The Laws of Kashrut

Yeshiva Course

By Rabbi Yosef Ben David

Volume Five

Yeshiva Beit David, Inc.

The Laws of Kashrut – Yeshiva Course
By Rabbi Yosef Ben David

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The Laws of Kashrut

By Rabbi Yosef Ben David

Shiur 01: Introduction to the Laws of Kashrut

This course is intended to be a halakhic review of the laws of kashrut. This first week, though, I would like to offer an understanding of the meaning of kashrut within halakhic observance, as an introduction to the detailed laws we will be learning the rest of the year. This shiur was originally given as part of the course, "Understanding the Meaning and Practice of Halakha."

I. In colloquial Halakho-lingo, kashrut refers to all the laws of forbidden foods. Properly speaking, the word "kosher" (kashrut is the generic noun) means "proper" - any item can be either kasher or pasul (fit or unfit) for a particular purpose. An upright individual is also called "adam kasher" in the Talmud. This is, in fact, very close to the meaning of the word in New York English (as in: "Sam, the weather-beaten detective, murmured, 'Something is not kosher about this setup'"). But we shall use the word in its usual connotation of the entire complex of laws governing what we may eat.

There are many different kinds of non-kosher food. In this shiur, I wish to address the basic idea of forbidden foods. The modern mind, even when it attempts to be religious, finds the idea of forbidden foods alien. What do religion, morality, human or divine values have to do with what we eat? Most of the religious people in the Western world today subscribe to an ancient saying, ascribed to a first-century Jew, "It is not what goes into a man's mouth that defiles him, but what comes out." Morally speaking, that seems to be a correct ordering of priorities. Yet, Halakha expends a great deal of energy on a minute detailing of the particulars of the kashrut of foods and their preparation. The practical effect on observant Jews is no small matter; after the costs of Jewish education, kashrut is the most expensive item in Jewish observance.

The laws of forbidden species (animals, birds, and fish) are found in the Torah in parashat Shemini (Lev. 11). The final three verses (11:45-47) of that section reads:

For I am God, Who has elevated you from the land of Egypt in order to be your God, so you shall be holy, for I am holy. This is the teaching (Torah) of the animal and the fowl, and every living soul that moves in the water, and of every soul that creeps on the earth; To separate (havdil, to distinguish) between the impure (tamei) and the pure (tahor), and between the animal that may be eaten and that which may not be eaten.

A similar thought is repeated not long after (Lev. 20:25-26):

You shall separate (hivdaltem) between the pure animal and the impure, and between the impure fowl and the pure; and you shall not contaminate your souls by animal or by fowl or by all that creeps on the ground, which I have separated from you as impure. And you shall be holy unto Me, for I God am holy, and I have separated you from the nations to be Mine.

Three different concepts are combined here; holiness, impurity, and separation. The verb "havdil" (separation) is repeated a number of times as being the activity that has been commanded by God when He gave us the laws of forbidden foods. Aside from any particular understanding of a given category of forbidden foods, these verses indicate a major element in the very idea of forbidden foods. Man is commanded to distinguish, to

separate between that which is before him. In a striking correlation, God says to the Jews - You must separate between animals, as I have separated you from the nations. The very existence of Israel is based on separation, distinction, and this is reflected in a basic Jewish activity - separation and distinction within the world that is before us.

In the havdala blessing after Shabbat, we find the connection between holiness and separation. It is not surprising to find the same connection here. Holiness requires separation, distinction. But an element is added here that is not stressed in the holiness of Shabbat. "You shall be holy (by following the laws of kashrut), AS I, YOUR GOD, AM HOLY." Once again, the laws of kashrut, of examining what we eat, rejecting some and accepting others, is a reflection of God. He has separated us, so we must separate things before us; He is holy, so we are to be holy. Our problem now is to understand what is the value in separation, and how it is connected to holiness.

II. Shabbat is a good example of how negative commandments, the prohibitions, serve as the framework on which the positive content of Shabbat can be hung. Rav Soloveitchik would often stress the priority of prohibitions in Judaism in general. He stressed the inherent value in the act of withdrawal. This quality, the ability to draw back, to refrain, is associated in Jewish thought with the Divine attribute of "gevura," strength or greatness, the greatness of the heroism of the spirit. It is paired with, and balanced by, the attribute of "chesed," of giving, of producing, of creating. Greatness, the Rav would tell us, is found primarily in withdrawal, in heroic restraint. Precisely because Man is endowed with the spark of divine creativity, it is necessary for him to first of all develop the quality of restraint so that his expansive creativity should have form and value. The principle of havdala teaches us that only within firm borders can kedusha, holiness and expansiveness, become concrete. It is indeed true that there may be no positive content to prohibitions in themselves. Nonetheless, the Rav would say that through them one attains the state of saintliness (as opposed to kingship).

The human spirit, as a reflection of the divine, strives to conquer, to expand, to ingest, and to experience. That is the positive "fuel" of its greatness. But that drive, that movement, if not tempered, or rather anchored, by restraint and gevura, becomes nothing more than devouring greed and swollen egotism. Humility is a prerequisite of greatness, even as it psychologically contradicts it. This is a basic paradox, which we instinctively recognize yet find so hard to understand. Judaism recognizes that the greatest evils derive from the same spiritual striving as do the greatest accomplishments of the human spirit. Esau, the tyrant and murderer, is the twin of Jacob. The difference is not in their positive spirits, but in the gevura, in the ability to hold back one's hand. This is based on "le-havdil" - to separate, to distinguish, to approach every situation first and foremost with a prior understanding that not all can be conquered, not all can be accomplished, molded into man's spirit. There is a part of the world that is meant to resist man, to remain outside his reach. Why? Because that, too, serves man. If everything can be yours, then man's greatness loses its moral basis, and nothing has been genuinely achieved.

Let me illustrate this in another way. Our usual way of thinking is that morality consists of not doing anything wrong. If there is someone beside me, I should not steal his money. Suppose I am on a desert island, alone, with no one else. I do not steal, do not kill, do not oppress. I am blameless. But am I living a moral life? Is it not necessary that there be someone else, richer than I, beside me, so that I not steal from him? If we live in a society where all are rich, and there are no problems to solve, is our character the same as that of one who faces iniquity and rules his spirit, restraining it, setting firm boundaries to his conduct? Modern Western society has, in recent years (perhaps unconsciously), set for itself a goal of eliminating moral choice, of reaching a state where evil is defeated by making everything permitted. It is possible that this makes life happier - I doubt it - but it surely has not made human life greater. There has to be a choice in order for there to be meaning to the restraint. The world is created in such a way that parts of it are out-

of-bounds, in order not that we should conquer them, but that we should conquer our selves, conquer our very spirits, not because the striving was bad, but because its good is dependent on its being based on the power of withdrawal.

(The Rav zt"l, Rav Soloveitchik, discerned in this law a basis for the tragic nature of life. All human achievement must be tinged with failure, with withdrawal at the height of success, as Moses discovered on the peak of Mt. Nevo, from where he could see the promised land but not reach it. The Sages state that a man does not depart from this world with even half of his desires achieved. There is, of course, an inherent contradiction in this situation. Most of us do not object to restraint, to morality, on the condition that we be convinced that the thing we are giving up was a bad thing, or at least bad for us. But not eating poison is not a moral sacrifice at all. It is only by restraining the genuine spiritual expansiveness of man that one purifies it of its self-satisfying greed. The paradox is internal: since humans are created in the image of God and have the capacity to be like God, therefore they must restrain that very capacity, in order that it indeed be the image of God, and not a graven image of wood and stone. Humility, restraint, not being creative, is an essential element in true creativity and greatness.)

Hence the stress on havdala as the basis of being holy, "AS I AM HOLY." Man can accomplish a lot without restraint, conquer worlds like Alexander the Great, but it will be merely human accomplishment, natural achievement, with no transcendent value, ultimately nothing at all on the cosmic scale, like the statue of Ozymandias.

My name is Ozymandias, King of Kings:

Look upon my works, ye Mighty, and despair!"
Nothing beside remains. Round the decay
Of that colossal wreck, boundless and bare
The lone and level sands stretch far away.

In order to be like God, to create true value, one must be holy, as God is holy, and that is found precisely in the "le-havdil," to separate the pure from the impure, to distinguish.

III. But why, you will ask, why food? Why not something more important? If it is primarily a moral quality, then stealing and murder are sufficient to be moral restraints, not something as innocuous and as morally neutral as eating. Why make choices about steaks?

The answer is in a sense identical to the question. Because eating is so basic, so natural, so universal, it is crucial that the basic movement of withdrawal and separation be inculcated there. It is immediately apparent that halakha almost never is directed directly to the spiritual values which we discuss. It is an axiom of halakha that man must shape his basic existence, the parameters of his daily, natural life, in order to be free to find value and achievement in his personal life. There is no halakha to be great, to conquer, to create. That is the inner spirit of halakha, but it is achieved by regulating the nearly unconscious aspects of daily life. For man to be great, withdrawal has to become virtually an instinct.

Halakha is very concerned about eating, precisely because it is a natural, basically animal, process. We eat to assuage our hunger. We eat in order to ensure life, not in order to give it content. It is more basic (and hence, less value-oriented) than other human experiences. That is why havdala belongs there, so that havdala also become a basic human attribute and not one that we apply when we see the need for it. As usual, halakha attempts to slip in beneath our skin - in this case, literally. We are not worried about man doing something wrong, but about his transforming his life to one of holiness. Even eating - no, precisely eating! - must be the bearer of holiness, so that holiness not

be something I engage in, on Shabbat, or in synagogue, but rather something I AM. The act of withdrawal is valuable in and of itself, and not only because the object given up was in fact bad for me. This message, the value of havdala for itself as a basis for holiness, must be imparted in an area whose moral value is hidden, where the spirit of conquest knows no reason to desist, where the inner drive of man demands only satisfaction. If man can learn not to eat like an animal, not to eat only to satisfy himself, he has learnt restraint.

There are of course positive actions whereby man distinguishes his eating from that of the animal. All societies insist on such marks. Halakha also has precepts that impart to our eating a higher framework. But here we return to the previous point, the priority of the negative over the positive. Restraint is more basic, more heroic, than the positive input, even though the positive input has more content. First man must restrain himself, must learn the borders of his experience, and then, and only then, can he start to endow his experience with content. Indeed, even eating can achieve positive value, as we shall see. But first, it must be "separated," and, in this case, this is necessary not only for endowing eating itself with kedusha, but as a prerequisite for endowing all of human activity with kedusha.

IV. I would like to conclude with a personal note. I grew up in the fifties and sixties in New York, observing kashrut basically instinctively, at a time when there was not a great supply of kosher food. When traveling, we took along food without even thinking, knowing that we would not find much to eat on the way. (The memory of matza and salami sandwiches at the 1964 World Fair is one of the fond shared experiences of my generation.) I think an unconscious part of my experience is the feeling that large parts, the major part in fact, of the gastronomical world, was off-limits. (Modern food technology, with its many additives, has vastly increased the scope of non-kosher foods.) This was so much so, that I was not actually consciously aware of withdrawing, of restraint. My world was divided into two, and the other side practically did not exist.

In 1974, I found myself in Hawaii for three days, with no food other than fresh pineapple, and, for the first time in my life, I found myself, hungry, walking down a street permeated with the smell of sizzling hamburgers, and feeling a desire to eat. The Rambam states that one should not say about nonkosher food - "I simply cannot eat that" - but rather - "I can, but God has forbidden it." That was the first time that I genuinely fulfilled that statement - the hamburgers seemed to me to be good and desirable, but it was forbidden.

I have lived in Israel for twenty-five years. Generally speaking, food is kosher. I realized (instinctively, not intellectually), as my children grew up, that they were missing a POSITIVE experience of my childhood, learning that you can't eat everything. It was with relief, and not sadness (though I am not happy about the reason for this), that I started teaching them that you have to check a falafel joint before you eat there. Kashrut is loaded with possible "chumrot" (stringencies) beyond the absolute requirement of the law, and sensitive religious people often wonder about their value. All too often we find people who are extremely stringent about what they eat and not, unfortunately, about how they conduct their business, or about what comes out of their mouth. But in this case, I was very happy that I have some chumrot in kashrut, so that my children can have something to be "mavdil," to separate and distinguish, in the foods that are presented before them. I know this sounds like I am saying that if my whole neighborhood were kosher, I would have to invent a chumra even if it did not exist. That is correct; that is what I am saying. Perhaps that is why God created pigs - so that we can refrain from eating them. Next shiur, we shall begin by reviewing the categories of forbidden creatures - fowl, fish, and mammals. Until then, bon appetit!

The Laws of Kashrut
By Rabbi Yosef Ben Dovid

Shiur 02: Species

After last shiur's philosophic introduction, we will now begin to review the actual laws of kashrut. The course will try to cover all elements, and will therefore begin from the basics. For those to whom most of this material will be familiar, this may serve as a review, though with the added benefit of seeing the relationship between the halakhic sources and the halakhic conclusions, since one of the principles of this course is to trace the halakhot to their sources.

We begin with the definitions of the kosher species. Some species are kosher and some are not. What are the guiding principles of the distinctions?

The Torah distinguishes between kosher and non-kosher land-animals, fowl, fish, and "creeping things," with different definitions for each category.

A. Land-animals
The Torah gives two defining characteristics of kosher land-animals (Vayikra 11,2-3). [If you can, you should look up these verses in the Hebrew]:

Speak to the Israelites, saying: This is the living thing that you shall eat, from all the animals on the land.

All that have split hooves, whose hooves are cleft, and chew their cud, from the animals, you may eat it.

For an animal to be kosher, it must have BOTH of these characteristics - have split hooves and chew its cud. The Torah proceeds to list several animals who have only one of the two, and are therefore not kosher - camels, rabbits and badgers, which chew their cud but do not have split hooves, and the pig, which has the opposite features. (Verses 4-7). In Devarim 14,5, the Torah lists ten kosher animals, not all of which are readily identifiable in modern terminology. The domesticated animals in the list include cattle and sheep (and goats), and in the wild animal category appear the deer and the antelope.

Halakhically, the determining factor is the presence of the two characteristics. The Rambam states that there are in fact no other kosher animals other than the ten species listed in Devarim, but since not all are identified, and the halakhic definition of what constitutes a distinct species is also not clear, this is not particularly helpful. In the end, were there to be a question concerning a new species, many authorities agree that the presence of the two characteristics would be sufficient to declare that species kosher. The Chazon Ish (YD 11,4) however, ruled that practically speaking we can only eat those species that historically have been eaten by the Jewish communities as kosher. This restriction has the status of custom (minhag).

The signs of a kosher animal apply to the species and not to the individual animal. Hence if a cow should happen not to have split hooves it would still be kosher. The question that arises, of course, is how the Torah defines a species. The answer in halakha is that "haba min hatamei tamei, ve-haba min hatahor tahor." If a kosher animal gives birth, the offspring is kosher even if it lacks the signs of a kosher animal and the

reverse is true as well. The context of this statement in the Talmud is the possibility of a mutation. Modern techniques of reproductive engineering might give rise to interesting possibilities of having one species gestate and give birth to a different genetic species. The status of the offspring in such a case will undoubtedly require extensive halakhic analysis.

It has been noted that all carnivorous animals are not kosher. The opposite is not true - there are non-kosher animals that are not carnivorous. While this is not a halakhic definition, it does have philosophic significance, especially according to those thinkers who explained the forbidden species as embodying bad or harmful traits. Animals that kill to eat, are not fit to be consumed by humans.

B. Fish

These you may eat, from all that is in the water; all that have fins and scales, in the water, in the seas and the streams, them may you eat.

But any that do not have fins and scales, in the seas and streams, from all that swarm in the water, and from all living souls in the water, sheketz are they to you (Vayikra 11,9-10).

In fact, the Talmud declares that, in actual fact, all fish that have scales ("kaskeset) have fins ("snapir"), and therefore, practically speaking, it is sufficient to establish the presence of scales to declare a fish kosher.

As is clear from the verse, this definition applies to all "that is in the water." The modern scientific definition of fish, as opposed to sea mammals and other creatures, is therefore not relevant. Hence, all sea creatures that are not classified scientifically as fish, such as crustaceans or mammals, are not kosher, since they do not possess scales. This accounts for the most common cases of non-kosher seafood - all shellfish (clams, lobsters, oysters) and whales, for instance.

There are also genuine fish that do not have scales, for instance, eels. Halakhically, all forms of scales are sufficient, whether they are found on the fish at all stages of life or only at some, providing they are removable from the skin (even if it requires a knife). There are some fish that have a form of bone-protuberances which cannot be removed without damaging the skin (such as sharks), and this is not considered to be true scales halakhically.

[Note: True caviar is made from the eggs of sturgeon. Some two hundred years ago, a controversy arose concerning the kashrut of sturgeon. This fish does not have regular scales, but a series of five hard skin-coverings that cannot be removed from the skin without damaging it. However, it seems that by boiling the fish or treating it in some other way, it is possible to remove these scales (the scientific classification is placoid scales). The question is whether this could be considered halakhic scales, which have to be external and ancillary to the actual body of the fish. (The halakhic formulation is that the scales be like a garment covering the fish and not part of his body.) There was also some question whether in fact the skin remains intact, since the processing tends to affect it as well. The preponderance of rabbinic opinion is that sturgeon is not a kosher fish, and therefore genuine (black) caviar is not kosher.]

For those with a scientific education, ctenoid and cycloid scales are kosher; ganoid (shark scales) and placoid (sturgeon) scales are not.

In buying non-fresh fish, there are often many other considerations in regard to the preparation of the fish, which we shall get to in the course of the lectures. At this point, we are only considering the kashrut of the species. On the other hand, a kosher fish is completely kosher, without any parts that must be discarded, unlike animals and

birds, which have parts (blood, fat) which are not permitted even when the species are kosher. But that too will have to wait our discussion of each topic.

[Because there are thousands of fish species, and the names of fish tend to be varied and often of quite local character, it is notoriously difficult to compose an exhaustive list of kosher fish. One of the best lists available, published by the OU about eight years ago, can be seen on the web at

http://www.kashrut.com/articles/fish/]

C. Fowl

The Torah does not give any "simanim," identifying characteristics of kosher birds. Instead, the Torah states that you may eat all kosher birds, followed by a list of the birds that you are not permitted to eat. (Vayikra 11,13-19 and Devarim 14,12-18. Since an exact translation of the twenty-four forbidden species is impossible, I am not bothering to quote the [English] verses, but you should look it up. The list includes the hawk, the raven, the owl, the vulture, and the bat.) The halakhic conclusion of these verses is that all birds are kosher except for the ones listed in the prohibited list. The only problem is defining the exact identification of the birds listed, and drawing a correspondence with known species. This problem is not only one of translation. Since we do not have a definition of the halakhic nature of "species," even if we knew what a given term in the Torah meant, we would still have some doubt concerning the range of birds included in a given category.

The Talmud (Chullin 61a) does give a list of characteristics by which to recognize kosher and non-kosher birds. The basis of this list is a rabbinic tradition.

1. The first rule is that any bird of prey is not kosher.

If it is not a bird of prey, then it is kosher if it has three positive signs:

1. An extra talon opposite the others.
2. A craw.
3. Its stomach lining can be peeled.

The most problematic requirement is that it not be a bird of prey, which may not be obvious from looking at it. While the Talmud gives some rules for identifying birds of prey, these are not conclusive. The Talmud (Chullin 83b) states: "R. Yitzchak said: A kosher bird is eaten on the basis of a tradition."

The meaning of this statement in context is permissive - it states that one does not need to personally know that the bird is not a bird of prey if there is a positive tradition that it is eaten. But because identification is so difficult, the statement has been widened by basically reading it in the negative - no bird can be eaten UNLESS there exists a positive living tradition attesting to its kashrut. In the language of the Rama: "There is an opinion that... no bird should be eaten unless there exists a tradition that it is kosher, and this is the accepted practice and it should not be changed" (Yoreh Deah 82,3).

Hence, practically speaking, both the Torah's list and the defining characteristics found in the Talmud are not relevant any more. A kosher bird is one that has been traditionally eaten by Jewish communities.

The birds that are included in this category are chickens, domestic ducks and geese, pigeons and doves, and quail. There existed in the past local traditions to eat other birds, for instance, pheasant. There is some halakhic doubt whether this would suffice to permit it generally today. (See Igrot Moshe YD,34 who prohibits pheasant.)

The interesting question arises when a "new" bird appears. The classic case of a new bird is the turkey, which is native to America. There were originally poskim who felt that it was not kosher, since obviously there did not exist a positive tradition that it could be eaten. Nonetheless, today it is accepted as kosher in all Jewish communities. As far as we are concerned today, there exists a tradition to eat it. The original genesis of this tradition was based first on the similarity to a chicken, as well as the fact that it met the requirements of not being a bird of prey and having all three characteristics listed in the Talmud.

[The ruling of the Chazon Ish cited above, that one should not eat the meat of an animal without a positive tradition concerning its kashrut, even if it has the two characteristics of kosher animals, is basically an extension of the rule of kosher birds.]

D. Sheratzim

The fourth type of living thing to which laws of species applies is called "sheretz" in the Torah, a creature that creeps. This includes reptiles, insects (including flying insects and water insects), and such creatures as the mole and the mouse. Basically, they are all not kosher. The most important ramification of this halakha, other than for one who happens to want to eat roast rattlesnake or the like, is a need to carefully inspect fruits and vegetables for bugs and worms that might be present, even if they are very small. We will return to this topic in a later shiur.

There is one type of permitted "creeping" creature - grasshoppers which have four legs, four wings which cover its entire body. Practically speaking, this permissibility of some types of locust is cancelled, due to an inability to fully identify the permitted species. There were localities in Morocco and in Yemen where a living tradition of permitted locusts existed. (Apparently, they are quite tasty, though naturally that is a somewhat personal conclusion.)

E. Animal Products

Remember the rule defining species - haba min hatamei tamei, ve-haba min hatahor tahor? Whatever comes out of a non-kosher animal is not kosher, and vice-versa. This rule of origin applies to eggs as well, so that the eggs of kosher birds are kosher, but the eggs of non-kosher birds are not. If you cannot eat the hen, you cannot eat the egg. The same thing is true of milk and milk products - cow milk is kosher, but horse milk is not.

The permissibility to eat eggs and milk products is not as obvious as it might seem on first glance. One of the prohibitions of the Torah, in fact, one of the seven laws which apply, according to Torah law, even to non-Jews, is "ever min ha-chai." It is forbidden to eat any part of an animal before the animal has died. (Of course, Jewish law requires that it be slaughtered in a particular manner as well.) Off hand, this should have prohibited milk and eggs of a living creature. The Talmud had to find an explicit source to prove that the Torah specifically permitted milk of kosher animals (Bekhorot 6b).

This same principle will also lead to the conclusion that milk is prohibited if it comes from a kosher-species animal that is forbidden for another reason; for instance, if it is a treifa (an animal bearing a life-threatening defect).

F. Humans

Is human meat permitted? This rather ghastly question is answered by the Rambam (Maakhalot Assurot 2,3) in the negative. Although the negative prohibition to eat a mammal not possessing the two characteristics is not intended to include human meat, the Rambam states that there is a positive commandment which states that you may eat

only these species - and then lists ten kosher species. The Rambam claims that this infers a prohibition on humans, who are not one of the ten permitted animals. Because humans are not included in the negative prohibition, the Rambam states that the rule that haba min hatamei tamei does not apply, and hence human milk and blood is permitted. For this reason, it is permitted to swallow the blood bleeding in one's mouth or to suck on a wound. There is a rabbinic prohibition to consume human blood once it has left the body, for the simple reason that it looks like animal blood.

Next shiur we will discuss those parts of (kosher) animals which are not kosher, especially the prohibition of blood.

The Laws of Kashrut
By Rabbi Yosef Ben Dovid

Shiur 03: Blood and Fat

Now that we know which species are kosher, we have to see which parts of kosher animals are prohibited for one reason or another. For the time being, we shall skip over the laws that are related to the death of the animal - shechita, neveila, and tereifa.

There are three prohibitions in this category - forbidden fats (cheilev), blood (dam), and "gid ha-nashe" (the sciatic nerve). These apply differently to different types of animals. Fish, for instance, have none of these prohibitions. Hence, fresh fish can be eaten whole with no particular preparations, other than considerations of taste. The prohibition on certain types of fats applies to domestic animals ("beheima" - sheep and cattle) but not to wild animals ("chaya"), such as deer. Blood applies to all land animals as well as fowl.

1. Fats

The Torah prohibits certain fats found in animals. "You may not eat all cheilev of the bull, the sheep, and the goat" (Vayikra 7,23).

There are two terms in Hebrew for fat - "cheilev" and "shuman." The terms are more halakhic than physiological - "cheilev" refers to those fats that are prohibited and "shuman" to those that are permitted.

The Ramban (Vayikra 3,9) gives the following definition for the words "cheilev" and "shuman."

The term "cheilev" in the holy tongue refers to fat that is separate and not together with the meat as one thing; for the fat which is mixed in with the meat and not separate from it is called "shuman".... But "cheilev" is separated with a surrounding membrane and can be peeled.

The exact halakhic definition of the prohibited cheilev is somewhat more complicated (see YD 64). Basically, all cheilev is either found on internal organs of the animal (spleen, stomach, liver), or in the hindquarters (from the eleventh rib and below).

The art of removing all prohibited cheilev is called "nikur." Because it involves recognizing exactly what to remove and what not, it obviously cannot be learned from books alone. An expert in nikur has learned the trade "on the job," based on the guidance of halakhic works and under the guidance of an expert.

For this reason, and because it is indeed a difficult task to do properly, there are many places where nikur cheilev is not practiced fully. The hindquarters of the animal are simply sold to non-Jews. There is still need to do nikur for organs, such as the liver, but this is much simpler. This is the reason that it is nearly impossible to obtain meat from the hindquarters of an animal in the United States, for instance. The result is that, practically speaking, sirloin steak, for example, is not kosher - or, to be more accurate, is unavailable in a kosher form.

(Nikur is performed on liver. The heart also requires nikur to make it kosher. Most Ashkenazi communities today do not perform nikur on the heart and do not eat it.)

In fact, even when nikur was common, many people would not eat meat that depended on nikur, because of the difficulty involved. The Maharshal, for instance, writes that "I myself have heard and seen that most menakrim... will sometimes (not totally remove) the cheilev due to haste; and therefore I have accustomed myself to not eat meat that has undergone nikur unless it has been shown to another menaker who will check that it has been done properly."

In Israel, where an arrangement whereby half of every animal is sold to non-Jews is not practical, nikur is practiced. A "hechsher" on hindquarter meat in Israel requires not only supervision on the slaughter, but a far more demanding and rigorous supervision of the nikur.

2. Blood

The Torah forbids the consumption of blood (Vayikra 7, 26; there are four different places where this prohibition is repeated). There are two different reasons offered by the commentators for this prohibition, both of which are suggested by the verses in the Torah.

a. "But you must strengthen yourselves and not eat the blood, for the blood is the soul, and you must not eat the soul with the meat" (Devarim 12,23). The blood represents the life of the animal. Although the Torah permits the consumption of meat, it reminds us that a life - even an animal life - must be taken to do so, and it is important to restrain oneself somewhat from an act of such blatant devouring of life.

The Kabbalists, beginning with the Ramban, see in the devouring of animal blood a mixing of human spirit with that of the animal. Meat is common to man and the animals, and so the meat eaten becomes part of man, but the blood, the "soul and spirit" of the animal, does not lose its animalistic character.

b. "For the soul of the flesh is in the blood, and I have given it for you on the altar to atone for your souls, for blood atones for the soul; therefore I have said to the Israelites: no soul of yours shall eat blood" (17,10-11).

The blood of an animal sacrifice is spilled on the altar as a sign of atonement and therefore it is not appropriate for man to eat. (The same reasoning applies to the cheilev, which is also burnt on the altar). In fact, as this verse indicates, the two reasons are intertwined. Because blood represents the life and soul of a living being, therefore it is the vehicle of atonement for living man, and therefore it may not be eaten.

The blood that is prohibited is the "blood of life." This includes the blood that is spilled during shechita, and the blood found in the heart and major blood vessels. "Dam eivarim," the blood of the organs, is only prohibited if it has moved about from its original place. In order to remove this blood, which would become prohibited during cooking, we must "kasher" meat, either by salting or grilling. We will discuss "kashering" in a later shiur.

Part of nikur (even where nikur of the fats is not performed) involves removing major blood vessels and opening others so that the "blood of life" be taken out.

3. Eggs

Not all blood is prohibited. For instance, we have already mentioned that fish blood is permitted. The Talmud (Keritut 19b) states:

The Rabbis taught: "You shall not eat all blood" (Vayikra 7). Do I infer that even the blood of humans, the blood in eggs, the blood of locust, and the blood of fish are all included (in the prohibition)? It is written: "in fish and animal".... I exclude the blood in eggs which are not flesh. The blood of locust and the blood of fish are permitted.

From this source, it would appear that blood found in an egg is permitted without any reservations. However, this is contradicted by another source.

Eggs... if a spot of blood is found on it, one should throw away the blood and eat the rest.

R. Yirmiya said: This is only if the blood is found on the "kesher."

[Rashi: kesher - this is the seed of the rooster that is attached to the top of the egg and from there the chick will begin to develop.]

Dostai the father of R. Aptoriki taught: This is only if it is found on the white, but if it is found on the yolk, the entire egg is prohibited. What is the reason? The corruption has spread throughout all of it. (Chullin 64b)

Tosafot (Chulin 64b) suggests two ways to reconcile these two sources. His first answer is that the gemara in Keritut is speaking of Biblical-level prohibitions (and hence is closely tied to the Biblical verses), whereas there is a rabbinic prohibition on the blood in an egg based on its similarity to the blood of the bird. This rabbinic prohibition is based on the fact that the chick will - in the future - develop from this point in the egg; hence, even though at the present the egg is defined as "not flesh," the rabbis prohibited this blood since this point could develop to be "flesh." If the blood has spread out into the yolk, this constitutes a later stage of development of the chick, and therefore - again rabbinically - the entire egg is prohibited.

A second answer in Tosafot claims that blood on the "kesher" is considered to be blood "of flesh" and is therefore prohibited Biblically, whereas bloodspots in the egg that are not, apparently, connected to fetal development are permitted.

a. The Halakhic Ruling

The Shulchan Arukh (YD 66,2) rules accordingly that a bloodspot in an egg is itself prohibited rabbinically and must be discarded. If the spot is found in a place where it appears to be part of the future development of a chick, it is prohibited Biblically. Furthermore, if blood is found in the yolk, the entire egg is prohibited.

The Rama, after first quoting several opinions how to determine exactly when the entire egg is prohibited, concludes that this uncertainty has given rise to the accepted custom "in these lands" (i.e., Germany and Poland) to prohibit any egg in which a bloodspot is found in any part of it, even if it is completely in the white (where it should be permitted according to all possible explanations of the Gemara in Chullin).

[Interestingly, the Pri Chadash (who was a Sefardi Rabbi) not only supports the Rama, but claims that it is not merely a custom to extend the prohibition, but rather a genuine prohibition. This is based on his claim that the chick develops from the white and not from the yolk.]

The result of this ruling is that it is customary to break eggs open one at a time in a glass in order to examine each one individually before mixing them together or adding them to a batter. If a bloodspot is found, the egg is discarded. (According to the Shulchan Arukh, this would depend on whether the spot was on the white or the yolk).

What if this examination has not taken place and the dish has already been cooked? In such a case, we rely on the principle of "rov." In cases of doubt, a statistical majority ("rov") may be relied upon. Since the majority of eggs do not have bloodspots, we may assume that there was none present. This principle of "rov" applies only where an examination cannot take place, since positive empirical knowledge is clearly superior to statistical conclusions.

The same reasoning applies to hard-boiled eggs. It is permitted to boil eggs in the shell and rely on the rov, since it is not possible to check it without breaking it.

b. Unfertilized Eggs

All this only applies to open-range eggs, where the possibility of fertilization exists. As we have seen, the only reason that blood in an egg could lead to the prohibition of the entire egg is because it is somehow related to a developing chick. Most eggs sold today are "factory-made;" the hens are kept in closed coops without any roosters. Such an egg cannot possibly develop a chick. The Talmud states:

Eggs which are "muzarot" [Rashi - where there was no male, and a chick will never develop in it], a normal person may eat them. (Chullin 64b).

The logic here seems clear. As we saw above, blood in an egg is permitted because it is not considered the blood "of flesh." The only reason there exists a prohibition is because of a presumed connection with a developing chick, and hence a relationship of sort with "flesh." But in an unfertilized egg, there is no possibility, in the present or in the future, of a developing chick. Hence, the egg is permitted.

The Shulchan Arukh adds, "but he must discard the blood" (66,7). Based on the sources we read above, there would appear to be no reason to discard the blood spot itself. Apparently, this is not the rabbinic prohibition based on the future developing chick mentioned by Tosafot, but a different one, based on the physical similarity between this blood and chicken blood. A similar prohibition exists on human blood once it has been separated from the body (for instance, if when biting into an apple, you find a spot of blood from your mouth on the apple).

In practice, the overwhelming majority of eggs sold to consumers today in Western countries are produced under "closed-coop" conditions. There are, however, a minority of eggs that may have come from breeding farms, which are basically in the business of growing chicks, but where surplus eggs are diverted and brought to market. The halakhic question is whether one can rely on the majority (another "rov") to permit an egg whose origin is not positively known (with only the spot itself being thrown away). Rav Moshe Feinstein (YD 1,36) was inclined to require examination of eggs wherever possible even under modern conditions, and to discard the egg if a bloodspot is found. If the egg has been mixed with others, many poskim would rule leniently under these conditions.

The reasoning of Rav Feinstein is based on an extension of the principle we mentioned above. Rov should only be relied on if a better method of determination does not exist. That is why regular fertilized eggs should be examined, even though there exists a rov there that there is no blood. Rav Moshe Feinstein argued that since most people do not consider the loss of a single egg to be a significant monetary loss, discarding the egg is preferable to relying on rov. Once more than one egg might be lost, we revert to the majority rule of rov.

4. Gid Ha-nashe

The first prohibition given to the Jews in the Torah is "gid ha-nashe," the sciatic nerve, found in the leg of an animal. This is mentioned in Bereishit 32,33. (If you are not familiar with the story, look it up.)

The Chinukh (3) describes the significance of this mitzva (based on the story in Bereishit) as:

To remind the Jews that even though they will suffer many troubles in the exile, at the hands of the nations and the hands of the children of Eisav, they should be confident that they will not be lost. Their children and their name will endure forever, and the redeemer will come for them and redeem them from oppression. And when they remember this idea through this commandment, they will be steadfast in their faith and their righteousness forever. This reminder is because that angel who wrestled with Yaacov was, according to our tradition, the guardian angel of Eisav, and he wished to destroy Yaacov from this world, he and his seed, but he could not do so. But he wounded him by touching his calf. So too, the children of Eisav will wound the children of Yaacov but in the end they will be saved from them, as we see that the sun shone (on Yaacov) to heal him and he was saved from the wound. So will the sun of the messiah shine on us.

The gid ha-nashe is found in the hindquarter and must be removed if that part of the animal is to be eaten.

This concludes our discussion of the kosher parts of kosher animals. Next shiur we will touch on some of the aspects of shechita, especially understanding what is "glatt kosher."

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 04: Understanding Glatt Kosher

Tereifot

We are not going to discuss the actual techniques of shechita (ritual slaughter), but will leave that to the professional. However, certain basic concepts should be understood, which will also give us a better understanding of a distinction that appears in kosher butcher shops, between "regular" kosher and "glatt" kosher.

Animals and fowl (but not fish) must be slaughtered according to the method prescribed by the Torah, which basically consists of severing the trachea (the windpipe) and the esophagus (foodpipe) with un-notched knife. The laws of shechita are extensive and complicated and we will not describe them here. An animal which has died naturally or been killed in a different manner is called a "neveila," and is prohibited. A live animal is prohibited under a different category, that of "ever min ha-chai," which includes meat or other portion of a live animal, even if it has been severed from the animal. (We previously pointed out that eating eggs or drinking milk required a special dispensation in the Torah excluding them from this category.)

There is another prohibited category, which has lent its name colloquially to the entire list of prohibited foods. A "treifa" is an animal that has a specific injury or defect that basically will lead to its death, even though it is still alive at the time of shechita. Such an animal, even if slaughtered properly, is nonetheless prohibited, as are its milk or eggs. The mishna in Chullin lists the different kinds of treifa, which basically consists of a long list of defects in various organs of the animal or fowl.

The mishna in Chullin (42a) lists eighteen categories of "tereifot," terminal illnesses in an animal that render its consumption forbidden. Included in this list is "ha-rei'a she-nikva" - a punctured lung. (Other examples include punctures in the esophagus and cerebral membrane.) In light of the prohibition against eating the meat or drinking the milk from a treifa, and given the eighteen potential causes of this status, does halakha require checking an animal for all eighteen defects after slaughtering it in order to ascertain its suitability for consumption? In fact, why may one ever drink milk - should we not be concerned that the cow from which the milk was produced was a treifa?

The Gemara in Chullin (9a) cites the view of Rav Huna establishing a "chezkat heter," a basic assumption of an animal's suitability, once the animal is properly slaughtered. Apparently, according to Rav Huna, there is no need to check an animal after slaughtering; and we may presume its meat to be kosher. Wherein lies the basis for this leniency?

In order to understand Rav Huna's halakha, we must first examine the background information relevant to this issue. The Gemara in Chullin (11b-12a) cites a dispute among the Tannaim regarding a case where a "rov"(statistical majority) exists warranting a lenient ruling, but the situation lends itself to clarification and the resolution of the doubt. Rav Meir holds that the Torah allows following a rov only when no possibility exists to resolve the given doubt. Chachamim, by contrast, maintains that even when the possibility of clarification exists we may rely on the statistical majority. We must therefore

address two questions: first, which position does halakha accept; secondly, if we adopt the lenient, majority view, do we assume that most animals are healthy and do not suffer from one of the defects that would render them a treifa? If we indeed accept the majority position as well as this assumption, then we arrive at Rav Huna's ruling: once an animal is slaughtered, its meat may be assumed to be kosher without checking for the various indications of a treifa status.

Rashi (Chullin 12a) rules in accordance with the opinion of Chachamim, that we may follow a "rov" even when the possibility of clarification exists. This halakha originates either from a halakha le-Moshe mi-Sinai (tradition dating back to Sinai) or from the verse introducing the principle of relying on rov ("acharei rabim le-hatot" - Shemot 23:2). The Beit Yosef (Y.D. 39), Bach and Shakh write that all the Rishonim and poskim follow this ruling of Rashi. Thus, one need not check for the eighteen indications of tarfut after slaughtering an animal. As the Tur (39) and other Rishonim (in Chullin) explain, the rov allows us to assume that as most animals are healthy and do not suffer from one of these illnesses, the animal before us is kosher.

