

## I. Christian and Muslim Perspectives, Secular Legal Perspectives

### 1. Evliya Efendi, Ottoman Empire, c. 1660's

...As to the coffee it is an innovation, which curtails sleep and the generating power in man. Coffee-houses are houses of confusion. Coffee has been by law declared illicit in the great collections of fetwas (legal injunctions) wherein every thing that is burnt is declared to be illegal food.

### 2. Khair Beg, Mecca 1511

"In these [coffeehouses] men and women met and played tambourines, violins, and other musical instruments. There were also people who played chess, mankala, and other similar games, for money; and there were many other things done contrary to our sacred law — may G-d keep it from all corruption until the day when we shall all appear before him!"

### 3. "Proclamation for the Suppression of Coffeehouses" King Charles II, Dec. 20, 1675 (England)

Whereas it is most apparent that the multitude of coffee-houses of late years set up and kept within this Kingdom... and disaffected persons [drawn] to them, have produced very evil and dangerous effects; as well as for that many tradesmen and others, do therein mis-spend much of their time, which might and probably would otherwise be employed in and about their Lawful callings and Affairs; but also, for that in such houses, and by occasion of the meetings of such persons, therein divers False, Malitious and Scandalous Reports are devised and spread abroad, to the Defamation of his Majesties Government, and to the Disturbance of the Peace and Quiet of the Realm; his Majesty hath thought it fit and necessary, that the Said Coffee-Houses be (for the future) Put down and Suppressed.

## II. Shechar Akum

### 4. Talmud Bavli, Avodah Zara 31b

מפני מה אסרו [אמרו (ריטב"א)] שכר של עובדי כוכבים? רמי בר חמא אמר רבי יצחק: משום חתנות, רב נחמן אמר: משום גילוי... רב פפא מפיקין ליה לאבבא דחנותא ושתי, רב אחאי מייתו ליה לביתיה ושתי, ותרוייהו משום חתנות, רב אחאי עביד הרחקה יתירתא  
It has been stated: Why has beer of heathens been forbidden? Rami b. Hama said in the name of R. Isaac: Because of marriages. R. Nahman said: Because it might have been left uncovered... R. Papa used to drink beer when it was brought out to him to the door of the shop; R. Ahai used to drink it when it was brought to his house. Both of them held that the reason [for the prohibition] is intermarriage, but R. Ahai insisted on extraordinary precaution.

### 5. Shulchan Aruch Yoreh Deah 114:1

כל שכר של כותים, אחד שכר של תמרים או של תאנים או של שעורים או של תבואה או של דבש, אסור משום חתנות. ואינו אסור אלא במקום מכירתו, אבל אם הביא השכר לביתו ושותהו שם, מותר, שעיקר הגזרה שמא יסעוד אצלו. ולא אסור אלא כשקובע עצמו לשתות כדרך שאדם קובע בשתיה, אבל אם נכנס בבית העובד כוכבים ושתה דרך עראי באקראי, מותר. וכן מי שלן בבית העובד כוכבים, חשוב כביתו, ומותר לשלוח בעיר לקנות שכר מהעובד כוכבים. הגה: ויש מתירין בשכר של דבש ותבואה, וכן נוהגין להקל במדינות אלו.

All beer of non-Jews, whether of dates, figs, barley, grain, or honey, it forbidden because of *chatnut*. It is only forbidden where it is sold, but if you bring it home and drink it there, it is permitted, for the main decreed was because you might eat there. It is only forbidden when you establish yourself to drink there, as people do for drinks, but if you go into the non-Jew's house and drink in a not-set manner, it is permitted. So too, if you sleep at a non-Jew's house, it is like your house, and you can send for beer from the non-Jews. Rama: Some permit honey or grain beer, and that is the custom in these countries.

