beer at a business conference

It would seem that walking around with a beer at a business conference would be permitted even according to the S"A, because it is being drunk in a casual, non-permanent manner (i.e., while standing or walking) and a business conference is not a common occurrence. Similarly, if there is a bar overlooking a scenic location, you would be allowed to order a beer and drink it while standing.

Having a beer at a baseball game or on the plane

It would seem that even the S"A would allow drinking a beer at a baseball game or on a plane because this is considered drinking inconsistently in a non-permanent manner (since there is not even a place to put down the beer). However, if you have season tickets, attend a lot of games, or are sitting at the stadium bar, the S"A would prohibit it because you are drinking there on a consistent basis. Similarly, even if a plane is treated as a non-Jew's home, drinking would still be permitted because it is done in a non-permanent and non-consistent manner. See, however, the "coffee shops" subsection below, where the חכמת אדם and סמ"ע write that one should refrain from this type of drinking as well.

Jewish bars in Israel

It would seem that drinking beer in a Jewish-owned bar, even with a non-Jew, in Israel or elsewhere is permitted even according to the S"A, because the prohibition only applies to non-Jewish establishments (see, however, below that bars in general might still be problematic).

Coffee shops

We learned above that according to the גר"א's understanding of the S"A, a Jew may not drink even a non-alcoholic honey drink in the home of a non-Jew because it may lead to eating a meal together and thereby to intermarriage. It would seem that the S"A should also forbid drinking coffee in a coffee shop, whereas the *Rama,* who permits beer, would certainly allow coffee. However, the קיד-א) **פת"ש**) quotes the **פנים מאירות**, who writes that the *Rama* only permits drinking beer with non-Jews because it is not considered a prestigious beverage and would not lead to intermarriage, but coffee is a respectable drink served at formal events and may therefore lead to greater intimacy.

Based on this, it would seem that even if you are allowed to buy a kosher coffee from Starbucks (see earlier in the *zman,* where we discussed which coffee might be permitted), it would still be forbidden to drink it there. Similarly, if a non-Jew invites you for coffee in his home, it would also be prohibited.

Lema'ase, the ט) **הלכות קטנות**) disagrees with the גר"א and *passkins* that the S"A only forbade alcoholic beverages, but coffee is allowed. Similarly, the (קיד-יב) **כף החיים** 73)) quotes many *posskim* who argue on the פנים מאירות and permit non-alcoholic beverages. According to these *posskim,* the S"A only forbade alcoholic honey drinks. He adds that the custom in Baghdad was to drink coffee in non-Jewish coffee shops.

What emerges from all of the above is that according to the *Rama,* only date beer is forbidden to be drunk in a non-Jewish establishment, but all other beers and alcoholic drinks are permitted. The S"A and גר"א argue that alcoholic drinks are prohibited in a non-Jewish establishment. Although some forbid even non-alcoholic drinks, such as coffee, many *posskim* permit. Rav Moshe permits even alcoholic drinks with non-Jews if refusing them will cause animosity. Furthermore, according to the S"A, drinking beer in a Jewish-owned bar, which is common in Israel, is permitted and was never included in the prohibition (assuming there are no other reasons to forbid entering an Israeli bar).

Nonetheless, the 74) (סו-יד) **חכמת אדם**) writes that although drinking coffee is technically permitted according to many opinions, one should nevertheless refrain from doing so because it has led to promiscuity. Based on this, even if there is a possibility that some Starbucks coffee products are kosher (as discussed previously), it would still be prohibited to drink the coffee there. Ha'Gaon Rav Schachter shlit"a was quoted as accepting the stringency of the חכמת אדם but nevertheless agreeing that if it is uncommon to socialize with strangers in coffee shops, there is room to be lenient.

Furthermore, from 1580-1764, a coalition of Jewish communities in Poland known as the ועד ארבע הארצות enacted additional restrictions. The עמ') **קונטרוס הסמ"ע** 75) (4) writes that even if the *Rama* permits drinking beer with non-Jews at a bar, the ועד ארבע ארצות prohibited sitting in a non-Jewish tavern, and one who does should not be called a *rav* or a *chaver.* Accordingly, if you are on vacation and simply want to have a beer with a family member at a bar, it would seem to be prohibited. *Lema'ase,* one should ask his Rav.

K. Parties With Non-Jews

After discussing whether a Jew may drink a beer at a non-Jewish bar or coffee in a coffee shop, in this section we will briefly discuss whether one is allowed to eat or drink anything at a party hosted by non-Jews. This question commonly arises in the business world, where one may be invited to a company party hosted by non-Jews or to the wedding of a non-Jewish co-worker's child.