Lungs

However, Rashi adds one exception this rule: one must check animals for perforations in the lungs, as this particular disorder is more common. Apparently, as the Shakh (Y.D. 39:8) explains, although, a slaughtered animal is presumed healthy and free from all eighteen defects, Chazal instituted that one should first check the lungs, when possible, to ensure that they are free of ruptures. Although this provision appears nowhere in the Talmud Bavli or Yerushalmi, all authorities after Rashi accepted this stringency. As indicated, however, this provision applies only when the possibility of checking the lungs exists. When checking becomes impossible, such as when the lungs were lost , we resort to the initial assumption of the animal's health, as established by Rav Huna. Indeed, Rashi, the Rambam and Rosh hold that in a case where the lungs are lost the meat may be eaten. (Other Rishonim, however, disagree, though for technical reasons - see Shakh, Y.D. 39:8.) For this reason we may drink milk without concern. Since it is impractical to check the lungs of the live cows used for milk, we may rely on the initial presumption of the animals' kashrut, without checking their lungs.

In any event, we have seen that halakha requires that an animal's lungs be checked to ensure that they contain no perforations. What are the guidelines governing this examination, and what forms of defects in the lungs render the animal a treifa?

The Gemara in Chullin (46b) cites Rava as postulating that if two lobes of the lung cleave to one another by fibrous tissue, then we assume the animal to be a treifa. This applies, however, only to two non-adjacent sections of the lung (e.g., an adhesion forms above or beneath the lung connecting the two exterior sections). If two adjacent sections cleave together, this adhesion is considered natural and does not render the animal a Treifa. The Gemara does not clarify, however, whether or not the animal requires checking in this second case. Do we permit the animal immediately without concern, or must we check such a lung for punctures? The Rashba and the Ran maintain that such an animal does not need any checking and may be assumed kosher. This is the ruling of the Mechaber in the Shulchan Arukh (Y.D. 39:4). Tosafot, however, citing Rabbenu Gershom, as well as the Ritzba and the Semak, explain that checking is required. The Rema adopts this position.

C. Checking adhesions

The Shulchan Arukh (Y.D. 39:1) requires checking the lungs for adhesions, referring to one who fails to do so as a "poretz geder," someone who breaches accepted standards. (This formulation emphasizes the point that this examination is only a Rabbinic requirement.) In se'if 10, the Mechaber adds that even a minuscule adhesion

between non-adjacent lobes renders an animal forbidden. He observes the practice of some to squeeze the adhesion and consider the animal permissible if it is easily crushed. The Mechaber writes that one who follows this practice is considered as "having fed Jews tereifot."

The Rema, however, cites authorities who uphold this practice, claiming that the sort of adhesion that renders an animal forbidden would not disintegrate even when squeezed for an entire day. Although this position constitutes a "kula gedola" (an extreme leniency), the Rema writes, the practice has become widespread in Ashkenazic communities. As this leniency has authorities on whom to rely, one should not object to its implementation. The language of the Rema makes it clear that he prefers not to rely on this position.

The Rema then addresses the scope of this leniency. Does it apply to all adhesions, or only to those connecting two adjacent lobes? The Rema claims that one should not employ this leniency in case of two non-adjacent lobes, when according to all views an actual adhesion renders the animal a Treifa. Only an adhesion connecting two adjacent lobes, regarding which, as we have seen, there is a dispute as to whether it requires further checking, lends itself to this leniency. Despite his opinion restricting the use of this examination, the Rema observes that in Cracow (where he lived), the practice of squeezing adhesions as a means of checking was implemented in all cases. The Rema agrees to allow this leniency only in instances where a substantial financial loss would otherwise be incurred.

In se'if 1, the Rema rules that when an adhesion was found and squeezed, the lung should then be inflated and placed in lukewarm water to see if any bubbles form. This would ascertain the absence of any perforations in the lung.

Thus, with regard to examining adhesions by squeezing, we find three positions: 1) the prevalent Ashkenazic custom; 2) the view of the Shulchan Arukh and the Sefardim; 3) the view of the Rema.

With regard to adhesions between non-adjacent lobes, the Ashkenazim would allow checking by crushing the adhesion and then soaking the lung, as described. The Sefardim, however, automatically consider an animal with such adhesions a Treifa.

With regard to adhesions between adjacent lobes, however, the Shulchan Arukh (39:4) and the Sefardim rule leniently, as mentioned earlier, permitting consumption of the animal without any further checking. The Ashkenazim, however, require that this adhesion be checked through the methods of crushing and soaking, as described earlier.

It thus turns out that in some instances the Sefardim have adopted the more stringent position, whereas in other cases the Ashkenazim rule more stringently.

The Rema, however, adopts the most stringent position, viewing the practice of squeezing adhesions between two adjacent lobes an extreme leniency that should preferably not be employed. In all instances of adhesions, then, the Rema would consider the animal a Treifa. We should add that many other Ashkenazic authorities, as well, ruled against examination by crushing adhesions. These include the Vilna Gaon (who would not even eat from utensils used in the preparation of meat that had been permitted based on this leniency), the Noda Bi-Yehuda, and the Shela. Additionally, at times those who perform the examinations of adhesions crush them with force, rather than gently; even those who generally permit checking adhesions through squeezing would not allow an examination of this type (see Taz 39:17; Rav Chayim of Volozhin, Chut Hameshulash 20; Chatam Sofer Y.D. 39).

Today, the kashrut certifications under Sefardic auspices (particularly the "Chalak Bet Yossef" certification in Israel), as well as the "mehadrin" standard supervision of the Ashkenazim, more or less adhere to the stringent positions of both the Rema and the Mechaber, This type of meat is called "glatt," meaning "smooth," as the lungs had no adhesions whatsoever. In most localities in the United States, all kosher meat nowadays is glatt.

Clearly, in view of the reluctance with which the Rema was prepared to allow examination of the adhesions, it is preferable to use only glatt meat. However, those who conduct themselves leniently in this regard have authorities on whom to rely, and one should not object to those who do so.

No such issue of glatt applies with regard to poultry. The lungs of chickens are attached to the spinal cord and thus cannot be checked. Furthermore, their lungs have no lobes, and hence no adhesions form. Sometimes, the word "glatt" is used to indicate a superior level of kashrut supervision in general, which is why you may sometimes find "glatt" chickens, although technically no such thing can exist. (I once even saw "glatt" fish, though I have no idea what that could possibly mean). In Israel, "glatt" chickens have been salted inside and out (although outer salting is sufficient), and also are slaughtered at a slower rate, to allow the slaughterer more time to do a proper job. Non-glatt chickens are, however, kosher by normal halakhic standards.

Other issues of tereifot occasionally arise, though not on the consumer level. For instance, a few years ago it was discovered that milk cows were being given injections directly into their lungs, which naturally involved a perforation. The question arose whether this should render all the milk in the United States non-kosher. Another problem arose in connection with injections given chickens. For this reason, the kashrut supervisory organizations must stay on top of all developments in animal husbandry. Since this is a changing field, we can reasonably expect more interesting questions in the future.

Next shiur, we finally get into the home kitchen. We shall be discussing "kashering" - purging the forbidden blood, specifically how to kasher liver.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 05: Liver and Gelatin

Since the blood in a bird or animal is prohibited, it must be removed before cooking. There are two ways that this can be done, either by salting or by broiling. Although fifty years ago, most salting was still done in the home, today this is rare. Generally, the meat is salted in the packinghouses. The one exception is liver, which cannot be kashered by salting but only by broiling. Hence, most of today's shiur will deal with the preparation of liver. But first, in the interest of informed kosher consumerism, some modern ramifications of the laws of the salting.

Salting

There are other cases where salting cannot be done. For instance, if the meat has aged for three days after the slaughter, it can no longer be salted effectively, since it has dried. This restriction is not mentioned at all in the Talmud, but derives from a "chumrat ha-geonim" (a restriction derived from the custom in the yeshivot of Babylonia in the period after the conclusion of the Talmud). In such a case, it can be kashered only by broiling. The way to prevent this from happening is to wet the meat during the three days.

When meat was basically prepared at home, it was understood that wetting the meat to prevent the drying basically meant soaking it for a short period of time. When meat processing became industrialized, and meat was often shipped by rail long distances between the centralized slaughter houses and the processing plants, a method was created whereby the meat would be sprinkled automatically in the rail cars. The question arose whether this would be sufficient, or whether it had to be soaked and not only sprinkled. Although many poskim were reluctant to allow this leniency, Rav Moshe Feinstein ruled that the meat could be salted; though it was not an optimal solution (Igrot Moshe YD 53). His reasoning proceeded from the fact that the restriction on meat that was more than three days old was not based on Talmudic law but was only a chumrat ha-geonim; hence, there was room to be more lenient.

There is a difference of opinion among the poskim whether the three-day restriction applies to frozen meat (i.e., can it be salted after thawing). The question is whether freezing prevents the drying that would make salting invalid. Usually, within the United States, meat is salted in the packinghouses before being frozen. In Israel though, some frozen meat is imported from South America and other places and salted in Israel after being thawed. If you remember when we spoke of the concept of "glatt," we noticed that nowadays the term is often used to mean a higher standard of kashrut in other ways than only the question of the treifot of the lung. This is one of those uses - in Israel, "frozen glatt" is salted before freezing, whereas "regular" (non-glatt) kosher (imported) frozen meat is not.

In any event, in nearly all cases today, the kosher consumer buys meat that has already been kashered. There is however one exception, and that is liver.

The Talmud states that because of the large amount of blood present in the liver, salting is not sufficient to kasher it. The only acceptable method is broiling, which is more effective in drawing out the blood. Generally, chicken livers, and often beef liver, is sold raw, and hence, unkashered, and the kashering must be done in the home. This is the one case where the average consumer will directly meet up with the laws of kashering meat, and therefore we will devote a special section to understanding the process and describing how it should be done.

Liver

Yalta, the wife of Rav Nachman, is the source of a statement in the Talmud with a great deal of philosophic significance for understanding the attitude of the Torah towards asceticism and prohibitions in general. For this shiur, we are interested in only one of her examples, but it is worth thinking about the statement in a more general context as well.

Yalta said to R. Nachman: Everything that the Torah prohibited, it permitted a corresponding thing.

IT PROHIBITED BLOOD - IT PERMITTED LIVER;

nida - the pure blood (after birth);

the fats of domestic animals - the fats of wild animals;

pig - "mocha" (the marrow of the "shibuta" fish, which has the same flavor);

a married woman - a divorcee while her husband is still alive;

A brother's wife - yevama….

I would like to eat some milk-and-meat.

R. Nachman told the cook to give her some barbecued udder.

(Chullin 109b).

Rashi explains the parallelism between blood and liver by stating that the liver is "completely congealed blood." This is presumably a deliberate exaggeration, as Rashi himself continues to explain that the taste of the liver is the taste of blood. In any event, this does express the rabbinic view that there is a surplus of blood present in the liver. For that reason, salting as a method of purging blood, which is used for all other cuts of meat, is not acceptable for the liver. The only acceptable method is broiling over an open flame, which draws out the blood.

There are two areas which are relevant here. The first is the exact method of effective purging through broiling. A second issue revolves around the fact that any utensils used in the broiling are liable to absorb the blood that is being drawn out of the liver and are therefore themselves not kosher. This presents both a problem for the liver itself, and of course for any subsequent use of those utensils.

The broiling of the liver.

If the liver is whole, it must be first slashed vertically and horizontally, in order to allow the blood to drain away easily. If a slice of liver is being kashered, this is not necessary. Chicken livers should be cut in a few places.

It is customary to wash the liver before the broiling, in order to remove any external blood.

The Rama states that it is customary to lightly salt the liver. This is actually a problematic procedure, since if the liver is left in the salt for a long period, it will actually be prohibited. Therefore, the Rama warns that it should be salted only immediately prior to being placed on the fire. After the completion of the broiling, the liver should be washed again, especially if, in accordance with the custom, it has been salted.

In any event, if either the washing or the salting has been omitted, the liver is still kosher.

There exists a disagreement among the poskim whether the three-day rule mentioned above would apply to liver. This would not prevent the broiling, since, as we saw above, meat can be broiled (though not salted) even after three days. However, some poskim prohibit cooking the liver after the broiling if it has been broiled only after three days. If, however, the meat has been frozen for more than three days (which, as we saw above, is itself possibly sufficient to prevent the three-day drying), it is generally accepted that one may kasher the meat by broiling and then cook it. This is due to the combination of two separate considerations: 1) That in any event, meat that has been kashered by broiling can be cooked even if three days expired before the broiling; 2) Even if that is incorrect, freezing prevents the drying process which interferes with kashering.

The liver should be exposed to the fire in such a way that the blood can flow freely away, so that the meat does not rest in any manner in the blood (or any other liquid). Usually, this is done either with a fork or spit over an open fire, or on a wire mesh. Many poskim allow the use of a lacerated broiling surface, such as that used for steaks, where the meat is held above a surface which has many holes to allow draining. One should be careful not to crowd the pieces together.

The meat should be broiled until it is done and ready for eating in a normal manner. The absolute minimum is defined by the halakha as "half of the normal broiling" (Yore Deah 73,1), but one should normally leave it on the fire until "fully" broiled. This is especially true if it will be cooked after the broiling.

The utensils

The blood that is being purged from the liver is itself, of course, prohibited. Although this blood will not re-prohibit the liver itself, any utensil that comes in contact with it while hot will become unkosher, since it absorbs the blood. Therefore, they cannot be used to cook or broil anything other than liver. One must either "kasher" the utensil after use, or maintain a separate set of utensils for broiling liver. The same is true for the oven itself, and therefore the dripping blood should be caught on a special pan or on silver foil.

If liver is kashered in an oven, there are opinions that require that the oven not be used for 24 hours afterwards for other foods. Many poskim, however, do not think that the walls of the oven will absorb anything if there is no direct contact between them and drops of blood. In any event, this is less of a problem in a broiler where the fire is above the meat.

For the same reason, one should not leave the liver on the spit or fork to cool, because we fear that at some point it will begin to reabsorb blood. As soon as it is ready, it should be removed and washed off.

Gelatin

We are now ready to begin the laws of kitchens. Before that, we have one point to clarify. In all the future shiurim, we will assume that we know what kosher and non-kosher ingredients are, based on the principles discussed in previous shiurim. There is one case though that we should clarify now - the problem of gelatin.

Gelatin is the most well known of a series of problems, all of which derive from modern food technology. There are all sorts of special ingredients added to processed foods, and many of them are of animal origin. Depending on the procedure, there is some question whether they can be permitted. Gelatin is an example that illustrates many of the questions.

Gelatin is produced from the skin and bones of animals. If the animal is not kosher (either a non-kosher species, or if it is not slaughtered properly), it should follow that the gelatin is not kosher either. Nonetheless, a number of authorities, most prominently Rav Chaim Ozer Grozinsky, permitted it, based on the method of production.

In order to extract gelatin from the animal bone or skin, the material is soaked in acids, heated for a long period of time, and treated in other ways. The result is a dry white powder with no particular taste. The Talmud (Pesachim 21a) states that a foodstuff which is not fit to be eaten is no longer prohibited. On this basis, pure gelatin should be permitted.

There are other factors on which the permissibility could be based as well. There exists a disagreement among the poskim whether bones of a non-kosher animal are prohibited. Some commentators suggested that perhaps we could distinguish between soft bones, which are the ones prohibited by the Rambam (Hilkhot Maakhalot Assurot 4,18) and hard ones, which would be permitted according to all. This suggestion though is not universally agreed to. In any event, most gelatin is not made from bones but from skin - usually pig skin.

The main question revolves around whether the fact that pure gelatin is not fit to be eaten should be taken into account once it has been added to a food, so that now it is in fact edible. Rav Chaim Ozer claimed that once it has the status of "permitted," it will not revert to being prohibited even if it becomes edible again. While it would appear that several authorities agreed with this claim (see Shach, 114,21), others disagree (for instance, the Chatam Sofer, YD 81).

Rav Moshe Feinstein argues that even if a non-edible substance which became edible again would remain permitted, gelatin is different, as the stages are all intermediate within one process. The purpose of treating the gelatin is to produce a food in the end, and in such a case an intermediate stage is not significant.

Rav Aharon Kotler added an argument that since the purpose of gelatin is not to be eaten, but it is used as a coagulant (maamid), the principle of inedible foods being permitted should not apply to it. This is based on the fact that yeast is prohibited on Pesach (as a kind of chametz), even though yeast per se is inedible. The reason is that yeast is not a food in the sense that it is eaten, but only as a special ingredient in causing bread to rise. The same reasoning, Rav Kotler argued, should apply to gelatin.

For these reasons, in most localities, gelatin is not considered kosher. If one sees a product that claims to have kosher gelatin, this refers to the leniency of Rav Chaim Ozer. Theoretically, it is possible, of course, to produce gelatin from kosher animals, but this is apparently not practical. A few years ago, work was started on producing gelatin from fish bones, but this has not yet become commercially viable. There are also vegetable substitutes for gelatin, though less effective, such as agar-agar.

In Israel, the rabbanut gives a hekhsher to gelatin produced according the instructions of Rav Chaim Ozer. It is usually marked in a manner indicating that is it based on a special kula. "Mehadrin" supervision in Israel, as well as the national supervisions in the US, does not authorize gelatin.

Despite this, it is accepted that medicinal capsules, which are made of gelatin, are permitted if there is no non-gelatin equivalent.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 06: Introduction to Mixtures: Taam Ke-ikar

A. Introduction:

The majority of kashrut related questions revolve around the laws of "mixtures" (hilkhot taarovot). These laws address questions concerning contact between kosher and non-kosher food. Some questions may concern mixtures in which there is no transfer of taste between the non-kosher and kosher foods, and some may grapple with situations in which the non-kosher food has imparted its taste into the kosher food, or into kosher utensils. For example, what if I accidentally place non-kosher meat into my cholent? What is the status of the food? What about the pot? What if I ate the cholent on my dishes? These are the types of issues we will be discussing in the upcoming shiurim.

Before we begin, I would like to note the following.

The laws of kashrut, and particularly the laws of "mixtures," are extremely complex. The goal of this course is to present the major principles of these laws and their applications, and each shiur should be viewed as a "building block" which will ultimately lead to a broader and more proper understanding of hilkhot kashrut. Needless to say, one should consult with one's rabbinic authority in any case of doubt.

B. Types of mixtures:

The laws of "mixtures" can be divided into two major categories, each containing at least two sub-categories.

1. Yavesh be-yavesh.

One type of mixture if referred to in halakha AS "YAVESH BE-YAVESH," literally, a mixture of dry substances. For example a mixture of pieces of kosher and non-kosher meat, which have not been cooked together, is considered a "dry mixture." The question arises, if the majority of the pieces are kosher, may one eat a non-identified piece from the mixture? Furthermore, there may be a distinction between a mixture of similar pieces and dissimilar pieces. A mixture of similar pieces (MIN BE-MINO) refers to a mixture in which the pieces of kosher and non-kosher meat are from the same species of animals, and have similar tastes, such as kosher and non-kosher beef. A mixture of dissimilar pieced (MIN BE-SHEINO MINO) refers to a mixture in which the pieces are from different species of animals, and therefore have different tastes, such as beef and pork.

In this type of mixture, yavesh be-yavesh, one is NOT concerned with a physical melding of these pieces, nor with the transfer of "taste" from one piece to another, but rather, one is concerned with the CHANCE that he may eat the piece of non-kosher meat. The halakhic question is, what is the identify of a particular piece chosen from the mixture. The stakes are high, being that he may actually eat the entire non-kosher piece of meat. Yet, there is also a chance that he may not partake of ANY non-kosher substance, if the majority of the pieces are kosher.

While we will address this scenario in a later shiur, suffice it to say that the general halakhic principle of statistical majority, based on Shemot 23:2 (achare rabim lehatot),

legislates that "chad betrei batel," one non-kosher piece can be viewed as "batel" in the majority of kosher pieces, and the mixture may be consumed. The Rishonim discuss whether one may even eat ALL three pieces, and if so, why, but that will be discussed in a future shiur.

2. Lach be-lach.

The second type of mixture is known as "LACH BE-LACH," literally, a "wet mixture." In this scenario, the non-kosher substance melds with the kosher substance, and cannot be separated. This can occur when two liquids, kosher and non-kosher, are mixed together. Alternatively, if a solid has contact with a liquid, i.e. milk falls onto a piece of meat or meat falls into a soup and is removed but the taste remains, under the proper conditions, such as heat or a prolonged period of contact (kevisha), taam ("taste") can be transferred from one substance to another. Therefore, quite often the entire mixture will assume the taste of the non-kosher entity. The question here is, what is the status of the entire mixture, taken as a unit.

We must once again distinguish between a mixture of similar tasting substances (a piece of non-kosher beef into a kosher beef soup) and a mixture of dissimilar tasting foods (non-kosher meat into a tomato soup). Is one type of mixture "better" than the other? In a MIN BE-SHEINO MINO (dissimilar) mixture, the taste of the primary, kosher substance may dilute the taste of the minor, non-kosher substance until the taste of the minority non-kosher substance may no longer be noticeable. In this case, one can actually determine whether the taste of the prohibited substance is still noticeable, On the other hand, in a mixture of similar tasting substances, a "MIN BE-MINO" mixture, the taste of the prohibited substance is not different from the prohibited and therefore is undistinguishable. Should that lead us to a more lenient or more stringent conclusion?

As we will see, a mixture of dissimilar substances (min be-sheino mino) requires sixty times more heter (permitted substance) than issur (prohibited substance) in order to permit the mixture, while a mixture of similar tasting substances (min be-mino) is the subject of Talmudic debate. In such a case, Rabbanan maintain that the mixture is permitted once there is a majority of heter. Rabbi Yehuda disagrees and argues that, on the contrary, the mixture is not permitted even if the slightest amount of issur has been introduced.

Our discussion today will concern a mixture of dissimilar tasting substances (min be-sheino mino), and we will dedicate a future shiur to understanding a min be-mino mixture.

One final note. While the laws governing mixtures of meat and milk (basar be-chalav) are NOT always the same as the halakhot of mixtures of kosher and non-kosher food, there is a significant overlap. Therefore, for example, a drop of milk that falls into chicken soup, (which may be a more common occurrence in our kitchens than non-kosher meat falling into our soup), may be considered a min be-sheino mino mixture (lach belach).

C. Taam Ke-ikar – Dissimilar Mixtures:

As mentioned above, a mixture of dissimilar tasting substances (min be-sheino mino) may be permitted only if there are sixty parts of heter per part of issur. This is called "SHISHIM" (sixty). In sharp contrast to other mixtures, in which the issur (non-kosher substance) is generally batel be-rov, (the majority rule) and the mixture is therefore permitted, here the mixture remains prohibited, even after the physical prohibited substance is removed, until its effect on the mixture (its "ta'am or taste) is no longer noticeable; i.e. until the taste can no longer be discerned. The ratio of "sixty" is based on the assumption that a normal taste will be discernable in the mixture up until this diluting ratio is reached.

This type of mixture (LACH BELACH, MIN BE-SHEINI MINO) is unique. In fact, Chazal refer to this phenomenon as "TAAM KEIKAR" – "the taste is akin to the actual substance." In other words, as long as the taste is present it is as if the issur itself is present. Why? And is this uniqueness of biblical or rabbinic origin?

There seems to be conflicting evidence in the gemara regarding the origin of this phenomenon.

The gemara in Pesachim (44a – 44b) provides two possible sources for this halakha. Rabbanan suggest that just as a nazir, who must abstain from wine and vinegar processed from grapes, may not even drink "mishrat anavim (Bemidbar 6:3), a beverage produced by soaking grapes in water long enough for them to impart their taste into the water, similarly any permitted substance which has assumed the taste of a prohibited substance is also prohibited.

Rabbi Akiva offers another source. The Torah relates that after the conquest of Midyan, Elazar Ha-Kohen commands the people to "kasher" any cooking utensils taken from the spoils (Bemidbar 31:21 – 23). One may ask, why would they be required to purify these utensils? There is certainly no concern that food cooked in them from now on will have any contact with any non-kosher food? Rabbi Akiva maintains that the utensils, at least on the day following their last usage, can impart the taste of the food previously cooked in them. The "giulei nakhrim, the taste of non-kosher food expelled from the cooking utensils, may prohibit any food subsequently cooked within them.

Regardless of whether we derive "taam ke-ikar" from "mishrat anavim" or from "giulei nakhrim," the gemara's use of biblical verses as a source implies that this prohibition is of a biblical status (d'oraita).

Another gemara (Avoda Zara 67a), however, asserts that while if one consumes "taamo umamasho," one receives malkot (the biblically mandated punishment for the consumption of prohibited foods), if one only consumes "taamo ve-lo mamasho," he does not incur any punishment. The simple understanding of this gemara implies that while if one partakes of a mixture in which the physical issur itself is present ("mamasho"), one incurs the punishment of malkot, implying that the prohibition is d'oraita. However, if one consumes a mixture in which one merely ingests the taste of the issur, but not the physical piece of issur itself ("ve-lo mamasho"), one is exempt from punishment. This would seem to imply that the prohibition to ingest pure "taam" of an issur (in a case in which the taam is already batel be-rov) is only of rabbinic origin, and therefore one is not culpable. This, of course, seems to contradict the gemara in Pesachim, which implies that the prohibition of taam of biblical origin!

The Rishonim differ as to how to reconcile these two seemingly contradictory gemarot. Rashi (Chullin 98b), for example, posits that taam ke-ikar is only mi-derabban, i.e. that mi-d'oraita the mixture would be permitted as long as there is a majority of heter. The biblical sources cited in the gemara in Pesachim, i.e. mishrat anavim and giulei nakhrim, must certainly be viewed as an esmachta (not a legally binding source).

Most Rishonim, however, insist that taam is not batel in a majority of heter, mi-d'oraita. Tosafot (Pesachim 45), the Rashba (Torat Ha-bayit) and others maintain that taam ke-ikar's origin is biblical, and is to be viewed as an exception of the principle of "bitul be-rov."

If so, how do these Rishonim understand the gemara (Avoda Zara) which states that "taamo ve-lo mamasho" does not incur malkot? And furthermore, why should taam be different that any other mixture, in which the principle of "bitul be-rov" is applied?

D. The Uniqueness of "Taam" and "Taamo ve-lo Mamasho":

Seemingly, one can suggest a number of explanations for the phenomenon of taam ke-ikkar.

Some suggest that taam is important in that it prevents "bittul" from taking effect. Generally, we allow ourselves to "ignore" the presence of a prohibited substance as long as it is not the primary (majority) ingredient in the mixture. However, how can we "ignore" the issur if its taste is still discernable? It is the original issur, however, which prohibits the mixture, and the taam merely preserves its prominence so that it cannot be considered insignificant.

Alternatively, one may suggest that "taam" doesn't just prevent "bitul" of the original issur. Just as taam is unique in its physical ability to impart taste to another substance, it may also have the halakhic ability to redefine the substance to which it has imparted its taste. In other words, the Torah may view any substance no matter what its physical origin, whose taste is that of a prohibited substance, as the prohibited substance itself. In this case, the Torah seems to have prohibited anything which retains the taste of a prohibited substance.

While we will attempt to employ these explanations in our current discussion, they will of course be relevant to our future discussions as well. For example, what is the significance of "shishim?" Are there situations in which a mixture is prohibited even if there are 60 parts of heter per part of issur? Or, alternatively, may a mixture be permitted by shishim even if the taste of issur is still present? Is the goal of shishim to minimize the presence of the issur, or to determine that its taam is no longer discernable?

As for the gemara in Avoda Zara, I would like to mention two of the many explanations found in the Rishonim.

Rabbenu Tam, cited by the Rosh (Chullin 7:31) explains that the gemara is referring only to a mixture of similar tasting substances (min be-mino). "Taamo umamasho" refers to a min be-mino mixture in which the physical issur itself is present, and is not batel be-rov. "Taamo velo mamasho" refers to a min be-mino mixture in which the physical issur has been removed and there is a majority of heter in relation to the taam, but not sixty parts. Therefore, in this scenario the mixture is only prohibited rabbinically, as we will discuss in a future shiur.

However, one who partakes of a mixture of dissimilar tasting substances (min be-sheino mino) certainly incurs the biblical punishment of malkot, even if there is only pure taam present without! Furthermore, Rabbeinu Tam continues, while generally one is only culpable for consuming a kezayit (a portion the size of an olive) of the prohibited food itself, here, one who consumes even a kezayit of the mixture, WITHOUT ingesting a kezayit of the actual physical issur, is still culpable! Rabbeinu Tam describes this phenomenon as "heter nehepakh le-issur" – the permitted substance is transformed into the prohibited substance. In other words, Rabbeinu Tam clearly believes that taam has the ability to redefine the identity of the mixture, and therefore the entire mixture is to be viewed as non-kosher food itself.

Rabbeinu Chaim Ha-Kohen, also cited by the Rosh, explains the gemara in Avoda Zara in a slightly different way. He asserts that one must distinguish between two scenarios. Taamo umamasho refers to case in which there is a high concentration of taam in the mixture. While there is still a majority of heter, if one, by consuming the mixture for the amount of time it would take to eat a loaf of bread (between 2 – 9 minutes), would ingest a kezayit of the original issur, the concentration is great enough to define the mixture as "taamo umamasho," i.e., like the prohibited substance itself, and therefore one would be culpable even for eating a kezayit of the mixture. If, on the other hand, the concentration of issur in the mixture is LESS than a "kezayit bekdei akhilat peras," the mixture is

referred to as "taamo ve-lo mamasho" and one who eats a kezait of the mixture is not culpable.

Rabbeinu Chaim apparently agrees with Rabbeinu Tam, that taam may determine the identity of a mixture, and that "heter" is "nehepakh le-issur;" however, only when the concentration of issur is intense enough. How does Rabbenu Chaim view a mixture with a minimal concentration of issur? One could suggest that in this case, the reason for the prohibition of the mixture is not because the taste has determined the identity of the mixture, but rather because as long as the taste of the original issur is present, the halakha of "bittul" cannot be employed, and we cannot "ignore" the presence of the original issur. If so, Rabbeinu Chaim may actually accept both of the above theories of taam, and just apply them to different scenarios.

The Halakha:

What is the practical difference between those who believe that taam ke-ikar is of biblical origin (Tosafot, Rashba, etc) and those who maintain that its origin is rabbinic (Rashi, Rambam)? The Rishonim note that is a case in which issur mixed with heter (a mixture of dissimilar tasting substances), and there is clearly a rov of heter, but we are unsure whether there are also sixty parts of heter for every part of issur, our question may be relevant. Is this doubt considered a safek de-rabbanan, being that mi-deoraita the issur is really betal be-rov, and therefore we may be more lenient, or, a safek de-oraita, being that taam ke-ikar is of biblical origin and the requirement of shishim is actually mi-deoraita, and therefore we should be more stringent and prohibit the mixture?

The Shulchan Arukh (Y"D 92:2) asserts that one should prohibit the mixture in such a case, implying that taam ke-ikar is of biblical origin.

Next week, we will address the topic of bitul be-shishim, and whether one may ask a non-Jew to taste the mixture to determine if the taste of issur is still present.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 07: Permitting a Questionable Mixture - Kefeila and Shishim

In last week's shiur, we discussed the concept of taam. We explained that when two dissimilar tasting substances (MIN BE-SHEINO MINO), kosher and non-kosher, combine under the proper conditions, the taste of the prohibited substance might render the entire mixture un-kosher. We also noted that while an ordinary mixture of dissimilar dry kosher and non-kosher pieces (YAVESH BE-YAVESH) will usually be permitted if the MAJORITY (ROV) of the pieces are kosher, in a mixture in which the non-kosher substance has imparted taste to the kosher substance (LACH BE-LACH), we may NOT rely upon a majority.

Regarding this scenario, the gemara (Chulin 97a) presents two ways in which one may permit this questionable mixture. Firstly, the determination of a "kefeila," literally a non-Jewish cook, that there is no taste of issur in the mixture, may permit a mixture. Secondly, one may rely upon shishim, i.e. sixty parts of heter for each part of issur.

In this week's shiur, I would like to discuss the many questions which arise from this gemara, and their conceptual and practical ramifications.

A. "KEFEILA" – THE NON-JEWISH COOK:
The above mentioned gemara leaves a number of questions unanswered.

1. WHO is this "kefeila," and WHY is he believed?

2. Generally, the testimony of a non-Jew is not accepted. Why in this case are we willing to permit the mixture based upon his determination?

3. Under which circumstances may we rely upon a kefeila, and when may we, or must we, rely upon shishim?

There are two opinions in the rishonim, regarding the identity of this kefeila

1. Some rishonim suggest that this kefeila is actually a PROFESSIONAL cook.

Tosafot (Chullin 97a) explain that we require a professional because "uman lo mar'ah le-nafsha," a professional would not put his reputation in jeopardy. While we may normally be hesitant to accept the testimony of an ordinary non-Jew regarding matters of kashrut, this kefeila would not risk ruining his reputation and subsequently his livelihood, by incorrectly describing the taste of the mixture. Therefore, his determination is admissible.

The source for this principle seems to be a gemara (Menachot 43a) which says that while one may not purchase a garment with tzitzit already attached from an ordinary non-Jew, as we fear that he may have been the one who tied the tzitzit onto the garment, rendering the tzitzit invalid, we may purchase such a garment from a non-Jewish merchant. The ordinary non-Jew may have been looking for a "quick buck," and therefore there is reason to suspect that the tzitzit may not be kosher. However, the non-Jewish merchant sells these garments for a living, and therefore we may presume that it is NOT in his best interest to be caught lying.

The Acharonim debate the scope of this principle. Some, for example, say that the non-Jewish merchant is believed ONLY in this case, as it is rare for a non-Jew to even be able to tie tzitzit. However, we may NOT be permitted to purchase the STRINGS used for tying tzitzit, being that the strings are extremely easy to weave, and therefore it is likely that he may have weaved them himself, rendering them invalid for tzitzit. Others disagree.

As one can anticipate, this principle has a broad range of interesting and practical ramifications. Rav Moshe Feinstein zt"l (Igrot Moshe Y"D 1:55), for example, was asked whether a letter from the manager of a factory stating that they use only vegetable oil, and no animal fats, is acceptable, thereby permitting the food. Rav Moshe zt"l, based on additional reasons as well, agreed that one may rely upon a letter from a company which states its ingredients, as we assume that the company would not risk its reputation (or even a lawsuit) and misstate the ingredients of a product.

Interestingly, the Rashba (Torat Ha-bayit) suggests another explanation of the gemara. The "kefeila," a professional cook, is best qualified to recognize the presence of a any non-kosher taste in the mixture. The Rashba ultimately rejects this interpretation.

2. Most Rishonim believe that the kefeila mentioned by the gemara is an ordinary non-Jew. On may ask a non-Jew to taste this mixture, as it is permitted for him to taste it.

If so, however, one may question his credence (neemanut) regarding matters of kashrut. Generally, one would not accept the testimony of a non-Jew regarding these matters. Why are we willing to permit the questionable mixture based on his determination that the taste of the prohibited substance is not noticeable?

The gemara (Bava Kama 115b) does imply that the indirect testimony of a non-Jew, as well as of a child, is at times accepted. This is true when the non-Jew or child is not responding to a direct inquiry whose consequences are known to him, but only providing information inadvertently, in an indirect or "matter of fact" manner (MESIACH LEFI TUMO), being unaware of the consequences of his statement. For example, the gemara tells of a man who once related how in his childhood his father would put him on his shoulders and bring him to immerse in a mikve and then feed him teruma at nightfall. Based on his story the rabbis allowed this man to partake of teruma.

However, even there the gemara notes that the credence given to such testimony, whether from a child or from a non-Jew, can only affect one's status relating to laws of rabbinic origin. Therefore, the "kohen" was only permitted to partake in teruma de-rabbanan, i.e. teruma taken as the result of a rabbinic, and not biblical, obligation.

If so, regarding the permissibility of a mixture of permitted and non-kosher food, if a non-Jew were to indirectly, or "matter of factly" relate how he tasted or didn't taste a particular substance, only then would his story be accepted, and only relating to a rabbinic prohibition!!

Now, according to those who believe that "taam's" inability to be batel in a majority of heter is only of rabbinic origin, one who is "mesiach lefi tumo" regarding the taste of a questionable mixture may indeed permit that mixture. However, for those who maintain that TAAM KE-IKAR is a Biblical phenomenon, (see last week's shiur) even this type of testimony is unacceptable!!

The acharonim discussed this question at great length. The Shakh (Y"D 98) suggests that since the true taste of the mixture will ultimately be revealed (MILTA DE-AVIDE LEGELUYE), the kefeila would not be so brazen as to lie in such a case.

Based on this explanation, some explain why the Rambam (Hilkhot Ma'akhalot Asurot 15:30) seems to believe that a non-Jew may even be directly asked regarding the taste of the mixture. His testimony is more credible being that the truth will ultimately be revealed.

B. "KEFEILA" VS "SHISHIM":

As mentioned above, the gemara (Chulin 97a) states that a mixture of dissimilar substances (MIN BE-SHEINO MINO) can be permitted based on the determination of a kefeila, or when there are sixty parts heter per part of issur (shishim). We may ask ourselves, what is the difference between these two methods of permitting a questionable mixture?

Seemingly, the question of how to permit a questionable mixture should depend on the reason why taam prohibits a mixture. Last week, we presented two understandings of the prohibition of "taam," or of the phenomenon of "taam ke-ikar," i.e. that taste is akin to the substance itself.

On the one hand, some suggest that taam is important in that it prevents the "bittul" from taking effect. While we generally allow ourselves to "ignore" the presence of a prohibited substance as long as the heter is the primary (majority) ingredient in the mixture, how can we "ignore" the issur if its taste is still discernable? In other words, taam merely serves as an indicator that there is still a noticeable PRESENCE of issur in the mixture.

On the other hand, we suggested that the Torah might view any substance whose taste is that of a prohibited substance as the prohibited substance itself. In other words, the Torah seems to have prohibited the very TASTE of issur, regardless of its percentage or concentration in the mixture.

It would seem to follow, that if the PRESENCE of a prohibited substance, indicated by the taam still noticeable in the mixture, is problematic, then one must determine that the prohibited substance's presence is no longer statistically significant. If, on the other hand, the TASTE alone is that which prohibits a mixture, one must merely determine that the taste is no longer noticeable. As we shall see, it seems that the Rishonim debate this very question in their attempts to explain our gemara.