### 6. Shut She'elat Yaavetz 2:142

על ששמעתי דבת רבים אומרים לי על מכ"ת ששתה קאפייע/קפה/ בבית גוי בהיותו כאן. ואף על פי שאמרו למכ"ת האשכנזים היושבים שם שהוא אסור מפני חשש חלב שנותנין בו על כל זה לא מנע מכ"ת מלשתות... .

והריני עומד וצווה שאני נצוה ואין לי אלא להודות על האמת שיצא בזה דבר שאינו מתוקן מתחת ידי, ואנא דעבידנא לגרמי הוא דעבדי והתלמידים הבאים לא ישתו. ואשר ראו ממני לא יעשו כמוני. כי נתחרטתי מעיקרא עקב רוח אחרת עמי כעת. שנכון הדבר לאסור לגמרי שתייתו בבית גוי רק על האופן שנתבאר ב"ד סימן קי"ד גבי שכר, עם שהיינו יודעים בבירור גמור שנעשה בלי שום תערוכות ד"א =דבר אחר= . דהא שיכרא נמי אסרינן משום שימצא דשימצא. וכן פסק בש"ע לאסור שתייתו בביתם דרך קביעות אפילו בזמן הזה, וביותר במקום שמקילין בסתם יינם. מטעמו של הרשב"א ז"ל שם. וזוה/ דיננו ממש אף שיש לחלק קצת בין הנושאים, דשכר הוא מידי דמשכר ושמא גרים. ויש לאומר שיאמר. דמשום הכי חששו לו ג"כ דשייך נמי בגזירת בנותיהם. משא"כ בקאפייע שאדרבא להפיג היין הוא עשוי, ומיצל צייל לחמרא דרויא. מכל מקום יותר נראה דלא פלוג בהו ובחד מחזיתא מחתינהו לאיסורייהו דכולהו משקיין דאפילו בפת ושלקות גזרי מהאי טעמא, ולא בטלי לגזרתייהו אם לא בשעת הדחק, אף על גב דשכרות ואבזרהא לא



מישך שייכא בהו. ואם בזמניהם כך החמירו על עצמם בגזירה לגזירה, משום לך אמרינן נזירא. אנו בדורותינו דפשיטא לא אכשור דרי. על אחת כמה וכמה שיש לנו להרבות בגזרות כאלו לגדור הפרץ שלא יתלו עיניהם בבנות הארץ על כן מעתה הדבר ברור בעיני שראוי והגון להחמיר עליהם בכל ביוצא בזה. והוא מדינא דתלמודא כאמור. אבל מה נעשה ואין דורינו דומה יפה ואפילו צווחינן כולא יומא לית דמשגח בן, שלא לעבור הגבול אפילו בגופי איסורי תורה ואסור לומר דברי שאינו נשמע. ועכ"ז לא נמנעתי מלהזכיר את זה ולהעלותו על ספר השומע (הסר למשמעתנו) ישמע. והחדל יחדל.

R. Yaakov in London: With regards to that which I heard, that many people said that you drank coffee in the non-Jewish store, even though they told you that it is forbidden because of the concerns raised by the milk they out in it. You still did not refrain from drinking...