The prohibition against attending non-Jewish parties appears even later in the sources than the prohibition against drinking beer with non-Jews. The **רמב"ם** (מאכלות אסורות פי"ז-י) 76) *passkins* that you may not drink even *mevushal* wine at a party of non-Jews, even if the drink belongs to you. However, if the majority of attendees are Jewish, it is considered a Jewish party and is permitted. The רמב"ם then adds the prohibition against drinking beer at a non-Jewish bar because it might lead to having a meal together (as discussed in the previous section).

The *Acharonim*[1] debate the source of the רמב"ם's prohibition against drinking at a non-Jewish party. The 77) (על הרמב"ם סק"ב **מרכבת המשנה**) points to the גמרא מגילה, which teaches that according to one opinion, the decree against the Jewish people in the story of Purim came because they benefited from the feast of אחשורוש.

What is fascinating is that this ruling of the רמב"ם is not quoted in the S"A, *Rama,* ש"ך ,ט"ז, or even the פת"ש. However, later *acharonim,* such as the לחם (ו), פרי חדש סקי"ג) כף החיים (סק"א) הפנים) and (סק"ח דרכי תשובה) do quote it, and some forbid attending even without drinking alcoholic drinks, raising the question of whether this *halacha* of the רמב"ם is in fact binding.

Rav Moshe in 78) (אגרו"מ יו"ד ח"ב-קיז) *passkins* that one is not allowed to attend a parlor meeting in the home of a non-Jew if the majority of guests are non-Jews,[2] even if it is for the sake of a *mitzvah* (e.g., campaigning for a political candidate who will favor the Jewish community). Rav Moshe explains that if drinking beer with a non-Jew is forbidden lest you come to have a meal with them, potentially leading to intermarriage (as mentioned above in the S"A), then certainly attending a meal or party with them is forbidden for the same reason. However, Rav Moshe writes that the prohibition applies only when Jews are the ones organizing the party in a non-Jewish venue.[3] But if the event is being organized and hosted by non-Jews, and failing to attend might lead to animosity, then a Jew is permitted to attend and may even drink beer or other alcoholic

[1] See (שם משנה כסף, (קיב) בית יוסף) and (קיג-ג ערה"ש).

[2] It is quoted in the name of Rav Dovid Feinstein that Rav Moshe was referring to a situation where the majority of attendees are non-Jews.

[3] If the majority of party attendees are Jewish, Jews may attend, as the רמב"ם above writes.

beverages. This is in accordance with the *pssak* of the ב) ש״ך) quoted above (and as mentioned by the 72) פסקים ותשובות)).

The 79) (ב-ה פל״א ח״) **אור לציון**) is more lenient than Rav Moshe in one respect and more stringent in another. On the one hand, he is more lenient in that he allows attending a party even if not attending will not lead to animosity, but on the other hand, he is more stringent because he does not allow drinking alcoholic drinks at the party. However, if needed, he permits bringing an alcoholic drink from home. The אור לציון agrees that if the majority of attendees are Jewish, such as a Jewish wedding with non-Jewish guests, drinking is permitted.

A similar prohibition to the one stated by the רמב״ם concerning attending a non-Jewish party is quoted by the S"A concerning attending a non-Jewish wedding. The S"A in **סימן קנב-א** *passkins* that one may not eat at the wedding feast of a non-Jew, even if he brings his own food and has a waiter designated just for him.[4] This is based on the ח) גמרא עבודה זרה), which derives from *pessukim* that it is forbidden to participate in the feast of a non-Jew. The א-קנב) **ט״ז**) *passkins* that this prohibition is biblical, and one may not eat and drink there even if it will cause animosity. However, the **ש״ך** in the כ״נקה there writes that the verse quoted in the Gemara is only an אסמכתא, and it is possible that even here, attendance would be permitted in a case of animosity. It is unclear whether even Rav Moshe, who permits drinking at a non-Jewish party (when failing to attend will lead to animosity), would allow drinking at a non-Jewish wedding. The כט) בין ישראל לנכרי) permits if the Jews are sitting at different tables than the non-Jews.

Practical Applications

<u>Company end of the year party</u>

Is a Jew working for a non-Jewish company allowed to attend and drink at the party?[5] Rav Moshe would permit if failing to go will cause animosity, and he would even allow drinking beer or other alcoholic beverages. However, the אור לציון would not allow drinking any alcoholic drinks unless there is a significant need, and even then, one must bring his own drink. If a Jewish-owned company hosts the party and the majority of attendees are not Jewish, Rav Moshe forbids organizing the party, and if it was organized, it would be prohibited to drink there. *Lema'ase,* one should ask his Rav.

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[4] Rav Ovadya in ג-יג ח״י יו״ד) יביע אומר) permits attending the wedding of a Muslim since he is not an idol worshipper. However, the א-קנב) דרכי תשובה) prohibits since there is still concern for intermarriage.