The gemara leaves a number of questions unanswered. When may we rely upon the determination of the kefeila (i.e. when the ratio is 1/60 or even less, 1/40)? May we always rely upon shishim? Even in the presence of a kefeila? Even if the taam is still discernable?

I would like to discuss four explanations of our gemara.

1. The R"I maintains that one may rely upon a kefeila EVEN when there are fewer than sixty parts of heter per part of issur. However, when there are sixty parts of heter, one does NOT even require that a kefeila taste the mixture, and it is permitted.

The very fact that the kefeila's determination can permit the mixture EVEN in the absence of sixty parts of heter, seems to indicate that the R"I believes that it is the TAAM which prohibits a mixture, and once we determine that there is no longer a taste of issur, the mixture should be permitted. Therefore, one can either rely upon the determination of a non-Jew, or, when there are shishim, one can safely ASSUME that there is no more taste of the issur.

If so, it would seem to follow that if one DID taste the "taam" of the issur, even if there are sixty parts of heter, the mixture would be prohibited. Shishim is an estimate of when there is no taam, but it is not perfect. This indeed is the position of the Beit Yosef.

The Arukh Ha-shulkhan, however, disagrees. He claims that as long as there are sixty parts of heter, the taste of the issur, even if discernable, has been significantly weakened, and the Torah did not prohibit a taste which has been so severely diluted.

2. While the R"I seems to focus on the TAAM of the mixture, the Ramban seems to accept BOTH the notion of TAAM and PRESENCE, depending on what type of substance is mixed in with the heter.

The Ramban distinguishes between the issur itself, such as prohibited fat (cheilev) falling into a permitted soup and then dissolving, as opposed to a piece of non-kosher meat which falls into this soup, and is then removed but leaves behind the taste of (non-kosher) meat. In the first case, the mixture can only be permitted if there are shishim. In the second case, one may rely upon a kefeila even without sixty parts of heter, and in the absence of a non-Jew, one may then rely upon shishim.

What is the difference between the two cases?

The Ramban distinguishes between the PRESENCE of issur and its TAAM, as well as between the function of SHISHIM as opposed to the function of a KEFEILA. In the first case, not only must I determine that the taste of the issur is no longer present, I must also determine that the PRESENCE of the issur itself it statistically insignificant. This can only be achieved by SHISHIM. In the second case, I am only concerned with the TAAM of the issur, in which case I may rely upon a KEFEILA. In his absence, I may rely upon shishim as an indicator of the presence of taam.

(Note: the Ramban clearly sees a QUALITATIVE halakhic difference between fat which has melted into the mixture and the taam left behind a piece of non-kosher meat which was removed from the mixture. Alternatively, one could claim that this difference is merely QUANTITATIVE, i.e. how concentrated is the taam. This assumption is questionable, as we may see in future shiurim.)

3. Rashi maintains that one may only rely upon a kefeila when there are sixty parts heter per part of issur, and in the absence of a kefeila, one may rely upon shishim. However, as long as there aren't sixty parts heter per part of issur, the mixture cannot be permitted. This position seems to be quite difficult to understand. If the purpose of a kefeila is to discern if there is any taste of issur, why is he employed where there is shishim? And if there is shishim, which would seem to imply that there is very little likelihood of there being any taste of issur, why is the kefeila necessary?

The acharonim discuss this difficult opinion of Rashi. One can suggest one of two possibilities.

The Minchat Kohen suggests that while I am truly concerned with the presence of taam, I am hesitant to rely upon the non-Jew when his determination is radically improbable. In the absence of shishim, one can assume that there is still taam of issur in the mixture, and therefore the kefeila's determination counters our natural assumption. In this case, he is not to be believed. However, when his determination SUPPORTS our intuition, his conclusion is credible. However, in the absence of a kefeila, I am willing to rely upon shishim as indicating that there probably is no taam in the mixture. In other words, Rashi fundamentally agrees with the R"I, but is more hesitant to rely upon the kefeila's testimony.

Alternatively, one could suggest that Rashi is always concerned with both the PRESENCE and the TAAM of the prohibited substance. Therefore, he requires not only that shishim render the issur insignificant, but also that preferably a kefeila should determine that there is no prohibited taste remaining in the mixture. In the case that one

cannot ask a kefeila, shishim may ALSO indicate that there is probably no taste left in the mixture.

I would like to mention one last opinion, which may complete our understanding of the relationship between kefeila and shishim.

4. The Rambam (Hilkhot Ma'akhalot Asurot 15:30) implies that in all cases one may and should ask a kefeila. In his absence, one may rely upon shishim. Seemingly, his opinion is very similar to Rashi, except that a kefeila may be used EVEN WITHOUT sixty parts of heter. If so, it would seem to follow that the Rambam views shishim as a valid, while not preferable, means of determining whether there is any taste of issur, like the R"I.

However, in a previous halakha (15:4) the Rambam explains that while generally an issur should be batel in a majority of heter, miderabbanan (rabbinically) it is prohibited "until the prohibited substance is lost by fact of its awesome insignificance" (me-otzem miutu). Here, the Rambam implies that shishim is not merely a means of determining whether there is any taste of issur. Rather, it functions as a measurement of statistical insignificance. If so, what function does the kefeila play, and how can the determination of a kefeila be accepted even in the absence of shishim?

We may suggest that unlike the R"I for whom TAAM is that which prohibited the mixture, and unlike the Rambam and possibly Rashi for whom both TAAM and PRESENCE of issur were problematic, the Rambam may believe that fundamentally, it is the PRESENCE alone which prohibits the mixture.

In order to permit a mixture, one must determine that the PRESENCE of the issur is no longer significant. One can achieve that through a kefeila, who will check if its presence is still noticeable. In the absence of a kefeila, one must choose a ratio at which one can assume that the presence of issur is insignificant. That is the role of shishim. It is "lost by fact of its awesome insignificance" (me-otzem miuto).

THE HALAKHA:

Rav Yosef Karo, in the Shulkhan Arukh (Y"D 98:1), posits that one should preferably ask a non-Jew, and in the absence of a non-Jew, one may rely upon shishim. He also notes that the non-Jew should not be aware of the consequences of his answer but rather, the question should be asked in a general way.

Rabbi Moshe Isserlis, in the Rema, notes that the common custom is not to rely upon the determination of the non-Jew, but rather, only on shishim.

The acharonim discuss why we no longer rely upon the determination of a kefeila. The Bach suggests that since today it is well known why a non-Jew would be asked regarding the taste of a mixture, his testimony cannot be considered "mesiach lefi tumo." Others suggest that we have generally become more skeptical about the credibility of non-Jews. Still others suggest that we have become skeptical of all "taste tests." A practical difference might involve a kohen checking for the taam of teruma which accidentally fell into a mixture in order to permit it to a non-kohen, or even whether one could taste a cake baked in a meat pan to determine whether there is any taste of meat, in order to permit its consumption with milk.

Next week, we will continue our discussion of bittul be-shishim, addressing cases in which taam may NOT be batel be-shishim, and cases in which shishim may permit a mixture EVEN if its taam is still noticeable.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 08: Permitting Questionable Mixtures: "Taste Tests" and "Shishim" Continued

Last week, we discussed the two methods of permitting questionable mixtures, kefeila (the determination of a non-Jew that the taste of issur is no longer discernable) and shishim (sixty parts of heter per part of issur).

In our attempt to understand the relationship between these two methods, we reviewed the different ways to understand the phenomenon of "ta'am ke-ikar" (the taste is akin to the substance itself). On the one hand, one may believe that as long as one can discern the taste of the prohibited substance, one cannot ignore the issur's presence. The taste prevents one from relying upon bitul (nullification of the issur), as the issur's presence is clearly not insignificant. Alternatively, the Torah may have simply prohibited anything whose taste originated from a prohibited substance.

Accordingly, we suggested that the roles of kefeila and shishim might correspond to these understandings. We may view the role of kefeila or shishim as determining that there is no longer a significant presence of issur, either because the taste of issur can no longer be discerned, or because of the issur's statistical insignificance. Or, kefeila and shishim may merely inform us that the mixture no longer carries the taste of the prohibited substance.

This week, I would like to address three additional questions, which I hope will complete our understanding of the topic.

Milta De-avida Le-Ta'ama - Prohibited Spices:

Last week we hinted at the following question: what if the taste of the issur is still discernable even after we have reached shishim! The question is complex, as it may depend upon the origin of the prohibition of ta'am (biblical or rabbinic), the nature of the prohibition of ta'am, and the quality of taste prohibited by the Torah.

The gemara (Avoda Zara 69a and Chullin 97b) notes that tavlin (spices) that is composed of teruma or other prohibited substances is NOT batel. The gemara, however, does not explain the rationale for this halakha, nor does it indicate the scope of this exception, i.e., just spices or other prohibited substances.

As we shall see, the Poskim seem to debate whether the notion that "milta de-avida le-ta'ama" - i.e., that those things that lend taste to a mixture even in a ratio above 1/60 are not batel - is a natural outgrowth of our understanding of "ta'am ke-ikar," or an exception to it.

As we learned in our last shiur, some claim that ta'am is always prohibited, regardless of whether there is shishim. For example, last week we saw the Beit Yosef's explanation of the R"i. The R"i asserted that the determination of a kefeila can permit a questionable mixture even without sixty parts of heter. This seems to indicate that the TASTE of issur, regardless of its statistical presence, prohibits a mixture. Shishim, according to the R"i, is merely a percentage at which one can safely assume that the ta'am of issur is no

longer discernable. If, however, the Beit Yosef argues, one can still discern the taste of issur even after shishim, the mixture should remain prohibited!

If so, one could argue that the halakha that "milta de-avida le-ta'ama" is not batel seems to be a natural outgrowth of our understanding of "ta'am ke-ikar." Tavlin (spices) is unique only in that it engenders the assumption that its taste is discernable even after shishim.

However, we cited other opinions that seem to view shishim as a point at which we can no longer claim that the issur is a significant presence, and therefore we may employ the halakha of bitul. If so, the halakha that "milta de-avida le-ta'ama" is not batel seems to be out of place. Once the issur has been rendered STATISTICALLY insignificant, why should its taste make a difference?! It seems that this very question convinced some to claim that this halakha is actually only of rabbinic origin (see Shakh 98:29). In other words, the prohibition of "milta de-avida le-ta'ama" is an exception to our understanding of "ta'am ke-ikar," made possible only by rabbinic legislation!

I would like to mention a third approach, offered by the Arukh Ha-Shulchan. Rabbi Yechiel Mikhel Epstein argues with the above-mentioned Beit Yosef, and claims that R"i would actually permit a mixture in which the taste of issur was still discernable as long as there are sixty parts of heter (shishim)! He argues that at that ratio, the taste of issur has been weakened (nechlash), and is no longer prohibited. Tavlin, however, differs from regular ta'am. It is so strong that even as a minority in a mixture, after shishim, its ta'am is still considered potent and is still prohibited by the Torah.

The Rema (YD 98:8) cites this halakha and adds that only tavlin that is itself a prohibited substance (teruma, orla, avoda zara, etc.) is not batel, as opposed to spices or salts which have absorbed prohibited substances.

Chozer Ve-Ne'or:
In the previous discussion, we examined a situation in which the taste of a prohibited substance is still discernable even after shishim. In this section, I would like to address a similar (yet possibly opposite) scenario. Let us imagine that a small amount of issur, introduced into a permitted mixture, is batel in shishim. However, afterwards, more of the prohibited substance is added, which when combined with the previous amount, shifts the ratio between issur and heter, leaving the heter at under shishim, with the taste of the issur discernable in the mixture.

Do we assume that once the original issur has been rendered insignificant, it cannot rejoin that which was added and prohibit the mixture? Or might we suggest that we must reevaluate the status of the mixture and possibly conclude that since whenever a mixture carries the taste of a prohibited substance, it itself is prohibited, this mixture should therefore be rendered non-kosher?

The gemara (Avoda Zara 73a) cites the opinion of Rav Dimi who states that if one pours prohibited wine into a container of permitted wine, each drop of wine that falls in is batel (rishon rishon batel); therefore, even after dripping into the permitted wine for an entire day, the mixture is permitted. While the laws of yayin nesekh (wine prohibited because of pagan worship) in general, and this sugya in particular, are rather complex, I would like to examine two explanations offered by the Rishonim.

The Ra'avad explains that although the gemara ultimately rejects the halakha of Rav Dimi, that is only in regard to prohibited wine. However, regarding other prohibitions, the principle of "rishon rishon batel" IS accepted and therefore once an issur has been rendered batel, it may never again combine with an additional quantity of the issur and prohibit the mixture.

This opinion, of course, is extremely difficult. In fact, most Rishonim, including the Ramban, reject the Ra'avad's understanding of the gemara. The Ramban asserts that a prohibited substance rendered batel may be "chozer ve-ne'or" (literally, "reawaken") and join the newly added issur in prohibiting the mixture.

The Rema (99:6) adopts the position of the Ramban, and, indeed, this is the more understandable position. How can a mixture that tastes like the prohibited substance, and does not even currently contain sixty parts of heter for each part of issur be permitted?

Seemingly, the Ra'avad's position should be linked to a certain understanding of ta'am and bitul be-shishim. If shishim is not merely a "reasonable guess" at when the taste of issur is no longer discernable, but rather, a halakhically recognized percentage at which the prohibited substance is deemed insignificant, one MIGHT suggest that at that point not only is the issur to be ignored, but it forever loses its status of issur, and may even join the heter in rendering the new issur to be batel.

Chozer Ve-Ne'or and Yavesh Be-Yavesh:
While the suggested explanation for the Ra'avad may seem difficult when speaking of a lach be-lach (all-liquid) mixture, a yavesh be-yavesh (all-solid; lit., all-dry) mixture might be different.

The Rishonim debate whether the principle of "chozer ve-ne'or" also applies to a dry mixture of prohibited substances. Some claim that if a piece of non-kosher meat was already batel in a dry mixture, i.e., if its presence and percentage were already known, then we apply Rav Dimi's principle of "rishon rishon batel" and even if subsequently another piece of non-kosher meat falls in, raising the ACTUAL percentage of non-kosher meat to "rov" (a majority), the mixture is still permitted.

This application may depend upon how one views the bitul of an issur in a dry mixture (yavesh be-yavesh). Do I say that "chances are" that the piece I take will be kosher, and therefore I may rely upon the majority, or might I instead believe that bitul works in a very conceptual, halakhic fashion. A piece of meat that has been batel is no longer deemed prohibited. "Issur nehepakh le-heter" - the prohibited substance is transformed into a permitted substance.

Seemingly, according to the former, the halakha should be that the issur is "chozer ve-ne'or," as the chances of eating a kosher piece are now no longer in one's favor. However, according to the latter, one may really believe that "rishon rishon batel," especially in the world of "yavesh be-yavesh," which isn't bound by notions of ta'am.

The Rosh, however, seems to adopt a difficult position. The rishonim debate whether in a case of "chad be-trei" - two pieces of kosher meat mixed with one non-kosher piece - one may actually consume ALL of the pieces. The Rosh claims that one SHOULD NOT view the bitul of yaveh be-yavesh as a form of "relying upon the majority of chances." If that were so, eating all three pieces, especially at once, certainly entails consuming the non-kosher piece. Rather, "issur nehepakh le-heter," the prohibited piece is transformed into a permitted piece, and ALL the pieces may be eaten.

If so, it would seem to follow that if after a prohibited piece is batel, another prohibited piece is added, taking away the ACTUAL majority of kosher pieces, the HALAKHIC majority still holds and the pieces should still be permitted! The Rosh, however, believes that the original prohibited piece is "chozer ve-ne'or" and the entire mixture is now prohibited. Doesn't this contradict the earlier decision of the Rosh?!

Seemingly, one must suggest that the Rosh does not really believe that the issur is forever "nehepakh le-heter," but rather that the identity of the ENTIRE mixture is determined by the rov. Therefore, if the majority of pieces are permitted, one should relate to the ENTIRE mixture as a mixture of permitted substances. However, if the rov changes, so might the identity of the mixture, from heter to issur, and therefore all pieces of the mixture are now, once again, prohibited. Therefore, the Rosh writes, we should re-evaluate the mixture and employ the halakha of "chozer ve-ne'or."

The Rema (99:6) writes that the principle of "chozer ve-ne'or" applies to ALL mixtures, whether of dissimilar or similar, dry or wet, substances.

Te'imat Yisrael:
Until now we have assumed that either a non-Jew must taste this questionable combination, or there must be at least sixty parts of heter per part of issur, in order to permit the mixture. Our question has been, are we interested in determining that there is no taste, or in concluding that the presence of issur is so insignificant that it may be ignored? However, one may now ask, can a Jew taste the mixture to determine if the ta'am of issur is discernable?

The Shulchan Arukh (YD 42:2-3) notes that an animal missing a gall bladder (mara) is deemed a "treifa" and must not be consumed. Occasionally, the gall bladder cannot be found in the inner cavity, but we suspect that it may have "dissolved" into the surrounding area. The only way to determine if it was present, and thereby to permit the animal for consumption, is by tasting the area. If a bitter taste can be detected, clearly the gall bladder was there and the animal is permitted. However, if no bitter taste is discerned, it should be considered a treifa. The Shulchan Arukh permits one to employ this taste test.

Regarding our topic, the acharonim ask, why can't one simply taste the mixture to determine if the taste of non-kosher taste is present, just as one may taste the area of the gall bladder in order to determine if the animal is a treifa.

The Taz (98:2) actually agrees, in theory, that one could taste the mixture to check for the presence of ta'am issur. Tasting alone is apparently not problematic, he asserts, just as one may check for the gall bladder in the above scenario. Furthermore, one may taste (with one's tongue) on a fast day (see OC 5367 - and Mishna Berura - regarding washing out one's mouth), and one may even taste a piece of meat to check if it was salted, despite the risk of consuming blood from an unsalted piece.

In our case, however, merely tasting the mixture would be insufficient. In order to discern the taste, or lack of taste, of a non-kosher product, one would have to swallow the issur, which is certainly prohibited.

The Shakh disagrees. Tasting prohibited substances is always prohibited. The Shulchan Arukh permitted checking for the gall bladder only because it is extremely rare that an animal is missing its gall bladder, and therefore the rabbis permitted one to taste the questionable area. Similarly, one may NOT taste a piece of meat to determine if it was salted lest there be blood in the meat. Therefore, the gemara insists that one consult with a kefeila, or rely upon shishim, if one wishes to permit a questionable mixture.

Next week we will address the uniqueness of a mixture of similar substances (min be-mino), and discuss the debate regarding the possibility of bitul in such a mixture. Furthermore, we may ask whether the halakhot of bitul only relate to accidental mixtures of permitted and prohibited substances, or whether one may intentionally bring about a situation of bitul, i.e., "bitul issur le-khat'chila."

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 09: Min Be-Ino: Mixtures of Similar Substances

In previous shiurim, we discussed the unique qualities of mixtures of wet, dissimilar substances (lach be-lach, min be-she'eino mino). Regarding this mixture, we explained that the ability or lack of ability to discern the taste of issur greatly impacted upon the halakha. On the one hand, when the taste of the prohibited substance taste is noticeable, even a majority of heter is unable to nullify the prohibited substance, in which case the mixture would only be allowable when there are sixty parts of heter (shishim). On the other hand, when the taste of issur is not discernable, we may possibly permit the mixture even without shishim.

This week, we will address the uniqueness of a mixture of wet SIMILAR substances (lach be-lach, min be-mino), and attempt to define which substances are considered "similar" vs. "dissimilar."

A. R. Yehuda and Chakhamim:

The fundamental question that must be addressed is, Should the inability to discern the taste of issur lead us to a more lenient conclusion or a more stringent one?

The gemara (Menachot 23a) cites a debate between R. Yehuda and the Chakhamim regarding this question. According to R. Yehuda, in a mixture of similar substances, the issur is "assur be-mashehu"; i.e., even the smallest amount of issur might prohibit the mixture. There is no way to render the prohibited substance "batel" and permit the mixture. Chakhamim, however, claim that the issur is indeed batel in a majority of heter. This mixture, according to the Chakhamim, is treated more leniently than a mixture of dissimilar substances.

The gemara explains that R. Yehuda and Chakhamim differ regarding their explanation of a Biblical verse. The Torah says (Vayikra 16:18) that during the Yom Kippur service in the Temple, the kohen gadol must "take from the blood of the bull (dam ha-par) and from the blood of the goat (dam ha-sa'ir) and place it on the corners of the altar." R. Yehuda, understanding that the blood of the bull and goat are mixed together, asks: Since the bull clearly has much more blood than a goat, shouldn't the dam ha-par nullify (by rov) the dam ha-sa'ir? And if so, what is the value of bringing the blood of the goat at all?

From this he concludes that, it must be that the blood of the bull does NOT nullify the blood of the goat, as they are both similar substances. From here, R. Yehuda learns that an issur mixed with a similar heter substance is "oser be-mashehu," i.e., prohibits the entire mixture.

Chakhamim, on the other hand, explain that while generally an issur is "batel be-rov" in a mixture of similar substances, here, "ein olin mevatlin zu et zu;" i.e., this principle does not apply to a mixture of blood from different korbanot. The Rishonim offer different explanations of the Chakhamim's answer. We will cite the Ran's explanation shortly.

While we have seen than R. Yehuda and Chakhamim debate the proper interpretation of a verse, we must still ask ourselves WHY should a mixture of similar substances be treated more leniently, or more stringently, than a mixture of dissimilar substances?

Seemingly, we can suggest two different understandings of the debate between R. Yehuda and Chakhamim.

We may suggest that the debate between R. Yehuda and Chakhamim is dependent upon our understanding of ta'am and its role in a mixture of dissimilar substances.

In previous weeks, we suggested two understandings of the uniqueness of a mixture of dissimilar substances.

1. The ability to discern the presence of the issur, through its taste, usually PREVENTS the bitul of the prohibited substance in a majority of permitted matter (rov).

2. Any mixture carrying the ta'am of issur is prohibited. The TASTE of issur prohibits a permitted substance, regardless of its percentage in the mixture.

These approaches may also impact our understanding of a mixture of SIMILAR substances (min be-mino).

1. We might suggest that Chakhamim believe that since the taste of issur cannot be distinctly discerned in a mixture of similar substances, there should be no obstacle to invoking bitul be-rov. R. Yehuda, on the other hand, may believe that since one can never be sure that one does not taste the ta'am of issur, the mixture, by definition, must always be prohibited.

2. Alternatively, me may suggest that the debate between R. Yehuda and Chakhamim revolves around the nature of bitul, and not the role of ta'am. The Ran (Nedarim 52a) suggests that the whole notion of bitul ONLY applies, by definition, to dissimilar substances. Bitul implies that one substance has overcome, or even eclipsed, a second substance. A similar substance, however, will not weaken a second substance, and may even strengthen its presence in or effect upon the mixture. Therefore, the Ran explains, R. Yehuda believes that there cannot be bitul in a mixture of similar substances.

If so, the Ran asks, how can Chakhamim posit that the issur is batel in a majority of heter? One could suggest that the debate between R. Yehuda and Chakhamim revolves around this very issue, and Chakhamim actually disagree with this principle. Accordingly, they believe that a statistically insignificant presence should certainly be deemed batel be-rov, regardless of whether it is similar or dissimilar to the majority.

The Ran, however, explains it differently. He suggests that according to Chakhamim one should actually view every mixture of similar tasting foods as a mixture of dissimilar substances. After all, while they may taste alike, they are different in status. Such a mixture contains both permitted and prohibited substances, thereby categorizing it as a mixture of dissimilar substances (min be-she'eino mino). This explanation is fascinating, as it allows us to use halakhic status - as opposed to physical taste - as a means of declaring the substances in a mixture as similar or dissimilar!

Based on this reasoning, the Ran explains that the blood of the bull cannot nullify the blood of the goat, as they do not represent opposing halakhic categories; rather, both are korbanot, and therefore "ein olin mevatlin zu et zu."

We shall return to this intriguing way of defining similar and dissimilar substances.

There may be a practical difference between our two understandings of the debate between R. Yehuda and Chakhamim.

The Rishonim question whether R. Yehuda is stringent regarding only a mixture of wet substances (Tosafot Menachot 22b) or also of dry substances. One may suggest that if R. Yehuda prohibits any mixture of similar substances because one can never claim that the issur cannot be detected by taste, this certainly is not the case regarding a mixture of dry substances, in which the issur does not spread throughout the entire mixture. However, if the debate revolves around the nature of bitul, as the Ran explained (whether it applies only to dissimilar substances or also to similar substances), this debate should apply to dry mixtures as well!

Most Rishonim (Tosafot Chullin 97a, Rashba, etc.) assume that the halakha is in accordance with the opinion of Chakhamim. Rashi (Chullin 109a, Avoda Zara 66a), however, writes that "common practice" (halakha rovachat) is to follow the opinion of R. Yehuda, thereby prohibiting a mixture with even the slightest amount of issur in a mixture of similar substances. The Shulchan Arukh accepts the position of the Chakhamim, that mi-de'oraita, the issur is batel be-rov.

However, the Gemara (Chullin 97b) implies that while Chakhamim believe that the issur is nullified by a simple majority of heter, mi-derabbanan, a "min be-mino" mixture can only be permitted when there are SIXTY parts of heter per part of issur. In other words, although the halakha is in accordance with Chakhamim and the prohibited substance is indeed batel be-rov, still, on the derabbanan level, the mixture is only permitted if there is shishim.

Regarding the scope of this rabbinic extension, the Ramban believes that shishim is only required if the prohibition is of biblical origin, or a rabbinic extension of a biblical principle (e.g., chicken and milk). However, prohibitions that are completely of rabbinic origin are still batel be-rov, i.e., in a majority of heter. The Rashba, however, insists that only chalat chutz la-aretz (chalah taken outside of Israel) is batel be-rov, and all other mixture of dissimilar substances require shishim. This debate continued into the period of the Acharonim. The Minchat Kohen (1:1) was stringent, while the Shakh (112:14) permitted bishul akum - food cooked by a non-Jew - in a majority of heter.

The Shulkhan Arukh, as mentioned above, concurs with the opinion of Chakhamim, and also rules that a mixture of similar substances is only permitted when there are sixty parts of heter.

B. Definition of Min Be-Mino and Min Be-She'eino Mino:

Before concluding our in depth introduction to the laws of mixtures, we must address one more point. Until now, we have discussed "similar" and "dissimilar" mixtures in very vague terms, without defining what makes one substance similar or dissimilar from another.

The Gemara (Avoda Zara 65a) cites a debate between Abayye and Rava regarding prohibited wine that has NOT aged (chamra chadeta) which comes into contact with ordinary grapes. It is clear that had the wine aged, the mixture is considered "min be-she'eino mino," as the aged wine is distinct from the grapes in both taste and name. The Gemara, however, questions whether new wine should be considered different from grapes.

Abayye adopts the seemingly obvious position, that since the new wine and the grapes are NOT distinct in taste, the mixture should be considered one of "min be-mino." The gemara refers to this as "batar ta'ama azlinan," i.e., that the taste is that which defines the nature of the mixture. Rava, however, disagrees. He claims that "batar shma

azlinan;" i.e., that the name of title of the substances defines the nature of the mixture. Therefore, since wine and grapes are different substances, even though their taste is similar, the mixture is considered "min be-she'eino mino."

The Rema (98:2) accepts the opinion of Rava, ruling that a mixture's identity is determined by the classification (shma) of the ingredients and not by their tastes (ta'ama). The Shakh disagrees. He argues that the principle of ta'am ke-ikar is predicated upon the assumption that the taste defines the nature of a mixture! If Rava is indeed referring to a regular mixture of dissimilar substances, then what role can the kefeila (non-Jewish cook) possibly play? The position of Abayye, the Shakh argues, is clearly correct, and Rava must only be referring to unique prohibitions such as yayyin nesekh (prohibited wine). While the Taz (see the Daf Acharon) and the Chavat Da'at attempt to defend the Rema, and even offer different explanations of his ruling, the majority of Acharonim accept the position of the Shakh.

The ruling of the Rema, however, still remains puzzling. How could we possibly maintain that the identity of a mixture is NOT determined by the taste of its ingredients? Earlier in this shiur, we noted that the Ran explained that Chakhamim view all mixtures of similar TASTING substances as mixtures of dissimilar substances (min be-she'eino mino), since their identities, i.e., prohibited and permitted, differ. In other words, according to the Ran, halakhic status or title, and not taste alone, determine whether a mixture is considered similar or dissimilar.

If so, we may suggest that while halakhic status may be sufficient to invoke the halakha of bitul, the requirement of shishim is applicable only if the substances differ not only in halakhic status, but also in name! Then, according to Rava, they are truly "dissimilar," and the mixture can only be permitted if there are sixty parts of heter.

Seemingly, this approach must understand "ta'am ke-ikar" as a problem that arises when any foreign substance - usually, although not always, identified by its unique taste - is introduced into a mixture. It is not the taste of the issur, but rather its presence, which prohibits the mixture (see the Chavat Da'at who suggests a similar explanation). This explanation, however, seems to contradict the Rema's ruling regarding chozer ve-ne'or (see previous shiur), "ve-tzarikh iyyun."

Finally, I would like to list a few of examples of similar and dissimilar ingredients mentioned by the poskim. The Acharonim note, for example, that while meat from all animals is referred to as "meat," chicken and beef should be considered dissimilar substances. Furthermore, the Arukh Ha-Shulchan posits that even the meat of different birds (chicken and duck) or different fish, should be considered "min be-she'eino mino." However, pieces of the same fish, or of the same kind of fruit, of which some are dried and some are pickled, etc., are considered "min be-mino." Poskim differ regarding whether different parts of an animal, i.e., liver, heart, beef, etc., should be considered similar or dissimilar substances. The Peri Chadash (98:7) and the Arukh Ha-Shulchan (98:50) view them as dissimilar pieces.

Next week, we will discuss the prohibition of intentionally nullifying prohibited substances (bitul issur le-chatkhila).

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 10: Intentional Nullification of Prohibited Substances

Ein Mevatlin Issur Le-khat'chila

In previous shiurim, we discussed the laws of "bitul," i.e., under which circumstances may we permit the consumption of a mixture into which a prohibited substance was unintentionally introduced. In a related vein, we must ask whether one may intentionally introduce an issur into a permitted mixture. While it may seem inappropriate, is it actually prohibited? This question has great ramifications for those who produce food as well as for the kosher consumer. In this shiur, we will explore the basic principles and applications regarding intentional nullification of issurim.

The gemara (Betza 4b) assumes that it is prohibited to intentionally introduce an issur into a mixture; in other words, "ein mevatlin issur le-khat'chila." What is the source for this halakha? Is its origin biblical or rabbinic? Why is it prohibited? Does this halakha relate to all methods of nullification and/or to all prohibited substances alike?

While most rishonim explain that this halakha is only of rabbinic origin, the Ra'avad asserts that mi-de'oraita one may not intentionally nullify an issur.

He derives this from a rather complex halakha involving the ram offering of a nazir. The Torah (Bemidbar 6:13–20) relates that after a period of abstention from grape products and haircuts, a nazir must bring three korbanot: a sheep and an ewe as sin offerings (chatat), which he does not consume, and a ram as a peace offering (shelamim), from which he must partake. After the ram is cooked, the kohen takes the upper foreleg (zero'a) and waves it (hanafa). This zero'a is to be consumed by the kohen and is prohibited to non-kohanim (zarim). The rest of the ram is consumed by the nazir.

This upper foreleg, according to one opinion in the gemara, is cooked WITH the rest of the animal, and is therefore known as the "zero'a beshela" – the "cooked limb." Is it not true, the gemara asks, that this foreleg, which permitted to the kohen but prohibited to the nazir, lends taste to the rest of the ram, thereby prohibiting the entire ram to the nazir?

Since this is not the case, the gemara deduces that a prohibited substance can be batel in an overwhelming majority of heter, and goes on to debate whether the ratio of permitted meat to the prohibited "zeroa beshela" is one to sixty, or one to one hundred. In any case, the Torah seems to permit the nazir, when cooking the foreleg with the rest of the ram, to intentionally nullify the taste of issur.

The gemara is aware of the uniqueness of this case, and describes this phenomenon as a "chiddush," i.e., something we would not have known or permitted had the Torah not stated it explicitly. However, it is unclear what exactly is the nature of this chiddush.

The Ra'avad claims that the chiddush is that while the Torah generally prohibits "bitul issur le-khat'chila," in this case the nazir is permitted to intentionally nullify the taste of the "zero'a beshela." Elsewhere, it is prohibited.

The majority of rishonim disagree with the Ra'avad, and understand the chiddush differently. Ordinarily, they explain, while there is no explicit prohibition against intentionally nullifying issurim, the nazir would not do so, as such as act is viewed as inappropriate. Here, however, despite our general negative assessment of intentional nullification, the Torah commands the nazir to cook the foreleg with the rest of the ram. According to these rishonim, the Talmudic principle of "ein mevatlin issur le-khat'chila" is of rabbinic origin. The halakha is in accordance with this opinion.

Beyond the source of the prohibition, we must ask ourselves, what is the nature of this statute? What is wrong with the intentional nullification of issurim?

One could suggest a number of possibilities.

1. The halakha of "ein mevatlin" is meant to protect one from a situation in which one miscalculates the quantity of heter necessary to nullify a prohibited substance.

2. The halakha of "ein mevatlin" may reflect the Torah's disapproval of intentionally nullifying that which the Torah prohibited, or may even reflect a broader disapproval of any form of consumption of issur, even when batel, if done deliberately.

3. The halakha of "ein mevatlin" may reflect an inherent problem of intentionally relying upon the mechanisms of "bitul be-rov" and "shishim," which were intended only for "be-di'avad" scenarios.

Seemingly, the majority of rishonim, who believe that "ein mevatlin" is of rabbinic origin, may adopt any of these understandings. Yet, according to the Ra'avad, who maintains that "bitul le-khat'chila" is prohibited mi-de'oraita, it would seem that the reason must be fundamental rather than technical. In other words, it seems unlikely that the Torah would prohibit the intentional nullification of issurim lest one miscalculate the quantity of permitted substance required.

Are there any practical differences between these approaches? I would like to note two interesting opinions that may shed light on our question.

1. The Rashba, who incidentally explains that the chiddush of "zero'a beshela" is that it is "inappropriate behavior" (genai) to intentionally nullify an issur, notes an exception to this halakha. He claims that if an extremely LARGE pot that is ALWAYS used for large quantities absorbs a very SMALL amount of issur, one may continue to cook in this pot. Although every time it is used the small amount of issur enters the mixture, is rendered batel in the large quantity of heter cooked in it. This, the Rashba claims, is not prohibited by the principle "ein mevatlin issur le-khat'chila". Rav Yosef Karo (YD 99:7) writes that the halakha is in accordance with this opinion. A number of acharonim disagree with this ruling.

How can we understand the opinion of the Rashba? While one may attempt to employ his interpretation of chiddush, cited above, and suggest that nullifying such a small quantity of issur is not considered inappropriate, alternatively, we may suggest that since there is no fear of miscalculation in this scenario, the halakha of "ein mevatlin" should not apply. Those who reject the Rashba's opinion may either believe that nullifying even the smallest amount is still deemed inappropriate, or, that bitul by its very nature is only to be invoked is a situation of "be-di'avad," not "le-khat'chila."

2. Rabbi Yehezkel Landau, author of the Noda Be-yehuda, offers another intriguing distinction. He suggests (Mahadura Tinyana YD 45) that while intentional nullification of a prohibited substance that is absorbed into another substance (lach be-lach) is certainly prohibited only rabbinically, intentional nullification of a piece of issur in a mixture of dry substances (yavesh be-yavesh) is biblically prohibited.

He argues that the Torah permits one to consume a mixture of kosher and non-kosher pieces, as long as the majority of pieces are kosher, based on the biblical principle of "acharei rabim le-hatot" - one should follow the majority. However, "If Elijah the prophet would arrive" and identify the issur, it would surely still be prohibited! If so, it is inconceivable that the Torah would permit one to intentionally rely upon this principle! The reliance upon a majority is clearly intended for situations in which there is no other choice; "bitul be-rov" is not to be invoked intentionally.

In other words, the Noda Be-yehuda suggests that intentional nullification of prohibited substances is not permitted because it contradicts the very nature of "bitul be-rov." However, regarding a mixture in which the substances merge completely and the prohibited substance disappears into an abundance of heter, it is difficult to find a fundamental reason why it is not permitted, and therefore is only prohibited rabbinically.

Intentional Nullification of Rabbinically Prohibited Substances

May one intentionally nullify a rabbinically prohibited substance?

The gemara (Beitza 4b) posits that if branches, which are deemed muktzeh on Shabbat and Yom Tov since they serve no purpose if they are not prepared for use before Shabbat or Yom Tov, fall into one's "oven" (or "campfire") on Yom Tov, one may add pre-prepared twigs (which are not muktzeh) to the oven, thereby nullifying the presence of the prohibited branches and permitting one to move the entire pile of branches. Isn't this a form of intentional nullification? The gemara answers that one may nullify rabbinically prohibited substances.

The gemara, however, does not explain whether this exception applies to all rabbinically prohibited substances, or just to muktzeh and the like. Additionally, the gemara does not indicate whether one may intentionally add the issur to a mixture, or only add heter to a mixture into which prohibited matter accidentally fell.

The Rishonim debate this issue.

The Rambam (Hilkhot Ma'akhalot Assurot 15:25), for example, permits adding heter to a mixture containing any rabbinically prohibited substance. Therefore, he permits adding milk to mixture in which chicken and milk were combined, since a mixture of chicken and milk is prohibited only mi-derabanan. Tosafot (Beitza 4b) limit the gemara's ruling to cases in which the issur's entire origin is rabbinic ("ikro mi-derabbanan"), (as opposed to a rabbinic issur that is an extension of a Torah issur) such as muktzeh. This excludes Rambam's case of rabbinically prohibited milk and chicken, which is clearly an extension of the biblical prohibition of milk and meat. Others, such as the Rosh, claim that one is never permitted to nullify a prohibited substance, and that the gemara was lenient only in a case in which the issur would be destroyed (i.e., burned).

The Mechaber (Shulkhan Arukh YD 99:6) accepts the ruling of the Rambam, permitting one to add heter to a mixture into which issur accidentally fell. The Rema adopts a more stringent ruling, unequivocally prohibiting the intentional nullification of issurim.