I hereby stand and cry out that I have been defeated and all I can do is admit the truth – that something imperfect has come out from my hands. What I did, I did for myself, and future students shall not drink. And those who saw what I did should not do like me. I regret what happened originally, because of a different spirit that is in me now. For it is proper to completely forbid drinking [coffee] in the non-Jew's store, as in Yoreh Deah 114 regarding beer. This is even where we clearly know that it was made without mixing in anything else, for beer was also forbidden because of the remotest concern [lest one drink the non-Jew's wine]. And Shulchan Aruch ruled accordingly, forbidding drink in their houses with regularity, even nowadays, and especially in places where they are lenient about non-Jewish wine, as per Rashba there. This is exactly our case, even though one could distinguish slightly between [beer and coffee], as "shechar is meshaker [alcohol intoxicates]" – as the name implies. And one could say that it was because of this that they were worried, as it relates to the decrees [meant to dissuade marrying] their daughters. However, this is not the case with coffee – which is the opposite – as it is made to weaken the effects of wine. It clears one's mind from the drunkenness of wine. Nevertheless, it is more likely that they did not distinguish [between coffee and beer], and the prohibitions were lumped together, forbidding all drinks – even bread and cooked foods were forbidden for this reason, and their decrees are not cancelled except under extenuating circumstances, even when drunkenness and its related problems are not relevant. And if in their times they were stringent even for second-order decrees, because we tell the Nazirite, "Go away", then in our generation, as it is obvious that the generations have not improved, how much more do we need to increase decrees like this, to fence in the breach, so that they won't turn their eyes to the daughters of the land. Therefore, from now on it is clear in my eyes that it would be proper and correct to be stringent on them for all similar things. And this is Talmudic law.. But what can we do, there is no one in our generation who is good, and even if we shout all day, no one will pay attention, even to not trespass pass the border of biblical laws – and it is forbidden to say things that will not be listened to. Despite all of this, I did not hold back mentioning this and putting it in print – and the one who listens will listen, and he who desists will desist.

### 7. Chochmat Adam 66:14

ואף שבזמן הזה נוהגים להקל לשתות שכר של תבואה בבית העכו"ם ואין למחות בידם כי יש מקילין אבל ראוי לכל בעל נפש להרחיק מזה ... וכל זה בשכר שמצוי אבל יין תפוחים ושאר פירות מותר דדבר שאינו מצוי לא גזרינן וכן קאווע ושאקלאדע מותר לשתות בבית העכו"ם (פרי חדש). אך בעוונותינו הרבים בזמן הזה כמה קלקולים באים מזה ... באו לידי זנות כידוע על כן כל אשר בו ריח תורה ירחיק מזה מלהכנס לבתיהם לשתות איזה משקה שיהיה

Even though now the custom is to be lenient with grain beers in the non-Jew's house, and we can't protest because there are those who are lenient, it is proper for one who is careful to distance himself from this... This is all for beer, but apple or other fruit wines are permitted because we don't make decrees about uncommon things. Coffee and hot chocolate are permitted to drink in the non-Jew's house. However, in our many sins, nowadays many sins have come from this... besides for the fact that it leads to promiscuity, as is known. Therefore, anyone who has a scent of Torah should distance himself from going into their houses to drink anything.

### III. Bishul Akum

#### 8. Shulchan Aruch, Yoreh Deah 113:1

דבר שאינו נאכל כמו שהוא חי, וגם עולה על שלחן מלכים ללפת בו את הפת או לפרפרת, שבישלו עו"ג, אפילו בכלי ישראל ובבית ישראל, אסור משום בישולי עובדי כוכבים.

A food that is not eaten when it is raw and is served at a kings table, to spread on bread or as a dessert, which was cooked by a non-Jew, even in the pots of Jews and in the house of a Jew, it is forbidden because it was cooked by a non-Jew

#### 9. Tosafot, Avodah Zarah 31b

דס"ל כאידך לישנא דרב דאמר כל שאינו עולה על שלחן מלכים אין בו משום בישולי עובדי כוכבים... ועוד יש טעם אחר להתיר השכר דאין בו משום בישולי עובדי כוכבים דכי היכי דהתבואה בטלה לגבי המים לענין ברכת שהכל נהיה בדברו ה"נ היא בטלה לענין איסור בישול.



[Beer is permitted because of *bishul akum* because...] they rule like the other position of Rav – that anything that is not served on a king's table has no problem of *bishul akum*... There is another reason to permit beer: It does not have the problem of *bishul akum* because as the grain is considered nullified for the purpose of making the blessing of *shehakol*, so too for the prohibition of cooking.