[5] It should be noted that there are many other potential issues with attending a non-Jewish party, such as where the party is held in honor of a non-Jewish holiday, promiscuity, and more. In the notes, we are only addressing the prohibition of attending a non-Jewish party as mentioned in the רמב״ם.

Wedding of non-Jewish co-worker

The S"A *passkins* that eating or drinking anything at the wedding feast of a non-Jew is prohibited, even if one brings his own food.[6] The ט"ז prohibits even if failing to eat there will lead to animosity. However, the ש"ך is uncertain whether it is permitted in a situation which will lead to animosity.

A *ger* eating with his non-Jewish family

The 80) (ח"ג-קיח **שב ורפא**) was asked whether a *ger* is allowed to eat at his non-Jewish father's 80th birthday party and he permitted doing so for three reasons: 1) The prohibition against eating at a party with non-Jews has not been so widely accepted. 2) Refusing to eat with them may lead to animosity. 3) To honor one's biological parents even if they are not Jewish. Regarding a regular meal with family, it is possible that it is not considered a "party" and would always be permitted.

סימן קכד

A. Individuals Who Prohibit Wine

In the previous *siman,* we learned that one may not drink or benefit from *stam yeinam* or Jewish-owned wine touched by a non-Jew. Chazal structured the *gezeirah* so that that drinking the wine is forbidden to prevent intermarriage, while benefiting from the wine is forbidden due to its similarity to יין נסך. We also discussed which drinks are *halachically* defined as wine (*mevushal* wine*,* spicy wine, brandy, etc.) and at what stage the juice from the grapes attains the *halachic* status of wine. In this *siman,* we will learn two fundamental *halachos* pertaining to *stam yeinam*: 1) Which individuals forbid wine by touching it (e.g., Christians, Muslims, non-religious Jews, etc.)? 2) What is considered a *halachically* significant form of touching that forbids the wine?

[6] If the wedding is held in a church, it would be forbidden to attend the ceremony even without eating and drinking.

In this section, we will discuss the status of non-Jewish babies and Muslims, while in the next section, we will discuss the status of non-religious Jews.

The S"A in **סעיף א'** *passkins,* based on the **גמרא עבודה זרה** (נז.), the רמב"ם and רא"ש, that if a non-Jewish baby/child touches Jewish-owned wine, one may not drink it (because there is still concern for intermarriage), but one may benefit from it (since there is no concern that a baby performed a libation). The **ש"ך** (א) explains that even a one-day-old baby who touches the wine renders it forbidden to drink.

The S"A in סעיפים ב-ה discusses a גר תושב and slaves, both of which are uncommon today. However, the **טור** (1) quotes the רשב"א, who explains that just as a גר תושב who accepted the seven Noahide *mitzvos* does not forbid the wine from benefit by touching it (since there is no concern for libation), yet it is still forbidden to drink (to prevent intermarriage), the same applies to Muslims: if a Muslim touches your wine, it may not be drunk (to prevent intermarriage), but you are allowed to benefit from it, since Muslims believe in one G-d and there is no concern for libation.

The S"A in **סעיף ו'** *passkins,* based on the טור, that you may not drink wine belonging to a non-Jew who does not worship idols, nor may you drink your own wine after he touches it. However, you may derive benefit from either wine. The **בין ישראל לנכרי** (פכ"ב סק"ט) (2 explains that although the *Rama* in סימן קכג-א allows benefiting from the wine of all non-Jews since most non-Jews today do not know how to libate, that is only *be'dieved,* but benefiting from wine touched by Muslims is permitted *le'chatchilla.*

Rav Ovadya, in 3) (חליכות עולם (ח"ז-עמ' קלו), *passkins* that if you are unsure whether a specific non-Jew touched your wine, the *halacha* depends on his identity: If the non-Jew is Muslim, you are even allowed to drink it, since the concern for intermarriage is rabbinic, and we invoke the principle of ספק דרבנן לקולא. If the non-Jew is Christian, you may not even benefit from the wine due to the additional concern of libation. Although the concern itself is rabbinic, it relates to a biblical prohibition; therefore, *Sephardim* are stringent. However, the ***Rama*** in קכג-א *passkins* that Christians today do not perform libations. Therefore, for *Ashkenazim,* in a ***bedieved*** case, even if you are unsure whether a Christian touched the wine, it would be permitted to drink, since the only concern nowadays is intermarriage, similar to the case of Muslims (see אהל יעקב קכד-יב).