The Consequences: If One Intentionally Nullified A Prohibited Substance

Based on a mishna (Orla 3:8) cited by the gemara (Gitin 54:), most rishonim rule that if one intentionally nullifies an issur, the mixture remains prohibited. This is in order to discourage such behavior. While many rishonim (Rambam, Rosh, etc.) assume that the mixture is prohibited only to the person who nullified the issur, the Rashba insists that the mixture is also prohibited to the party for whom the issur was intentionally nullified (nitbatel bishvilo)! The Shulkhan Arukh accepts the position of the Rashba.

The acharonim debated a fascinating, and very practical, question. Who constitutes "nitbatel bishvilo"? Must the person know that the issur was nullified for his sake? What about a baker who intentionally adds a minute quantity of a non-kosher ingredient to his baked goods? The Taz (Y"D 99:10) rules that while his family may not partake of the food, others may. Rabbi Akiva Eiger (YD 99), though, insists that the food is prohibited.

Some Acharonim are more lenient if the baker is not Jewish (see Darkhei Teshuva 108:2).

The application for today's manufactured foods market is obvious.

Incidentally, a parallel debate exists regarding food cooked on Shabbat. Generally, the halakha states while one who cooks on Shabbat may never partake of that food (Shulkhan Arukh OH 118), those who did not do the cooking may benefit from the food after Shabbat. The acharonim debate whether the Rashba's opinion, which is accepted regarding intentional nullification of issurim, should be applied in a similar fashion to our case. Should food cooked on Shabbat be prohibited to those for whom the food was cooked? Is there a distinction between a factory or an inn that cooks for its customers, and an ordinary person who cooks for his neighbor?

Innocent Intentions

The Shulkhan Arukh (YD 84:13) rules that one may heat up honey into which ants, a prohibited substance, have fallen in order to make it easier to remove the undesirable substance. Clearly, the acharonim point out, heating will cause a transfer of taste from the ants to the honey. The Shakh (99:7) explains that since one's intention was to improve the mixture, and not to nullify the issur's presence, one is permitted to heat the honey. Similarly, the Ran (Avoda Zara 33b) notes that while the process of "hag'ala," i.e., "kashering" utensils by immersing them in boiling water, usually entails "bitul," (as the prohibited substance is expelled into the water), since one's intention is not to benefit from the issur, but rather to eject it and permit the utensil, it is permitted.

The acharonim debate the scope of this heter. Is one permitted to introduce the prohibited substance to the mixture only when there is no alternative? Some even permit producing juice from fruits that are generally infested with bugs, as it would be very cumbersome to check each and every fruit (see Pit'chei Teshuva YD 99). Others disagree.

Nullification of Permitted Substances

The Rema (YD 99:6) rules that if milk fell into water and was nullified in it, and afterwards that water fell into a pot of meat, even if there are not 60 parts of meat per part of milk, since the milk has been nullified in the water, the mixture is permitted.

The Shakh adds that one may even intentionally use the water with meat, since the milk has already been nullified by the water. However, some acharonim claim, one may not add milk to water with the intention of adding that water to meat.

If so, it would seem that one may intentionally fry meat with margarine that contains 1% milk! Similarly, it would seem that one may use non-stick sprays marked "dairy," if their dairy content is less than one sixtieth of the content of the spray, for frying meat! If so, one may question why the product is marked "dairy" at all?

The OU, for example, in an email response to an inquiry (6/17/00), explained their policy.

This the OU's Policy. When a manufacturer wishes to add an ingredient where the dairy component had become batel, he can get a Pareve Status for his product. But a company producing a product where the recipe calls for a tiny drop of dairy among vastly more of Pareve ingredients, he wants to be "mevatel le-khatchila" the drop of dairy - that is halakhically not permitted. Which is why such products get the OU-D designation.

One may wonder whether the consumer should ALSO be considered a "mevatel," i.e., one who is intentionally nullifying, since he is using a product to which milk was intentionally added, along the lines of adding milk to water in order to add it to a mixture of meat, which most poskim prohibit.

In any case, certainly "be-di'avad" the food (and utensils) may be used. One should consult a rabbinic authority regarding the intentional use of such margarine or non-stick sprays, although such a practice would seem to be inappropriate due to the confusion it may cause.

Our next shiurim will explore the effect of non-kosher taste on food and utensils.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 11: Hakhsharat Keilim (Part 1)

Introduction to Hakhsharat Keilim:

The Torah relates that after conquering Midian, Elazar Ha-kohen commands the army,

This is the decree of the Torah which God has commanded to Moshe, only the gold and the silver, the copper the tin and the lead, everything which comes into the fire you shall pass through the fire, but it must (also) be purified by the water of sprinkling, and everything which does not come into the fire you shall pass through the water (Bemidbar 31:21-23).

In other words, utensils taken from Midian must undergo two processes - hakhshara ("everything which comes into the fire you shall pass through fire"), and tevila ("purified by the water of sprinkling").

In this week's shiur, I would like to address the following questions.

Why must we "kasher" utensils, and what is the relationship between the process of hakhshara and the process of tevila?
What are the principles and halakhot of hakhsharat keilim?
Why must we kasher utensils?

In our first shiur, we addressed the issue of "ta'am ke-ikkar," i.e., the taste is akin to the substance. We noted that the tanaim, as well as the rishonim, debate whether the taste of a prohibited substance, without the presence of the substance itself, is prohibited mi-de'oraita or mi-derabanan.

Those who maintain that "ta'am" is considered "ke-ikkar" mi-de'oraita cite the above parasha as a proof (Pesachim 46b). Why would the Torah insist that the utensils be kashered if not for the concern that they may impart taste to the food cooked in them? If so, then the process of "hakhsharat keilim" is clearly, on a minimal level, an attempt to extract or destroy the prohibited taste absorbed in the walls of the utensils. What emerges, according to this opinion, is that the Torah commanded the Jewish people to subject the utensils taken from Midian to two distinct processes: hakhshara, which extracts or destroys the prohibited substance, and tevila, which ritually cleanses the utensil.

Seemingly, those who maintain that "ta'am ke-ikkar" is only of rabbinic origin will find difficulty in explaining the need for kashering utensils! What is the value in extracting or destroying that which is halakhically insignificant?

The Ra'ah (Bedek Ha-Bayit bayit 4 sha'ar 1) cites the Ramban, who apparently also grappled with this issue, as viewing the requirement to kasher utensils as a "ma'ala she-asu be-keilim," a unique stringency, similar to the requirement to tovel (immerse) utensils. If so, then the Torah actually required that utensils taken from Midian be subjected to two SIMILAR processes, hakhshara and tevila. What, therefore, is the difference between them? One may suggest that through the somewhat symbolic act of hakhshara, which extracts or destroys that which is absorbed in the walls of the utensil -

despite its halakhic insignificance - one severs the utensil from its past associations. Afterwards, one immerses the utensil in a mikveh, sanctifying it and permitting its future use.

This question of whether hakhsharat keilim should be viewed as a process of extracting or destroying prohibited food in order to prevent its consumption, or as an act more similar to tevilat keilim - part of a process of spiritual purification of the utensil - may help us to explain a number of halakhic disputes.

The rishonim debate whether hakhsharat keilim should be included in the list of the 613 mitzvot. Most rishonim, who do not include this halakha, most likely view the process of kashering utensils as not much different from removing bugs from vegetables, which is clearly no more than a means of avoiding the consumption of prohibited substances and therefore would not warrant an additional, independent mitzva. A few rishonim, including the Semak (198) and the Tosafist R. Yosef Mi-orleans, however, seem to count hakhsharat keilim as a mitzvat aseh. It would seem that according to their opinions, one must attribute to hakhsharat keilim more that the mere removal of issur in order to count it as a mitzva.

Similarly, unlike tevilat keilim, no berakha is recited on hakhsharat keilim. Some (Issur Ve-heter 58:104) suggest that since one is merely preventing the consumption of a prohibited substance, there is no need for a berakha. This is clearly the simplest understanding.

However, some offer alternative explanations, such as the Orchot Chayyim (Chametz U-matzah 95) who suggests that a berakha is not required since one can just as easily use new utensils. Seemingly, the very search for a reason other than the above explanation may imply that fundamentally hakhsharat keilim DOES warrant a berakha (as it is not just a means of purging the utensil from prohibited substances), and does not receive one for a completely separate reason.

A debate between the Biblical commentators may also shed light on our question. The commentators note that the Torah refers to utensils which have "come into fire," which must be passed through fire, and those which "have not come into fire," which must be passed through water. What type of contact with prohibited substances is the Torah referring to, and what are the methods of kashering these utensils?

Some commentators explain that the Torah is referring to two separate modes of absorption of issur. If the utensil absorbed a prohibited substance over the fire, the utensil must be kashered over the fire, i.e., through what is commonly known as "libbun." If, however, the utensil absorbed issur in a different manner, i.e., through cooking in a liquid, the utensil must be immersed in boiling water, i.e., hagala. If so, the Torah specifies two different methods of kashering utensils.

Others (see Ramban) explain that any utensil that has absorbed issur through contact with heat must be kashered through contact with heat. However, there may be different levels of absorption and hence of hakhshara. A utensil that absorbed issur while directly exposed to fire must undergo "libbun," while a utensil which absorbed issur without direct exposure to fire, must undergo "hagala." The first verse, then, is referring to the several types of hakhshara (not just one), and may be expressing the principle of "ke-bol'o kakh polto" – the way is which a utensil absorbed a prohibited substance is the way which the utensil will expel that substance. If so, one may ask, what is the second verse referring to? Some explain that the Torah is merely stating that a utensil that did not absorb prohibited taste, but rather came into contact with a prohibited substance without any heat, must be "passed through water," i.e., must be washed. This explanation seems rather odd. Isn't it obvious? Must the Torah command us to wash our dishes?

One might suggest that we might have thought that this utensil must also undergo a process of hakhshara, and the Torah is telling is that washing is sufficient. Yet, one may wonder, why would I have thought that? Seemingly, such a "hava amina" must assume that hakhsharat keilim is NOT merely extracting or destroying the prohibited taste, for here, the taste was never absorbed! Accordingly, I may have viewed the process of hakhsharat keilim as similar to tevilat keilim, which applies to all utensils. The Torah's conclusion, however, remains unclear. Is our "hava amina" rejected, or merely modified?

Alternatively, one may suggest that merely washing a utensil is ALSO considered a form of hakhsharat keilim. This seems to be the explanation of the Ramban. If so, then clearly hakhsharat keilim is NOT just a process of extracting or destroying issur, but rather an attempt to demonstratively separate the utensil from its past, even by a token act of washing it, before sanctifying it for its future use.

In any case, we certainly adopt the principle of "ta'am ke-ikkar," whether mi-derabanan or mi-de'oraita, and therefore the question remains, is hakhsharat keilim just a process of extraction/destruction of issur, or something more?

I would like to raise one final question. The gemara (Avoda Zara 76a) explains that the taste expelled from a utensil which is "eino ben yomo" - i.e., a day has passed since its last contact with the substance - no longer enhances the food cooked in this utensil (i.e., it is "noten ta'am lifgam"), and its use is NOT prohibited by the Torah. In other words, the Torah only prohibited the use of a utensil which is "ben yomo" dating from its previous contact with the substance. Similarly, the Torah only insisted upon kashering utensils within a day of contact with prohibited foods.

The gemara relates, however, that even after a day has passed one is prohibited mi-derabanan from using this utensil and it must be kashered, lest one mistakenly come to use a "ben yomo" utensil.

Is there a difference between the hakhshara of a utensil which is a "ben yomo" and of a utensil which is "eino ben yomo"?

One might suggest that the hakhshara of a utensil which is "eino ben yomo" simply mimics the hakhshara of a utensil which is "ben yomo." Alternatively, we may suggest that while the hakhshara of a "ben yomo" is intended to extract or destroy the absorbed prohibited taste, the hakhshara of an "eino ben yomo" is merely intended as a demonstrative act, a "matir," intended to sanction the use of a utensil which mi-de'oraita is permitted anyway.

The rishonim debate whether a utensil that is generally used for cooking but is occasionally used over a fire requires libbun or hagala. Is the form of hakhshara determined by "rov tashmisho" or "mi'ut tashmisho," i.e., the majority or minority use?

Seemingly, if one assumes that taste absorbed over the fire can only be "neutralized" through libbun, then how could one possibly maintain that we adopt the more lenient method of hakhshara based on "mi'ut tashmisho"? Some suggest (the acharonim cite the opinion of the Rama Mi-pano) that these rishonim are clearly only referring to a utensil which is "eino ben yomo," as a "ben yomo" utensil must certainly undergo the more stringent method of kashering.

This may answer our question regarding how the more lenient method of hakhshara may be sufficient for a utensil which has absorbed issur over the fire, but we may still wonder, why should the standard of hakhshara differ between a "ben yomo" and an "eino ben yomo" utensil?

We may suggest that while the hakhshara of a "ben yomo" is intended to neutralize that which has been absorbed, the hakhshara of an "eino ben yomo" is merely a demonstrative act, a "matir," meant to permit the utensil that was prohibited mi-derabanan. This act is determined by the majority use of the utensil, and one is not required to be concerned with the minority use.

Rav Yosef Karo (451:5) adopts the more lenient opinion, while the Rema rules in accordance with the more stringent opinion.

Materials Which May or May Not be Kashered:

In order to determine the proper method of kashering a utensil, one must first determine whether the utensil is made of a material that may be kashered. The Torah lists gold, silver, copper, tin and lead as materials suitable for kashering. Elsewhere, the Torah relates that a utensil made of clay (cheres) may NOT be kashered and therefore, after coming in contact with korbanot, must be destroyed.

The gemara, based on this verse, assumes that earthenware (cheres), and similarly china and porcelain, may not be kashered through hagala, as it may never fully expel the taste of the issur. Furthermore, the gemara states that earthenware may not be kashered by libbun, lest one perform it improperly due to concern that the vessel may break under the strain. (It may, however, be returned to the oven and subjected to the same degree of heat and pressure at which it was originally produced, essentially recreating it.)

The rishonim debate whether certain materials not listed in the Torah may or may not be kashered. One the one hand, the Shulchan Arukh rules that wood, stone, and of course metal may be kashered. On the other hand, contemporary authorities disagree concerning synthetic material such as plastic, nylon and even formica. Some distinguish between kashering for Pesach and kashering to remove other prohibited substances. One should consult a rabbinic authority regarding these materials.

The authorities also disagree regarding glass. Some rishonim (Tosafot Avoda Zara 33b, Ran Pesachim 9a and the Ra'avya), based on a mishna in Avot De-Rabbi Natan (41:6), rule that glass does not absorb and therefore need only be rinsed. The Ra'ah (cited by the Ritva Pesachim 39b) maintains that glass is similar to metals and may theoretically be kashered, as long as one is not fearful that it may be destroyed in the process of hagala. Still others (Rabbeinu Yechiel of Paris cited by the Mordekhai Pesachim 3:574) and the Smag view glass as similar to earthenware and maintain that it may not be kashered.

Rav Yosef Karo (Shulchan Arukh 451:26) maintains that glass doesn't require any form of hakhshara and may be rinsed and used, even for Pesach. The Rema, on the other hand, rules that one should be stringent and not kasher glass for Pesach.

The acharonim debate the scope of this stringency. While many (see Bi'ur Ha-gra and Arukh Ha-Shulchan) explain that the Rema rules in accordance with the opinion that equates glass with earthenware, the acharonim debate whether the Rema's stringent opinion applies exclusively to Pesach, or to other prohibitions as well. Contemporary authorities also debate this question. While Rav Moshe Feinstein zt"l (see Halachos of Pesach, Rabbi Shimon Eider p. 139) ruled that normally we do not assume that glass can absorb prohibited substances, others assume that the Rema's ruling applies to all issurim. Some (See Seridei Eish 2:36 and Minchat Yitzchak (1:86)) even adopt a compromise position, suggesting that glass may be kashered from all prohibited substances except for chametz.

For further research, Rabbi Howard Jachter wrote an excellent overview of this question in the Journal of Halacha and Contemporary Society (Number XXVI).

Chag KASHER ve-same'ach. To be continued next week.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 12: Hakhsharat Keilim (Part 2)

Hagala:

As we have seen, a utensil that absorbed a prohibited substance through cooking may be kashered by hagala. Seemingly, hagala extracts the prohibited taste from the utensil. The rishonim discuss whether one need be concerned that the prohibited taste may be reabsorbed into the utensil immediately after extraction or be absorbed into the larger pot within which one is immersing the utensil.

The Shulchan Arukh rules that one should only do hagala to a utensil when the quantity of water is sixty times the size of the utensil, thereby neutralizing the effect of the prohibited taste. Moreover, one may immerse a utensil that is "eino ben yomo" in any amount of water, as the taste that is expelled is "noten ta'am lifgam." The Rema notes that the accepted custom is to perform hagala only on utensils which are "eino ben yomo," thereby avoiding any potential problems. While this is the accepted custom, if waiting twenty-four hours is impossible, i.e., for a wedding in a non-kosher hotel, some permit adding a foul-tasting solution to the water, causing the expelled taste to become "pagum," thereby negating its halakhic impact on other utensils.

A utensil must be prepared for the process of hagala. The Shulchan Arukh notes that one should remove any rust from a utensil, lest there be prohibited matter under the rust. The rust must be removed or subjected to libbun in order to burn away the prohibited substance. As we shall see, libbun kal (see below) may suffice. Some authorities speculate that the lime buildup on some appliances ("kumkums," electric kettles and urns) may be similar to rust.

Similarly, one must also clean all cracks and crevices lest they contain chametz or issur. Where cleaning is difficult, in addition to hagala, the questionable area requires libbun (even libbun kal suffices). Hinged pot covers and attached handles are difficult to clean, and therefore require libbun. Many do not kasher these utensils because of the difficulty involved.

Sometimes, hagala may be difficult to perform because of the size of the utensil. For example, if a utensil is too large to be immersed, the Shulchan Arukh rules that one may immerse half of the utensil, and then the other half. Since hagala is a process of extraction, unlike tevilat keilim, this method of kashering is acceptable.

Similarly, the gemara discusses how one can kasher the rim of a large pot of water. The rim may have occasionally come in contact with food, but the boiling water in the pot cannot reach the very top of the pot. The gemara suggests constructing a rim of cement or clay around the exterior of the pot, thereby raising the height of the pot's walls and allowing the boiling water to overflow and kasher even the top of the rim. Alternatively, the Shulchan Arukh suggests immersing a hot stone in the boiling water, which causes the water to flow over the top of the pot, without lowering the temperature of the water. Similarly, one can heat up a small metal pot over the flame, and immerse it in the water, thereby displacing the water, causing the same effect as the hot stone. As we shall see, libbun kal may also be sufficient for this pot.

As for the process of hagala, most rishonim, as well as the Shulchan Arukh, rule that the principle of "ke-bol'o kakh polto" applies, and a utensil may be kashered the same way in which it was used. Therefore, if a utensil absorbed chametz or any other prohibited substance through irui, i.e., a hot substance being poured onto the utensil, it may be kashered through irui. In other words, one may merely pour hot water from a keli rishon (a pot heated up over the fire) onto such a utensil. Similarly, those who require kashering a utensil which absorbed a prohibited substance in a keli sheni, permit one to kasher this utensil in a keli sheni of hot water. Generally, though, we kasher utensils in a keli rishon of boiling water in case the utensil was ever used in a keli rishon.

Occasionally, however, we do rely upon irui. For example, one may kasher pot handles (assuming one has overcome the above-mentioned problems) through irui, since pot handles are not generally immersed into a keli rishon. Similarly, the Shulchan Arukh rules that one may perform irui on a sink or countertop, as long as it is made of materials that may be kashered. (Some acharonim recommend placing a "hot stone," i.e., a hot brick or a hot metal pot into the sink or over the counter while the water is being poured. By placing a source of heat in proximity to the counter, one raises the level of hakhshara to a level similar to a keli rishon. This is necessary according to those who view all hot pieces of food (davar gush), regardless of their location, as a keli rishon. We will return to this question in a future shiur.

Contemporary authorities discuss the possibility of kashering dishwashers and microwaves based on this principle of "ke-bol'o kakh polto."

The rishonim cite a custom to rinse the utensil in cold water immediately after hagala. While this is the accepted practice, if it was not done, the hagala is still effective.

Libbun:

The gemara (Avoda Zara 75b) states that any utensil which is used over the fire, must be kashered by the fire. Seemingly, we must address the following questions:

What does the process of libbun accomplish? How is it different from hagala?
What is the definition of libbun?
When do we require libbun as opposed to hagala?

The rishonim debate whether libbun DESTROYS the issur absorbed in the utensil, or EXTRACTS it, based upon the principle of "ke-bol'o kakh polto." For example, the Rashba and Ra'ah debate how to use libbun in kashering a utensil which was only partially immersed into a non-kosher liquid. While the utensil was only partially immersed, we may fear that the taste traveled throughout the interior of the utensil. The Rashba (Torat HaBayit Bayit 4 Sha'ar 4) suggests that libbun may be performed only on the area which was immersed in hot liquid, applying the principle of "ke-bol'o kakh polto." If that is how the utensil absorbed the substance, that is how it will expel it. The Rashba clearly seems to view libbun as a form of extraction of issur. The Ra'ah, on the other hand, insists that libbun can only destroy the issur in the area which the fire makes contact with, and in order to destroy the taste which has spread throughout the utensil, the entire keli must be subjected to libbun. The Ra'ah clearly views libbun as an attempt to destroy the issur.

One may suggest that the different interpretations of the parasha in Bemidbar, as explained above, may relate to this question. The commentators seem to debate whether the Torah presents two distinct methods of hakhshara, i.e., passing through fire and passing through water, or one broad principle of "ke-bol'o kakh polto."

This question may also relate to the definition of libbun. The gemara (Avoda Zara 76b) describes libbun as a level of heat which may even peel off the outer layer of the utensil. Similarly, the Yerushalmi describes libbun as a process so intense that it may cause sparks to fly from the utensil. This type of libbun is commonly known as "libbun gamur."

Some rishonim (see Hagahot Maimoniot Hilkhot Ma'akhalot Asurot 17), on the other hand, maintain that merely heating the utensil until heat penetrates through the entire keli - which may be determined by seeing whether a straw or piece of tissue placed on the outside of the utensil burns - is sufficient. This type of libbun is commonly known as "libbun kal."

One may suggest that if libbun is a process intended to destroy the issur, an extremely high temperature should be required. If, however, libbun is also a process of "ke-bol'o kakh polto," merely heating up the utensil should be sufficient.

Rav Yosef Karo rules in accordance with the first opinion, requiring that the utensil become so hot that sparks fly from it. The Rema cites the more lenient opinion, yet rules that one should follow the more stringent opinion.

The Rema, however, seems to endorse the use of libbun kal in a number of situations. Firstly, any utensil which requires hagala may be kashered through libbun kal. This seems to support the notion that libbun kal is based upon the principle of "ke-bol'o kakh polto." Furthermore, for a utensil which fundamentally requires hagala, yet must undergo libbun because of a fear of issur found under rust or in crevices, libbun kal is also sufficient. The Rema also rules that whenever we require libbun "mi-safek," libbun kal is sufficient. The Mishna Berura (451:48) explains that when we require libbun because the minority use (mi'ut tashmisho) of the utensil was over the fire, libbun kal suffices.

Libbun, as mentioned above, is required when a utensil absorbs issur over the fire. While some (see Ra'ah) claim that this is the case only when the utensil was actually used over the fire, most rishonim believe that whenever a utensil absorbs issur without the presence of a liquid, i.e., baking tins and maybe frying pans, libbun is required.

However, the gemara (Avoda Zara 76a) notes that libbun is only required when a utensil absorbs a prohibited substance. However, if a utensil absorbs a permitted substance, such as kosher meat or milk, and one merely wishes to kasher the utensil to change its designation, hagala is sufficient. We will return to this halakha in a future shiur.

The rishonim debate whether absorbed chametz is considered a permitted substance (hetera bala), in which case libbun would never be required, or, based upon its future identity as an issur, is considered a prohibited substance (issura bala) in which case, libbun is at times required. The Shulchan Arukh rules in accordance with the more stringent opinion.

There is no requirement to wait 24 hours before performing libbun.

Ovens:

The authorities disagree regarding the appropriate method of kashering an oven.

Some (Rav Moshe Feinstein zt"l) require libbun gamur. A self-cleaning oven can reach this very high temperature, and therefore one need only clean the oven thoroughly, run the "self cleaning" cycle, and cover the glass door with aluminum. An ordinary oven, however, cannot reach the temperatures require for libbun gamur. Therefore, one can either apply a blowtorch to the walls of the oven, or clean the oven thoroughly and cover the inside of the oven with aluminum foil, or with an insert.

Others maintain that libbun kal is sufficient. Therefore, one must thoroughly clean the oven and then run the oven on the highest temperature for about an hour.

There are two arguments in support of kashering an oven through libbun kal.

Some claim that the primary contact of an oven with food is through steam (ze'ah). The secondary type, or mi'ut tashmisho, is through spills and fallen food. As mentioned above, while we generally require libbun in such a case, because it is only mi'ut tashmisho, libbun kal is sufficient.

Alternatively, some suggest that since libbun may be viewed as a form of "ke-bol'o kakh polto," since prohibited substances may never be absorbed at a temperature higher than the highest setting, that temperature is sufficient to perform effective libbun.

Hakhsharat Keilim from Dairy or from Meat:

Most of the above halakhot apply to kashering from meat to dairy or from dairy to meat. As mentioned above, libbun is not required if the utensil didn't absorb a prohibited substance.

The Magen Avraham (OC 509:11) cites a custom not to kasher utensils from meat to dairy or vice versa. Clearly this minhag is intended to prevent confusion in the kitchen. The acharonim note that when kashering for Pesach, one may change the designation of a utensil (Mishna Berura 452:17). Similarly, when one buys or inherits a utensil one may change its designation. Needless to say, if one inadvertently made a pareve utensil dairy, one may kasher it.

This shiur is intended as an overview of the halakhot of hakhsharat keilim, and we have by no means exhausted the topic. Rabbi Shimon Eider's "Halachos of Pesach" has an excellent section on kashering utensils. Any questions should be brought to a halakhic authority.

Chag KASHER ve-same'ach.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 13: Estimating the Shiur of Shishim

Introduction:

This week, I would like to discuss two questions of great practical and conceptual importance.

What is the effect of ta'am on permitted food and utensils? How does this impact the measurement of shishim when evaluating whether a mixture may be permitted?

Let us begin with a mishna (Chullin 108a) which presents the following scenario:

If a drop of milk falls onto a piece of meat, and the milk has the ability to impart taste, the piece of meat is prohibited. If one stirred the mixture, the food is only prohibited if the milk can impart taste to the entire mixture.

In the first case, the piece of meat is clearly viewed as separate from the rest of the mixture in which it is situated, as the drop of milk is only measured against the meat, and not against the entire contents of the pot. Regarding the exact placement of the piece of meat, Rashi and Tosafot debate whether this piece was partially immersed in the mixture or whether it was placed on top of another piece of meat and not at all immersed in the mixture. In any case, the meat is prohibited because it stands independent of the mixture.

If, however, the mixture is stirred as the milk falls onto the meat, we view the milk as if it fell into the entire mixture, and therefore it only causes the mixture to be prohibited if it can impart taste to the entire mixture (shishim).

The gemara, however, addresses another scenario and introduces a fundamental halakhic principle.

Rav said, once the milk has imparted taste to the piece of meat, the meat itself becomes (like) neveila (meat which was not properly slaughtered) and causes all of the other pieces of meat to be prohibited.

The rishonim explain that Rav does NOT relate to the piece of meat as a mixture of meat and milk, but rather views the meat as if it were inherently prohibited, just like neveila. Therefore, when this meat is mixed with other pieces of meat, we do not attempt to contrast the drop of milk with the rest of the mixture, but we must rather neutralize the impact of the entire piece of meat on the mixture.

In other words, if this meat is introduced into a mixture of other pieces of meat, we have a mixture of prohibited meat (i.e., meat which was prohibited by the drop of milk) and permitted meat, which constitutes a mixture of similar substances (min be-mino), and not of milk and permitted meat, which is considered a mixture of dissimilar substances (min be-sheino mino).

Since Rav also maintains that bitul (nullification) is not possible in a mixture of similar substances (see shiur #2), the entire mixture is prohibited. Consequently, according to those who allow for bitul in a mixture of similar substances - and the halakha is in accordance with their opinion - we require sixty parts (mi-derabanan) of heter for each piece of meat!

Chaticha Na'aseit Neveila:

The gemara describes this phenomenon as "Chaticha Na'aseit Neveila," and the rishonim conveniently refer to this principle as ChaNaN. How can we understand the phenomenon of chanan, what is the scope of this halakha, and what are its ramifications?

One could offer a number of explanations for the phenomenon of chanan.

On the one hand, chaticha na'aseit neveila may mean exactly what it says. The heter is transformed into a prohibited substance and is viewed as the issur itself. In our case, the piece of meat itself is viewed as a prohibited substance, similar to neveila, and we no longer focus on the milk that prohibited the meat in the first place.

On the other hand, we might suggest that the halakha merely requires that one must not only neutralize the issur itself, but also the heter affected by it. In other words, the "carrier" at times also requires bitul. However, the carrier is not viewed as the issur itself, but rather as that which was prohibited. While the acharonim suggest a number of practical differences between these two approaches (see, for example, Tosafot Chullin 108b s.v. Amai), we will focus on the halakhic applications of this principle.

Which Issurim?

Regarding the scope of this principle, the rishonim debate whether chanan applies to all issurim or only to basar be-chalav, and also whether chanan applies only to certain types of mixtures.

Does this principle of chanan apply only to the prohibition of basar be-chalav, or also to other prohibited substances? For example, is a substance prohibited by a neveila, or even by a non-kosher species (i.e., pig), also transformed into a chatichat neveila, subsequently requiring sixty parts of heter against the entire mixture, and not just against the original prohibited substance?

Rabbeinu Efraim (Tosafot Chullin 100a) claims that the principle of chanan applies only to the prohibition of basar be-chalav. As the gemara notes elsewhere (Pesachim 44b), while generally we are concerned with one prohibited substance that prohibits a permitted substance, basar be-chalav is a chiddush (unique) in that two ordinarily-permitted substances join to form a new prohibited substance, i.e., chaticha na'aset neveila. Basar be-chalav is not a mixture of the prohibited and permitted, rather, it is a new issur, and therefore we relate to the entire mixture as a chatichat neveila.

Interestingly, the poskim debate the status of basar be-chalav AFTER they have already been mixed, according to this opinion. For example, if a piece of basar be-chalav prohibits another mixture, do we require sixty parts of heter against the entire mixture, or just against the piece of basar be-chalav?

The Beit Yosef (YD 103), who rules in accordance with the position of Rabbeinu Efraim, explains that if one boils water in a pot in which one cooked meat and milk earlier that day, the water becomes chanan, and is reabsorbed into the pot. The Shakh disagrees. He maintains that chanan only applies to the original mixture of basar be-chalav. In our case, however, the water is prohibited by the issur of basar be-chalav, and we must relate to it as a mixture of water and a prohibited substance. If this water were to be

introduced into another mixture, we would only require shishim against the original amount of basar be-chalav!

Regarding the reasoning of Rabbeinu Efraim, it is worth noting that the Ra'ah (Torat Habayit sha'ar 4 pg. 9a) suggests that that conceptually one might arrive at the opposite conclusion. In an ordinary mixture, a permitted substance becomes prohibited, creating one large entity of issur. But meat and milk do not cause each other to be prohibited; rather, it is their union that is prohibited. However, if we can neutralize one of the components of this union, then it should no longer be considered basar be-chalav!

Rabbeinu Tam, however, disagrees with Rabbeinu Efraim. He maintains that the principle of chanan applies equally to all issurim; therefore, even a mixture prohibited by non-kosher meat is transformed into a "chatichat neveila" and we require sixty parts of heter against the entire mixture in order to permit the contents of the pot.

Clearly, this position should be seen in light of another opinion of Rabbeinu Tam. We noted in shiur #6 that Rabbeinu Tam maintains that "ta'am ke-ikkar" teaches us that the taste of issur has the ability to define the identity of the mixture. Rabbeinu Tam described this phenomenon as "heter nehepach le-issur," i.e., the permitted substance is transformed into a prohibited substance. Therefore, for example, one who consumes a "kezayit" of the mixture, without actually consuming a kezayit of issur, also incurs malkot. While the acharonim discuss the relationship between these two principles – "ta'am ke-ikkar" and "chaticha na'aseit neveila" - Rabbeinu Tam's conceptual understanding of ta'am ke-ikkar is clearly the basis for his understanding of chanan.

The Ran suggests a middle position. Mi-de'oraita, the principle of chanan applies only to basar be-chalav. Rabbinically, however, chanan applies to all prohibited substances.

The Shulchan Arukh (YD 92:4) accepts the opinion of Rabbeinu Efraim and limits the application of chanan to the issur of basar be-chalav.

The Rema disagrees. He insists that one should be stringent and apply the principle of chanan to other issurim as well. The acharonim debate whether this extension is of rabbinic or biblical origin. Both the Shakh and the Taz maintain that the halakha is in accordance with the Ran, and that the extension of chanan to other issurim is only mi-derabbanan.

Which Mixtures?

As for whether chanan applies only to certain types of mixture, some rishonim believe that chanan applies only to pieces of meat, and not to liquids. Therefore, if milk falls into a meaty soup, the soup is NOT considered to be chanan, and consequently if this soup falls into another mixture, we only require sixty parts of heter against the original milk! These rishonim, however, offer differing explanations for their opinion.

The Mordekhai, for example, maintains that chanan applies only to PIECES of meat (chatichot), because of their "importance and because the prohibited substance will be recognizable and separate" (chashivut ve-issur nikar u-muvdal). This may relate to the question we raised above. If the halakha of chanan tells us that the "carrier" of a prohibited substance must also be neutralized, one may suggest that this carrier is a separate and important item, and hence is not a liquid.

Alternatively, the Ra'avad offers a more technical explanation. Chanan only applies to solid pieces, he asserts, because even after the meat is introduced into another mixture, the issur absorbed in the solid will not spread throughout the mixture and be nullified by shishim. However, when the issur is mixed into a liquid, and then into another liquid, the

original issur will be evenly distributed throughout the entire mixture, and will be nullified in shishim.

The Chavat Da'at suggests a practical difference between these two explanations. What if after this piece of meat is prohibited, it dissolves into a liquid? According to the Ra'avad, the issur may now be evenly distributed throughout the mixture, and therefore bitul of the original prohibition is possible. However, according to the Mordekhai, once the chaticha was prohibited because it was a separate and chashuv entity, no matter what happens to the chaticha afterwards – even if it dissolves - it remains prohibited and we require shishim against the entire chaticha!

The Rema (92:3) cites the opinion of the Mordekhai, noting that regarding "other issurim" which have affected a wet mixture (lach), one may be lenient in a case of financial loss.

Finally, we must also point out that that the phenomenon of chanan is relevant only to prohibited substances, and not to permitted substance such as milk or meat. Therefore, for example, the Shukhan Arukh (YD 94:6) rules that if onions that have absorbed the taste of meat are cooked with milk, we require sixty parts of milk against the taste of meat absorbed in the onion (if known), and NOT against the entire onion.

While we have presented some of the basic issues of chanan, there may be other factors relevant to a halakhic decision and therefore questions of this sort should be presented to a halakhic authority.

Next week we will discuss the effect of ta'am on utensils, and whether the principle of chanan applies to keilim.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 14: Estimating Shishim Against Prohibited Utensils Chanan Be-Keilim

Introduction:

Last week we introduced a principle of great halakhic importance, "chatikha na'aseit neveila." According to this rule - known by its acronym, "chanan" - when a piece of meat becomes prohibited due to a drop of milk that fell upon it, the halakha views this piece of meat as an inherently prohibited entity of issur, and not just as a mixture of two substances which one may not consume together.

This halakha has two major ramifications.

Firstly, let us imagine that this piece of meat were introduced into a pot of permitted meat. We could view the resulting mixture in one of two ways. Conceivably, we could see the mixture as a ta'arovet of dissimilar substances (min be-she'eino mino): the drop of milk – the dissimilar, foreign, prohibited ingredient (the issur) – mixing with the meat (the heter). Thus, sixty parts of meat would be required per part of milk in order to make this mixture permitted. Alternatively, the entire piece of meat could be considered a foreign, prohibited substance, making this mixture a ta'arovet of similar substances (min be-mino), which would then be subject to a debate between Rabbi Yehuda and Chakhamim. According to Rabbi Yehuda, the mixture would be forbidden no matter the percentage of issur. According to Chakhamim, the piece of meat, at least mi-de'oraita, could be nullified in a majority (rov) of heter.

The gemara (Chullin 108a) rules that in this case the piece of meat is "na'aseit neveila" (chanan), and the entire mixture is prohibited in accordance with the opinion of Rabbi Yehuda.

Secondly, since the piece of meat is viewed as a "neveila," i.e., an inherently prohibited substance, if it were to fall into a mixture of a dissimilar substances (min be-she'eino mino), we would require shishim times the entire piece and not only times the drop of milk.

We noted that the rishonim debate whether this principle applies only to basar be-chalav (Rabbeinu Efraim), or also to other prohibited substances (Rabbeinu Tam). While the Mechaber rules in accordance with the opinion of Rabbeinu Efraim, the Rema adopts the more stringent approach - unless the mixture at hand is liquid (lach), in which case we may be lenient in cases of great financial loss.

This week I would like to continue our discussion of chanan and focus on a very important question: does the principle of chanan apply to the taste absorbed in utensils as well (chanan be-keilim)? This question is crucial to another, more practical, question: how much heter is needed to nullify the effect of a prohibited utensil on a mixture? For example, if a non-kosher spoon is dipped into kosher soup, how much soup is required in order to nullify the taste released by the spoon?

Chanan Be-Keilim: Spoons and Udders

The gemara (Chullin 97b) raises a very interesting question. The entirety of a cow's udder is considered permitted meat and mi-de'oraita, after shechita, it is permitted to eat the milk left in it with meat. However, this mixture is prohibited mi-derabbanan. If so, what happens when an udder accidentally falls into a mixture and is then subsequently removed? How are we to determine how much milk was expelled by the udder?