#### 10. Pitchei Teshuva, Yoreh Deah 114:1

עבה"ט של הרב מהרי"ט ז"ל מ"ש דמי שהיה מיקל בשכר ה"ה דמותר לשתות קאווי"י כו' והוא מדברי הפר"ח סק"ו ועיין בתשובת אא"ז פנים מאירות ח"ב סי' ס"ב שחלק עליו דאף בשכר לא היה עיקר הטעם משום דהתבואה בטיילה אלא עיקר הטעם היה דשכר שלהם לא היה עולה על שולחן מלכים או כמ"ש הב"ח דלא שייך בי' חתנות כולי האי דלא מזמני עלייהו וליכא קריבא דעתא כולי האי אבל בקאווי"י עינינו רואות שעולה על שולחן מלכים ומזמני עלייהו לכן ראוי לבעל נפש שלא לשתות קאווי"י או טיי"א מעובד כוכבים

Beer Hetev of Maharit said that he who permits beer, would permitted coffee (like Pri Chadash). Panim Meiros (2:2) argued, that even by beer, the main reason was not because it was nullified, but rather because it was not served as a king's table, or as Bach says, it was not really a concern of intermarriage because people don't get invited for it and it does not cause so much intimacy. However, we have seen with our own eyes that coffee is served as king's tables and people invite others for it, so a careful person should avoid coffee and tea in non-Jewish stores.

#### IV. Kiddush

##### 11. Shulchan Aruch, Orach Chaim 272:9

במקום שאין יין מצוי, י"א שמקדשים על שכר ושאר משקין, חוץ מן המים. וי"א שאין מקדשין. ולהרא"ש, בלילה לא יקדש על השכר אלא על הפת, ובבקר יותר טוב לקדש על השכר, שיברך עליו שהכל קודם ברכת המוציא, שאם יברך על הפת תחלה אין כאן שום שינוי, ודברי טעם הם.

If there is no wine, some say you can make *Kiddush* on beer and other drinks, but not water. Some say you cannot. The Rosh says that at night, you should not say *Kiddush* on beer, but rather on bread. In the morning, it is better to say it on beer, and say *shehakol* before *hamotzi*, because if you say the blessing on the bread first, there is no distinction. This make sense.

##### 12. OU :<https://oukosher.org/blog/kosher-in-the-factory/coffee/>

Viewing coffee essentially as water could have other *halachik* consequences. The *halacha* is that common beverages, known as *chamra medinah*, at times may be substituted for wine intended for a *kos shel beracha*. However, water does not qualify (see *Pesachim* 107a and *Shulchan Aruch* 272:9). Whether coffee qualifies as *chamra medinah* is questionable. The Rogatchover Gaon (see *Shut Tzafnos Paneach* 2:34) writes that tea may not be substituted for wine since it is principally water<sup>1</sup>. However, a number of *poskim* were of the opinion that tea would be acceptable as *chamra medinah* (see *Aruch HaShulchan Orach Chaim* 272:14). Rav Moshe Feinstein *zt'l* writes that tea may be used for a *kos shel beracha* as *chamra medinah* if there is no other alternative (see *Igros Moshe Orach Chaim* 2:75). Seemingly, this should apply to coffee as well...

Note 2: Assuming that tea or coffee may be substituted for wine does not seem to have any bearing on the discussions above about *bishul akum* and *beracha rishonah*. Beer for example, requires the *beracha* of *shehakol* and is not subject to the restriction of *bishul akum* according to *Tosafos in Avodah Zarah* (31b) because it is principally water. However, beer is also provided as an example of *chamra medina* and may be used for a *kos shel beracha*.

#### V. Beracha

##### 13. Yaavetz (above) draws on Tosafot in AZ to explain why it is *shehakol*.

##### 14. Talmud Bavli Berachot 38a; 39a

ואמר מר בר רב אשי האי דובשא דתמרי מברכין עליה שהכל נהיה בדברו. מ"ט? זיעא בעלמא הוא. אמר רב פפא פשיטא לי מיא שסילקא כסילקא ומיא דלפתא כליפתא ומיא דכולהו שלקי ככולהו שלקי

Mar bar Rav Ashi says that the blessing on date honey is *shehakol nihyeh b'dvaro*. Why? It is mere sweat.

