

SAPPIRIM

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ACAPPELLA MUSIC

Sefirah and the Three Weeks

One may not have excess *simcha* during the days of *sefirah* and the "Three Weeks" (between the 17th of *Tammuz* and *Tisha B'Av*); this includes a prohibition against getting married,¹ and earlier *Poskim*² note that dancing is likewise forbidden. Contemporary *Poskim*³ suggest that as part of this prohibition one may not listen to music during these times; the common custom is to accept this strict ruling. Accordingly, during these time periods the cRc does not allow music to be playing in certified restaurants, and the hold-music at the cRc office is replaced with something non-musical.

Although dancing and listening to music are forbidden, it has always been assumed that one may sing or listen to other people singing. In recent years, people have taken advantage of this leniency to listen to a genre of music known as "acapella" (a.k.a. "sefirah music"). Acapella music is defined as choral singing performed without instruments and may be one person or more singing, sometimes accompanied by other individuals who use their voices to mimic the sounds produced by musical instruments. Thus, there is no traditional "music" or instruments on the recording, but rather the entire acapella performance is produced by vocal sounds (and occasionally snapping or clapping) often with some people singing and others producing an assortment of instrumental sounds.

Poskim have taken differing views on whether acapella music is permitted or forbidden during *sefirah* and the Three Weeks. Some suggest that there is no need to further extend the prohibition of listening to music to include this all-vocal form of

entertainment, and they, therefore, permit one to listen to acapella music. Rav Shlomo Miller⁴ takes an exact opposite approach: the primary prohibition during those times of the year is against having (excessive) *simcha*; therefore anything which sounds like music is deemed capable of creating *simcha* and is forbidden. Rav Yisroel Belsky is reported to have adopted a middle-ground: acapella music is only forbidden if the accompaniments were digitally altered to the point that they do not sound like anything that a human can possibly vocalize.

Rav Schwartz has instructed us that the letter of law is that all forms of acapella music are permitted, but it is not in the spirit of *sefirah* and the Three Weeks for people to listen to those recordings which sound like traditional recorded music.

BLOODSPOTS IN EGGS

Contemporary applications

The *Gemara* in *Kerisus*⁵ clearly states that blood found in an egg is permitted, and that this is based on a גזירת הכתוב. At the same time, in *Chullin*,⁶ the *Gemara* cites different opinions as to which blood spots are permitted, depending on where in the egg they are found. [The *Gemara* further states that in specific circumstances, the presence of a bloodspot means that the entire egg must be discarded]. Different answers are given to this apparent contradiction, such as that even if *mid'oraisah* bloodspots are permitted (*Kerisus*) they are still *assur mid'rabannan* (*Chullin*), or that the *Gemara* in *Kerisus* is only referring to those bloodspots which the *Gemara* in *Chullin* permits.⁷

There are many opinions in the *Rishonim* as to exactly which bloodspots the *Gemara* in *Chullin* intends to forbid,⁸ and therefore *Rema*⁹ records

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¹ *Shulchan Aruch* 493:1 (*sefirah*) & 551:2 (Three Weeks).
² *Magen Avraham* 493:1 (*sefirah*) & 551:10 (Three Weeks).
³ See for example *Iggeros Moshe* OC 1:166 (end) (*sefirah*) & OC 4:21:4 (Three Weeks).
⁴ In a public letter dated 7 Av 5763 written by Rav Miller he wrote: להלכה... שום נ"מ אם יש כלי שיר בסרט או לא אלא כל שיר של שמחה אסור ובפרט בפרהסיא שנעשה לשמח... השומעים. The letter was also signed by Rav Yaakov Forscheimer.
⁵ *Gemara*, *Kerisus* 20b-21a.
⁶ *Gemara*, *Chullin* 64b.

⁷ See, for example, *Tosfos*, *Chullin* 64b s.v. v'hu. The first answer cited in the text is the basis for the ruling of *Shulchan Aruch* 66:2 that [at least the blood-portion of] all bloodspots are *assur mid'rabannan* (*Taz* 66:1; see also *Gr"a* 66:12).
⁸ See *Shulchan Aruch* and *Rema* 66:3, and *Beis Yosef* ad loc.
⁹ *Rema* 66:3. Nonetheless, if the blood spotted egg was mixed into other eggs, the *ta'aruvos* is permitted due a number of factors including the (strong) likelihood that the bloodspot is not one where the *ikar hadin* demands that the entire egg be discarded (*Rema* 66:4).



that the custom is that if blood is found in any part of the egg, the entire egg should be discarded.