The gemara answers that since we do not know how much milk entered the mixture, we measure against the size of the entire udder (be-didei ve-lo be-ma de-nafak minei), since this is the maximum amount of milk that could have been expelled by the udder. The principle expressed by the gemara seems clear. When we are unable to determine the amount of milk that entered the mixture, we have to assume that it equals the volume of the udder. If, however, we were able to determine precisely how much milk the udder emitted, we could measure against that amount! While this leniency is not very relevant when a prohibited substance falls into a permitted mixture, as we are generally unable to determine how much prohibited "taste" has been emitted, there are times when this principle may be of great importance. The rishonim agree, accordingly, that if a new spoon - or a spoon which has not been used for twenty-four hours - is used to stir a teaspoon of hot milk, and is then used to stir a meat soup, that we cannot require more than shishim times the teaspoon of milk, which may be less than the size of the spoon.

However, let us say that one stirs a teaspoon of hot milk in the morning, and later that day stirs the chicken soup. While it is certainly prohibited to use this spoon again, what if one accidentally used this spoon to stir the cholent. Do we say that the taste of meat and of milk have combined to create "chanan" inside the spoon, and therefore we would require sixty times all that is absorbed inside the spoon, most likely against the entire spoon? Alternatively, we may suggest that just as some rishonim believe that chanan is only applicable to separate pieces and not to liquids (lach), chanan similarly cannot affect absorbed taste (ta'am balua), and therefore we would only require shishim times the milk absorbed in the spoon.

This scenario may be similarly relevant to those who apply chanan to other issurim. Let us say that one stirred hot water in the morning, and later that day stirred a small amount of a non-kosher substance. Do we require shishim times all that has been absorbed by the spoon, fearing that the non-kosher substance transformed all of the taste previously absorbed in the spoon into "neveila," or do we merely require shishim times the issur absorbed during the utensil's second usage?

The Rashba disagrees with his teacher, the Ramban, regarding this question. The Ramban assumes that the principle of chatikha na'aseit neveila is not applicable to "balua," and therefore in any case, we do not require more than sixty times the amount of milk absorbed in the spoon (ben yomo). The Rashba argues, claiming that all the taste inside the spoon has become "neveila" and therefore we require shishim times the entire size of the spoon in order to permit the mixture, be-diavad.

We should note that when dealing with a spoon, the difference between the two aforementioned approaches is not great. However, if the question concerns a pot - whether we require sixty times the small amount of issur absorbed in a pot, or against all that has been absorbed by the pot that day - the stakes are higher. Assuming that mathematically it is nearly impossible to cook sixty times the volume of the walls of the pot inside the pot, the Rashba's approach would almost inevitably prohibit the mixture every time!

In the Shulchan Arukh, the Mechaber (YD 98:5) cites both opinions. The Rema remarks that the opinion of the Rashba is the correct opinion (ikkar), yet cites another opinion, and concludes "one should follow the more stringent opinion" (la-chush le-chumra).

The latter opinion cited by the Rema, originally found in the Mordekhai, distinguishes NOT between utensils previously used for milk and then meat on the one hand and new utensils on the other, but rather between kelei cheress (earthenware) and metal utensils. The Mordekhai argues that the principle of chanan be-keilim applies only to a keli cheress, which cannot be kashered. Metal utensils, however, which can expel that which they have absorbed, are not subject to the principle of chanan.

The acharonim, however, are troubled by the following question: Who is more stringent, the Mordekhai or the Rashba? When the Rema remarks that the opinion of the Rashba is the "ikkar," and then, after citing the opinion of the Mordekhai, suggests that "one should follow the more stringent opinion" – what exactly is he saying? Is he recommending that one follow the opinion of the Rashba, the Mordekhai, or both?

The Shakh asserts that the Mordekhai is indeed more lenient than the Rashba. The Rashba applies the principle of chanan to all utensils which have previously (ben yomo) absorbed taste, while the Mordekhai limits this application to kelei cheress. The Rema, he explains, cites the opinion of the Mordekhai, but reiterates that one should actually follow the opinion of the Rashba.

The Taz, however, disagrees. In an intriguing yet somewhat radical interpretation of the Mordekhai, he claims that the Mordekhai, who incidentally agreed with Rabbeinu Tam in applying chanan to all prohibitions, employs the principle of chanan even with regard to a new keli cheress! Any clay utensil which has absorbed a prohibited substance is "na'aseit neveila," and consequently, all that is cooked in it is prohibited. The clay, the Taz argues, and not the taste absorbed in the utensil, becomes chanan! After all, he asks rhetorically, what is the difference between meat and clay? Both are porous substances that cannot be kashered. As soon as the clay absorbs the taste of issur, since it can never revert back to its original status, it is transformed into a "chatikhat neveila!"

If so, the Mordekhai is more stringent than the Rashba, at least regarding earthenware. The Rema, therefore, according to the Taz, is suggesting that in addition to the opinion of the Mordekhai, who is stringent regarding even new earthenware utensils, one should ALSO adhere to the stringency of the Rashba regarding metals pots used within the past twenty-four hours (ben yomo)!

In summary, the Shakh believes that we apply the principle of chanan to utensils even regarding other issurim. Therefore, we believe that the absorbed taste in any utensil exposed to heter and then to issur within the same twenty four-hours becomes chanan and therefore the entire amount must be nullified in order to permit the mixture. The Taz, on the other hand, believes that an earthenware utensil exposed to any issur becomes chanan and we require shishim times the size of the entire utensil. Regarding other materials, we are only stringent regarding meat and milk absorbed by the utensil within twenty-four hours, but not regarding other prohibited substances.

Practically, when a kashrut query involves a spoon which is ben yomo, we measure shishim times the entire spoon. It is rare that one is aware of the precise amount of taste previously absorbed by the spoon, and even if one remembers the exact usage of the spoon, it is most likely that it absorbed less than the volume of the spoon itself! Obviously, questions involving larger utensils may depend upon the above discussion.

A Drop of Milk on the Side of a Pot: Chanan in Motion

The rishonim discuss another common kitchen question. What if a drop of milk falls onto the side of a pot of meat cooking on the fire? What is the status of the pot? What is the status of the food?

This question involves a number of factors.

Firstly, do we apply the principle of chanan to the taste absorbed by utensils?

Secondly, even if we do apply chanan to utensils, as we demonstrated above, what percentage of the utensil is actually affected? The above discussion focused on a spoon. Generally, the area of a spoon which makes contact with meat is the same area which makes contact with milk, and then with another mixture. However, when a drop of milk falls onto the side of a pot, even if the principle of chanan is employed, does it affect the entire pot? Is there a possibility of bitul (nullification) of the drop of milk within the walls of the pot?

The Tur (YD 92) cites three opinions.

The Smag (Sefer Mitzvot Gadol) assumes that there is no possibility of bitul within the walls of the pot, and therefore the entire pot is prohibited. Consequently, the contents of the pot are also prohibited, since, mathematically speaking, the food will almost never be of sufficient volume to nullify the taste emitted by the pot.

The Maharam disagrees. He asks, "mi-ma nafshakh!?" If the drop of milk has the ability to spread, then it should certainly be nullified within the walls of the pot. And if the drop cannot spread, then we should require no more than sixty parts of food in order to nullify the taste emitted by the drop of milk!

He concludes that we are unable to determine the behavior of the milk within the walls of the pot. Practically speaking, however, he makes the following argument. On the one hand, if the milk were to spread over an area sixty times of size of the drop of milk, the milk would be batel and the food and pot would remain kosher. On the other hand, if the milk spreads at all, we would require shishim of food against the affected area of the pot in order to nullify the taste emitted by that area in order to permit the mixture.

Therefore, the Maharam argues, in the "worst case scenario," the drop of milk may have spread fifty-nine times its own area, creating a prohibited area of the pot measuring fifty-nine times the drop of milk PLUS the drop itself. In order to nullify the effect of this area on the contents of the pot, we would require sixty times this area. Sixty times sixty (fifty-nine plus one) equals 3600. Therefore, we can only permit the mixture if the food in the pot measures 3600 times the drop of milk!

Finally, the Smak (Sefer Mitzvot Katan) distinguishes between two cases.

If the drop of milk fell onto the area of the pot opposite the food, it is as if the milk fell directly into the food. If so, if there is shishim times the amount of milk, the food is permitted, and if not, the mixture is prohibited. As for the pot, the acharonim debate whether and why the pot is assur. The Shakh (YD 92:27) explains that the Rema prohibited the pot lest some of the milk remained in the walls of the pot. The Maharshal, on the other hand, claims that this opinion views the food which is opposite the wall of the pot as "connected" to the pot, and therefore if the milk fell onto the side of the pot opposite the food the milk is nullified by the food - similarly, the pot is also, in principle, permitted. However, since using the pot would be perceived as inappropriate, and maybe even misleading, the pot should not be used.

However, the Smak continues, if the milk were to fall onto the area of the pot which is not opposite the food, while that side of the pot may be affected by the milk, the food is unaffected by that area of the pot.

This, of course, leads to the following halakhic quandary. The food inside the pot may be kosher, but the pot isn't. So how are we to remove the food from the pot? Pouring

the food out the non-kosher side of the pot may actually prohibited the food! Should we drill a hole in the bottom of the pot? Should we pour the food out the other side – the side which did not come in contact with the milk?

The Smak rejects these two possibilities, as they may easily cause the food in the pot to come into contact with the "problematic" side of the pot. Rather, one should wait until the food has cooled down, and then one may empty the pot. We are not concerned that the taste in the pot will affect the food when the contents are cold.

The Tur notes that the custom is not to permit the food in this case - i.e., when the milk fell onto the side of the pot which is NOT opposite the food - lest the food had come into contact with the prohibited portion of the pot. The Shulchan Arukh also cites this custom.

However, the Tur cites the view of Rabbeinu Yehiel who permits the food in extenuating circumstances, for example, on erev shabbat.

Practically speaking, the authorities debate how to rule in our case. On the one hand, the Shulchan Arukh clearly states that we generally prohibit the food. The Peri Megadim agrees that this is the custom. On the other hand, the Shakh rules that one may be lenient once the contents of the pot have been cooled down. Similarly, the Arukh Ha-Shulchan (92:43) notes that the custom "throughout the world" is to permit the food as long as there are shishim times the milk that spilt onto the pot. We accept, the Arukh Ha-Shulchan claims, those opinions that maintain that the milk spreads evenly throughout the pot and into the food, and therefore the food is permitted and may even be poured immediately out of the pot.

I would to address two final situations.

What if the pot were covered? Furthermore, what if the milk fell onto the pot cover, and not against the side of the pot? The Rema (YD 92:7) notes that when the lid is covering a hot, boiling pot of food, we should view the entire pot, including the cover, as the area opposite the food. Therefore, if there are shishim times the drop of milk, the food is permitted, but the pot cover must be kashered. However, if the contents of the pot were not yet boiling, the food is permitted. If the pot cover was hot, it should still be kashered.

What if a drop of milk falls onto a pareve pot containing pareve food? Chanan does not apply to this case, since we are not dealing with prohibited substances. Therefore, we are only concerned with the impact of the milk on the food inside the pot, and on the pot itself. If there are shishim times the drop of milk, the food is still pareve. As for the pot, one may continue to use it as a "pareve" pot, as we shall learn in future shiurim. Some acharonim (Binat Adam) suggest waiting twenty-four hours before using the again.

Next week, we will discuss issues related to the QUALITY of taste, i.e., "noten ta'am lifgam" and "nat bar nat.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 15: Noten Ta'am Lifgam:
What If One Accidentally Cooked Food in a Non-Kosher Pot

Introduction:

In previous shiurim, we discussed the halakhic ramifications of introducing non-kosher taste into a kosher mixture. We noted that in the absence of sixty parts of heter to nullify the non-kosher substance's impact, ta'am prohibits the entire mixture. In addition, we discussed the impact of this non-kosher taste on the mixture, from a conceptual and practical perspective (chatikha na'aseit neveila).

However, we have yet to discuss another crucial issue. What impact does the quality of the ta'am have our previous discussions? (a) What if the taste doesn't enhance the food, but actually has a detrimental effect on the mixture ("noten ta'am lifgam")? (b) What if the taste is severely weakened ("nat bar nat")?

This week I would like to discuss the first-mentioned topic, "noten ta'am lifgam" - often referred to by its abbreviation "natlap" - and its ramifications regarding vessels.

Keli She-eino Ben Yomo

The Gemara (Avoda Zara 67-8) states that generally, when non-kosher taste mixes with a permitted substance, if the issur has a detrimental impact on the permitted food, the mixture remains permitted. The Gemara deduces this from the verse which prohibits the consumption of meat that was not ritually slaughtered (neveila): "You should not eat any neveila, rather you should give it to a stranger in your midst or sell it to a non-Jew...(Devarim 14:21). The Gemara infers that only food which can be given to a "stranger," i.e., which is edible, is prohibited. However, food that is not fit for the stranger is not considered neveila and may be consumed.

The Rishonim discuss the nature, scope, and ramifications of this principle. This week, I would like to focus on one particular, and common, application of this rule, i.e., the impact of ta'am emitted from non-kosher vessels.

As we discussed in previous shiurim, the Torah relates that after the conquest of Midyan, Elazar Ha-Kohen commanded the people to "kasher" any cooking utensils taken from the spoils (Bemidbar 31:21–23). While the Tana'im debate whether we can deduce the principle of "ta'am ke-ikkar" from this case, all agree that at least regarding utensils, the Torah is concerned with "gi'ulei nokhrim," the taste of non-kosher food emitted from the cooking utensils.

The Gemara (Avoda Zara 67-8) continues by asserting that the Torah is only concerned with taste emitted from utensils within a day after they were used ("ben yomo"). After that day ("eino ben yomo"), however, the taste emitted from these utensils is regarded as "noten ta'am lifgam" (imparting detrimental taste), and the food is permitted. Therefore, utensils which are "eino ben yomo" – more than a day away from contact with ta'am of issur - may be used, mi-de'oraita.

The Gemara, however, rules that it is rabbinically prohibited to use a non-kosher utensil, even after a day has passed, lest one come to cook in a keli which is ben yomo. In other words, a "keli she-eino ben yomo" is still prohibited, mi-derabanan.

The Rishonim relate to a number of points regarding this principle.

1. We should note that the Gemara states that this rabbinic prohibition focuses on the pot, not on the food cooked in it. In other words, if food is accidentally cooked in a non-kosher pot which is "eino ben yomo," the food is permitted. Therefore, it seems reasonable to say that the prohibition of an "eino ben yomo" utensil is to be viewed as a preventative measure directed at the pot owner, but not relating to the objective status of the taste inside the vessel. The taste is still viewed as "ta'am lifgam" and be-diavad, the food is permitted.

2. What is the definition of "eino ben yomo"? Rashi (Avoda Zara 76a) and Rabbeinu Tam (Tosafot 77b s.v. Ve-idakh) maintain that once a night has passed (linat laila), the vessel is considered "eino ben yomo." Most Rishonim disagree and insist that only after 24 hours (me-eit le-eit) can the keli be considered "eino ben yomo." The halakha (YD 93:1) is in accordance which the latter opinion.

The position of Rashi and Rabbeinu Tam seems to be rather troubling. Why is the quality of taste dependent upon "linat laila"? Is a keli used immediately before nightfall actually to be regarded as "eino ben yomo" in less time than a keli used early that morning? Moreover, shouldn't there be a difference between a long winter night and a short summer one?

One could theorize that this opinion is part of a larger group of halakhot which attribute negative, almost mystical influences to the nighttime. For example, according to some Rishonim, one must wash one's hands upon waking in the morning because of a "ruach ra" (evil spirit) which rests upon them at night. Perhaps Rashi and Rabbeinu Tam felt that anything left overnight becomes spoiled to some extent, and therefore the taste absorbed in the pot should be considered "noten ta'am lifgam" and the pot, "eino ben yomo."

Alternatively, one could suggest that the halakha of ta'am in utensils is different from other halakhot of ta'am. One should not use a utensil for permitted food during the same "period of time" in which it was used for prohibited foods. If, however, a night has passed, then experientially a person has entered a new day, and the utensil is no longer associated (a least mi-de'oraita) with its previous use. Obviously, this explanation will resonate more with those opinions which maintain that "ta'am ke-ikkar" is only mi-derabanan.

3. Is the issue of "eino ben yomo" applicable, as well, to be-ein of issur – actual substance of issur, as opposed to mere ta'am? What if one accidentally cooked kosher food in a non-kosher pot twenty-four hours after its last use, without it having been washed in between?

The Ramban states that the principle of "natlap" may also be applied to food residue. As long as twenty-four hours have passed, the residue on the plate is deemed "pagum" (defective) and the food cooked in this utensil is permitted. The Raavad and other Rishonim disagree. They maintain that only the ta'am absorbed in a pot twenty-hours after its last usage will cease to positively enhance a mixture. We cannot assume, however, that the same holds true for non-kosher food residue.

The Shulchan Arukh (YD 122:3) rules in accordance with the Raavad. The Rema notes that if there are sixty times more food than non-kosher residue, the food is permitted.

The Acharonim (see Shakh 103:15) note that one can generally assume that a pot was thoroughly cleaned.

4. What if one is unsure whether a utensil was used within the previous twenty-four hours?

The Rishonim introduced the following principle: If a non-Jew cooked kosher food is his/her non-kosher vessel, one can generally assume that the keli was "eino ben yomo." This principle is based on a "sefeik sefeika." We are unsure both whether the food was cooked in an "eino ben yomo" vessel, and even if the utensil was "ben yomo," maybe the non-kosher food's taste didn't enhance the kosher food, but rather was detrimental to it ("noten ta'am lifgam"). This principle also applies to kosher utensils owned by Jews.

The Taz (YD 108:4), for example, based on this principle, notes that the practice in Krakow was to buy whole boiled nuts from non-Jews. Even if they were cooked in non-kosher vessels, we can assume that they were "eino ben yomo."

The above principle however, applies only to cases in which the food was already cooked. The Shulchan Arukh (YD 122:6), adds that one is not permitted to intentionally ask a non-Jew to cook in their vessels.

Furthermore, some Acharonim (see Arukh Ha-Shulchan) note that it is difficult to apply this leniency in a situation in which the non-Jew is constantly cooking in his vessels, such as in a restaurant.

5. Finally, what happens if after cooking a prohibited substance in a pot, one then boils water in the same pot? Do we count the twenty-four hours from the time that the issur was cooked, or from the time that the water was boiled? Should we distinguish between basar be-chalav and other prohibitions? The Tur, Shulchan Arukh, and their commentaries deal with this question at length in YD 103.

"Eino Ben Yomo": Fleishig and Milchig

Until now, we discussed the ramifications of an "eino ben yomo" vessel regarding non-kosher food. While clearly if one cooks milk in a pot used previously on the same day for meat, the food is prohibited, may one use an "eino ben yomo" fleishig pot for milk?

The Ritva (Chullin 97a) cites the opinion of his rebbe, the Ra'ah, who maintained that the prohibition mentioned in the Gemara related only to non-kosher pots, as an extension of the halakha of "kelei Midyan." However, a vessel which is kosher may be used for both meat and dairy, as long as the keli is "eino be yomo." The Ritva notes that he even saw the Ra'ah put this leniency into practice; nevertheless, he and other Rishonim disagreed with him.

Aside from the opinion of the Ra'ah, all other Rishonim maintain that just as one should not use an "eino ben yomo" non-kosher vessel, one should similarly not use an "eino ben yomo" meat utensil to cook milk, or vice versa. This is the position adopted by the Shulchan Arukh (YD 93:1).

Natlap Be-Keilim – In Practice

In summary, the halakha is that one may not use a vessel which has absorbed non-kosher ta'am. Similarly, one should not cook milk in a pot previously used for meat. However, if one accidentally cooked in a non-kosher pot which is "eino ben yomo," the food may be eaten, as is the case with dairy food cooked in an "eino ben yomo" meat pot. In both cases, the vessel must be kashered.

The Rishonim note two exceptions to the above rule.

Pot covers:

The Rema (93:1) cites a minhag to always consider pot covers "ben yomo." Therefore, if one were to accidentally place an "eino ben-yomo" dairy pot cover over a pot of boiling meat soup, the soup, according to this minhag, would be prohibited. The Rema notes that he personally adopted this custom despite the fact that it is a "chumra be-lo ta'am," a stringency without reason.

The Acharonim do cite a number of explanations for this stringency. The Maharshal, for example, explains that some pot covers, due to their shape, are difficult to clean and therefore the "dirty" area has a status of be-ein, and not ta'am. The Bach suggests that the intense contact with steam creates a layer of issur which is very difficult to clean.

In any case, however, the Acharonim seem to reject this stringency (see Arukh Ha-Shulchan 93:16). In addition, one may claim that nowadays our soaps may render any residue on the pot cover "lifgam" (see Shulchan Arukh YD 95:4). Therefore, it seems that one need not be stringent regarding pot covers.

2. Davar Charif:

In a few weeks we shall devote time to discussing "hot" or "sharp" tasting foods, such as onions or garlic, and their halakhic ramifications. For now, suffice it to say that in certain cases, if one cooks a sharp food in an "eino ben yomo" non-kosher pot, the food may still be prohibited. Similarly, if one cooked a "sharp" pareve food in a pot previously used for dairy, even if the pot is "eino ben yomo," the food is considered dairy.

Next week we shall discuss the principle of "nat bar nat," i.e., the status of "pareve" foods cooked in dairy or meat pots.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 16: "Nat bar Nat" - The Status of Pareve Food Cooked in Dairy or Meat Pots

Introduction

Last week we examined how the quality of the ta'am of a prohibited substance affects its impact upon a permitted mixture. We noted that if the ta'am of a prohibited substance doesn't enhance the mixture but rather is detrimental to it (note in taam lifgam), the mixture is permitted even in the absence of sixty parts of heter. Similarly, if the ta'am emitted from a non-kosher utensil is lifgam, which usually occurs after twenty-four hours of the utensil's exposure to the issur, then the food cooked in the utensil is permitted.

This week, I would like to discuss not the QUALITY of the ta'am, but rather its STRENGTH. Does the halakha differentiate between ta'am which is strong and ta'am which is weak? Does the halakha distinguish between "primary" and "secondary" ta'am?

1. "Nat Bar Nat" – The Source

The Gemara (Chullin 111b) states: "Fish which were 'brought up' ("alu") in a [meat] pot may be eaten with "kutach" (a dairy drink)..."

According to Shmuel, these fish may be eaten with milk, since the taste of meat which they absorbed was not considered "ta'am" (primary taste), but rather "noten ta'am bar noten ta'am" (secondary taste). In other words, since the food did not absorb the taste directly from the meat, but rather from the pot which had previously absorbed the taste of the meat, this taste is considered "secondary," and the food MAY be consumed with milk. This principle is commonly referred to in halakha as "nat bar nat." ("Nat" = notein taam).

The Ran (Chullin 51a) explains that although generally, the ta'am of issur can transfer its prohibited status to food and utensils even when weakened, the taste of a PERMITTED substance is different. Since the secondary taste of meat is so severely weakened, it cannot create, when combining with milk, a NEW issur.

2. Definition of "Alu" – What Is Considered "Nat Bar Nat?"

What does the term "brought up" ("alu") mean? In which cases may the fish be eaten with milk?

The Rishonim offer three explanations of this Gemara, leading to three distinctly different halakhic conclusions.

The Rivan, quoting his father-in-law Rashi, maintains that the Gemara is referring to a case in which the fish are merely served hot upon a meat plate. If however, the fish were actually cooked in the meat pot, then it would certainly be prohibited to eat the fish with dairy products. The Acharonim debate whether the leniency still applies if both the plate and the fish are hot, or whether that case is considered actual cooking. In any case, this approach substantially minimizes the leniency offered by Shmuel.

Most Rishonim (Rabbeinu Tam, Rambam, Rashba etc.) adopt an approach which stands in total contradiction. They assert that whether the fish were served, cooked, or even fried in a meat utensil, they may still be eaten with milk.

The Sefer Ha-Teruma offers a middle position. He agrees that if the fish were served or cooked in a meat utensil that they may be eaten with milk. If they were FRIED, however, in a meat pot, they may not. The Sefer Ha-Teruma considers taste transferred directly to the fish as a primary taste. Only when the taste must pass through the medium of water, i.e., bishul, is the taste considered to be "nat bar nat," a secondary ta'am.

The Mechaber (YD 95:1) rules in accordance with the majority opinion, and allows fish which came in any sort of contact with a meat pot to be eaten with milk.

The Position of the Rema – "Chezkat Chalavi" and "Dairy Equipment"

The Rema disagrees. He cites the opinion of the Rivan and notes that the prevalent custom is to be stringent le-chat'chila. In other words, according to the Rema, food which was cooked or fried in meat utensils should not be eaten with milk. Only if it was merely served ("alu") hot on meat plates may it be eaten with milk.

However, the Rema adds that be-di'avad, we are lenient. The Acharonim explain that he is referring to a scenario in which food cooked in a meat utensil was already mixed with milk, in which case the mixture may be consumed. Therefore, if one prepares coffee in a meat pot, one should NOT add milk to that coffee. If, however, one already added the milk, the coffee is permitted. Similarly, if one prepares pasta in a meat pot, one should NOT add cheese to the noodles. If, however, one already added cheese, the mixture is permitted.

4. What is the scope of the Rema's stringency?

The Rema notes that food which is fried or cooked in dairy utensils may not be eaten WITH meat. However, this food may be eaten after meat, even during the same meal. Therefore, one may serve a cake baked in a dairy pan for dessert after a meat meal.

Furthermore, the Rema writes that it may be served on meat dishes. The Acharonim discuss this comment of the Rema in light of another passage. In the next se'if (95:3), the Rema states explicitly that if one pours a liquid cooked in a fleishig keli rishon directly onto a dairy dish, then both the dish and the liquid are prohibited.

This stringency is based upon two assumptions. Firstly, as we shall see, the Rema rules that if meat and dairy utensils come into contact with each other in a keli rishon, they are prohibited. Secondly, the Rema assumes that water POURED from a keli rishon (iruy) has a status similar to water IN a keli rishon, as we shall see in a future shiur. These Acharonim debate whether we act in accordance with this statement of the Rema. Some claim (see Shakh 95:5) that be-di'avad the utensils should be permitted. One should consult a halakhic authority regarding such a case.

In recent years, terms such as "chezkat chalavi," or "dairy equipment," have entered the vocabulary of the kosher consumer. These terms derive from this position of the Rema. Food which was cooked in "dairy equipment" is considered "be-chezkat chalavi" and should not be eaten with meat, but may be consumed afterwards. Furthermore, if it is unintentionally mixed with meat, the mixture may be eaten.

Incidentally, some kashrut organizations, such as the OU, refrain from specifying that a product was cooked on dairy equipment, and simply label the food as "dairy." They fear that the equipment may not be clean, and therefore the issue may not be the status of

"nat bar nat (absorbed secondary taam)," but rather actual mixture of dairy residue in the pareve food.

The Rema notes further that if the dairy utensil in which the food was cooked was "eino ben yomo" - i.e., more than twenty-four hours have passed since it was last used for milk - one may le-chat'chila consume the pareve food with milk.

The Acharonim debate whether one may intentionally prepare food in an "eino ben yomo" dairy pot to be served with meat. The Vilna Gaon writes that this should be permitted. Others rule that in cases of need, i.e., if one doesn't have enough meat pots, it is permitted to intentionally use an "eino ben yomo" dairy pot to prepare pareve food for a meat meal. Others insist that while one may not INTENTIONALLY do so, if one did not realize that the pot was dairy, or if one did not cook the food with the intention to serve it with meat, one may subsequently eat this food with meat. Therefore, according to this opinion, if one cooked pasta in a pot which was "eino ben yomo" from its last contact with milk, if one did not realize that the pot was dairy or if one did not intend to eat the pasta with meat, one may consume the pasta with meat.

Finally, we should note that if a sharp food (davar charif), such as an onion, was cooked in a dairy pot, it should not, even be-di'avad, be consumed with meat. The rule of "nat bar nat" does not apply to "davar charif" as we mentioned last week, we will discuss the issue of "davar charif" in greater depth in a future shiur.

Before concluding this section, I would like to address one more question. May one intentionally create a situation of "nat bar nat"? In other words, is the scenario portrayed by the Gemara of "fish which were brought up," regardless of how one interprets it, a le-chat'chila or a be-di'avad situation? According to the Mechaber, may one purposely cook pasta in a fleishig pot while intending to serve it with cheese? According to the Rema, may one serve hot fish on a fleishig serving tray with the intention of putting butter on it?

Many Rishonim (see Mordekhai and Issur Ve-Heter), and later the Shakh (95:3), claim that one may not intentionally cause a situation of "nat bar nat." In fact, the Acharonim debate, according to this opinion, whether the food is permitted to one who intended to rely upon "nat bar nat." While the Minchat Kohen prohibits the food, the Peri Chadash permits it.

However, the Beit Yosef (YD 95) cites a number of Rishonim who permit this practice, and therefore rules that one may even intentionally rely upon "nat bar nat"!

The custom of Ashkenazic Jewry is not to intentionally rely upon "nat bar nat." However, Rav Ovadia Yosef (Yabia Omer YD 9:3) defends the opinion of the Beit Yosef and rules accordingly. Many Sefaradim, therefore, do rely upon "nat bar nat le-chat'chila," and consequently find very little need for pareve utensils. The only pareve utensil required in such a household would be a pareve knife, as we shall see in a future shiur.

5. Washing Meat and Dairy Dishes Together

The Rishonim expand the discussion of "nat bar nat" to another important question – may one wash meat and dairy pots together?

Before we proceed, we should describe the process of "hadachat kelim" (dish washing) that the Rishonim are referring to. Their case is one in which, interestingly enough, clean "ben yomo" dishes are washed together in a large basin of hot water. In other words, the meat or dairy residue has already been removed from the dishes. Our only concern is the transfer of ta'am, previously absorbed in the pots, from one keli to another. Regarding the water, the basin can either be a "keli rishon" which was heated over a fire, or a "keli sheni," which contains water which was heated in a different vessel over a fire.

The Ramban, followed by the Rashba and others, maintain that the dishes are permitted. The ta'am emitted by the dishes is considered "nat bar nat" and therefore there is no fear of "basar be-chalav."

The Sefer Ha-Teruma disagrees. He claims that the ta'am emitted from both the dairy and meat dishes may meet in the water BEFORE being weakened, creating "basar be-chalav" which will transform the water, through the mechanism of "chanan," into issur, subsequently prohibiting the pots.

The Mechaber (YD 95:3) rules in accordance with the opinion of the Ramban. Therefore, meat and dairy utensils washed together in hot ("yad soledet bo") water, even in a keli rishon, are permitted. If, the Mechaber notes, the dishes weren't clean, the food residue may be nullified if there are shishim of water against the food residue. Furthermore, even if the water does not constitute "shishim" against the food residue, if one places ashes (an abrasive cleaning agent) into the water, the food residue is rendered "pagum" (unfit for consumption) and the utensils are permitted. We will return to this last point in next week's shiur.

The Rema adopts the view of the Sefer Ha-Teruma and prohibits the utensils if they were washed together. However, the Rema offers three exceptions. If even one of the utensils was "eino ben yomo" from its last contact with meat or milk, or if the basin was considered a "keli sheni," or if the pots were washed one after the other, and not simultaneously, the pots are permitted.

The Taz notes that while the Shulchan Arukh's case may seem rather foreign to us, there are many practical ramifications to this debate. For example, what if while cooking vegetables in a dairy pot, one accidentally stirred the contents with a fleishig spoon? According to the Rema, if both utensils were "ben yomo," and the spoon isn't "batel be-shishim" in the water, the pot, the spoon, and the vegetables are all prohibited!

Next week, we will briefly summarize how the principles of "natlap" and "nat bar nat" are applied to common household kitchen accidents. Then, we will discuss whether one may use a dishwasher for both dairy and meat dishes. According to many opinions, the discussion may revolve around the concepts we introduced this week.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 17: Kitchen Accidents: "Nat Bar Nat" and "Natlap"

Summary and Introduction:

Last week, we discussed the concept of "nat bar nat." According to this principle, ta'am which is emitted not by a prohibited substance itself, but rather by a utensil which had previously absorbed this ta'am, does not have the ability to participate in the creation of an issur. The Gemara refers to this taste as "nat bar nat," i.e., a secondary taste. Therefore, according to the Gemara, fish which came in contact with a secondary taste of meat may be eaten with milk, since the taste of meat is so weak that it cannot produce the prohibition of "basar be-chalav."

As we noted last week, the Rishonim differ regarding the definition of "nat bar nat." According to Sefardic practice, even food that was cooked or fried in a meat pot may be eaten with milk. Many Sefaradim even permit this practice le-chat'chila, and not just be-diavad, thus eliminating any need for pareve utensils.

According to Ashkenzic interpretation, the Gemara's case referred to fish which were merely served hot on a meat dish; fish which were actually cooked or fried in a meat utensil should not, le-chat'chila, be eaten with milk. This food is commonly known as "be-chezkat besari." However, food which is cooked in a dairy utensil may be served immediately AFTER meat.

Be-diavad, if one already mixed the food with milk, the mixture is permitted. Therefore, if one already poured milk into coffee which was cooked in a meat pot, the coffee is permitted.

Furthermore, if the pot was "eino ben yomo" from its last contact with meat, the food may be eaten, le-chat'chila, with milk. The Acharonim differ as to whether one may intentionally use an "eino ben yomo" pot for this purpose.

We also discussed the impact of secondary taste on utensils.

We noted that the Ramban and the Sefer ha-Teruma disagree regarding a case in which meat and dairy (ben yomo) utensils are placed, at the same time, in boiling water. While the Ramban permits the utensils, since the taste absorbed by the utensils did not come directly from the food itself, the Sefer Ha-Teruma prohibits them.

This week, I would like to review some of the practical applications of these principles.

Oops! Inserting a Dairy Spoon into a Meat Pot:

As we noted last week, the Taz explains that based on the Rema's ruling in according with the opinion of the Sefer Ha-Teruma, a somewhat common kitchen accident may have serious consequences. If one uses a dairy spoon to stir vegetables which are cooking in a meat pot - the pot, spoon and vegetables are prohibited!

Of course, as the Rema points out, the entire mixture would only be prohibited if both the pot and spoon were considered "ben yomo" (less than twenty-four hours since their last contact with meat or milk in a "keli rishon"). Most common kitchen accidents may be permited be-diavad based on this rationale.

What if only one of the utensils was considered to be "ben yomo"? According to the principles presented last week, the food should retain the status of the "ben yomo" vessel. Therefore, if spaghetti was cooked in a "ben yomo" dairy pot and stirred with a fleishig spoon, the utensils are permitted, and the spaghetti should be considered "be-chezkat chalavi." In other words, it should not be eaten WITH meat.

The Rema (94:5), however, cites a stringent custom:

If one cooks vegetables in an "eino ben yomo" [meat] pot and inserts a "ben yomo" [dairy] spoon, or if the food contains shishim [against the "ben yomo" spoon], everything is permitted. [However] the custom is to be stringent to eat the food "like" the utensil which is a ben yomo, and to prohibit the utensil which was "eino ben yomo," but this is only a stringency because according to the halakha, everything is permitted.

The Rema addresses the status of both the food and the "eino ben yomo" utensil.

What is the reason for these stringencies? One may suggest that these chumrot were adopted in order to insure proper kitchen management. Often, people are more careful when the stakes are high. Alternatively, the Shakh, as we shall see, suggests that we are concerned lest one come to misinterpret the leniency of an "eino ben yomo" utensil, and conclude that even a "ben yomo" utensil does not have the ability to emit ta'am. Apparently, if both utensils were "eino ben yomo," all agree that there is no place for this stringency.

Regarding the "eino ben yomo" utensil, the Acharonim question whether we follow the Rema. The Shakh, for example, suggests that the custom may not be like this Rema, but rather like the Rema cited last week which permitted dairy and meat pots which were washed together as long as one of them was "eino ben yomo"! Seemingly, there is room to be lenient, depending on the circumstances and the type of utensil. One should consult a halakhic authority.

Regarding the food, the Acharonim ask the following question: The Rema posits that the stringency is to treat the food "like" (KE-min ha-keli) the utensil which was "ben yomo." In other words, if the spoon was "ben yomo" dairy, the food should be viewed as "be-chezkat chalavi" and should not be eaten with meat.

Yet, is this really a stringency? The Rema (95:2) already ruled, at least le-chat'chila, in accordance with the opinion cited by the Rivan, which is lenient only when the fish are SERVED on meat dishes! Surely this is the Rema's RULING, not a mere chumra?!

The Shakh, therefore, citing the Rema himself in his earlier work Torat Ha-Chatat, explains that the text should read "BE-min ha-keli." In other words, the stringency is to eat the food neither with dairy nor meat, but rather alone. The Shakh questions whether this is really the custom. Still, he explains that this chumra, as mentioned above, may be based on the remote fear that if we were to allow one to eat food cooked in an "eino ben yomo" meat pot with dairy, one might err and assume that even if that pot was "ben yomo" the halakha would be the same.

In summary, if one inserts a "ben yomo" dairy spoon into a food cooking in an "eino ben yomo" meat pot, the custom, when possible, is to kasher the "eino ben yomo" pot, and to refrain from eating the food with dairy OR meat. If, however, both utensils were "eino ben yomo," everything is permitted.

Inserting a Dairy/Meat Spoon into a Pareve Pot:

What if one were use a dairy spoon to stir pareve vegetables cooking in a pareve pot?

As for the food, based on last week's shiur, if the spoon was considered "ben yomo," then the food should certainly be considered "be-chezkat chalavi," and should not be consumed with meat. If the spoon was "eino ben yomo," or if the pot contained shishim against the spoon, the food remains pareve.

What, however, of the impact of the "ben yomo" dairy spoon on the pot? Seemingly, the taste emitted by the spoon is "nat bar nat" and should have no impact on the pot. We saw a similar phenomenon regarding the dairy and meat dishes which were washed together. If one of them was "eino ben yomo," they are both permitted, and we do not believe that the "ben yomo" pot can affect the "eino ben yomo" pot!

The Mechaber, however, seems to disagree. He posits (YD 94:5) that if one inserted a dairy "ben yomo" spoon and then a meat "ben yomo" spoon into a new pot of boiling water, the pot should no longer be used for meat or dairy. Some Acharonim explain that similarly, if one were to insert a dairy "ben yomo" spoon in a new pot, that pot should not be used for meat, and may only be used for pareve foods. In other words, when a pot absorbs secondary dairy taste, it should no longer be used for meat, and vice versa.

This ruling seems very difficult to understand. The Shakh (94:15) and later the Arukh Ha-Shulchan (94:19) explain that according to the Mechaber, there is a halakha of "designation" ("keviat tashmish"). Inserting a dairy "ben yomo" spoon into a pot eliminates the option of designating this pot as meat. In other words, one who inserts a "ben yomo" dairy spoon into a new pot must now designate the pot as either a dairy or pareve pot.

