



Double Doubt

The Talmud (*Avodah Zara* 75:b) discusses the case of a Jew who accidentally used a non-Jew's utensil to cook food. The Sages permit certain foods in such a case, based on the understanding that food cooked in an *eino ben yomo* utensil (a utensil that was not used in the past twenty four hours) is permitted. Early halachic authorities (see *Beit Yosef* YD 122) wonder how the Talmud could rely on such an assumption. The accepted explanation is that there is a "*sfeik sefeika*" regarding utensils. In cases of a *sfeik sefeika*, or double doubt, the halachic ruling is generally lenient. Later authorities dispute over when *sfeik sefeika* applies (see *Shach* YD 110:63). Regarding utensils that may or may not be *ben yomo*, the double doubt rule is applicable. The *Tosafot*, *Rosh* and *Ran* explain the double

doubt as follows: The first doubt relates to whether the utensil was used in the past twenty-four hours. The second doubt relates that regardless if the utensil is *ben yomo*, perhaps it was used with foods that are distasteful (and therefore do not prohibit the foods cooked afterwards) or foods that give no flavor. (This concept of foods/combinations that don't prohibit is beyond the scope of the present article. For more information, see *Beit Yosef* YD 103) Based on these doubts, the *Shulchan Aruch* (122:6) rules that if one accidentally used a utensil from a non-Jew and is unable to determine its status, the food is permitted based on the concept of *sfeik sefeika*.

The *Shulchan Aruch* (122:7) rules that the same logic can be applied to Jewish owned utensils. In a case where it is unclear if a utensil is *ben yomo*, the *sfeik sefeika* rule can be applied. However, the *Pitchei Teshuva* (122:6) asserts that the *sfeik sefeika* can only be used after the fact (*bediavad*) or in

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a case when there is no way to determine the *ben yomo* status of the utensil. In short, relying on the double doubt regarding a Jewish-owned utensil can only be done when the *sfeik sfeika* is absolute doubt. However, when the information can be determined even if it would require much effort, one cannot rely upon the doubt (see *Be'er Heitev* 122:4). It would seem from many later authorities that if one had a true doubt regarding a utensil's *ben yomo* status, the halachic ruling would allow one to use the utensil ab-initio (*lechatchila*) as if it were *eino ben yomo*, based on the *sfeik sfeika* (see Responsa *Be'er Sheva* 30).

To summarize:

- Based on the Gemara, it would seem that a doubt regarding the *ben yomo* status of a non-Jew's utensils render them permissible.

- Early authorities explained the Gemara's logic based on the concept of *sfeik sfeika* (double doubt).
- The same rule applies to kosher, Jewish-owned utensils.
- If there is a way to determine the utensil's status, even with some effort, the double doubt rule may not be applied.
- If one is unsure if a utensil is *ben yomo* and has no way of determining its status, the utensil may be used as if it were *eino ben yomo*. The same would apply if food had already been cooked in the utensil when the question arose. ■

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