

Is Scotch Kosher?

by: Rabbi Jeremy Rosen

Having been the rabbi of the Orthodox Giffnock community in Glasgow, Scotland, in the late sixties and early seventies I had a unique opportunity to study the way Scotch whisky was made, both as an interested party and a supervisor. And theoretically it is possible that processes have changed over time. There is a vested interest in finding reasons to say Scotch is not kosher and needs supervision. But going on the basis of the (rov) vast majority and referring specifically to scotch whisky, most of the reasons given for condemning it are far from normal practice and can be dismissed on those grounds.

Each distillery in Scotland produces its own unique malt and experts can tell by the taste, slight variations in color and kind of peat used, whether the malt comes from the Islands, the Highlands, the West or the East, or the Lowlands. Good quality blended whisky contains fewer barrels of grain and more of malt. The blending is a skillful process, bringing together a range of different malts. Usually the commercial ratio of good 'ordinary' whisky is roughly three of grain to one of malt, but of course this varies, as does the time the malts or the blends are left to "age". There are of course also pure unblended single malts and blends of different malts.

The term "blended" whisky in Scotland means the blend of malt and grain whiskies. Cheap whisky is the fermented grain that is soaked and heated in tap water and stands for a while in metal vats and then glass or metal containers. Malt whisky is fermented barley with purer highland or island spring water, heated up over peat fires, and then put into wooden casks. Some of these will be North American or other oak or old, redundant wine, sherry or bourbon casks (some claim other wine casks) whose wood has been primed by use over the years. Invariably such barrels arrive at the distilleries dry.

Whereas it is possible that there is still dampness in the barrels and even if in exceptional circumstances a little wine remained, the amount is so small as to constitute no halachic problem on the basis of taste or quantity. Some have raised the question of whether any wine residue passes from wood to whisky and whether it gives a recognizable wine taste or not.

The used barrels arrive without any wine and more often than not dry, however the wood might be damp. But contrary to popular opinion the value of any residue from the barrels does not lie in any wine taste. Rav Weiss □□□ former head of the Eidah Charedis Beth Din (Minchas Yitschok Yoreh Deah 28) demolishes any issue from the remnants of soaked wood that may find their way back into the whisky. They do not constitute yayin in any halachic sense and they are neither *ma'amid* (a core essential ingredient) nor *noteyn taam lishvach* (Give a beneficial or positive taste). Such wine residue as may be in the dried wood gives not a taste, but a slightly darker color to the whisky, which is sometimes augmented by caramel. Otherwise, whisky is virtually colorless.

Rabbi Wosner of Benei Brak also deals with the issue of whether dried residue from the wine-making process (*Shemorim veChartzonim*) that is then "revived" by new liquid counts as forbidden or not. He says not. Anyway, in our case there is no definable, measurable matter derived from the original liquid, itself, only a mixture of residue in the wood. Besides, even if there were, according to Rabbi Wosner (although there are dissenting voices) any actual wine would be *Batel BeShishim*, cancelled out with a sixty times counterbalance, as mentioned above (Shevet Halevi Yoreh Deah 52).

Anyway, a taste of wine would affect negatively the nuances of the malt whisky which relies on peat, water and barley and the usage was only for color. This would contravene proud traditions forbidding any other ingredients and no self-respecting whisky drinker would want a wine taste to interfere with the purity and integrity of the whisky itself. What happens elsewhere is another matter. But the Scots are very particular about their product and adding even a hint of wine would be akin to heresy!

In the USA, it seems a certain company in Kentucky claimed to be producing good old fashioned American whiskey¹ by mixing in wine or brandy with fermented grain. Adding non-supervised wine raises the issue of *Stam Yayin*, non-Jewish wine (as opposed to *Yayin Nesech*, Idolatrous Wine) which is a 2000 year old Rabbinic ordination against wine that comes from an unsupervised source. To reinforce their ruling they insisted that most of the *chumras* (stringencies) of *Yayin Nesech* should also be applied to *Stam Yayin*. This meant one could not trade in it, due to *Issur Hanaah* (not benefiting from something ritually forbidden in the Torah). However, both Rashi and Rabbeynu Tam, amongst the greatest Medieval European authorities by their own evidence, did trade in non-Jewish wines.

Over 50 years ago, the great Rav Moshe Feinstein זצ"ל was asked by Rav Pinchas Teitz זצ"ל, of Elizabeth, New Jersey, whether or not it was permitted to drink this Kentucky whiskey. In a series of replies printed in his collected responsa, *Igros Moshe* (Yoreh Deah 62.63.64), Rav Feinstein permitted it on a range of grounds. Wine is cancelled out in water by a ratio of 1:6 (not 1:60 which applies to other forbidden liquid). There are issues such as intentionally cancelling out a forbidden substance (as opposed to dealing with it when the mixture comes about accidentally) and cases where the forbidden matter gives a crucial taste (*Noteyn Taam*) or when it is an essential ingredient (*Davar HaMaamid*) and therefore can never be cancelled out. But all of these he dismisses in his reply. He even allows the drink where it has added glycerin that may be of *treifa* (non-kosher) animal origin. Although he says that it is best to avoid drinking whiskey with wine in it, he admits that he often used to, to avoid offending hosts.

None of this is relevant to Scotch where no wine is actually added and to do so would be anathema to a Scot. The issue is entirely one of the casks that some malted whiskies are allowed to stand in and mature over a period of several years and whether they give a forbidden taste.

As mentioned, the main value of the casks lies simply in the seasoning of the wood and perhaps some coloration that seeps into the otherwise clear spirits. But the sherry casks give neither taste (*Noteyn Taam*) nor an essential

ingredient (*Davar HaMaamid*), and therefore the issue of Bitul (the need to cancel out a forbidden substance) is not even relevant but if one wanted to be excessively cautious this too would ensure there is no transgression.

The only argument remaining might be one of a meta halachic nature. That some people choose only to buy food and drink that has an approved supervisory kosher stamp. But this is a matter of choice. Not law.

Another issues might be 'Maga' touch of an idolator or a renegade Jew. Actually, all the wine I have seen produced in Italy and Israel is so automatized that the actual wine itself never comes into contact with human touch either in the manufacture, the storing or the bottling. When wine is tasted it is drawn out of the casks/barrels with a long instrument that again precludes touching the liquid. Even a if the wine is somehow touched then there are other issues are whether a non-Jew counts as an idolator and whether a non-religious Jew really counts as an apostate rather than a *Tinok Shenishba*, someone who never knew and therefore cannot be blamed. In both cases there is no *issur* prohibition.

Rabbi Bleich in the USA has castigated those Orthodox Jews who belong to Cigar Clubs where they gather to drink fine malt whisky and smoke expensive Cuban cigars. If his motive is to stop the dangerous increase in levels of materialism corroding the values of Judaism, then this is a valid basis for trying to find a reason, however remote, for forbidding both. Halacha has always been used to stop things that were thought inimical to the grander designs of the Torah, such as banning *Shechitas Chutz* (external slaughter), perfectly kosher meat from an external source that might ultimately lead to putting local *shochtim* (slaughterers) out of business. (Or, indeed, the whole ban on *Stam Yayin* (non-Jewish wine) which is at the root of this issue, is an example of this.) If this is the motive, then one should be consistent and apply a ban equally on expensive drinks of all kinds. However purely on the issue of contents, there is no genuine halachic basis at all for forbidding Scotch whisky which he suggests is the main culprit.

It is my opinion that these objections to whisky are all examples of excessive rigidity and super kashrus which as I say nowadays has little to do with religion and all to do with commerce and politics.