In any case, the Shakh (94:15) himself, and others, disagree with the ruling of the Shulchan Arukh. They argue that secondary taste cannot affect another utensil and the pot may still be used for pareve, dairy or meat.

What if Milk Splashes on a Pareve Pot?

In a previous shiur (see shiur #14) we discussed a scenario in which a drop of milk falls onto a meat pot. I would like to repeat here, for the sake of clarity, that if a drop of meat or milk falls onto a PAREVE pot, one may continue to consider the pot pareve.

If the pot was full and if only a drop fell on the pot, since the notion of "chanan" doesn't apply to permitted foods, one is only concerned with the drop of milk or meat. Usually, one can assume that the drop is "batel" in the food cooking in the pot. Therefore, if a drop of milk splashes onto an urn of hot water, one may continue to use the urn for pareve hot water. Even if the drop of milk was not nullified by shishim, or if the drop fell onto an empty pot, one may still be lenient, especially if 24 hours have passed. See Binat Adam 41:58.

One last note: I believe that this week's shiur has demonstrated that in addition to pareve knives, which we shall discuss in a future shiur, pareve stirring utensils (and maybe even a pot or two) may be very useful in an Ashkenazic kosher kitchen

Next week we will discuss the issues involved in washing dairy and meat dishes consecutively in one dishwasher.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 18: Dishwashers

Introduction:

The modern kitchen looks much different from the kitchens of the middle ages, and certainly much different from the kitchens of Chazal. Not only have our cooking and cleaning practices changed, e.g., most of us don't use basins heated over the fire to wash dishes, but so have our utensils. While the refrigerator and freezer do not pose major halakhic challenges, microwaves and dishwashers do.

May one use a dishwasher for both meat and dairy dishes? I would like to limit our discussion to consecutive, and not simultaneous, use of the dishwasher. While according to some, there may be room to be lenient even when both meat and dairy dishes are washed together, the halakhic risks - including the biblical prohibition of bishul basar be-chalav - may be greater.

In order to apply the halakhic principles we have discussed, we must describe the cleaning process of a dishwasher.

A dishwasher cleans dishes by spraying water throughout the machine, removing any food residue that was left on the dishes. The water then accumulates at the bottom of the machine. After the rinse, the dishwashing detergent, which is placed in a special receptacle, is released and mixes with hot water, which circulates throughout the machine. The hot, soapy water breaks down the food residue, which is then pumped out of the machine. Pieces of food too large to be pumped out are caught by a filter, located at the bottom of the machine.

For a more detailed explanation of how a dishwasher operates, the following web pages, http://www.repairclinic.com/0088_9_3.asp and http://www.cleaning101.com/dishwash/understanding_automatic_dishwashing.html, may be helpful.

Using Dishwashers for Both Meat and Dairy Consecutively:

The Status of the Dishwasher's Walls:

What is the status of the dishwasher's walls?

Let us say that one washes dairy or meat dishes in a dishwasher. We must ask whether the walls of the dishwasher absorb the taste, rendering the entire dishwasher a milkhig or fleishig utensil. Similarly, we must determine whether the walls of the dishwasher have the ability to impart taste to the dishes being washed.

Regarding the walls of the dishwasher, seemingly, there are two ways in which they can absorb ta'am.

If the concern is ta'am that came from the dishes themselves, certainly that ta'am should be considered "nat bar nat." Incidentally, this rationale applies only to kosher meat or dairy dishes; the taste emitted from non-kosher utensils always has the ability to affect another keli.

If the concern is that taste from meat or dairy food residue may be absorbed into the utensils, then we must ask ourselves: Is the dishwasher an environment in which ta'am can be transferred?

Seemingly, there should be a major difference between dishwashers in America and in Europe/Israel. An American dishwasher receives its water from a separate hot water pipe. The water entering the dishwasher was heated up in the house boiler, rendering the dishwasher a "keli sheni" and not a "keli rishon." Dishwashers in Europe and Israel, however, contain a heating element in the bottom of the machine, rendering the dishwasher a keli rishon.

This difference may be very significant to our discussion. In a future shiur, we will discuss the difference between a keli rishon and keli sheni. It is sufficient to say that if the food particles are heated in a keli sheni, one may argue that the dishwasher bottom never has the potential to absorb ta'am (Shulchan Arukh YD 105:2). Furthermore, the water sprayed by the revolving wand MAY be considered iruy from a keli sheni, which is most likely halakhically insignificant.

If, however, we view the dishwasher as a keli rishon, the food residue is actually cooking in the bottom of the dishwater, and ta'am is absorbed into its walls. If so, then the next time this dishwasher is used, it is equivalent to cooking meat in a dairy pot, which renders the entire machine and its contents basar be-chalav!

Rav Moshe Feinstein (YD 3:11), who argued FOR the permissibility of using one dishwasher for consecutive use of meat and dairy dishes, notes that a dishwasher is a keli sheni, and therefore there may be no halakhic problem. Some argue (see article by Rav Yisrael Rosen, Techumin 11) that dishwashers in Europe and Israel are considered a keli rishon, rendering the heter of Rav Moshe Feinstein not applicable in Israel and Europe.

Incidentally, I am under the impression that newer dishwasher models in America also have built-in heating elements not only for the drying cycle, but also to insure that the water reaches the proper temperature. The web page cited above seems to confirm this. I encourage readers to investigate this point further.

Other Reasons to be Lenient:

Even if we view a dishwasher as an environment which is conducive to a transfer of ta'am - i.e., a keli rishon - consecutive use for milk and dairy dishes may still be permitted. How?

This leniency seems to rely upon the following two factors.

First, we once noted that the Mechaber (95:4) suggests that if one washed DIRTY meat and dairy dishes together in a keli rishon, if one had added ashes or dirt to the water as a cleaning agent, the food residue may be rendered "pagum" (unsuitable) and the dishes may be permitted. Some claim that the highly concentrated detergent used in dishwashers "spoils" any food residue, and therefore there is no problem of "ta'am"!

Others note that both the Shakh and Taz disagree with the ruling of the Mechaber. Furthermore, some argue that large pieces of residue are not spoiled, and remain intact and edible even after the cleaning process.

[This question is the critical point of debate between Rav Gideon Perl (Rav of Alon Shvut) and Rav Yisrael Rosen (Rav of Tzomet), see Techumin v. 11.]

However, it seems that the release of detergent and its effect upon the food residue may not be enough to permit consecutive washing of meat and dairy dishes. The soap is not always released immediately, and therefore there may be free circulation of hot water and remaining food particles before the detergent "spoils" them.

Those who permit the consecutive washing of meat and dairy dishes in a dishwasher often offer another reason to be lenient – bitul be-shishim.

Rav Moshe Feinstein (YD 2:28) and others insist that the food residue is nullified by shishim of water. This assumption is dependent upon the dishwasher, the type of cycle chosen, and the cleanliness of the dishes placed in the dishwasher. Older dishwashers, for example, were less likely to conserve water than newer ones. Additionally, some people are more careful to clean off their plates before placing them into the dishwasher, leaving very little meat or dairy residue. Similarly, if a "pre-wash" cycle is run, the cold water most likely removes most of the residue.

As for the amount of water used in each cycle, each machine seems to use a different amount. My AEG dishwasher, for example, seems to use about 5 liters per rinse (according to the manual). If so, it would follow that the actual meat or dairy residue in our dishwasher must be less than 83.3 milliliters, or, approximately 2.8 ounces which is slightly more than one third of a cup, in order to be considered "batel."

Some have raised a concern that as the water drains, there may not be sixty parts of water left to nullify the remaining food particles. This may be a serious concern. However, if one assumes that the detergent has "spoiled" any remaining food particles, then this concern does not seem relevant.

Filters, Racks and Pareve Dishes:

In most dishwashers, larger food particles remain in the filter and must be manually removed. This raises a number of halakhic problems.

If the filter contains both meat and dairy residue, this may create a situation of bishul basar be-chalav, a Biblical prohibition!

Even if the filter contains ONLY meat or dairy remnants, every time water is heated up in the dishwasher, the water absorbs the taste of the food residue, rendering the water, as well as the dishwasher, milkhig or fleishig.

Seemingly, these problems can be resolved initially by cleaning the filter after each use, or be-di'avad by assuming that the detergent spoils the remnants and/or the water is more than shishim against the food remaining in the filter, which is quite likely.

Another issue, raised by Rav Moshe Feinsten, concerned the use of one set of racks for both the meat and dairy cycles.

Do the racks absorb taste of meat or milk directly from the food? If one views the entire dishwasher as a keli rishon, this may indeed be a problem. If one believes that the water which is sprayed on the racks is considered iruy mi-keli rishon, since in our case the flow of water is interrupted (iruy she-nifsak ha-kiluach), we may not be too concerned. We will

discuss the status of iruy in a future shiur. Furthermore, as mentioned above, the ability of ta'am to leave the racks and be absorbed in the dishes may also be questionable.

What if there is meat or dairy residue left on the racks? It seems that in newer dishwashers, the racks are generally clean after a full cycle. The silverware basket, however, often retains small pieces of food residue.

These concerns led Rav Moshe Feinstein (OH 1:104) to insist upon using two separate dish racks.

May one use a meat or dairy dishwasher for pareve dishes? If the filter (and racks) have been cleaned, there seems to be room to sanction this practice (see The Laws of Kashrut by Rav Binyomin Forst, p. 262)

One final question: What if one finds dairy silverware in a meat dishwasher, or vice versa?

Generally speaking, the Rema (95:3) rules that if one finds a dairy spoon among meat cutlery, one is not required to kasher the silverware.

The Acharonim (see Taz 95:13 and others) point out that there are so many sefekot (doubts), one can assume that the dairy spoon was washed in a permissible way. For example, maybe the spoon wasn't actually washed with the meat cutlery. Or, maybe the dishes were clean of residue and at least one of the types was eino ben yomo. Furthermore, maybe the water didn't reach yad soledet bo (often people don't wash dishes in water which is yad soledet bo, as it is very uncomfortable). Additionally, maybe there was shishim of water against the taste, or maybe the soap spoiled any taste that was present. In any case, we have clearly reached the "sefek sefeka" necessary to permit such a case.

Can one make the same assumption regarding a dairy spoon found in a meat dishwasher? Clearly, all the silverware was washed together. Furthermore, the water was clearly hot enough to effect a transfer of taste. While one could possibly make an argument for leniency based upon the presence of shishim, as well as the pungent nature of the detergent, it would seem that in this case one should be stringent and kasher the utensil in question.

Summary:

We should note that common custom, despite Rav Moshe Feinstein's leniency, is not to use one dishwasher for washing meat and dairy dishes consecutively.

However, those who do permit this practice must accept the following assumptions:

The detergent spoils the remaining food residue, even when there isn't shishim of water in the machine.
The food residue, even if at times it is not spoiled, is nullified by shishim of water.

Furthermore, those who use a dishwasher in America, in which the internal heating element does NOT heat the water, may have another reason to be lenient.

For further research, see Igrot Moshe (OH 1:104, YD 2:28 and 29, YD 3:9 and 11, OH 3:55) and Techumim 11 (articles by Rav Gidon Perl and Rav Yisrael Rosen).

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 19: Transfer of Taste - Netinat Ta'am (Part 1)

Keli Rishon, Sheini and Iruy (1)

Regarding Last Week's Shiur:

Last week, we addressed a common question. What if one finds a dairy spoon in the "fleishig" dishwasher?

I noted that while one could invoke the Rema who posits that a dairy spoon found in the "fleishig" cutlery drawer is permitted, one should be stringent in this case, being that the dairy and meat silverware were definitely washed together.

For one who wishes to be stringent in this case, one can kasher the spoon by simply waiting 24 hours and immersing it into a pot of boiling water, and then rinsing it in cold water.

However, I would like to emphasize that this recommendation should be viewed as a "chumra," and therefore if one is unable to kasher the utensil, one may certainly rely upon the many reasons to be lenient which I enumerated in the shiur.

Furthermore, I should note that some allow the use of a single dishwasher for both dairy and meat dishes, consecutively, as long as in addition to thoroughly cleaning the filter, one either waits twenty four hours, and/or runs a clean cycle in between, thereby kashering the dishwasher (kebol'o kakh polto).

One should consult a halakhic authority regarding this matter.

Introduction:

In previous shiurim, we discussed various aspects of ta'am. We analyzed the unique qualities of a mixture of similar (min be-mino) and dissimilar (min be-she'eino mino) substances, the role of prohibited ta'am in a mixture, and its impact upon permitted foods. Furthermore, we discussed issues relating to the quality of ta'am, such as "nat bar nat" and "noten ta'am lifgam."

This week, we must address the ways in which ta'am may be transferred from one substance to another. Ultimately, our discussion will help us to tackle many common kitchen accidents, as well as to address the proper use of sinks in a kosher kitchen.

Which Environment is Conducive to Netinat Ta'am?

When addressing the environment in which ta'am may be transferred from one substance to another, we must distinguish between a number of important issues.

1. Medium:

What is the medium through which the ta'am may travel?

Dry foods:

Generally speaking, ta'am may only travel through an appropriate medium. If the two substances that come in contact are dry, for example, the ta'am's ability to spread throughout the mixture may be limited.

Here, the halakha distinguishes between fatty foods, which are viewed as a sufficient medium, and non-fatty (lean) foods. When at least one of the foods is fatty, the issur may spread throughout the entire permitted substance - as if they were cooked together - and the heter is permitted only if it contains sixty times the issur. Furthermore, the area of contact between the issur and heter should be removed (kedei netila). If, however, both pieces are lean, the ta'am of issur cannot travel throughout the permitted substance, and one must merely remove the area of contact, "kedei netila."

While we shall return to these cases, let us assume for now that both substances, or at least the bottom piece, are at a temperature of at least "yad soledet bo" and are located in a keli rishon. We shall address variations of this case later in the shiur.

When two hot, dry utensils come in contact with each other, no transfer of taste is possible (see Rema YD 92:8). This is the source for the common custom of "double wrapping" food when placed in a non-kosher oven. Even if we suspect that non-kosher ta'am may reach the cooking tray, the taste is absorbed in the outer layer and cannot penetrate from the outer to the inner wrap, similar to two utensils that touch each other.

Wet Foods:

The most common medium, however, is liquid. If a prohibited substance comes in contact with a permitted substance through the medium of a liquid (i.e., in the same pot), we assume that the ta'am spread throughout the entire mixture. Therefore, the permitted substance may only be salvaged if it contains sixty times the amount of the prohibited substance. In that case, as we described in previous shiurim, the heter may be eaten.

2. Heat:

The Gemara enumerates a number of ways to facilitate the transfer of taste. The most prominent, and certainly the most common, is heat. At what temperature do food or utensils absorb the taste of another?

The Gemara never explicitly discusses this question. The Shulkhan Aruch (YD 105:2), assuming that one may equate the environment in which food cooks (on Shabbat) to the environment in which taste can be transferred, posits that the temperature is "yad soledet bo," literally, the heat at which one would reflexively withdraw one's hand. The Gemara (Shabbat 40b) asserts that at this temperature one violates the prohibition of bishul (cooking) on Shabbat.

The precise definition of "yad soledet bo" continues to be the subject of debate between halakhic authorities. Rav Moshe Feinstein (Igrot Moshe OC 4:74) claims food under 110 degrees Fahrenheit (43 degrees centigrade) should not be considered "yad soledet bo." Rav Shlomo Zalman Auerbach (Minchat Shelomo 1:91:8) suggested a temperature of 113 degrees fahrenheit (45 degrees centigrade).

Interestingly, the authorities debate whether one may literally test the heat of a substance to see if one's hand recoils. The Derisha (OC 318:5) implies that one should not rely

upon this test. The Issur Ve-Heter (34:20), however, writes that "yad solodet bo" is when an average person's hand recoils. The Kaf Ha-Chaim (OC 318:143) suggests that the temperature at which one would refrain from eating food because of its heat is to be considered yad soledet bo.

In addition, not every source of heat can induce a full transfer of taste. The Rishonim debate whether ta'am may be transferred only in a keli rishon, or also in a keli sheni. They also discuss the ability of pouring (iruy) to affect the transfer of taste. I would like to dedicate the next portion of our shiur to this question.

3. Place of Contact Between Issur and Heter:

As mentioned above, taste may only travel from a prohibited substance to a permitted substance if there is a proper medium (liquid, for example) and if the proper environment (i.e., heat) exists. The Rishonim note that not only must the temperature must be at least yad soledet bo, but the source of the heat is also of great importance.

Clearly, taste may be transferred when the substances are in a keli rishon. However, the Gemara does not define a keli rishon in the context of our discussion - hilkhot ta'arovot. Furthermore, the Gemara does not address whether taste can be transferred in a keli sheni, or even through iruy (pouring). Rather, the discussion of different sources of heat appears primarily in the context of bishul (cooking) on Shabbat.

Therefore, we must first determine which sources of heat may cause bishul on Shabbat, and then question whether the laws of bishul apply to the transfer of taste (belia).

The laws of bishul on Shabbat are vast and deserve comprehensive treatment. However, we shall attempt to summarize at least one aspect of bishul on Shabbat – the source of heat.

The Mishna (Shabbat 42a) states: "One should not place spices into a pot which has been removed from the fire." In other words, not only may one not place uncooked food in a utensil on the fire, but even into a utensil taken off the fire. Both are considered to be a keli rishon. Incidentally, the Yerushalmi, in a number of places, implies that once a utensil has been removed from the fire, it is only considered a keli rishon mi-derabanan. There is no evidence of this in the Talmud Bavli, and therefore many claim that the Bavli and Yerushalmi disagree on this issue.

Furthermore, the Gemara (Shabbat 42b) states that "keli sheni eino mevashel." In other words, bishul cannot be accomplished in a pot into which the contents of a keli rishon were poured. For example, it seems that one may place raw food into a bowl of hot soup, on Shabbat, as the bowl is only a keli sheni. Why?

Seemingly, this should be dependent upon different understandings of the prohibition of bishul on Shabbat. What role does the source of heat play in bishul? Am I primarily concerned with the physical change which occurs when food is exposed to heat? Or, do I define bishul as an ACT of causing a physical change with occurs within proximity of a certain source of heat (i.e. a keli rishon). When food is placed near alternate source of heat (i.e. a keli sheni), this does not constitute an ACT of bishul.

Some Rishonim cite the Yerushalmi, which claims that since even a keli rishon that is no longer on the fire is only prohibited mi-derabanan, apparently, a keli sheni is too far removed from a true keli rishon and is therefore permitted. This Yerushalmi implies that "bishul" on Shabbat is a function of the proximity of the food to a source of heat, and not just of the physical change in the food. This, of course, may explain why "bishul be-chama," cooking with the heat of the sun, is permitted on Shabbat. The assumption being that bishul mi-deoraita by definition, means cooking with direct contact with fire.

Tosafot (Shabbat 42b), on the other hand, seem to imply that since a keli sheni's heat is not constant, as the walls do not retain the heat of the food, its ability to cook is diminished. Apparently, food will not be sufficiently changed by the heat of a keli sheni. As for "bishul be-chama," while theoretically the sun IS also a problematic source of heat, since it is not "derekh bishul" (see Rashi), it is not prohibited.

(Incidentally, the poskim discuss whether one may cook in a microwave oven on Shabbat. According to Rav Moshe Feinstein, microwave cooking has become "derekh bishul" and is therefore prohibited. Others, however, claim that since there is no direct source of heat, cooking in a microwave may be permitted, or at least permitted mi-de'oraita. While this may not be of great practical importance, the discussion may be relevant regarding the proper method of reheating food up on Shabbat in a hospital, and other similar cases.)

Practically speaking, the Gemara lists of number of cases in which a keli sheni may cook, and therefore some Rishonim write that one should be stringent regarding foods which are considered "kalei bishul" – i.e., foods which cook quickly. We are generally hesitant to put almost any uncooked food into a keli sheni. This question, however, is complicated and is outside of the scope of this shiur. For further research, see OC 318:5.

Regarding hilkhot kashrut, the Rishonim debate whether we should equate bishul on Shabbat to belia (aborption) of prohibited substances. For now, I would like to restrict our discussion to a keli sheni which contains hot liquids. The status of solids transferred to a keli sheni, i.e., davar gush, and iruy, will be discussed next week.

Most Rishonim are inclined to equate them, and therefore conclude that taste cannot be transferred in a keli sheni. According to this view, if one were to immerse a ben yomo meat spoon into a cup of hot coffee (with milk), or, if one were to insert a dairy spoon into a hot bowl of chicken soup, neither the cup or bowl, nor their contents, nor the spoon, are affected, as the entire incident took place in a keli sheni.

Others insist that a keli sheni does cause the taste to penetrate "kedei kelipa" - into the outer surface - of the food. Therefore, if a fruit were to fall into a hot bowl (keli sheni) or non-kosher soup, one may remove the peel and eat it. However, if a dairy spoon was inserted into a hot bowl of soup, the spoon would certainly need to be kashered, and the soup might be prohibited, depending on whether there were sixty parts of soup against the spoon.

Still others (Maharshal Chullin 7:71) insist on equating bishul and belia, and therefore a hot keli sheni may facilitate a complete transfer of taste throughout the entire substance. The Maharshal, however, admits that a substance cannot both "maflit u-mavlia," emit and absorb taste, in a keli sheni. Therefore, while the above-mentioned meat spoon may prohibit the coffee, the coffee cannot subsequently transfer its taste to the cup, and therefore while the spoon and the coffee are prohibited, the cup is permitted!

The Shulchan Arukh (105:2) cites the opinion of the majority of Rishonim, which limits belia to a keli rishon. He then cites the opinion of the Rashba, and comments that while "initially (le-khat'chila) one should be careful regarding a keli sheni, be-diavad the substance is permitted without kelipa, as long as it is rinsed." In other words, one should not allow kosher food to come in contact with non-kosher food in a keli sheni, but if they accidentally came in contact, the food and the pot are permitted.
The Acharonim question whether the custom is in accordance with the lenient ruling of the Shulchan Arukh. Many are stringent (see Taz 105:4), except when there may be financial loss. Furthermore, some note that while at times we may be lenient regarding the food, which cannot be repaired, and is therefore considered "be-di'avad," the utensil, which may (usually) be repaired, should be kashered. A halakhic authority should be consulted in cases regarding a keli sheni.

Next week, we shall continue our discussion of the proper environment for netinat ta'am, as we address the question of the status of solid foods transferred from a keli rishon to a keli sheni (davar gush), and pouring (iruy), as well the proper use of kitchen sinks.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 20: Transfer of Taste (Part 2)

Keli Rishon, Sheini and Iruy (2)

Introduction:

Last week, we discussed the factors which together may induce a transfer of ta'am from one substance to another. We noted that not only must there be a proper medium (i.e., fat or liquid), and sufficient heat (yad soledet bo), but the proper source of heat is also required in order to facilitate a transfer of taste.

We noted that all agree that taste may be transferred in a keli rishon, i.e., a utensil either placed on or just removed from the fire. The Rishonim debate, however, whether taste may be transferred in a keli sheni, i.e., if a substance is placed into a liquid which was first heated over a fire and then transferred into a second pot. Common custom is to be stringent unless financial loss may be involved. In such a case, a Rav should be consulted.

Today we will discuss the status of solid foods (davar gush), and liquid (iruy) transferred to a keli sheni). As well as the impact of direct contact between a permitted and prohibited substance.

Davar Gush:

The Rishonim discuss the status of a solid food removed from a keli rishon and placed into a keli sheni. Regarding the laws of Shabbat, the question may relate to the permissibility of pouring cold, uncooked liquids onto hot solid food. Regarding the laws of kashrut, the question may involve pouring cold milk over a solid piece of hot meat removed from a keli rishon. Alternatively, we may question the consequences of cutting this piece of meat with a dairy knife.

Are we to view the meat as a keli rishon, even though it is no longer in the pot in which it was cooked? If so, the meat is prohibited in both the above-mentioned cases. Or, do we treat the meat as a keli sheni, in which case, as we learned last time, many Rishonim maintain that the meat would most likely be permitted (though one must remove the area which came into contact with the knife or the milk).

The Rishonim refer to this solid food as a "davar gush." Generally, this refers to a substance which cannot be poured and does not stick to the walls of the utensil in which it is contained.

Rabbeinu Yona and the Maharshal (see Shakh 94:30) posit that a piece of solid food retains its status as a keli rishon even after it is removed from its original pot. It seems that most Rishonim disagree with this ruling.

As for why a davar gush should be different from a liquid, we may offer the following suggestion. We noted that the Tosafot explained that a keli sheni cannot cause bishul

on Shabbat, as the walls of the keli sheni cool off the liquid and therefore it can no longer provide constant heat. A davar gush, however, isn't contained within a new keli and there are no walls to cool it down. Therefore, its status may be closer to that of a keli rishon than a keli sheni.

The Rema (YD 94:7) seems to reject the position of the Rabbenu Yona and the Maharshal, and rules that a solid piece of food shares the same properties as liquids. Therefore, he rules that if one cuts a piece of meat in a keli sheni with a dairy knife, the meat remains kosher, as the encounter between the meat and the knife occurred in a keli sheni.

A number of Acharonim (Taz 94 and Shakh 105) adopt the more stringent view, especially when a knife was used, as the pressure of the knife (duchka de-sakina) may add another reason to be more stringent. Therefore, in the above mentioned case, the meat must be discarded, as it is viewed as a keli rishon. Some are lenient when financial loss is involved. Therefore, one should consult a halakhic authority.

Does it Matter if the Solid is on the Top or the Bottom?

Our discussion until now has involved a case in which the hot solid food was removed from a keli rishon. What if the hot solid was placed ON TOP of a cold solid?

Generally, the operative halakhic principle is that "tatai gavar" (Pesachim 76a). The bottom substance is considered dominant. Therefore, if the bottom food is in a hot keli rishon, and an appropriate medium is present, a complete transfer of taste is possible.

If on the other hand, the bottom food is cold and the top food is hot, only a partial transfer of taste is accomplished. Therefore, theoretically, if a hot piece of meat is placed on a cold block of cheese, both substances are permitted as long as the outer layer (kedei kelipa) of both pieces is removed.

The authorities disagree regarding the status of two foods, one permitted and the other prohibited, placed alongside each other. See Rema YD 105:3, and Taz (5) and Shakh (9).

Once again, these cases are complex and often require the guidance of a halakhic authority.

Iruy – Splashes:

Unlike the case of davar gush, iruy relates to the status of a cold food or utensil onto which a hot liquid is poured.

The Rishonim debate the impact of pouring a hot liquid onto a utensil or a substance. Regarding the laws of bishul on Shabbat, the question may involve the permissibility of pouring water from an urn onto tea leaves or another uncooked substance. Regarding the laws of kashrut, the question may relate to the effect of hot milk poured onto a cold piece of meat, or hot gravy which is spilt onto a dairy plate or pot.

Some (see Rashbam cited by Tosafot Shabbat 42b) explain that the impact of a poured liquid is no greater that the impact of a keli sheni, which does not cook or cause absorption (according to many). Others claim that iruy mi-keli rishon may cause bishul and beliah (absorption), although they differ as to what extent. Some (see Rosh) claim that iruy may only effect a partial transfer of taste, kedei kelipa (through the outer layer). Others (see Rabbeinu Tam as cited by above Tosafot) rule that iruy mi-keli rishon may effect a full transfer of taste, similar to a keli rishon.

The Rema seems to adopt the middle position, as he rules (YD 68) that iruy induces a transfer of taste only throughout the outer layer (kedei kelipa). In other words, iruy is viewed as a case of "tatai gavar," as described above, and thus can only affect the outer layer of the lower food. Practically, however, due to the chance the lower substance, due to its porous nature, might still absorb the milk, one should consult a halakhic authority.

See YD 91:4 and Shakh (8) regarding the status of the milk.

Iruy of Hot Water From One Utensil to Another, or Onto Two Different Utensils:

The authorities disagree regarding a case in which hot water cooked in a dairy pot is poured onto a cold meat dish or pot. As we noted in an earlier shiur, the Rema (YD 95:2) allows one to place food cooked in a dairy pot onto meat dishes. However, in the very next se'if (95:3) the Rema states explicitly that if one pours a liquid, which was cooked in a fleishig keli rishon, directly onto a dairy dish, the dish and the liquid are prohibited! Apparently the Rema equates this case with the case of washing meat and dairy dishes together in a keli rishon, regarding which he rules like the Sefer HaTeruma who prohibits both utensils.

The Taz (95:13) suggests that since the flow of water is connected to both utensils, it is as if they are together in the same pot. The Shakh (95:5) and Peri Chadash (95:17) rule leniently. The Arukh Ha-shulchan (95:22) is also inclined to rule leniently, yet suggests that when possible one should kasher the utensil. If, however, the keli may not be kashered, like a mug, the utensil is permitted.

Incidentally, hot milk poured directly onto a countertop is considered a keli sheni, and a meat pot placed on that puddle is subject to the laws of keli sheni, as detailed in last week's shiur.

What if one pours hot water, from a pareve keli rishon, over meat and dairy dishes?

The Rema (YD 95:3) rules that iruy mi-keli rishon is not strong enough to facilitate a transfer of taste from one utensil to another, and therefore, even if they are both dirty, they are permitted. The Shakh (20) adopts a more stringent approach.

This discussion, of course, brings us one step closer o discussing the proper use of, and potential problems relating to, sinks.

Next week we shall address sinks, as well as other scenarios in which there may or may not be a transfer of taste. Finally, we will attempt to summarize some of the complex halakhot we discussed the past two weeks.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 21: Transfer of Taste (Part 3)

Iruy and Proper Use of Sinks (3)

Introduction:

In previous shiurim, we discussed environments in which taste can be transferred from one substance or utensil to another. We noted that while we clearly require the proper medium (such as a liquid) and heat (yad soledet bo), the authorities debate whether the location of the encounter between two substances is important.

A keli rishon, i.e., a utensil which was heated on the fire, even after it was removed from the fire, is certainly an environment conducive to the transfer of taste. However, we questioned whether a keli sheni, or even iruy, could also facilitate a netinat ta'am.

Regarding a keli sheni, the Shulchan Arukh (YD 105:2) rules in accordance which the majority of Rishonim who believe that just as a keli sheni cannot accomplish bishul on Shabbat, it also cannot induce a transfer of taste. Many Acharonim (Shakh and Taz), however, seem inclined to adopt, except in extenuating circumstances, the stringent view of the Rashba and Maharshal, who maintain that a keli sheni can transfer taste to at least a kelipa (outer layer) of the substance.

Regarding iruy - i.e., the pouring of a hot liquid from a keli rishon onto a cold substance - we noted that the Rishonim debate whether contact with this liquid is similar to contact with a keli sheni or with a keli rishon. The Shulchan Arukh rules that iruy can facilitate an absorption or extraction of taste "kedei kelipa."

This week, I would like to address a common application of the laws of iruy – sinks.

Pouring Hot Water onto Dishes – Potential Problems:

Last week, we cited two comments of the Rema which drew criticism from the Shakh.

Firstly, we learned in a previous shiur that the Rema (95:3) rules, in accordance with the opinion of the Sefer Ha-Teruma, that if one places a dairy dish which is ben yomo (has been used within the last 24 hours) into a ben yomo meat pot filled with boiling water, the entire contents are prohibited.

Does this stringency apply even if one pours water from a ben yomo meat pot onto a ben yomo dairy pot?

The Rema rules that when one pours hot water from a ben yomo dairy keli rishon onto a ben yomo meat pot, the meat (bottom) pot is prohibited.

The Shakh (95:5) disagrees and suggests that be-di'avad, especially if a financial loss is involved, one should NOT prohibit the bottom pot.

Secondly, the Rema rules that if hot water is poured from a keli rishon onto ben yomo meat and dairy dishes together, even if they are not clean, the dishes are permitted. He explains that iruy is not considered a keli rishon to the extent that it can cause both the extraction of taste (or the heating up of a substance) and its subsequent absorption into another utensil.

The Shakh once again disagrees, and in this case rules more stringently than the Rema. He maintains that if the two dishes are dirty, they are prohibited. He questions whether one should also be stringent if only one of the dishes is dirty and recommends stringency if no great financial loss is present. In other words, the Rema and Shakh debate whether iruy of hot water has the ability to cause the "be'ein" (substance) of milk and/or meat to be heated and absorbed into another utensil.

The ramification for modern usage of a sink should be clear.

Sinks:

Firstly, we should note that most authorities seem to view hot water from the tap as iruy mi-keli rishon, despite the fact that the boiler may be located quite far from the sink.

One may suggest that the status of the water should be similar to the status of water taken by a ladle from a keli rishon. The Taz (end of YD 92) cites the opinion of the Maharil who views iruy from a ladle as iruy from a keli sheni. The Taz disagrees, but notes that if the ladle remained in the keli rishon for some time, everyone would agree that it is considered to be a keli rishon.

Moreover, maybe the first burst of water should be subject to the debate between the Taz and Maharil, but certainly once the pipe as been exposed to hot water for a period of time, the water should be considered iruy mi-keli rishon.

Needless to say, tap water only presents a halakhic problem if it is yad soledet bo. This is often not the case, as it is uncomfortable to wash dishes in very hot water.

With that in mind, clearly one avoids many potential kashrut quandaries by acquiring two separate sinks. The only question remaining would relate to the proper method of washing a pareve utensil in a meat or dairy sink. As we discussed in previous shiurim, this does not pose a major problem, and one should simply avoid contact between meat or milk and the pareve pot. If such contact were made, under hot water, it would seem, based on a number of considerations, that the pot may still retain its pareve status.

At the other end of the spectrum, washing both dairy and meat dishes in the same sink simultaneously would seem to pose the greatest problem. The debate between the Rema and Shakh would certainly be applicable. While in such a case, there may still be many reasons to be lenient (i.e., was the water really yad soledet bo? was soap used? can the dishes be kashered?), a halakhic authority should be consulted. In any case, this is certainly not a le-chat'chila method of washing dishes.

May one use one sink for consecutive washing of meat and dairy dishes?

Firstly, the sink must be washed thoroughly between use for meat and dairy dishes. Otherwise, one may be subject to the debate between the Rema and Shakh. In other words, the Rema's scenario of hot water from a keli rishon poured over dirty meat and dairy dishes is strikingly similar to pouring hot water over a sink with meat residue and a dirty dairy dish. The Shakh, as we mentioned, is stringent in this case. Therefore, it is crucial that the sink be thoroughly cleaned. This reason alone may be sufficient, according to some, to encourage the use of washing basins or inserts as opposed to racks.

Assuming the sink is clean, one must ask the following questions.

Are we concerned that the sink itself truly absorbed taste, and has it really attained the status of being "not kosher"? Furthermore, are we concerned that the sink may emit taste and render the dishes inside "not kosher"?

Rav Moshe Feinstein zt"l (Igrot Moshe YD 1:42) notes that it is quite difficult for a sink to become not kosher. He insists that a sink can only absorb ta'am if it is poured directly, from a hot keli rishon onto the sink, or if a hot stream of tap water is poured directly over food residue. He claims that the probability of this happening with both meat and dairy substances, within 24 hours of each other, is low.

Furthermore, it is virtually impossible, even if the sink has become treif, for the sink to affect other dishes. After all, iruy, according to the Rema, cannot effect two transfers of taste. Therefore, iruy cannot enable an extraction and subsequent absorption of non-kosher taste.

Soaking dishes in the sink may also present a problem, although we noted that many authorities are lenient regarding a keli rishon, and certainly when two transfers of taste are involved (Maharshal).

Rav Moshe concludes that one may use one sink for both meat and dairy dishes consecutively, yet notes that common custom is to use separate dairy and meat racks. He does not mention a pareve rack, although many have adopted the custom of using a pareve rack for pareve pots and dishes.

If a dish or silverware should happen to touch the bottom of the sink, it would not require kashering.

The Minchat Yitzchak (2:100) adopts a more stringent approach, and requires one to thoroughly clean the sink and then use separate basins for meat and dairy. (Interestingly, when this opinion was presented to Rav Moshe, he wrote that he will certainly receive complaints of "Rebbe you have made it so difficult for us!" (Igrot Moshe).

Sponges:

One of the most common kashrut questions involves the use of sponges. What if one washes dairy dishes with a meat sponge?

In general, it is quite difficult to construct a case in which this presents a serious kashrut question. Seemingly, in order for there to be a problem, a stream of hot, yad soledet bo water must fall directly on a piece of meat on the dairy pot. Alternatively, the water may fall onto both a dirty sponge and pot, in which can the Shakh, cited above, may be stringent.

Usually, however, the sponge is clean, or the water is not hot enough to present a problem, or the stream of water was interrupted, or one used soap (which renders he taste defective), and therefore the pots or dishes are permitted. Furthermore, often the meat residue is insignificant in size and therefore may not pose any problem. However, in case of doubt, one should consult with a halakhic authority.

Preferably, one should have at least two sponges (dairy and meat), if not three (for pareve pots or utensils).

Next week, we will begin our study of reicha and zeia (smell and steam) and their practical ramifications relating to ovens and microwaves.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 22: Transfer of Taste Through Smell and Steam (Part 1)

Ovens and Microwaves (I)

Introduction:

In previous shiurim, we discussed the environment in which taste can be transferred from one substance or utensil to another. We noted that in order to facilitate a transfer of taste, the proper medium and environment are required. Usually, that entails a liquid, and the heat of a keli rishon or similar.

This week, I would like to begin our study of ovens.

Ovens are unique in that there is no direct contact between the prohibited substance and the permitted substance. Any transfer of taste occurs through the air. Therefore, we must ask, can taste be transferred in an oven, either between two foods cooking simultaneously, or between the oven and the food?

We will divide our discussion into three parts. First, we will ask whether the "smell" of food (reicha) bears any halakhic significance. Secondly, we will consider the impact of steam (zei'ah) on our question. Finally, we will present the different approaches to the use of ovens and microwaves in the contemporary kitchen.

Reicha:

The gemara (Pesachim 76b) cites a debate regarding kosher meat which was roasted with non-kosher meat. Rav opines that the kosher meat is prohibited. Levi, on the other hand, maintains that since "reicha lav milta" (smell is insignificant) the kosher meat is unaffected and is permitted. In other words, Rav and Levi argue whether the reicha of a prohibited substance prohibits a permitted substance.

What are they arguing about?

Rav apparently believes that just as taste may be transferred through direct physical contact, it may also be transferred, under certain circumstances, through reicha.

I would like to suggest two possible understandings of Levi's opinion.

1. On the one hand, Levi may completely disagree with Rav, believing that taste simply cannot be transferred without physical contact. Apparently, even if one were able to sense the taste of the prohibited substance, if it is attributable to "reicha" alone, it is not halakhically considered "taste."

