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## TOO MUCH DOUGH: CAN DOUGHNUTS BE OVERPRICED?

Adapted from the writings of Dayan Yitzhak Grossman

A letter to *The Yeshiva World* complains of “The Demented Deluxe Donut Craze”:

I went to a local store and asked for a dozen of their upper-end donuts...and then I took that fateful look at the receipt.

“\$111 for 12 donuts?!?! You’ve got to be kidding,” I said to the cashier.

He looked at me dumbfounded. “Yeah, that’s pretty standard,” he replied, staring at me like I’d fallen off the moon.<sup>1</sup>

We recently discussed price gouging in the context of drug pricing;<sup>2</sup> in this article, we consider some halachic perspectives on the selling of doughnuts for \$9.25 each.

### DOUGHNUTS VS. DRUGS

It is clear that most of the considerations in our discussion of drug pricing are inapplicable to doughnut pricing; some of them, such as the prohibition against profiteering—defined as making more than a twenty percent profit—and the right to claim that one was not serious in his commitment (*meshateh ani bach*) to pay an exorbitant amount demanded by a seller, are explicitly limited to essential foodstuffs and desperate circumstances; others, such as the prohibition against unreasonably raising prices (*hafka’as she’arim*), are likely limited to staples and essentials as well.

The prohibition against *ona’ah* (overcharging) does apply to sales of goods in general, but it is clear that *ona’ah* is defined relative to other sellers of the identical item. A luxury item may be sold for a higher price than that of ordinary versions of the same item, and a gourmet doughnut may be sold for a higher price than that of (continued on page 2)

<sup>1</sup> Name withheld upon request. MAILBAG: The Demented Deluxe Donut Craze [\$111.00 For A Dozen Donuts?!] *The Yeshiva World*. <https://www.theyeshivaworld.com/news/general/2035958/mailbag-the-demented-deluxe-donut-craze-111-00-for-a-dozen-donuts.html>.

<sup>2</sup> Drug Bust: How High a Price Is Too High? *Bais HaVaad Halacha Center*, Vol. 5782 Issue V (Parshas Chayei Sarah); If the Price Is Wrong: May Government Impose Price Controls? *Bais HaVaad Halacha Center*, Vol. 5782 Issue VI (Parshas Toldos).

לע"נ הרב יוסף ישראל  
 ב"ר משה גרוסמן זצ"ל

Dedicated in loving memory of  
 HaRav Yosef Grossman zt"l



### PARSHAS VAYIGASH HOLD YOUR TONGUE

Excerpted and adapted from a shiur by  
 Rav Moshe Zev Granek

And behold, your eyes see, as well as the eyes of my brother Binyamin, that it is my mouth speaking to you.

Bereishis 45:12

According to Rashi, one of the things that proved Yosef’s identity to his brothers was that he spoke *lashon hakodesh*. The Ramban disagrees and says that everyone in Canaan at the time spoke *lashon hakodesh*.

The Nachalas Yaakov, backing Rashi, cites the Gemara in Sotah that each of the seventy nations spoke its own language, and Klal Yisroel spoke *lashon hakodesh*. If so, the Canaanites must have spoken a language other than *lashon hakodesh*.

It seems from here and other places that there is a *machlokes* whether *lashon hakodesh* was given only to Klal Yisrael. This question may have halachic implications. Sefer Vayomer Yitzchak is unsure whether it is permitted to teach a gentile *lashon hakodesh*, since it is *asur* to teach him Torah. (He concludes that it is permitted.) Other *poskim*, like the (continued on page 2)

Q&A from the  
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**Fry Cook**  
 Q May lightly fried croutons be added to soup on Shabbos?

A There is a principle in *hilchos* Shabbos that “*ein bishul achar bishul* (there is no cooking after cooking)” and “*ein afiyah achar afiyah* (there is no baking after baking).” This means that repeating the same heating process for a solid food is not considered cooking, as the repetition will not change the food significantly. Therefore, one may recook a cooked piece of chicken on Shabbos (provided one is careful to avoid violating the *deRabanan* prohibition of *chazarah*, returning to the fire). (continued on page 2)

(continued from page 1)

ordinary doughnuts; *ona'ah* would only apply if identical gourmet doughnuts are available elsewhere for lower prices.<sup>3</sup>

### THE FISH BOYCOTT

There is, however, one noteworthy case where *poskim* did endorse active measures to thwart price gouging on what may be considered a luxury good. The Tzemach Tzedek records:

It once occurred that the gentile fishmongers were raising the price, since they saw that the Jews were buying [fish] in honor of Shabbos, and they were not refraining from doing so despite the expense, so the community enacted an agreement that no one should buy fish for two months.<sup>4</sup>

The Tzemach Tzedek endorses the boycott, arguing that despite the fact that during its duration, Jews would be unable to honor Shabbos by eating fish, the Biblical mitzvah of honoring Shabbos can be fulfilled in other ways.