B. Non-Religious Jew Who Touches Wine

In this section, we will discuss the status of wine touched by non-religious Jews. At first glance, such wine should be permitted, since there is no concern for intermarriage, and benefiting from it should also be permitted because non-religious Jews do not perform libations to *avoda zara*. As with every *sugya,* we will start will the earliest sources and work our way down to the modern-day *posskim.*

The 4) (ה.) **גמרא חולין**) derives from the verse "אדם כי יקריב מכם ... מן הבהמה" – three *halachos* regarding whose *korbanos* may be accepted in the Beis Ha'Mikdash: 1) A *mumar* (one who intentionally transgresses the laws of the Torah out of ideology) is rejected from offering a *korban.* 2) A non-Jew is allowed to bring a *neder* or *nedavah* offering. 3) A Jew who sins out of temptation is allowed to bring an offering because we want to encourage him to be *chozer b'teshuva*. The Gemara concludes that in addition to a *mumar,* one who libates wine as an offering to *avoda zara* and one who publicly transgresses Shabbos also may not bring an offering.

The 5) (שו"ת ח"ז-קעט) **רשב"א**) explains that one who publicly transgresses Shabbos is considered a heretic and if he touches wine, he renders it forbidden. However, in order to be considered one who publicly transgresses Shabbos, it must be performed three times in front of at least ten people.

The S"A in **סעיף ח'** *passkins* that one who pulls his foreskin (to conceal his *bris*) does not forbid the wine he touches. The י) **באר היטב**) explains that in order to forbid wine, the one touching it needs to believe in *avoda zara*, whereas this individual still believes in Hashem. However, the S"A continues, based on the above Gemara,[7] that a *mumar* has the status of a non-Jew, and when he touches wine, he renders it forbidden, even if he has a *bris milah,* although he is believed to say that he did *teshuva.*[8]

The S"A notably mentions only the *halacha* of a *mumar* touching wine, but he omits the *din* of someone who publicly transgresses Shabbos. Nevertheless, the **ש"ך**, in נקודת הכסף at the beginning of our *siman,* quotes the רשב"א and *passkins* that if one who publicly transgresses Shabbos touches your wine,[9] the wine becomes forbidden. He adds that the בית יוסף himself quotes this רשב"א and accepts it *le'halacha.* In addition, we find other places where the S"A accepts this רשב"א. For example, in סימן ב-ה regarding *hilchos shechita,* the S"A *passkins* like the רשב"א that one who publicly desecrates Shabbos is disqualified from *shechting*. Furthermore, the S"A in **או"ח שפה-ג**

[7] See גר"א (טז).

[8] The יא) **באר היטב**) *passkins* that he is only believed if he was the one who informed us that he was not religious, but if we already know he was not religious, he is not believed to say that he did *teshuva.*

[9] The ש"ך is specifically addressing *Karaim*, but his arguments apply to anyone who is מחלל שבת בפרהסיא.

6)) *passkins* that a Jew who publicly transgresses Shabbos, even by violating a rabbinic prohibition, has the status of a non-Jew. (He clarifies there that if he privately transgresses Shabbos, even by violating a biblical prohibition, he is considered a *mumar* only with regard to Shabbos, but he still has credibility for all other matters.)[10]

The ש"ך in נקודת הכסף concludes that if one who publicly transgresses Shabbos touches your wine, it is forbidden to drink, but you may still benefit from it, since there is no concern for libation.

There are two questions that need to be asked: 1) Why would the wine be forbidden to drink if the prohibition of drinking *stam yeinam* was enacted to prevent intermarriage, and this individual is Jewish and his *kiddushin* is valid? 2) What is the *halacha* today, when unfortunately, many Jews were never educated about their rich and beautiful heritage? Is wine touched by such individuals also forbidden?

I. Wine forbidden even if no concern for intermarriage

The 7) (ח"ב-ת) **תשובות והנהגות**) explains that a מחלל שבת בפהרסיא is *halachically* worse than an actual non-Jew. Today, the non-Jews in our vicinity generally do not worship idols (and certainly do not know how to perform libations), but Chazal gave a Jew who transgresses Shabbos in public the status of an actual idol worshiper. Therefore, even though there is no concern for intermarriage, wine touched by such a Jew is still forbidden. (We will learn below that according to the תשובות והנהגות, Chazal equated the *halachic* status of a non-religious Jew with that of a non-Jew so that we are not influenced by his negative behavior.) Although it would seem from the תשובות והנהגות that since such individuals are given the full status of a non-Jew, their wine should also be forbidden for benefit, the ש"ך cited above already *passkined* that one may benefit from their wine because Chazal gave them a more limited status of a non-Jew. In fact, the תשובות והנהגות) ח"א-תעג) writes this explicitly: since giving them the status of a non-Jew is a *chiddush,* they receive only the status of a lower-level non-Jew, whose wine remains permitted for benefit. (Nevertheless, he writes that when there is no need, it is best to be *machmir* not to benefit either.)

[10] The S"A is discussing the *halacha* of עירוב חצירות and rules, based on the Gemara, that Chazal prohibit making an עירוב חצירות if one of the neighbors is a non-Jew or is מחלל שבת בפרהסיא (since Chazal wanted to prevent Jews from living among people who could potentially have a negative influence on them).