2. On the other hand, Levi may agree with Rav that taste can be transferred even through the air, but think that generally the taste is too dilute to be halakhically significant, similar (though not identical) to the principle of "nat bar nat" (see shiur #16). However, under the

proper conditions, according to this understanding of Levi's opinion, taste may indeed be transferred even through reicha.

Let us suggest a few practical differences between these approaches.

1. Some Rishonim (see Hagahot Maimaniyot Hilkhot Ma'akhalot Asurot 15) suggest that Levi would agree that reicha is significant if the foods are cooked in a very small oven, and that he only permitted the kosher meat if the two substances were cooked together in a large ventilated (gadol u-piv patuach) oven. Others disagree.

Seemingly, if Levi denies that taste can be transferred without physical contact, then the oven's size should be of no consequence. However, if Levi agrees that there is a transfer of taste, but it is usually not potent enough to be halakhically problematic, exposure to reicha in a small, unventilated oven may be more problematic.

2. The Bavli implies that it is never permitted intentionally to cook kosher and non-kosher food together in the same oven. Only if they were mistakenly cooked together does Levi maintain the kosher food is permitted. The Yerushalmi disagrees, and permits cooking kosher and non-kosher meats together, le-khat'chila, in the same oven.

One might suggest that if the debate between Rav and Levi concerns the level of potency of the reicha, certainly one would not be permitted to cook them together, le-khat'chila, in the same oven. This would be similar (although not identical) to "ein mevatlin issur le-khat'chila," i.e., intentional nullification of prohibited substances, which is forbidden.

However, if Levi actually believes that taste cannot be transferred through the air, then aside from "mar'it ayin" or other technical reasons, there should be no obstacle to cooking them together, le-khat'chila, in the same oven.

3. Furthermore, the Rishonim discuss the status of bread or fish cooked in an oven with kosher meat. The Gemara relates that Rav Kahana prohibited eating milk with bread that was baked in the same oven as meat, and that Rava would not allow the consumption of milk with fish which were roasted in the same oven with meat.

The Rishonim debate whether these opinions are only in accordance with Rav, who holds "reicha milta," or whether even Levi, who generally permits kosher meat roasted with non-kosher meat, would agree that in this case, the bread or fish still should not be consumed with milk.

Those who adopt the latter approach, and assume that even Levi would discourage eating this meat or fish with milk, offer a number of explanations.

The Ran (Chullin 32b), for example, suggests that since one who eats the bread can "sense the taste" of meat, one should not eat it with milk, as it appears as if he is eating meat with milk. Alternatively, he suggests that this may merely be a stringency relating to basar be-chalav.

The Rif (Chullin 32b) offers two explanations. Firstly, he notes that if we permit the consumption of milk with bread that was baked with meat, one may come to assume that even roasting kosher and non-kosher meats together is permitted. By prohibiting the bread with milk, Chazal are making a statement that while permitted be-diavad, le-khat'chila this should not be done.

All of the above answers imply that there is no FUNDAMENTAL obstacle to eating this bread with milk; rather, it is inappropriate because of the messages it may convey.

The Rif, however, in his second answer, alludes to another approach. He suggests that just as a "davar she-yesh lo matirin," i.e., a mixture which contains a substance which is only temporarily prohibited, such as muktzeh, chadash, or even chametz (according to some), cannot be nullified in a mixture - "even at a ratio of one to a thousand" - and one must wait until the issur is permitted, similarly, since one may eat the bread in a totally permitted fashion (i.e., alone) then one should not eat it with milk.

He explains that "one to a thousand" is like reicha, and just as a "davar she-yesh lo matirin" is not permitted, similarly, this bread must not be eaten with milk. While one might ask how this is different from a case in which milk accidentally falls into water, in which case one may cook meat in the water if the ratio was less than one to sixty (see Rema YD 99:6), the equation of a mixture of "davar she-yesh lo matirin" and this bread implies that the bread actually contains a small percentage of meat, which is ordinarily "batel," though not in this case.

If so, we have once again demonstrated that even Levi may agree that reicha is a form of taste, which generally may be overlooked but is, at times, significant.

I would like to bring to our attention another explanation of Rav Kahana and Rava's stringency.

The Rambam (Hilkhot Ma'akhalot Asurot 15:33) writes,

One should not roast kosher meat with non-kosher meat in the same oven, even though they do not touch each other. If, however, one roasted them together, (the kosher meat) is permitted... because rei'ach cannot prohibit, only the taste of a substance can prohibit.

In this halakha, the Rambam implies that rei'ach is not considered ta'am.

However, elsewhere (9:23) the Rambam writes,

Bread which was baked with roasted meat, and fish which were roasted with meat, may NOT be eaten with milk. However, fish which were cooked in a pot used previously for meat MAY be eaten with milk.

In other words, the Rambam, in this halakha, contrasts "nat bat nat" and reicha. Unlike "nat bar nat," which does NOT affect the fish, reicha is sufficient to prohibit drinking milk with these fish. Why does the Rambam choose to contrast these two halakhot?

One might suggest that while reicha is NOT sufficiently potent to prohibit kosher meat roasted with non-kosher meat, "as only the TASTE of a substance can prohibit," it IS potent enough to prohibit the consumption of milk with fish or bread roasted with meat. This, of course, is in contrast to "nat bar nat, which has no potency and therefore has no halakhic ramifications" (according to the Rambam).

In other words, the Rambam presents three levels of ta'am: taste transferred through contact, taste transferred through the air, and secondary taste. "Nat bar nat" is halakhically insignificant; reicha is significant but not enough to prohibit a substance; and ta'am may actually prohibit another substance.

Reicha – Halakhic Conclusion:

The Rishonim debate whether the halakha is in accordance with Rav or Levi. While Rabbeinu Tam (Tosafot Pesachim 76b s.v. Asra) accepts Rav's opinion, the majority of Rishonim rule that reicha is "lav milta," and as such cannot prohibit another substance.

The Shulchan Arukh (YD 108:1) also rules in accordance with Levi and writes that while one should not intentionally roast kosher and non-kosher meats together, after the fact, the kosher meat is still permitted.

Regarding ovens, as reicha applies only to simultaneous baking or roasting, there should be no halakhic obstacle to cooking meat in a clean, dairy oven, or even in a clean non-kosher oven! However, as we shall see, there is another concern - zei'a (steam).

Next week we will address the impact of steam of the kashrut of ovens, and discuss different approaches to the proper usage of ovens and microwaves.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 23: Transfer of Taste Through Smell and Steam (Part 2)

Ovens and Microwaves (2)

Introduction:

In last week's shiur, we discussed the impact of "reicha," i.e., smell, of a non-kosher substance which is roasted in the same oven as a kosher substance. We concluded that the halakha is in accordance with the opinion of Levi, who maintains (Pesachim 76b) that "reicha lav milta." Therefore, while one is NOT permitted to intentionally roast kosher and non-kosher meat in the same oven, be-diavad, the kosher piece of meat may be eaten.

Furthermore, we noted that the Gemara also cited the opinion of Rav Kahana and Rava, which is later brought by the Shulchan Arukh (YD 108:1), asserting that bread which was baked together with meat in the same oven, may not be eaten with milk.

According to our conclusion regarding reicha, it would seem reasonable to permit cooking meat and milk in the same oven consecutively, as reicha only poses a problem during simultaneous roasting.

However, the authorities discuss another potential obstacle to consecutive use of one oven for meat and milk: "zei'a" (steam). What is the impact of zei'a which emerges from one pot and enters another? What impact does zei'a have on the walls of the oven? And can zei'a assist in the transfer of taste from the oven's wall to a substance cooked inside?

Zei'a:

Interestingly, zei'a isn't discussed by the Gemara, or even by the early Rishonim. The Gemara in Pesachim (76b), for example, never raises the concern that the steam of the non-kosher substance may affect the kosher substance.

However, the Rosh discusses the status of steam. He questions (Shu"t Ha-Rosh 20:26) the status of a pot of meat that is cooked above an open pot of milk. Are we concerned lest the steam from the pot of milk make contact with the meat pot and subsequently prohibits the pot and the food?

He answers, based on a Mishna (Makhshirin 2:2), that steam retains the status of the substance from which it emerges. Therefore, he equates our case to a drop of milk which falls onto the side of a pot of meat (see shiur #14), which may potentially prohibit the pot and the food, if the milk isn't nullified by shishim.

The Shulchan Arukh (YD 92:8) accepts the position of the Rosh and rules that zei'a is considered the equivalent of the substance itself. If so, one might ask, how could the Gemara completely ignore the "zei'a factor," which may potentially prohibit the kosher substance after all?!

The Acharonim offer a number of explanations which may also be important for our understanding of when zei'a applies. Some (Arukh Ha-shulchan), for example, claim that zei'a is only a problem in small ovens. However, in larger, ventilated ovens, zei'a need not pose a problem.

Alternatively, some (see Peri Megadim) suggest that only liquids produce zei'a, and not solids, especially not roasted meat.

Still others (see Chavat Da'at) suggest that zei'a may pose a problem when pots are located one above the other. However, pots placed side by side do not pose a problem, as the steam from one cannot enter the other, and we are NOT concerned with the zei'a which comes in contact with the oven walls and circulates throughout the oven.

Practically, we must ask, what is the scope of our concern for zei'a, and what role does it play in the kashrut of ovens?

Position of the Rema:

The Shulchan Arukh (YD 92) cites the position of the Rosh, who clearly maintains that steam attains the same status as the food itself.

The Rema seemingly agrees, and writes (YD 93:3) that if one takes a cold dairy pot cover and places it onto a pot containing hot meat, both the meat and the pot cover are prohibited if the food began to steam.

The Rema is concerned that the dairy pot cover absorbed the steam, which has the status of the meat. Subsequently, the hot steam extracts the non-kosher taste from the pot cover and "rains" onto the meat. In such a case, the meat, as well as the pot cover, are prohibited.

Elsewhere, the Rema compares this case to a situation in which one cooks both meat and milk, even consecutively, under the same cover or oven roof.

He writes (YD 108:1): "If one were to cook prohibited and permitted meat under the same covering (machavat), uncovered, they are both prohibited, and similarly if one cooks milk and meat [under the same covering]. If, however, one were to cook them CONSECUTIVELY, the kosher meat is unaffected (ein la-chush) unless the covering absorbed "sweat" from both of them, in which case even if they are cooked one after another if they were both uncovered they are both prohibited, similar to the case of the pot cover..."

In other words, the Rema equates an oven ceiling to a pot cover, which has the potential to prohibit the food that it is placed upon.

Seemingly, there is room to ask if we should equate our ovens with the case cited by the Rema. How should we conduct ourselves regarding modern ovens in light of this Rema?

Regarding this issue, I recommend reading an excellent summary, written by Rabbi Howard Jachter (Journal of Halakha and Contemporary Society #XXXII), concerning the various practical approaches to oven usage. I will present a survey of the different opinions in a similar fashion to the summary of Rabbi Jachter.

Modern Ovens and Zei'a:

As mentioned above, the question one must ask is how similar are our ovens to the Rema's scenario of a "machavat," which he equated to a pot cover.

The Arukh Ha-shulchan (108) writes that the Rema was concerned with thick steam. However, our ovens, which are generally large and ventilated, do not produce such steam and therefore the zei'a should not pose a problem. Rabbi Jachter records that this is also the position of Rabbi Herschel Shachter (a Rosh Yeshiva and Rosh Kollel at Yeshiva University).

Unlike microwaves, in which the wall actually becomes damp after a liquid is cooked, ovens simply do not contain enough steam to mimic the effect of the pot cover.

If so, then one is certainly permitted to consecutively cook meat and dairy uncovered in the same oven, as long as the oven is clean (to prevent reicha issues). Needless to say, a pareve food cooked in a dairy oven should be considered pareve, not "be-chezkat chalavi," as one would even be permitted to cook meat in the same oven.

One might question whether this leniency should apply even to smaller European ovens as well, or even to toaster ovens. It would seem that those who adopt this lenient approach should at least be stringent regarding toaster ovens, in which zei'a might actually pose a problem.

Another approach is that of Rav Moshe Feinstein (Igrot Moshe YD 1:40), who IS concerned about zei'a in one's oven. Therefore, he insists that one should not use the same oven for UNCOVERED dairy and meat foods. If one chooses to cook meat uncovered in the oven, then dairy food must be cooked COVERED in the oven, and vice versa. The cover prevents the food from emitting steam, which prevents the extraction of taste from the oven walls and its subsequent return to the food.

However, Rav Moshe does note that one need not assume that every food produces zei'a. Therefore, one may cook or reheat a dry dairy food, uncovered, such a cheese burekas, in a meat oven.

Seemingly, a pareve food baked in such an oven should at least be considered "be-chezkat besari" and not be eaten with milk, unless the food was dry or the oven was "eino ben yomo" (see YD 95:1), in which case if the oven was clean, the food should be considered pareve.

A number of Acharonim suggest a middle approach, offering two other solutions.

Rav Ovadia Yosef (Yabia Omer 5:7) discusses the possibility of heating the oven to its highest temperature for about 20 minutes, thereby kashering the oven through libun kal, and permitting cooking of milk in the same oven. This suggestion was adopted by a number of contemporary authorities, including Rabbi Moshe Stern (Pit'chei Halakha p. 157), Rabbi Shlomo Wosner, and Rabbi Mordechai Eliyahu (see Halikhot Ve-Hanhagot Kashrut p. 46). Rav Aharon Lichtenstein also adopts this view.

While it is not clear how these authorities would view a pareve cake baked in a ben yomo oven, some Acharonim suggest that one should at least be permitted to cook a pareve food, le-chat'chila, in this oven when it is eino ben yomo and continue to treat it as a pareve food, not "be-chezkat besari." Incidentally, Rav Lichtenstein maintains that the food may be treated as "pareve" even if cooked in a clean ben yomo oven. In any case, many foods are not moist enough to produce zei'a, rendering them pareve even according to Rav Moshe Feinstein!

Rav Lichtenstein (as cited by Rabbi Jachter), however, suggests that one may also wait twenty-four hours from the last time it was used for meat or dairy, thereby rendering the oven "eino ben yomo," and then cook meat or dairy uncovered. After twenty-four hours, the entire question is reduced to a rabbinic question of "noten ta'am lifgam," at which point one may seemingly be lenient in light of the doubts raised above.

It is important to stress that the above leniencies apply only if the oven is clean. Some ovens, especially “turbo” ovens, in which the oven walls do not actually heat up, are often rather dirty. In that case, not only does reicha pose a problem, but also the oven may not be considered “eino ben yomo”, if there is edible food still attached to the walls.

Furthermore, since wet foods often “spill over”, the grates that support the baking pans absorb actual ta'am. Thus, regardless of the issue of zei'a, if one cooks a wet food on an exposed grate, a spill may serve as a medium to transfer taste from the grate to the pan, especially if the oven (or grate) is “ben yomo”. Therefore, one might recommend covering the grate with a sheet of aluminum foil, as a precaution, especially when cooking wet dairy foods in a “ben yomo” meat oven.

In summary, we have presented three approaches to modern ovens. Some maintain that zei'a does not pose a problem in our larger, ventilated ovens. Others disagree and recommend using an oven for only one type of food uncovered. And others offer alternative ways of avoiding the potential zei'a problem, such as waiting twenty-four hours or kashering the oven between meat and dairy using "libun kal," i.e., heating the oven to its highest temperature for a minimum of 15-30 minutes.

Microwaves:

Microwaves seem to present the following kashrut problems:

Microwaves clearly produce much more steam than a standard oven. Therefore, we may suspect that the walls of the microwave have absorbed the steam of meat or dairy foods, which may be subsequently extracted and returned to the food each time the microwave is used. While one may claim that since the walls of the microwave do not get hot, they never reach "yad soledet bo" and therefore they never absorb or emit ta'am, it does seem that if the microwave is on for a significant time, the walls may actually reach yad soledet bo.

Furthermore, the walls of the microwave may have a thin film of dairy or meat "be-ein," i.e., actual food substance, not to mention the splashes that are common in a microwave. If so, the circulation of steam may allow the meat or dairy residue or spills to be transferred throughout the microwave.

Moreover, it seems that many are not meticulous in cleaning their microwaves, which may lead to a scenario in which a dairy plate placed over a meat spill or residue may actually absorb directly from meat be-ein!

Therefore, it is clear the one must take great care to protect one's food from both the steam and the residue left in a microwave. This entails two steps.

Firstly, any food or utensil should preferably be placed on a special tray on top of the glass bottom of the microwave that has been thoroughly cleaned. (This also is an important precaution for spillover).

Secondly, one should either completely (although not hermetically) cover all food cooked in microwave, or adopt a policy similar to Rav Moshe Feinstein's policy regarding ovens, i.e., to only cook one "type" of food uncovered, or to cover all food placed in a microwave.

I should note that while a posek might find it very difficult to actually prohibit food heated improperly in a microwave, one should preferably take precautions to protect one's food from steam and residue.

Next week we will begin our discussion of knives.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 24: Kashrut Issues Related to Knives

Introduction:

In previous shiurim, we discussed numerous ways in which taste may be transferred from one substance or utensil to another. We summarized the scenarios in which ta'am passes between two touching materials, i.e., through the proper medium and in the presence of heat. We also discussed the impact of reicha and zei'a.

This week I would like to address the transfer of taste, and food residue, through knives.

Contact Between Knives and Cold Food:

Unlike pots and pans, knives present a unique kashrut challenge. The Gemara (Chullin 111b) states, in the name of Abaye, that if one cuts a cucumber (a mild vegetable) with a meat knife, one should scrape the place where it was cut (gereira), and then one may eat it with milk.

[This in contrast, of course, to a sharp vegetable (davar charif), such as a radish, cut with a meat knife, which may not be eaten with dairy, as we shall explain in next week's shiur.]

The Rishonim explain that the Gemara assumes that a knife is particularly difficult to clean properly, and we therefore fear that the blade may contain a thin layer of grease or food residue (shamnunit).

While merely washing or scrubbing the cucumber should suffice, since a cucumber is soft and wet and cleaning it may actually cause the food residue to be further absorbed, a small piece should be removed before eating it with milk.

Similarly, the Shulchan Arukh writes (96:5), "One who cut a cucumber with a meat knife may eat [the cucumber] with milk as long as one scrapes off the area of the cut..."

Furthermore, the Shulchan Arukh rules (89:4) that "one may not cut cheese, even if it is cold, with a knife used for cutting meat. Furthermore, even the bread eaten with cheese may not be cut with a knife used to cut meat."

The Acharonim discuss, at length, when one may simply clean a food and when one must remove the outer layer. Preferably, if one cuts any food with a dairy knife, it should not be eaten with meat before removing a thin layer.

Ne'itza:

Is there a method to clean a knife that would permit cutting cold cheese with a meat knife? Furthermore, be-diavad, are there cases in which food that was cut with a dairy knife MAY be eaten with meat?

Regarding cleaning a knife, the Gemara (Avoda Zara 76b) explains that one may "plunge (no'etz) the knife ten times into the ground." Tosafot point out that the Yerushalmi mentions plunging the knife into the ground three times, and questions whether the number ten is vital. In any case, this method, known as "ne'itza," is used to cleanse the knife of any food residue left on the blade. If, however, the knife is serrated, "ne'itza" is ineffective and libun must be performed.

The Gemara, explaining the Mishna, is clearly referring to a non-kosher knife which was purchased from a non-Jew. While the Rishonim debate the proper method of kashering the knife if one intends to use it for hot foods, "neitza" is sufficient for cold foods.

The Shulchan Arukh (YD 121:7) rules, based on this Gemara, that one who acquires a knife from a non-Jew with the intent to use the knife for cold foods should plunge the knife into the hard ground ten times. This most likely explains the widespread phenomenon of leaving knives in gardens and flowerpots. While not halakhically precise, this practice is based upon the above principle.

Incidentally, as ne'itza is merely a method of cleaning the knife, one might suggest cleaning the knife with another abrasive substance, such as steel wool. However, this MAY depend on how seriously one is to take the Gemara's insistence on ne'itza TEN times, as we noted above.

Ne'itza is sufficient only when using a knife for COLD food. Furthermore, ne'itza is sufficient if one cuts hard cheese with a meat knife, but if the knife wasn't kosher, then ne'itza should only be used as a TEMPORARY solution. The custom is to kasher all non-kosher utensils intended for permanent use, even if they are only used for cold foods (see Rema YD 121:7).

Until now we presented ne'itza as a temporary solution when purchasing non-kosher knives. The poskim, however, mention other, more common, cases in which one may be required to do ne'itza.

For example, if one cuts cold meat with a dairy knife and forgets to clean off the residue, the Rema (69:20) seems to rule that dried residue should be removed through ne'itza. Similarly, the Shakh (94:31) rules that if a meat knife was used to cut a cold HARD dairy substance, or if a dairy knife was used to cut cold HARD meat, ne'itza should be performed. Finally, the Rema (94:7) requires ne'itza if one cuts WARM meat (i.e., meat which does not cause a transfer of taste from the meat into the knife) with a dairy knife.

In addition to the above examples of "kitchen accidents," may one use ne'itza, as a regular practice, on one's household kitchen knives, in order to use a meat knife for cheese, or vice versa?

The Rema (YD 89:4) writes that the custom is to keep two knives, one for meat and one for milk, and to label one of them (the minhag, he writes, is to label the dairy knife), and one should not desist from this custom.

The Acharonim, however, debate whether this custom prohibits all "le-khat'chila" use of ne'itza (i.e, except when kashering a non-kosher knife). The Shakh (89:22) maintains that in extenuating circumstances ("she'at hadchak") one may rely upon the original halakha; in other cases one should not use ne'itza. On the other hand, the Taz (89:7) writes that while one should not use a meat knife for cutting cheese, ne'itza may be employed in order to cut bread that will be eaten with cheese.

Some suggest keeping a pareve bread knife, insuring that all bread remains pareve.
The Status of Salads Cut With Dairy Knives:

As mentioned above, one should not use a dairy knife to cut foods to be eaten with meat. However, be-diavad, are there cases in which food cut with a dairy knife MAY be eaten with meat? For example, what if one used a dairy knife to cut salad? May one eat the salad with meat?

As we mentioned above, the Gemara, and subsequently the Shulchan Arukh (YD 96:5), rules that a cucumber or any other bland food which was cut with a meat knife should not be eaten with milk until it is scraped clean (gereira).

However, it would seem that regarding an entire salad, there are a number of reasons to be lenient, be-di'avad.

Firstly, as our knives are usually washed well with dish detergent, one may assume, ex post facto, that any meat residue was already removed, or was at least rendered inedible, i.e., "nifgam." Secondly, the amount of meat residue that may have been wiped onto the food is certainly "batel" – nullified - throughout the salad, rendering the salad pareve.

Regarding salads from a salad bar or restaurant, there may be additional reasons to be lenient. In addition to the above, the knife may have already been cleaned while cutting other fruits and vegetables. Furthermore, often a salad bar or restaurant uses special utensils for salads, and the knife MAY (depending on the establishment) have the status of a "keli meyuchad," i.e., a knife that we may assume was used ONLY for salads.

However, they may be other reasons to refrain from eating salads prepared without supervision, such as bugs, davar charif (i.e., sharp foods), terumot and ma'aserot (in Israel), non-kosher salad dressings, and possibly even mar'it ayin. I am only addressing the status of the salad itself.

Finally, one need not wait after eating a food cut with a meat knife, and may immediately consume dairy products. We will address the topic of "waiting after meat" in a few weeks.

Contact Between Knives and Hot Food:

The Tur (YD 94) cites Rabeinu Peretz who maintains that if one cuts a hot piece of meat (in a keli rishon) with a ben yomo dairy knife, one must merely remove a "kelipa" of the meat and the rest is permitted.

The Tur disagrees, and opines that we may permit the meat only if there is "shishim" against the knife. In other words, he views this case as analogous to dipping a ben yomo dairy spoon into a pot of meat, in which case the meat is only permitted if there is "shishim" against the spoon. Furthermore, he writes, that even when we permit the meat, the area that came in contact with the knife must be removed, as we fear that dairy residue (see above) may have been wiped onto the meat. The knife must be kashered through hag'ala. If the knife was eino ben yomo, then only a kelipa must be removed and the meat is permitted. Once again, however, the knife must undergo hag'ala.

The Shulchan Arukh codifies the Turs ruling. In addition, the Rema is lenient if the meat was already moved to a keli sheni, in which case only a kelipa need be removed. As we noted in previous shiurim, some Acharonim disagree, viewing the meat as a "davar gush" which maintains its status as a keli rishon as long as it is still "yad soledet bo."
As our discussion of knives is incomplete without properly addressing the topic of "davar charif," next week we will discuss the uniqueness of sharp foods and their impact on various kashrut questions.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 25: Davar Charif

Introduction:

Last week we discussed the laws of knives. We noted that the Gemara (Chullin 111b) explains that if one cuts a cucumber (i.e., a bland vegetable) with a meat knife, one should scrape off the outer layer before eating the cucumber with dairy. The Gemara fears that some of the meat residue, which remained on the edge of the knife, may be transferred to the cucumber.

The Gemara, however, also states that if one cuts a "tzenon" (radish) with a meat knife, it should not be eaten with dairy, because "agav churpe bal'a" (the sharpness assisted in its absorption). In other words, if one cuts a sharp vegetable with a meat knife, it is considered to be "besari" and may not be eaten with dairy.

This week, we will discuss the uniqueness of a "davar charif" and its impact on many kashrut issues.

"Davar Charif" and Knives:

The Rishonim debate WHAT is spread throughout the radish, and HOW DEEP it is spread.

"WHAT"

Regarding our first question, Rashi cites two explanations of the above gemara.

In his first explanation, he claims that the food residue found on most knives doesn't generally penetrate a bland food; a sharp food, however, assisted by the pressure of the knife (ducheka de-sakina), absorbs the grease residue, spreading the taste throughout the radish. Therefore, this "davar charif" should not be consumed with milk.

In his second explanation he claims that even if the knife is clean, the sharpness of the radish, along with the pressure of the knife, cause the knife to emit actual taste. Therefore, even if the knife was clean, the radish is considered besari. Cutting a sharp radish is not much different from cutting a hot vegetable, in that the taste is emitted from the knife and spread throughout the radish.

The second opinion is more stringent regarding two issues.

Firstly, even if the knife is clean, we assume the knife emitted the "ta'am balua" – the taste that was absorbed in it. Secondly, the ta'am's status is that of a "ta'am rishon" and not a "nat bar nat." In other words, if a besari knife were to be immersed into a pot of boiling soup, the laws and debates of "nat bar nat" (see shiur #16) would apply. Here, however, the radish is considered, according to all, to be besari, and may not be eaten with milk, and if it were mixed with milk it would be prohibited according to all!

The Shulchan Arukh (YD 96:1) rules in accordance with the more stringent opinion. Therefore, even if the knife were clean, we assume the radish absorbed the taste absorbed within the knife and is considered to be besari.

Interestingly, the Acharonim debate whether one must wait, after eating a davar charif cut with a meat knife, before drinking milk. Rabbi Akiva Eiger (YD 89 on Shakh 19) is lenient. This ruling seems reasonable, as the reason for waiting after meat, as we shall explain in few weeks, relates to the meat which is either caught between one's teeth, or which leaves a greasy aftertaste. Neither reason seems applicable in our case.

As for whether one may eat a davar charif cut with a dairy knife after eating meat, the question seems more difficult. Must one wait only before consuming actual milk or dairy foods, or even before eating the "ta'am" of milk? The Acharonim cite conflicting opinions. Seemingly, if the knife wasn't used for hot meat within the last 24 hours, there is more room to be lenient.

"HOW DEEP"

Regarding our second question, the Rishonim disagree. The Rosh assumes that the taste cannot penetrate more than a depth of a "kelipa" (a thin slice). Others insist that in order to permit the sharp food, one must remove "kedei netilat makom," or the width of a finger. The Rashba adopts an even more stringent opinion, claiming that the taste penetrates throughout the entire food.

The Shulchan Arukh (YD 96:1) cites the opinion that prohibits "kedei netilat makom." The Rema cites the opinion of the Rashba, concluding that while le-khat'chila one should assume that the entire radish is besari (or if cut with a prohibited knife – assur), be-diavad, if the radish was already cooked with dairy, we require "shishim" against the volume of the "netilat makom."

Davar Charif Cut by a Knife Which was Eino Ben Yomo:

If one accepts the second explanation cited by Rashi, which maintains that a davar charif, aided by the pressure of the knife, may actually extract the taste from a clean knife, may one assume that if the knife was "eino ben yomo" (i.e., at least 24 hours have passed since it was last used for meat or dairy}, the food is unaffected?

Tosafot (Chullin 112a s.v. Agav churpe) raise this question but leave it unresolved.

The question revolves around a Gemara (Avoda Zara 39a) that states, regarding a sharp herb ("chilta") used primarily for medicinal purposes:

[A chilta is prohibited] because it is cut with a [non-kosher] knife. And although the halakha is generally that if the knife is "noten ta'am li-fgam" the food is permitted, here, the sharpness of the "chilta" rejuvenates the grease and is considered "noten ta'am li-shvach."

In other words, the sharpness of this herb neutralizes the negative impact of the "eino ben yomo" taste, rendering it "noten ta'am li-shvach."

Tosafot and others wonder whether the unique property of this sharp herb, which inhibits the negative effect of an aged taste, is similar to the properties of other ordinary sharp substances, which, incidentally, are commonly used to preserve aging meats, thereby disguising the impact of their age.

The Rosh (Avoda Zara 2:37) records a response of his teacher, Rabbeinu Meir (the well known Maharam Mi-Rutenburg) to this question. Rabbenu Meir responded that the Sefer Ha-Teruma had in fact equated ordinary spicy food to the "chiltit," ruling that an onion or garlic may also extract the taste from an "eino ben yomo" utensil.

Rabbeinu Meir commented that while he personally rules in accordance with the Sefer Ha-Teruma, who extends the "eino ben yomo" stringency to other sharp foods, he is inclined to be lenient, and does not rebuke those who follow the lenient opinion.

Rav Yosef Karo, in his Shulchan Arukh (YD 96:1), cites both opinions. The Shakh (96:6) and others note that we follow the more stringent opinion, as is evident from the Shulchan Arukh elsewhere (YD 103:6).

Therefore, in summary, common practice is to assume that ANY davar charif may extract taste, even from a CLEAN knife, which is EINO BEN YOMO from its previous problematic (i.e., meat or non-kosher) use.

Regarding blenders and food processors, the following two points should be made:

Onions or other spicy foods that are ground in a meat grinder, i.e., a food processor used for hot meat, should be considered "besari," even if the grinder is "eino ben yomo."

Furthermore, if one cuts onions or other spicy foods with a meat knife, and then grinds them, alone, in a blender, some (see Chochmat Adam 49:10 based on Magen Avraham OC 451:21) claim that the blender is now besari and one should not subsequently grind sharp food in this blender to be eaten with milk. Others (see Even HaOzer YD 96) disagree, claiming that a transfer of taste from the onion to the blender should be considered "nat bar nat" and permitted.

Finally, the Chochmat Adam (56:2) writes that if one cuts a davar charif with a pareve knife on a non-kosher plate or cutting board, the davar charif is prohibited. Similarly, it would follow, if the cutting board is "besari," then the davar charif should not be eaten with milk. The Sefer Yehoshua (letters no.122) does not consider this a case of "ducheka de-sakina."

Other Applications of Davar Charif:

The Shulchan Arukh rules that the stringency of davar charif is not restricted to knives, but applies to other forms of cooking as well.

Therefore, he rules (YD 103:6) that if one cooks pepper (a sharp vegetable) in a non-kosher pot which is "eino ben yomo," the food is prohibited, as "the sharpness rejuvenates the otherwise spoiled taste."

The Rema (YD 95:b) cites a more practical application. He contrasts ordinary pareve food cooked in a meat pot with sharp food cooked in the same pot. Pareve food cooked in a ben yomo meat pot is considered "be-chezkat besari," and therefore while it may not be eaten WITH dairy, if it was already re-cooked accidentally with dairy, the food is permitted.

However, "if, for example, sharp foods were cooked in a meat pot, even if it was "eino ben yomo," and were re-cooked with milk they are prohibited, even be-diavad."

In other words, the leniencies of "nat bar nat" DO NOT apply to a davar charif, and the food should be considered chalavi or besari.

However, when applying this principle, there are a number of points to keep in mind.

Firstly, as the Rema himself notes, a sharp food takes on the status ONLY if the ENTIRE food is sharp, and not if it was merely spiced with a davar charif.

Secondly, often, a davar charif may become sweet after being cooked. For example, an onion fried in a dairy pot is to be considered chalavi, may not be eaten or mixed with chopped liver, and prohibits the chopped liver, be-diavad, if they are mixed together. Furthermore, it may not be cooked in a meat pot, and may, be-diavad, prohibit such a pot.

However, an onion fried in a pareve pan, which is subsequently cooked in a dairy pot (or cut with a clean dairy knife), is no more than "be-chezkat chalavi," and if mixed with meat may be eaten, be-diavad. Furthermore, if this onion is cooked again in a meat pot, the pot is permitted.

Finally, what is considered to be a davar charif? The Gemara (Chullin 111b) uses a "tzenon" (radish) as an example of a "davar charif." The Rishonim debate whether other sharp foods are also considered to be "devarim charifim."

The Shulchan Arukh (YD 96:2) rules in accordance with the view that includes all sharp foods in the category of "davar charif." Most authorities include onions, garlic, leek, horseradish, radishes, hot peppers, lemons and other sour fruits, as well as very pickled cucumbers and salted herring. In addition, some liquids, such as strong vinegar, may also be considered "charif" and assume the taste of the pot in which they are boiled.

I hope that our discussion has illustrated the necessity of exercising caution when preparing "devarim charifim," and possibly even designating pareve knives for cutting these foods. Furthermore, while last week we mentioned the possibility of eating salads prepared, be-diavad, in a non-kosher setting, the laws of davar charif obviously complicate matters.

Next week we will begin our study of the laws of basar be-chalav.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 26: The Prohibition of Basar Be-Chalav

An Overview

Introduction

The Torah commands in three places, "Do not cook a kid in its mother's milk" (Shemot 23:19 and 34:24; Devarim 14:21).

The Gemara (Kiddushin 56b and Chullin 113b) asserts that there are actually three distinct prohibitions. Firstly, as the verse states, one may not cook meat and milk together. Secondly, one may not eat a mixture of meat and milk which were cooked together. (Consumption of milk after meat, and even of meat with milk if they were not cooked together, is only rabbinically prohibited.) Thirdly, one may not even derive benefit from a mixture of basar be-chalav.

The body of law relating to basar be-chalav is vast. This week, we will raise only a few of the many issues related to basar be-chalav.

Ta'amei Ha-Mitzvot – the Reason for the Prohibition of Basar Ba-Chalav

While there is room to inquire about the reason for any prohibited food, it seems that the prohibition of basar be-chalav is particularly unique and curious. Here, the Torah doesn't restrict the consumption of a specific species, but rather prohibits the MIXTURE of two otherwise permitted foods. Furthermore, the Torah seems to focus on the creation of this mixture, specifically of a kid in its mother's milk. Why?

The commentators debate the reason for this prohibition. As this shiur deals primarily with halakhic issues, we shall merely note the major approaches towards answering this question.

We can identify at least three approaches among those who attempted to locate the "reason" behind this prohibition.

The Ramban (Devarim 14:21), for example, claims that the juxtaposition of "You shall be a holy nation unto your Lord your God" and "You shall not cook a kid in its mother's milk" comes to teach us that the mixture is not inherently despicable, but rather represents human cruelty, from which we must distance ourselves.

In contrast, the Rambam, in his Moreh Nevukhim (3:48), adopts a historical approach. He speculates that the "haughty" (gass) nature of both meat and milk, as he perceived them, as well as the broader context of the verses (i.e., a discussion of the three major festivals), would seem to imply that basar be-chalav is somehow linked to a pagan ritual. This approach is confirmed by the Abarbenel (Shemot 23), who writes that even in his time it was common among pagan tribes to eat meat and milk mixtures at their ritual gatherings. Consequently, the Torah enjoins us from eating a mixture that is associated with idolatrous practices.

Others suggest that the mixing itself of these two different species is problematic. The Sefer Ha-chinukh (92), for example, alludes to a mystical problem in the union of meat and meat. Rav Shimshon Rafael Hirsch (Chorev 4:57 and Shemot 23:19) develops a more symbolic approach.

How Many Prohibitions?

How many prohibitions of basar ba-chalav are there? In practice, as we mentioned, one may not cook, eat, or derive benefit from a mixture of basar be-chalav. What is the relationship between these three prohibitions?

One might simply say that there are THREE SEPARATE and unrelated prohibitions. The Gemara (Kiddushin 56b), searching for the source of this "triple" issur, quotes the opinion of the school of Rabbi Yishmael, which asserts that the verse is stated three times in order to teach that there are three prohibitions of basar ba-chalav. One might deduce from this that there are actually three distinct prohibitions, each one learned from a separate verse.

Alternatively, one may claim that the BISHUL, or creation, of the mixture, is the primary issur, and as a result, one may not consume that which was created through issur.

The simple reading of the verse itself may support this. The wording of the verse, "Do not COOK a kid in its mother's milk," would seem to indicate that the primary prohibition is that of cooking. This is supported by those commentators who explain that the prohibition is linked specifically to the cooking of meat and milk, or more specifically of a "kid in its mother's milk." If so, one may view the prohibitions of eating and benefit as mere extensions, or outgrowths, of the original issur. If cooking meat and milk together is undesirable, then certainly one should not derive any type of benefit from such a mixture.

Furthermore, the Gemara, in another attempt to find a source for this three-part issur, may also support this theory. The Gemara (Chullin 113) says,

How do we know that one may not eat basar be-chalav? It says, "One should not eat anything which is abominable" [to'eiva; Devarim 14:3] – anything which I despise is included and may not be eaten. And how do we know that it is prohibited to derive benefit from this mixture? As Rav Abahu says, any place where the Torah says "Do not eat," an issur hana'a is implied, unless the Torah explicitly says otherwise, as it does regarding neveila.

According to this source, it would seem that the prohibition to eat basar be-chalav is merely an outgrowth of the prohibition of cooking it. Furthermore, the prohibition of benefiting (hana'a) appears to be part of the issur akhila, and not a separate prohibition. We will return to this point later.

On the other hand, the EATING of milk and meat may be the primary issur, and bishul may be viewed as a "seyag," or precautionary prohibition, intended to distance one from this prohibition.