The entire previous discussion is limited to cases where there is at least a possibility that bloodspot is from a fertilized egg.¹⁰ But, *Shulchan Aruch*¹¹ notes, if a person is sure that the egg is not fertilized, then the blood is only *assur mid'rabannan* (as *maris ayin* since it looks like regular/forbidden blood); therefore only the blood must be removed and the rest of the egg may be eaten.

How can one be sure that egg is not fertilized? In a different context, the *Gemara*¹² suggests two criteria: either the closest rooster is "60 houses away", or it is separated from the hen by an impassible river. The *Poskim*¹³ reference that *Gemara* as relates to our halacha, and *Rema*¹⁴ adds that another way to know that the egg is not fertilized is if the hen is kept in a chicken coop without any roosters.

Nowadays, just about all egg-laying hens are, in fact, kept in coops without roosters. Traditionally, this was done for production reasons; it is efficient for hens to be kept in coops, and roosters would obviously never be put into those coops since they do not lay eggs! In recent years there is an added element of "bio-security", where egg-laying chickens are isolated from other animals as a way of preventing the spread of avian influenza and other illnesses. *It is not clear if the same can be said of eggs laid by free-range chickens.*

In spite of the above, *Iggeros Moshe*¹⁵ writes that even nowadays it is proper that anytime an egg is found to have a bloodspot, the entire egg should be discarded. This is the common custom.

*Rema*¹⁶ rules that in order to avoid bloodspots, people should check eggs "during the daytime".

Rav Schachter explained that this means that the letter of the law is that a person can assume any particular egg is free of bloodspots, since the vast majority of eggs do not contain one. However, if it is easy to check the egg then a person should do so. *Rema* codifies that principle by saying that "during the daytime", i.e. when there is plenty of natural light, they should check the egg for a bloodspot. But if it is difficult (i.e. during the nighttime, before there were electric lights), then one is not required to check the egg, and may rely on the majority of eggs which are blood-free.

A contemporary application of *Rema's* ruling is that *hashgachos* commonly certify liquid egg companies, even though there is no *Mashgiach* present to check for bloodspots. [The egg companies do check all eggs and remove all blood spots]. This is acceptable because it is not "easy" to have a *Mashgiach* check each egg, and one can therefore rely on the probability that there are no bloodspots. In contrast, at a certified restaurant where there is a *Mashgiach* present all the time, the *hashgachah* will insist that he check all eggs before they are used.

Another example of this halacha relates to hard-boiled eggs. It is not (easily) possible to check an egg for bloodspots before boiling, and even afterwards, it is cooked in its shell. Therefore, one may cook a hard-boiled egg and need not be concerned that there is a bloodspot.¹⁷ There are some who have a custom to never cook fewer than 3 hard-boiled or soft-boiled eggs in any given pot. [Some even have a designated pot just for cooking eggs]. The reason for this custom is that in case a bloodspot is discovered in one of the eggs, the non-kosher *ta'am* which spread from that egg will be *batel* in the other (blood-free) eggs in the pot.¹⁸

¹⁰ Furthermore, the strict halachos of a bloodspot in a fertilized egg apply even if the egg was laid recently and has surely not begun developing into a chick (*Shach* 66:6).

¹¹ *Shulchan Aruch* 66:7, as explained by *Shach* 66:14 and others.

¹² *Gemara*, *Beitzah* 7b, codified in *Shulchan Aruch* OC 513:6.

¹³ *Toras Chattas* 62:6 and *Minchas Yaakov* 62:22, cited in *Rebbi Akiva Eiger* to *Shach* 66:14. *Rebbi Akiva Eiger* also cites *Pri Chadash* 66:13 that the hen must have been separated from the rooster (in one of these ways) for 21 days before laying the egg; more on this in a footnote below.

¹⁴ *Toras Chattas* (*Rema*) *ibid.*

¹⁵ *Iggeros Moshe* YD 1:36 & OC 3:61. He notes that this is (partially) based on the small possibility that a fertilized egg might get sold to the public. Similarly, *Minchas Yitzchok* 1:106 and 4:56c rules that one must discard the entire egg if there is any chance that a fertilized egg might be included. Furthermore, he accepts the position of *Pri Chadash* 66:13 (cited in *Rebbi Akiva Eiger* *ibid.*) that to qualify as being "separated from roosters" the hen must have been in the coop etc. for 21 days before laying the egg; it is likely that hens do not meet this criteria for the first eggs they lay. These *Poskim* are in contrast to *Yabia Omer* 3:2, who notes (at the beginning and end of the *feshuvah*) that he is discussing a case where almost all of the eggs are unfertilized, and yet he leniently rules that one may just discard the blood and eat the rest of the egg.