Other *poskim* had reservations about such a boycott. R' Moshe Hertz (the son of R' Hillel Hertz, author of Bais Hillel) suggests that it would only be legitimate if the price had been raised by more than a third (i.e., fifty percent of the original price), but as long as the price increase was less, such a boycott would be inappropriate and people would be obligated to buy fish even at the inflated price, since there is indeed a Biblical obligation to honor Shabbos specifically with fish.<sup>5</sup>

The Elyah Rabbah counters that a temporary abstention from fish on Shabbos is nevertheless justified, since as things stand now, the poor will never be able to afford fish.<sup>6</sup> The Pri Megadim, too, while challenging the arguments advanced by the Tzemach Tzedek to justify the boycott, nevertheless ultimately accepts the legitimacy of a fish boycott on the grounds that (contrary to Rav Hertz) eating fish on Shabbos is not strictly required, and it is possible to fulfill the mitzvah of *oneg* Shabbos with other foods.<sup>7</sup> The Chida as well emphatically rejects Rav Hertz's claim that eating fish on Shabbos is mandatory:

<sup>3</sup> See, e.g., *Pis'chei Choshen, Hilchos Geneivah Ve'ona'ah* Ch. 10 n. 1 p. 297.

<sup>4</sup> Shu"t Tzemach Tzedek (Krochmal) *siman* 28.

<sup>5</sup> Bais Hillel Y.D. *siman* 218 os 1.

<sup>6</sup> Elyah Rabbah O.C. *siman* 242 os 1.

<sup>7</sup> Pri Megadim *ibid.* Eishel Avraham s.k. 1.

According to [Rav Hertz], one who does not eat fish, but in honor of Shabbos prepares and makes for himself quality delicacies and dainties, has he failed in *oneg* Shabbos?! This is certainly not the case.<sup>8</sup>

Like the Pri Megadim, the Chida also acknowledges that the Tzemach Tzedek's arguments in favor of the legitimacy of such boycotts are unconvincing, but he ultimately agrees that a fish boycott is legitimate since *oneg* Shabbos can be fulfilled with other foods, and so we may forgo this particular form of *oneg* for a period of time in order to ultimately secure the ability to fulfill the mitzvah of *oneg* with fish on future Shabbos. He argues further that even during the boycott, the level of *oneg* Shabbos will remain constant, since the money that people would otherwise spend on fish will now be available to purchase other means of *oneg* (which they would otherwise not purchase).

### DOUGHNUTS VS. FISH

There are, however, a number of reasons that exorbitantly priced gourmet doughnuts are not analogous to exorbitantly priced fish:

- Fish was seen as a crucial element of *oneg* Shabbos; it is hard to argue that nine-dollar doughnuts (as opposed to ordinary one- or two-dollar ones) are quite as crucial to a well-lived religious life, even in the context of mitzvos such as *oneg* Shabbos and *minhagim* such as eating "*sufganin*" on Chanukah.<sup>9</sup> (The indispensability of fish cuts both ways: While some *poskim* argue that because fish is crucial to *oneg* Shabbos, it can be wrong to forgo it even for a limited period, it is also likely that the *poskim* who do endorse the boycott are motivated in part by the desire to preserve the long-term affordability of something they consider to be an important form of *oneg* Shabbos.)
- The fishmongers (perhaps acting as a cartel, in an organized and collusive manner) were apparently taking advantage of inelastic Jewish demand, deriving from religious piety, and charging unreasonably high prices (as is evident from the fact that they had previously charged significantly less). But the demand for luxury doughnuts

<sup>8</sup> Birkei Yosef, *Machazik Bracha* *ibid.* os 3. Cf. *Mishnah Brurah* *ibid.* s.k. 2.

<sup>9</sup> See *Nit'ei Gavriel Hilchos Chanukah* p. 311.

(continued from page 1)



Yafeh Laleiv, hold that it is forbidden because the gentile may use his knowledge of *lashon hakodesh* to study Torah, so one violates *lifnei iveir* by teaching him the language and enabling sin.

Another potential ramification is the ruling of the Rama (O.C. 307) that one may read books written in *lashon hakodesh* on Shabbos even though books in other languages are often forbidden (due to the *gzeirah* against reading business documents). According to the Magein Avraham, the reason is that *lashon hakodesh* is intrinsically holy and renders

the material similar to *divrei* Torah. However, others understand the Rama differently.

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(continued from page 1)

On the other hand, the Shulchan Aruch (O.C. 318:5) presents two approaches as to whether *qfiyah achar bishul* and *bishul achar qfiyah* are permitted, and he recommends being strict. The Pri Megadim and other *Acharonim* discuss whether *tzliyah* (roasting over fire or coals) is halachically equivalent to *qfiyah* (baking in an oven).



DAYAN YOSEF GREENWALD

A related question arises concerning the *bracha* on foods cooked in oil. There is a dispute (O.C. 168) about small pieces of dough fried with only a small amount of oil (a sort of crouton) to give them texture and flavor. Some hold that this is not considered *bishul*, and the *bracha* would be *hamotzi*, while many others hold that even food lightly fried in oil is considered cooked and thus requires *mezonos*. (Deep-fried foods are always considered cooked.)

One might argue that *hilchos* Shabbos cannot be compared to *hilchos brachos*, but R' Shlomo Zalman Auerbach and Rav Elyashiv do compare them, maintaining that the same dispute applies to the question of whether one may put such lightly-fried croutons into soup due to *yesh bishul achar qfiyah*.

is surely more elastic, and it is unclear that there is any sort of price gouging occurring.

The Tzemach Tzedek pointedly notes that the sellers in his case were gentiles, and it is unclear whether he and the other *poskim* who endorse the fish boycott would be as ready to endorse a boycott of Jews. Although many of the arguments advanced to justify such boycotts apparently indicate that they are legitimate even against Jewish sellers, it is nevertheless possible that the overall calculus would be different when dealing with Jewish sellers.



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