R. Papa said: It is quite clear to me that beet-water is on the same footing as beet,<sup>11</sup> and turnip-water on the same footing as turnips. and the water of all vegetables on the same footing as the vegetables themselves

##### 15. Summary of reason to distinguish

- The Gemara on 39 simply means that if you have beets and beet soup, you say one beracha (Raah).
- Drink vs Eating (Raavyah, Tosafot)
- Depends on normal way of eating (Rashba)



d. Depends on whether the full taste is in the liquid (Rosh)  
e. Water vs. thick liquid that came out (Bahag)

## VI. Before Davening

### 16. R. Moshe Zacuto, Venice, 1625-1697 – Shut HaRamaz 59

שאלה אם מותר לשתות מים או קאוי קודם התפלה בשבת... ל"עד דאין בו חשש וכ"ש במקום חולי ויש להבי' ראייה ממנהג כל א"י ומלכות תוגרמה דנוהגין לשתות הקא"וי כל אחר חצות משום דהוי כעין דוגמת רפואה דהיינו לנדד השינה כנודע. משה זכות

Is it permissible to drink water or coffee before *Tefillah* on Shabbat? In my opinion there is no concern, and especially in the case of illness. And we can bring evidence from the practice of the entire Land of Israel and the kingdom of Turkey where they have the practice of drinking coffee after midnight because it is like a medicine to ward off sleep, as is well known.

### 17. R. Hezekiah Da Silva, Orach Chaim, *Pri Chadash* 89:2, Jerusalem and Amsterdam, 1659-1698

ובפרט בארץ מצרים שאין הדעת מתיישב בלא קאוי אבל בצוקאר

Especially in Egypt where one cannot attain presence of mind without the aid of coffee, but with sugar it is forbidden.

### 18. OU (Mishna Berurah actually seems to say the same as the *Pri Chadash*)

There is another possible upshot to viewing coffee as similar to water. It is forbidden for a person to eat or drink in the morning before davening shachris. However, it is permissible to drink water (see Berachos 14b and Shulchan Aruch Orach Chaim 89:3). The Mishneh Berurah (89:22) writes that it is permitted to drink black coffee, without milk or sugar, in the morning before davening<sup>3</sup>. According to the Mishneh Berurah, black coffee is viewed like water with regards to this halacha.

## VII. Tikkun Chatzot, Selichot at night

### 19. Coffee, Coffeeshouses, and the Nocturnal Rituals of Early Modern Jewry by Elliott Horowitz

The vigils of Shavuot and Hoshana Rabbah, previously limited in their appeal and relatively brief in duration, came to be widely observed as allnight affairs. This was due more to the availability of coffee than to the habit of frequenting coffeeshouses, but the vogue achieved by the midnight rite of *Tikkun Hazot* would seem to have been equally linked to the latter. After long lagging behind the less-demanding observances of *Shomrim la-Boker*, it came, during the eighteenth century, to enjoy unprecedented popularity among Italian Jewry. Those Jews who, in increasing numbers, were in the habit of spending their evenings in the cafes of the ghettos evidently found it more attractive to recite *Tikkun Hazot* late at night than to rise even shortly before dawn for *Shomrim la-Boker*. The former rite was congruent with their lifestyle, while the latter clashed with it. The kabbalists, it should be noted, had insisted on the recitation of the *Tikkun* after midnight, but not on its recitation after a period of sleep. And lest it be overhastily objected that habitues of cafes are not the sorts of people to show enthusiasm for mystical night rituals, let it be noted that in the religious culture of the Mediterranean such combinations were, and indeed are, rather commonplace. An eighteenth-century traveler, for example, reports the observation concerning the Venetians that "they spend one half of their time in committing sin, and the other half in begging G-d's pardon."