¹⁶ *Rema* 66:8.

¹⁷ See *Shulchan Aruch* 66:8.

¹⁸ *Minchas Shlomo* 2:62 (and *Yad Yehudah* (*Aruch*) 66:7). He explains that even those who are of the opinion that (some) bloodspots are *assur mid'oraisah* (as per the second answer from *Tosfos* cited in the previous text), nonetheless, the blood-free eggs are permitted on a *d'oraisah* level since *min b'mino* is *batel b'rov mid'oraisah*. [Although there is water in the pot, the *ta'aruvos* is treated as *min b'mino* (egg in egg) based on the principle of *מלק*.] Thus, it is only on a *d'rabannan* level that the blood-free eggs might be forbidden, and since it is only a *safek* if the eggs are forbidden, we can apply the principle of *safek d'rabannan l'kulah*.

In addition to other discussions as to whether *מלק* is appropriate for this situation, *Minchas Shlomo* offers the following conceptual explanation for the principle of *מלק*:

הנה בעיקר הדין שאמרין גם לגבי האים מין שראוי אתו כאלו הוא אים ומותר מכה טעמא דסלק, תמה הש"ך בסי' צ"ה סק"ח דמה סברא יש בזה והלא ס"ס נתי שפיר האיטור טעם בשאנים מין, ועי"ש שחולק משום כך על הט"ז וסובר סברא דסלק מועלת רק להיתר את מין ולא את שאנים מין עיין שם. ונלע"ד ליישב את הדבר עפ"י סברת הרשב"א בחולין דף צ"ט שעיקר הדין דטעמא לא בטיל הוא משום דכיון שמרגיש ומכיר את טעם האיטור אמרין דטעמתו זו היא הכרות, וכמאן דהוכר האיטור דמי דכתיב ותיך אוכל טעמו לו, דאין חשיבות האוכל אלא בטעמו, והואיל וכן י"ל דאימתי הוא דשייך לומר סברא זו דקא בכ"ג שבשעת הרגשת הטעם הרי הוא מכיר ודאי שהטעם הוא של איטור, דאז הוא דחשיבין לה כאלו הוא בנין, משא"כ אם גם בהרגשת הטעם מעורב בו רוב טעם של היתר אמרין שפיר שגם פליטת טעם האיטור מתבטל בתוך הטעם של פליטת היתר, וכשמרגיש בהיתרית הוא דקא מרגיש כיון דמדאורייתא מין בנין ברובא בטיל, שהרי אי אפשר כלל להחמיר על הטעם הנרגש ונטעם יותר מאילו היה ממש בעים, והנהיגי כשראיתו שגם הכר"פ מיישב כע"ז את דברי הט"ז עיין שם.

GUMS

The term “gum” includes a wide range of polysaccharides which are (typically) used to thicken food products. The different properties that these gums exhibit, make each of them suitable for a different task – high temperature baked goods, cold-blended liquid medicines etc. Most gums discovered and developed by scientists are produced from plant materials with no *kashrus* concerns.¹⁹ This includes agar-agar,²⁰ alginates,²¹ carrageenan, cellulose, ghatti gum (Indian gum),²² guar gum, karaya gum (sterculia gum),²³ locust bean gum and tragacanth.²⁴

According to the CFR,²⁵ after extraction, pectins are precipitated with ethanol or isopropanol, and the extract is sometimes spray-dried; this raises the question of why many consider pectin to be acceptable without *hashgachah*. The author consulted with a number of seasoned *kashrus* professionals who reported that (a) a company must be of a certain size to make it worthwhile to produce pectin, such that (b) there are only about 10 companies worldwide who do so, which results in (c) the manufacturers specializing in pectin and using dedicated equipment. Further, they believed that it is more common for people to use isopropanol rather than ethanol. Thus, in theory pectin can be a *kashrus* concern, but experience has shown that it is not.

However, the following gums are not Group 1 due to the method in which they are produced:

- Gellan gum²⁶ and xanthan gum are produced via fermentation.
- Gum arabic (a.k.a. gum acacia) is a plant product but is always sold in a spray-dried form, which raises questions that the spray drier might also be used for non-kosher products.

¹⁹ The Pesach status of a number of gums is discussed in footnote #3 and in the minutes of the AKO General Membership Meeting of November 2007.

