



Bishul Akum and Intermarried Jews

Our Sages decreed that one may not eat even kosher food cooked by a non-Jew, a prohibition called *bishul akum*. This decree is intended to maintain distance between Jews and non-Jews in order to prevent intermarriage. In previous articles, we discussed cases in which this concern might be largely irrelevant, such as a Catholic priest (who has no children.) The halachic conclusion is that the decree still stands, regardless of whether the underlying reason applies to the individual case. This article will examine the unique case of *bishul akum* with regard to intermarried Jews.

Intermarriage is unfortunately a very common phenomenon, especially outside of Israel. We have previously shown that non-religious Jews are not part of the decree of *bishul akum*, since it applies only to non-Jews. However, perhaps Jews who have intermarried are considered completely out of the fold, similar to a *mumar*. Additionally, the children of these marriages are often non-Jews, which might add to the decree.

THE STATUS OF INTERMARRIED COUPLES

It is strictly forbidden for both men and women to have intimate relations with non-Jews. This transgression is Biblical in nature (see *Devarim* 7:3). Marriage to a non-Jew and subsequent relations is a grave sin. Authorities debate

the halachic status of such Jews in relation to other *halachot*. Many *poskim* rule that Jews, both men and women, who intermarry lose their status as halachic Jews (see *Responsa Chacham Tzvi* 38; *Responsa Chatam Sofer*; CM 195), including being counted in a minyan and the ability to testify in a Jewish court. Rav Yitzchak Zilberstein emphasizes that this status relates to both male and female intermarriage, despite the fact that the children of a Jewish mother and a non-Jewish father are halachically Jewish (see *Shulchan Melachim* p.895).

Regarding *bishul akum*, Rav Yosef Shalom Elyashiv is quoted as being quite stringent, prohibiting food cooked by intermarried Jews (*Shulchan Melachim* 14:3). He argues that there is no question that even today, Jews (especially in Israel) are aware of the severity of the transgression of intermarriage. This would prevent the halachic claim of *tinok shenishba* (a halachic term for a Jew who was raised without sufficient knowledge and understanding of Judaism and therefore is not completely at fault for his actions.)

While we are discussing Rav Elyashiv's rulings about intermarriage, it is worth noting that he was also asked about the children of a non-Jewish father and Jewish mother. He is quoted as saying that if the children grow up following the religion of their father, they are

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then considered non-Jews. This opinion is not accepted by all rabbinic authorities (ibid).

JEWISH AND NON-JEWISH FATHER

In addition to the intermarried Jews' loss of halachic status as mentioned earlier, we can also consider their children as a potential factor for stringency or leniency. As we have seen, the underlying reason for the decree is to prevent intermarriage. If a Jewish man has children from his non-Jewish wife, perhaps the decree of *bishul akum* should apply to his cooking, lest other Jews come to marry his non-Jewish children. The answer is no, since the original decree was only enacted towards non-Jews, despite the severity of this Jew's transgression. A further proof for this conclusion would be the case of a convert whose biological children did not convert. Although eating and mingling with a convert might theoretically cause intermarriage to his non-Jewish children, it is clear that *poskim* considered the decree irrelevant to him (see *Bein Yisrael La'amim* 5:9). Similarly, the cooking of a non-Jewish man married to a Jewish woman is prohibited because of *bishul akum*, despite the fact that there would be no transgression in marrying his children. In both of the above cases, we see that the decree applies uniformly according to its original formulation of prohibiting the food of non-Jews, even if the underlying reason does not pertain to the individual situation.

RULING

Although many later authorities rule that any intermarried Jew is included in the decree of *bishul akum*, the subject is quite

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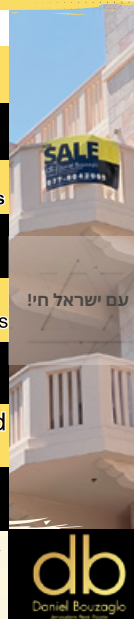
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sensitive and might involve other factors. It is essential to consult with a competent Orthodox rabbi in each individual case.

IN SUMMARY:

- There is room to conclude that a Jewish father with non-Jewish children is not included in the decree of *bishul akum*.
- A non-Jewish father with Jewish children (from a Jewish wife) is included in the decree of *bishul akum*.
- According to many *poskim*, Jews (both men and women) who intermarry are included in the decree of *bishul akum*. A rabbi should be consulted regarding individual cases. ■