²⁰ CFR 184.1115 describes agar-agar as “a dried, hydrophylic, colloidal polysaccharide extracted from one of a number of related species of red algae (class Rhodophyceae)”.

²¹ This includes alginic acid.

²² CFR 184.1333 describes gum ghatti as “an exudate from wounds in the bark of *Anogeissus latifolia*, a large tree found in the dry deciduous forests of India and Ceylon.”

²³ CFR 184.1349 describes karaya gum as “the dried gummy exudate from the trunk of trees of various species of the genus *Sterculia*.”

²⁴ CFR 184.1351 describes gum tragacanth as “the exudate from one of several species of *Astragalus gummifer* Labillardiere, a shrub that grows wild in mountainous regions of the Middle East”.

²⁵ CFR 184.1588 describes pectins as “a group of complex, high molecular weight polysaccharides found in plants and composed chiefly of partially methylated polygalacturonic acid units. Portions of the carboxyl group occur as methyl esters, and the remaining carboxyl groups exist in the form of the free acid or as its ammonium, potassium, or sodium salts, and in some types as the acid amide.”

It also notes that pectins are “produced commercially by extracting citrus peel, apple pomace, or beet pulp with hot dilute acid (pH 1.0 to 3.5, 70° to 90 °C). The extract is filtered, and pectin is then precipitated from the clear extract with ethanol or isopropanol, or as the copper or aluminum

CAPON CHICKENS

It has been a longstanding practice that the testicles are removed from male chickens so that the meat from that bird will be more tender. A chicken's testicles are located inside the chicken near the spine, and the process of removing the testicles is known as “caponizing”. It involves creating an incision in the chicken's chest between the lowest two ribs, spreading apart those ribs, and reaching in with a tool to remove the yellow, kidney-bean shaped testicle. [The two testicles are on opposite sides of the chicken, so the procedure is done twice for each bird]. The incision is small enough that no stitches are required, and the wound heals by itself. The procedure is performed when the chicken is a few weeks old, and when it is eventually sold for slaughter it is referred to as a “capon chicken”.

It is clear that (a) it is forbidden for a Jew to caponize a chicken, as this is included in the prohibition of *sirus*,²⁷ and (b) the removal of a chicken's testicles does not inherently render it a *teraifah*. However, being as the procedure requires cutting into the flesh and extracting the testicles, there is a potential that the intestines might become punctured or pulled out of the body cavity.²⁸ In this context, *Shach*²⁹ discusses whether it is considered a *רעותא* if a capon's intestines are found to be attached to its flesh.

That said, a number of *Acharonim*³⁰ note that if there is no particular *רעותא*, it is acceptable to eat a capon. It is assumed that those who perform the caponizing are skilled in their work and are careful to not harm or damage the chicken.³¹ Therefore, we may assume that the intestines were not affected, and the chicken remains kosher.

salt. The acid extract is sometimes spray- or roller-dried, or it is concentrated to be sold as liquid pectin.”

²⁶ CFR 172.665 describes gellan gum as “a high molecular weight polysaccharide gum produced from *Pseudomonas elodea* by a pure culture fermentation process and purified by recovery with isopropyl alcohol.” See also <http://www.fao.org/docrep/W6355E/w6355e0f.htm>.

²⁷ *Shulchan Aruch* EH 5:11.

²⁸ See *Shulchan Aruch* 46:1-2.

²⁹ *Shach* 46:10.

³⁰ See *Knesses HaGedolah, Comments to Beis Yosef, 46:9, Pri Megadim MZ 46:10, and Be'er Haitev 46:8*. Some of the relevant words in *Knesses HaGedolah* are:

המתעסק בירוס בקי הוא שאינו נוגע בבני המעים שכל כונתו אינו אלא לסרס ביציו, ואף אם בשעת הקריעה נפלץ מעיו בין עור לבשר מאליתו יצאו והוא לא הפך בבני המעים וגם לא נגע בהם. רק בביציו הזכר נגע וזו היא עיקר כונת סירוס, ואף אם מכניס בידים מסתמא ידועים להכניס בענין שאינו נהפך שרירי ממום הוא וחס על ממומו...אלא ודאי כל המתעסק בזה הוא בקי ואומן במלאכה לעשות באופן שבעת הקריעה לא ינקבו בני המעים

³¹ Contemporary guides to caponizing note that there are two primary risks in the procedure: cutting into the spermatic artery (located just behind the testicle) which would cause the bird to bleed to death, and “slips” (failure to remove part of the testicle) which would result in a bird which did not develop with all of the desired capon qualities. Accordingly, it is common for the procedure to only be attempted by those with experience and training.