The Rambam, for example, writes (Hilkhot Ma'akhalot Asurot 9:2):

The Torah did not mention the prohibition of eating because it had already mentioned the prohibition of cooking, and therefore one need not mention eating.

The Rambam implies that one may draw a "kal va-chomer": if bishul is prohibited, certainly akhila is as well! What is the nature of this "kal va-chomer"? Apparently, the Torah prohibited not only EATING basar be-chalav, but also the PREPARATION for eating it. Therefore, since bishul - the preparation of basar be-chalav – is prohibited, it is clear that eating the mixture is also prohibited.

Interestingly, Rav Moshe Soloveitchik, based on this Rambam, ruled that one may cook meat and milk together for a scientific experiment in which there is clearly no intention to eat the mixture (see Rabbi Hershel Schachter's "Peninei Ha-Rav," p. 152).

Finally, we should inquire whether "eating" and "benefiting" are viewed as separate prohibitions, or should they instead be viewed as two aspects of a larger issur of "consumption"? We will briefly allude to this question in the next part of this shiur.

It is worth noting that both the Behag and the Resag seem to count only the prohibition of COOKING basar be-chalav in their list of 613 mitzvot. However, most "monei ha-mitzvot," (Rambam, Smag, Smak, Yerei'im and the Chinukh) count two prohibitions. They include the issur hana'a in the prohibition of akhila, as the Gemara implies. Some (see Tashbetz) even list three separate mitzvot.

Which Animals? McDonald's Cheeseburgers and Dog Food

The Mishna (Chullin 103b) teaches, "It is prohibited to cook all meat with milk except for the meat of fish and locusts."

What about non-kosher species (beheima temei'a)? What about meat from a kosher species(beheima tehora) that was improperly slaughtered (neveila)? What about chicken?

Regarding the meat of a non-kosher species, the Mishna (Chullin 113a) states that one may cook this meat with milk and even derive benefit from the mixture. The authorities debate whether there is a prohibition of "mar'it ayin," i.e., of doing an act which appears prohibited. The Rashba (Teshuvot 3:257), and later the Rema (YD 87:4) rule that le-khat'chila one should not cook a beheima temei'a in milk because of mar'it ayin. The Shakh and Taz both challenge this ruling.

As for cooking milk with the meat of a "neveila," the Amoraim, as well as the Rishonim, debate whether one may cook, or derive benefit from, a mixture of milk and meat from a kosher species which wasn't slaughtered correctly. In other words, has one who eats a McDonald's cheeseburger violated one, or two, issurim?

Shmuel (Chullin 113b) maintains that the prohibition of basar be-chalav does apply to a neveila. The Gemara is unsure whether Shmuel believes that "issur chal al issur" –- i.e., despite the fact that the meat is already prohibited since it is a neveila, one can still violate, and receive another set of malkot, for the issur of basar be-chalav.

Alternatively, the Gemara suggests that he accepts the principle of "ein issur chal al issur," – that there is, generally speaking, no piling up of prohibitions - but the Torah, in our instance, repeats the word "gedi" (kid) three times in order to include neveila meat, enabling one to violate both prohibitions.

The Rishonim discuss this issue as well. While they seem to agree that one may not cook neveila and milk, they debate whether one may BENEFIT from a mixture of neveila and milk.

Their discussion revolves around the following question. The principle of "ein issur chal al issur" has a number of exceptions. For example, if one issur is broader than the first, then it is considered a qualitatively different issur and may continue to be in force even in the presence of the first issur. This principle is referred to as an "issur mosif."

It would seem that the prohibition of basar be-chalav is broader than the prohibition of neveila, as it includes an issur hana'a as well. If so, it would seem that despite the principle of "ein issur chal al issur," one may still be culpable for eating, and benefiting, from a mixture of neveila and milk. This is indeed the position of the Rashba.

The Rambam, in a famous piece, disagrees. He explains (Perush Ha-Mishnayot Keritut 3:4) that although QUANTITATIVELY the issur of basar be-chalav is a broader prohibition than neveila, QUALITATIVELY speaking, they are no different. The Rambam presents a "nekuda nifla'a" (amazing point), which suggests that all issurei akhila actually include, by definition, an issur hana'a. In other words, an issur akhila is to be viewed as an issur of consumption. At times, as Rav Abahu (cited above) noted, the Torah may restrict the types of consumption prohibited, but the nature of the issur is the same.

If so, while the issur of basar be-chalav may seem QUANTITATIVELY broader that the previous issur of neveila, it is actually QUALITATIVELY similar, and therefore the principle of "ein issur chal al issur" is applicable. In other words, one may, according to the Rambam, benefit from a mixture of neveila and milk.

This question is of great importance for pet owners. Should one refrain from buying dog food which contains milk and meat (which were presumably cooked together)? There is no clear resolution to the debate between the Rambam and the Rashba. Seemingly, there is reason to be stringent, as the machloket involves a safek de-oraita. (See Rabbi Howard Jachter's article on pets and halakha in the Journal of Halakha and Contemporary Society, vol. 24.)

Chicken and Milk:

The Gemara (Chullin 116b) cites a debate among the Tana'im if chicken and milk is included in the prohibition. Rabbi Yossi Ha-Galili apparently permitted the consumption of chicken-and-milk mixtures. Rabbi Yonatan, on the other hand, included chicken and milk in the Biblical prohibition of basar be-chalav.

The halakha, however, is in accordance with Rabbi Akiva, who prohibits chicken and milk only mi-derabanan. The Rema rules that one may even derive benefit from a mixture of chicken and milk. While the Maharshal was stringent regarding bishul and hana'a, the Acharonim (see Shakh and Taz) are lenient.

Bishul Basar Be-Chalav – Definition and Nature:

Before we conclude, I would like to address one final point.

What is the nature of the prohibition of bishul basar be-chalav? Is one simply prohibited to cook meat and milk together, or, is one prohibited to create a mixture of meat and milk? While there are many ramifications of this question, let us mention at least one.

The Acharonim debate whether one may reheat a mixture of basar be-chalav. In other words, does the principle of "ein bishul achar bishul," borrowed from the laws of Shabbat, apply here? Rabbeinu Gershon (Chullin 105a) and Rabbi Akiva Eiger (YD 87:1) suggest that once the mixture is created, one may reheat it. The Pri Megadim, in a number of places, disagrees.

Apparently, they disagree whether the issur of bishul basar be-chalav is to merely perform an act of "cooking" with meat and milk, or to actually create a mixture of basar be-chalav.

Can we connect this debate to our previous question regarding the relationship between the issur of bishul and akhila? Is the cooking of meat and meat independently prohibited, or is it viewed only as the preparation that preceded the consumption of this mixture? What if the mixture was already created? Food for thought!

Next week, we will discuss the various precautions enacted in order to prevent one from violating the prohibition of basar be-chalav.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 27: Waiting in Between Meat and Milk

Introduction:

As we explained in last week's shiur, the Torah prohibits cooking, consuming, and benefiting from a mixture of meat and milk. Furthermore, it is forbidden, mi-derabbanan, to eat meat and milk together, even though they have not been cooked together.

The halakha also demands that one take special precautions in order to avoid eating milk and meat together. For example, the gemara proscribes that one may not eat dairy immediately after eating meat. Similarly, the Chazal also relate to the physical proximity between meat and milk, at times prohibiting their presence together on the same table. Furthermore, the gemara even prohibits the consumption of dairy bread, as one may accidentally come to eat the bread with milk!

In the upcoming shiurim, I would like to address these three types of harchakot (precautions) and their practical ramifications.

Eating Cheese after Meat:

While common practice is to wait between eating meat and milk, amoraim as well as the rishonim debate the reasons behind this proscription as well as its parameters.

The gemara (Chullin 105a) says,

"Rav Chisda said: one who eats meat may NOT eat cheese, (one who eats) cheese, MAY eat meat… Mar Ukva said: regarding this, I am like vinegar, the son of wine. My father, if he would eat meat today, would wait until tomorrow to eat cheese. I, however, will not eat them during the same meal, but at another meal I will eat cheese…"

While the story of Mar Ukva's father, as well as the exact understanding of his own practice, remain unclear, THIS gemara certainly maintains that one must wait in between eating meat and milk.

On the other hand, another gemara (Chullin 104b) seems to suggest otherwise. The gemara cites two rulings.

Firstly, CHICKEN and cheese may be eaten "carelessly" (be-afikoren"), without washing one's hands and without washing out one's mouth.

Furthermore, in between milk and meat, one must clean and rinse one's mouth (kinuach ve-hadacha).

The simple understanding of THIS gemara leads us to the conclusion that after CHICKEN one need not wait at all (either because chicken and milk is only rabbinically prohibited, or because chicken is not as sticky as meat)! Furthermore, after meat, one need only clean and wash one's mouth and then one may eat cheese, immediately!

The rishonim debate how to resolve this apparent contradiction.

Rabbenu Tam and the Behag (see Tosafot 104b) maintain that the gemarot are referring to two different scenarios. If one cleans out one's mouth (kinuach and hadacha), one may eat cheese immediately. If not, one must not eat cheese until the next meal.

Clearly, they are concerned solely with the cleanliness of one's mouth, and they demand that one either physically clean one's mouth, or wait a period of time which we may assume allows the mouth to become clean of meat residue.

Most rishonim, however, assume when the second gemara, in the second case, requires kinuach and hadacha, it is referring to a situation in which one ate cheese BEFORE meat. As for the first case, which allows one to eat chicken and cheese "be-akiforen" (carelessly), the Rashba cites the Rambam who interprets the gemara as referring to one who eats cheese before chicken, and the Ramban who even permits cheese after chicken! In other words, when eating milk after meat, all agree that one must wait.

If so, then we must of course ask ourselves a number of questions.

Firstly, is the halakha is accordance with those who permit one to eat dairy immediately after kinach and hadacha, or much one wait "until the next meal"? And when the halakha requires us to wait, for how long? What did Mar Ukva really mean when he suggesting waiting until the "next meal"? And finally, do we distinguish, practically, because meat and chicken?

Regarding how long one should wait between meat and milk, and why, seemingly, the practice of Mar Ukva's father should be a good starting point. Why did he insist upon waiting a day in between meat and milk? One might suggest that Mar Ukva's father was concerned that he had meat particles in his mouth for an entire day. However, this explanation seems unlikely.

Rather, it would seem that there is a simpler understanding. Apparently, Mar Ukva's father would not eat meat and milk during the same day, for "experiential" reasons. He preferred to wait until another period of time until he would eat cheese. In other words, Mar Ukva's father felt that meat and milk should be consumed in different, distinct, times.

What did Mar Ukva think?

Tosafot (105a) writes, referring to an opinion that disagrees with the Rabbenu Tam and Behag, that if one recited birkat hamazon and clears away the table one may then eat cheese. In other words, as soon as one FORMALLY finishes one meal, one may then eat cheese, as one has entered a new and distinct time period.

Other rishonim, however, imply that Mar Ukva rejects his father's entire premise! The Tur (89) writes that Rambam and Rashi maintain that one must wait until the next meal, but not because of the formal status of the next meal. Rather, they claim that there are external, technical reasons which demand that one wait.

The Rambam (Hilkhot Ma'akhalot Asurot 9:28) writes that one must wait "approximately six hours because of the meat between one's teeth with is not removed by cleaning." Rashi, on the other hand, writes that one must wait after eating meat because "the meat expels fat which sticks to one's mouth and who's taste is felt for a long time."

The Tur points out that one could suggest a number of distinctions between the opinion of the Rambam and the Rashi. For example, while the Rambam would require a mother who merely chew's on meat to soften it for her child to wait six hours, as there is most

likely meat between her teeth, Rashi would seemingly be lenient, being that she didn't ingest the meat.

(Incidentally, for many years the Semikha exams of the Israeli Chief Rabbinate asked whether a person with removable teeth (dentures) must wait in between meat and milk. Obviously, they expected one to answer that while the Rambam should be lenient, Rashi would be stringent.)

In summary, we cited a number of opinions. Some assert that there is a "formal" requirement to wait for the next meal, for which "siluk ha-shulkhan" and "birkat ha-mazon" may suffice (Tosafot). Others point to the meat remnants in one's mouth, for which kinuach and hadacha may suffice (Rabenu Tam and Behag), or alternatively one might have to wait six hours, due to the meat between one's teeth (Rambam) or the greasy aftertaste of meat (Rashi).

The Position of the Rema:

Rav Yosef Karo (Y"D 89:1) rules that one must wait six hours in between meat and milk. The Rema, on the other hand, writes as follows:

"Some say that one need not wait six hours, rather immediately after clearing the table and reciting birkat ha-mazon one may eat cheese after cleaning and rinsing (kinuach ve-hadacha) one's mouth.

The common custom in these areas is to wait one hour after eating meat and then to eat cheese, as long as one recites birkat ha-mazon, as it is considered as new meal…"

There are those who are scrupulous in their observance and wait six hours after eating meat, and that is the correct practice to adopt."

The Rema clearly rules, fundamentally, in accordance with the position of the Rabbenu Tam and Behag. However, apparently the custom in the Rema's time and place was to wait an hour before eating cheese. The acharonim question the source and rational of this custom. Some explain (see Taz 89) that the hour is simply a compromise between the two opinions that the people made on their own. The Gr"a, on the other hand, cites a Zohar (Parashat Mishpatim) which implies that one should not eat meat and cheese in the same hour.

Seemingly, one could suggest the minhag reflects an attempt to not only TECHNICALLY finish the meal, but also EXPERIENCIALLY. In other words, we notes that Mar Ukva, according to Tosafot, apparently felt that while his father insisted that one move on to a new chapter in time before eating cheese, he maintained that one must merely complete the current meal. It would seem that the custom cited by the Rema requires that one both finish the meal from physical and halakhic perspective, and move past it from an experiential perspective. We shall return to this suggestion when we discuss the German custom of waiting three hours.

The Rema's final suggestion, to wait six hours, was strongly endorsed by the acharonim. The Shakh, for example, writes that "anyone who has the 'smell of Torah'" should wait six hours. Therefore, most Ashkenazic communities, aside from the Dutch Jews, wait more than one hour.

Three Hours, Five Hours, Etc.

The custom of German Jews, as well as many English communities, is to wait three hours in between meat and milk. Being that we have yet to see such an opinion cited by the rishonim, many question the source and rational of this practice.

Some explain that the custom is based on an interpretation of Mar Ukva's statement mentioned above. We questioned whether Mar Ukva insistence that one wait until "another meal" referred to the conclusion of the present meal, or to the next meal. And if he referred to the next meal, was he using this measurement merely as a means of measuring when one's teeth and mouth are clean, or is there a greater significance to the next meal?

The Peri Chadash claims that while many rishonim posit that one must wait six hours, this number is subject to change, dependent upon the season. While during the summer, one must wait six hours, as it is customary to eat every six hours, during the shorter days of the winter when one eats in smaller intervals, one need only wait four to five hours. After all, the gemara merely says that one must wait "until the next meal."

Some explain that the German custom must be based on that rational. Apparently, the ancestors of the German community ate approximately every three hours, and therefore it became customary to wait only three hours in between meat and milk!

I would like to suggest a slightly different explanation. We explained that the custom cited by the Rema, to wait an hour in between meat and milk, may be an attempt to conclude one's meal both technically and experientially. Being that three hours is generally viewed as the "half-way point" in between two meals, we might suggest that Mar Ukva felt that one should not eat meat and milk during the same "meal period." However, after three hours, while it may not yet be time for the next meal, the time of the previous meal has passed. Ten o-clock in the morning may not be lunchtime, but it is no longer breakfast time either. Once one has left the time of the previous meat meal, one may then eat milk and cheese.

Among those who wait six hours, there are some who really wait "into the sixth" of a wait five and one half hours. What is the source of this custom?

Rav Ovadya Yosef investigated this custom, and suggests that the source may be the Rambam's vague language of ""ke-shesh shaot." The simple understanding would probably indicate that regarding a practice which is no more that a precautionary measure for an issur de-rabbanan (i.e. eating meat and milk which aren't cooked together is only rabbinically prohibited!), when in doubt (who wore watches 600 years ago!) one need wait only "approximately" six hours. However, some maintain that "ke-shesh" indicates that at either the beginning of the sixth hour, or towards the end of the sixth hour, one may eat cheese. Furthermore, the Meiri also writes that one must wait "five or six hours" in between meat and milk, seeming to allow one to wait only five hours after meat.

What is Considered Meat?

In previous shiurim, we learned that after eating pareve food cooked in a meat pot, or after eating food cut with a meat knife, and seemingly even after eating an onion cut with a meat knife, one need not wait before consuming milk.

If so, we may ask ourselves, what is considered "meat" for this halakha? Soup? A potato from the cholent?

The gemara (Chullin 105b) states that while washing between two "tavshilin" (i.e. foods cooked WITH meat or milk) is a "reshut" (optional), washing between a cooked food and cheese (tavshil le-gevina) is mandatory.

What is the gemara referring to? Is it referring to washing after a meat "tavshil" (i.e. a food cooked with meat) and before eating cheese? If so, then apparently one need not wait in between a meat "tavshil" and cheese!

The Rashbam (Tosafot d"v lo shanu) maintains that the gemara is referring to "a meat tavshil and the cheese BEFORE it." In other words, if one wishes to eat a food cooked with meat after eating cheese, one must wash ones hands. However, after eating a food cooked with meat, one must certainly wait until the "next meal" before eating cheese.

Rabbenu Tam, however, disagrees. He maintains that between a "meat tavshil" and a "dairy tavshil," washing is optional. Furthermore, between a "meat tavshil" and cheese, one must wash, but need not wait. Only after eating actual meat must one wait before eating cheese.

The Beit Yosef (O"CH 173) cites a discussion among the rishonim regarding the scope of Rabbenu Tam's leniency. For example, the Smak question whether Rabbenu Tam's leniency applied only in a case in which eggs were fried in meat fat. If, however, one eats meat gravy, than maybe even Rabbenu Tam would agree that one must wait. Similarly, while Rabbenu Yona rules that one may certainly eat cheese after a meat soup, Rabbenu Yerucham is stringent regarding a thick soup. The Beit Yosef concludes by citing the Mordechai, who testifies that his teachers refrained from consuming cheese even after eating eggs fried in animal fat, as a precaution of milk. The Beit Yosef notes that this is the prevalent custom and "ein lifrotz geder," one should not violate this well established minhag.

Interestingly, in his Shulkhan Arukh, Rav Yosef Karo (Y"D 89:3) rules in accordance with the lenient opinion, requiring only "netilat yadim" between a meat "tavshil" and cheese. It is the Rema who cites the custom to wait, and the Beit Yosef's ruling, "ein lifrotz geder."

In summary, the custom is to wait after any food containing meat or meat taste. However, if one eats rice into which one dipped a dripping meat spoon, or if one eats a felafel which was served with greasy fleishig tongs, seemingly one need not wait, unless one can actually taste the presence of meat.

Next week, we will discuss whether one must wait in between cheese and meat, and fish and meat, and we will also address the other precautions prescribed by Chazal in order to prevent eating meat and milk.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 28: More Precautionary Prohibitions

Waiting in Between Cheese and Meat, Meat and Fish, Milk and Meat on the Same Table

Leftovers and Tablecloths

Introduction:

Last week we discussed the different customs related to waiting between the consumption of meat and milk and analyzed some of the different reasons for this custom.

For example, some believe that Chazal prohibited eating meat and milk during the SAME meal, and therefore require only a formal break between meals, such as birkat ha-mazon and/or siluk ha-shulkhan (Tosefot). Others are concerned with the physical remnants of meat in one's mouth, which may later be swallowed together with milk, and they therefore require either cleaning one's mouth (Rabbenu Tam/Behag) or waiting until all food remnants or aftertaste have disappeared (Rashi/Rambam).

This week, we must ask, do these stringencies apply equally to the consumption of meat after cheese?

In addition, we will address some other precautionary practices, such as refraining from eating meat and fish, and even milk and fish(!!!). Finally, we will summarize the rabbinic proscriptions regarding the physical proximity between milk and meat on one's table.

Meat After Cheese

The gemara (Chullin 105a) states, "Rav Chisda said, one who ate meat, may not eat cheese; one who ate cheese, is permitted to eat meat."

The Shulchan Arukh (Y.D. 89:2) rules, in accordance with this gemara and the ensuing discussion, that after eating cheese, one should ensure his hands are clean (and wash them if they aren't), chew on a solid substance ("kinuach") and rinse his mouth ("hadacha"). If one only drank milk, "hadacha" alone is sufficient. It would appear that brushing one's teeth is the functional equivalent of both "kinuach" and "hadacha."

Some have the custom of waiting half an hour before eating meat after eating cheese. This practice is most likely based either upon extra cleanliness precautions, or upon the passage in the Zohar cited in the previous shiur, which implies that one should not eat meat and milk in the same hour.

Hard Cheeses:

The gemara (cited above) explicitly states that after eating cheese, one may eat meat. Seemingly, there is no reason to wait after eating cheese, as the properties of cheese

differ from those of meat. However, one might ask, if a certain type of cheese would indeed remain between one's teeth or leave a strong aftertaste – might one be required to wait before eating meat?

The Darkhei Moshe (Rav Moshe Isserlis, author of the Rema) cites a teshuva of the Maharam Mi-Rutenburg who relates that once, in between meals, he discovered cheese between his teeth. He then took it upon himself to wait after eating cheese just as he waits after meat, though he notes that he was lenient in this regard when it came to the consumption of fowl. The Darkhei Moshe (Y.D. 89:2) proceeds to cite other sources that limit this stringency to cheese that has aged at least six months.

The Rema (Y.D. 89:2) cites the custom of waiting after hard cheese, even before eating chicken, and notes that other authorities rule leniently in this regard. He then concludes that one should not object to those who follow the lenient position, so long as they perform "kinuach," "hadacha" and "netilat yadiyim." However, he adds, "it is preferable to be stringent."

The popular custom seems to be to indeed wait after eating hard cheese. But which cheeses nowadays fall under the category of "hard cheeses"? The rishonim define these "gevinot kashot" as cheeses that have aged at least six months (and have therefore become very dry and hard), and as cheeses which leave a very strong taste in one's mouth.

Most cheeses do NOT fit into this category. Rav Zev Whiteman, the Rav of the Tnuva dairy company in Israel, summarizes the different contemporary positions in an article available at http://www.kashrut-tnuva.co.il/docs/kasha.doc.

Meat, Cheese and Fish?

Though they do not directly relate to the preventative measures enacted by Chazal to ensure that one does not eat meat with milk, I would like to briefly address two other scenarios in which one may or may not need to wait between two foods.

The Tur (O.C. 173) records that his father (the Rosh) would wash his hands in between meat and fish, as "danger is more severe than prohibition" ('chamira sakanta me-issura'). The Beit Yosef cites a gemara (Pesachim 76b), in which Mar bar Rav Ashi prohibits eating fish cooked in the same oven with meat, as it causes "bad breath" (reicha) and "davar acher," which Rashi understands to mean tzara'at. He interprets the gemara as informing us that a mixture of fish and meat is harmful to one's health.

The Shulchan Arukh (Y.D. 116:2-3) warns against eating meat and fish together, and rules that one should wash his hands and eat bread in between to avoid danger. The Rema notes that the custom is to permit eating one after the other, recommending merely eating and drinking something in between.

The Magen Avraham (O.C. 173:1) suggests that this stringency should not apply nowadays, as this halakha is no different from many other "dangers" cited by the gemara which nowadays do not pose any threat.

It seems that common custom is to refrain from cooking, mixing or eating fish and meat together. Furthermore, many are stringent to use different forks for meat and fish, or at least clean them from one to the other. Some even claim to have a custom of drinking a "shot" of liquor between fish and meat due to this concern.

Fish and Milk

Some, particularly Sefaradim, have the custom to refrain from eating even cheese and fish together.

This minhag is based upon the Beit Yosef's comment (Y.D. 87) that one should not eat fish and milk together because of "sakkana" (danger). The Darkhei Moshe claims that this sentence must be the result of some textual error – a "ta'ut sofrim," and that the "Beit Yosef mixed his milk with his meat" ("acharonish" humor).

Although most acharonim reject this stringency (see Magen Avraham O.C. 173), some Sefaradim still refrain from eating "tuna-melts" and other mixtures of fish and dairy in deference to this ruling of the Beit Yosef. Despite the variant customs among different sefaradim, Rav Ovadaya Yosef (Yechaveh Da'at 6:46) recommends refraining at least from fish and milk, even if some are lenient regarding fish and butter. Ashkenazim, he notes, are not stringent in this matter at all.

Separations Between Foods and People

As we mentioned in last week's shiur, the Rabbis not only prohibited eating milk after meat, but also imposed restrictions relating to the physical proximity of milk to meat.

The mishna (Chulin 103b) states that "it is prohibited to place (meat) on the table with cheese." The next mishna (Chulin 104b) explains that this prohibition only applies to a "table on which one eats; but on a table onto which one merely places the food, one may put one alongside the other without concern."

This Shulchan Arukh (Y.D. 88:1) rules in accordance with these mishnayot, explaining that we are concerned that keeping milk and meat on the same table may lead one to eat them together.

The gemara applies this halakha not only to the presence of two foods on one table, but also to the proximity of two people eating milk and meat at the same table. The mishna (Chulin 107b) states: "Raban Shimon ben Gamliel said: two guests may eat at the same table – one meat and one milk, without any need for concern." The gemara explains that the mishna refers to a case where the two guests do not know each other. If they DO know each other, then even if they don't particularly "like" one another, they may NOT eat meat and milk on the same table. The gemara limits this prohibition, however, to eating "be-ke'en tefisa achat," literally "with the appearance of being handled together." If they do not eat in this manner, then even two acquaintances may eat meat and milk together at the same table.

What exactly does this phrase, "be-ke'en tefisa achat," mean? The rishonim debate the meaning of this limitation. Tosefot themselves (Chulin 107b) cite two explanations. According to one interpretation, "ke-en tefisa achat" refers to "hotza'a achat," or one expenditure. In other words, if two people shared the cost of food, some dairy and some meat, they may not eat the food together at the same table simultaneously. The concern is clearly that since both paid for the food, each will feel perfectly at ease taking from the other's meal, which may lead to a violation of basar be-chalav.

According to another interpretation, "ke-en tefisa achat" refers to the physical proximity of the two people eating meat and milk. Since these two acquaintances eat on the same table, we consider them as if they eat together, giving rise to the concern that one may eat from the other's plate.

Therefore, Tosefot write, if one can create a noticeable "heker," or separation, between the two guests, they MAY eat their meals on the same table. Tosefot observe the custom to either place a loaf of bread or pitcher in between them, or make a point of eating on separate place mats. In either of these scenarios, enough of a separation is established that one will not come to eat off the other's plate.

The Shulchan Arukh (Y.D. 88:2) rules in accordance with the second explanation, allowing the two guests to eat milk and meat at the same table as long as they eat on separate mats, or if they place some object between them. The acharonim point out that since the heker (the mat, loaf of bread or pitcher) is intended to serve as a reminder, it must be something unusual, that the two people would not normally keep on the table. Therefore, they may eat one separate mats if they do not normally do so, or place in between them a loaf of bread or pitcher that they do not plan on using during the meal.

Clearly, as it is the proximity of the meat to milk that concerns us, the prohibition does not apply to two people eating at separate ends of a long table, such that they do not eat near each other.

(This halakha, as well as the heter of using a heker, is, of course, reminiscent of hilkhot nidda – a nidda and her husband likewise may not eat together at the same table without some "shinuy" separating them. It might be interesting to compare and contrast the specific guidelines concerning these two halakhot. See Y.D. 195:3.)

Tablecloths and Leftovers

The Tur (Y.D. 91) cites the Yerushalmi (Pesachim 6:4) requiring one before eating meat to remove all bread from the table if cheese had been eaten on it. Apparently, this requirement stems from our concern that the bread may have touched the cheese on the table. The Shulchan Arukh (Y.D. 89:4) also cites this halakha, requiring that one remove from the table all leftover bread before eating meat.

Rav Moshe Feinstein zt"l (Igrot Moshe Y.D. 1:38) writes that the halakha requires one to remove only sliced pieces of bread from the table. However, since one is generally careful not to let the loaf itself touch the other food on the table, one may use full leftover loaves of bread with meat.

The Hagahot Ashri (Chulin 8:7), citing the Or Zarua, deems it a "mitva min ha-muvchar" to remove ALL food that was on the table during the dairy meal, before eating meat on that table. The Beit Yosef, as well as the Arukh Ha-Shulchan (Y.D. 89:15) and other acharonim, cite this stringency. Therefore, some have the custom of not using salads, kugels and other foods eaten during a dairy meal, with meat.

Rav Moshe Feinstein zt"l, in the aforementioned teshuva, explains that this practice constitutes a chumra, a "ma'ala le-harchaka yetera," and is NOT required by the Yerushalmi.

It seems that one should employ simple common sense regarding this matter.

In addition to leftovers, the poskim speak as well about a tablecloth used during a dairy meal. The Ramban (Teshuvot Ha-Meyuchasot Le-Ramban 172) writes that one should not use the same tablecloth for meat and dairy meals, as drops of grease and other residue often stick to the table. The Shulkhan Arukh (Y.D. 89:4) rules accordingly.

(Needless to say, the tablecloth may be washed and then used for either meat or dairy.)

The Pitchei Teshuva (Y.D. 89:8) cites the Radbaz who explains that the Ramban referred to times when meat and cheese were placed directly on the tablecloth. Nowadays, however, when people customarily bring food to the table on plates, the Ramban's stringency isn't required, and may even be fulfilled by merely shaking out the tablecloth and brushing it off.

In summary, we have seen different types of precautionary measures intended to prevent the consumption of meat with milk. Next week, we will learn about one more preventive proscription - the prohibition against dairy bread.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 29: Dairy Bread

Introduction:

In previous shiurim, we examined two types of precautionary proscriptions enacted by Chazal in order to prevent the consumption of meat with milk. One related to the time period one must wait in between eating meat and milk, and the other, to the physical proximity of meat to milk during a meal.

This week, we shall learn about a third type of gezeira - the prohibition against making and eating dairy bread.

The gemara (Pesachim 36b) states:

"… One should not knead dough with milk, and if he did, the entire loaf is prohibited, because of 'hergel aveira' (the likeliness of habitual behavior leading to sin)… like an ox's eye (is permitted)."

When approaching this halakha, we must ask ourselves, what is the nature of this prohibition? Are there exceptions? What is the scope of this issur?

Exceptions – "Like an Ox's Eye"

After introducing this prohibition against baking or eating dairy bread, lest one mistakenly eat it with meat, the gemara comments that if the bread is "ke-en tura" ('like an ox's eye'), it is permitted.

The rishonim debate the meaning of the term, "ke-en tura" (like an ox's eye).

The Rif (Chulin 30a) explains that if "one changes the shape and makes it like an ox's eye, then it is permitted." In other words, dairy bread is permitted if its shape is noticeably different than normal, which will serve as a reminder not to eat it with meat. According to this interpretation, we might wonder whether or not bagels or Thomas' English Muffins qualify as "ke-en tura."

Rashi (Pesachim 36a) explains that an "ox's eye" is "small… and is eaten in one sitting ('be-vat achat'), and one does not leave it over such that he would forget that it was kneaded with milk." Rashi requires that this dairy bread be small so that one will finish eating it before he forgets that it was prepared with milk and possibly eat it with meat.

One might ask whether Rashi and the Rif actually disagree, or if they simply mention different qualities of the bread described by the gemara as "ke-en tura." The Tur (Y.D. 97) felt that Rashi and Rif do not, in fact, dispute one another's view, and hence he cites both definitions.

Similarly, the Shulchan Arukh (Y.D. 97) rules:

"One should not knead dough with milk lest he come to eat it with meat; if one did, the bread it prohibited… However, if the bread is small enough to eat in one sitting ('be-vat achat'), OR if one changes the shape of the bread such that it is apparent that it should not be eaten with meat, then the bread is permitted."

Based on this ruling, the Rema writes:

"Therefore, it is the custom to knead bread with milk for Shavuot or with meat fat for Shabbat, because this is considered 'small' and its shape also differs from that of other breads…"

The Shulchan Arukh clearly rules in accordance with BOTH the Rif and Rashi. Interestingly, based on this ruling, the Orthodox Union certifies Thomas' English Muffins as kosher, despite the fact that they are dairy.

However, I would like to suggest an alternative explanation of this debate, according to which it relates to a fundamental question regarding the nature of this entire prohibition. Let us first analyze a number of basic questions concerning the prohibition of dairy bread, and then we will return to this debate.

Nature of the Prohibition

What type of prohibition did Chazal legislate when they forbade the consumption of dairy bread? Is this an "issur gavra," i.e. a prohibition directed towards the person, to prevent him from eating meat with milk? If so, one might suggest that the prohibition was not enacted where the reason for the prohibition is not applicable.

Alternatively, one might propose that the prohibition against eating dairy bread constitutes an "issur cheftza," meaning, that once the dough is kneaded with milk, it becomes a prohibited substance, regardless of the circumstances.

(Incidentally, in upcoming shiurim, we will ask a similar question regarding the prohibitions of chalav akum, pat akum, and bishul akum.)

The Pitchei Teshuva (Y.D. 97:3) cites a number of questions relevant to our discussion.

For example, may one make a large loaf of dairy bread, and then cut it into small pieces and distribute them to many people? In other words, does it matter that the bread was not initially baked as small loafs, but was rather later cut into smaller pieces?

The Chavat Da'at rules that the bread does not become permitted after one slices it into small pieces. Seemingly, he understands the prohibition of dairy bread as an "issur cheftza," and the prohibition therefore cannot be lifted once the forbidden bread has been made.

Others (see Chokhamat Adam 50:5 and Arukh Ha-Shulchan 97:9) disagree, at least be-diavad, and write that if a loaf of bread accidentally became "fleishig," one may slice it and divide it among several families, relying upon Rashi's interpretation of "ke-en tura." Clearly, these authorities view the prohibition of dairy bread as an "issur gavra," which may be remedied by the proper conditions.

Similarly, the poskim disagree regarding a "heker achar afiya," meaning, whether one may change the shape of, or even simply mark, a loaf of dairy bread after it has already been baked.

The Chavat Da'at (consistent with his opinion cited above) writes that once the dairy bread is baked, it cannot be transformed into permissible bread. The aforementioned Chokhmat Adam and Arukh Ha-Shulchan, however, write that a "siman" added to bread accidentally made "fleishig" may solve the problem. Once again, these authorities seem to debate the nature of the prohibition of dairy bread.

Rav Soloveitchik zt"l (see Nefesh Ha-Rav, page 153) ruled in accordance with his father, Rav Moshe Soloveitchik zt"l, who permitted dairy bread that is marked or labeled even after it was baked. Until recently, many kashrut organizations relied upon this ruling and certified dairy bread as long as the package indicated that it was dairy. However, as this practice apparently led to much confusion, most kashrut organizations have ceased to certify dairy bread as kosher.

Rif vs. Rashi – Another Explanation

We mentioned earlier that the Tur (and subsequently the Shulchan Arukh) believed that the Rif and Rashi do not argue, but rather offer two different yet equally acceptable solutions. As we briefly alluded to, however, their debate still requires further elucidation.

Firstly, even if the Rif and Rashi agree, to what do they agree? To which explanation of the prohibition of dairy bread do they subscribe? And secondly, might we suggest that they actually disagree, and if so, how?

One could suggest, perhaps, that both the Rif and Rashi recommend ways to alleviate the "issur gavra," by removing the concern that one will eat meat with this bread. Alternatively, one may suggest that by changing the shape, or "cheftza," in a fashion noticeable to the consumer, the prohibition will not affect THIS bread. Once the shape of the bread is distorted, THIS is not the type of bread included in the prohibition.

However, it seems reasonable to suggest that the Rif and Rashi are in fact engaged in a fundamental debate.

According to the Rif, by changing the shape of the bread, or by changing the "cheftza," one removes this food from the category of "dairy bread," he turns them into something like cookies and cakes, and thereby avoids the creation of the issur.

Rashi, by contrast, does not require one to alter the shape or status of the bread, but rather to create a situation in which this "gavra" will not accidentally eat this bread with meat. Therefore, by baking small pieces of bread, such that a person will recall that they are dairy and refrain from eating them with meat – dairy bread may be baked.

According to this understanding, the issues mentioned earlier - regarding a large dairy loaf baked and then cut into pieces, and a symbol placed on the bread after baking - should hinge on this debate between the Rif and Rashi.

In any event, as we noted above, the Shulchan Arukh rules in accordance with BOTH explanations.

The Scope of the Prohibition: Spice Mills, Cookies and Cakes

The Taz (Y.D. 97:1) rules that if a pareve spice grinder used for both besari and chalavi becomes "fleishig," one may not use it to grind pareve spices (i.e. 'devarim charifim' which will become besari from the grinder), lest one come to eat those spices with milk.

In other words, the Taz extends the rationale of the prohibition of dairy bread to any scenario in which one might mistakenly assume a meat food is pareve, and eat that food

with dairy. The acharonim (see Chokhmat Adam 50:7 and Arukh Ha-Shulchan Y.D. 97:2), reject the Taz's stringency, and restrict the prohibition of dairy bread to only bread.

Even within this lenient position, however, one might question whether this issur should apply to cookies and cakes. The Pitchei Teshuva (Y.D. 97:3) cites the Maharit who rules that the prohibition of dairy bread applies only to those bread products that will be eaten WITH meat. Therefore, cookies and cakes, which one generally eats as a dessert, AFTER meat, may be dairy. However, crackers that are often eaten together with meat should, according to the Maharit, not be dairy.

While most acharonim (see Chokhmat Adam 50:3 and Arukh Ha-Shulchan Y.D. 97:5-6) side with the Maharit, some "mehadrin" kashrut organizations in Israel demand that cheese burekas be made in a different shape (triangular) than potato burekas (rectangular). Similarly, Rav Soloveitchik zt"l (cited in Nefesh Ha-Rav pg. 153) apparently disagreed, in principle, with the Maharit and prohibited dairy cakes which are not clearly chalavi (such as cheesecake).

Vegetarians

May vegetarians prepare and eat dairy bread, given that they have little reason for concern that they might eat this bread with meat?

On the one hand, one might argue that if we view the prohibition of dairy bread as an "issur cheftza," then certainly preparing dairy bread for consumption in a vegetarian household in no way eliminates the issur. If, however, we are to understand the prohibition as an "issur gavra," then we might propose that just as a "heker achar afiyya" serves as an effective heter, similarly, the context of a vegetarian restaurant or house may suffice.

On the other hand, one might still insist that the bread itself be DISTINGUISHABLE as dairy, and that the context alone is not sufficient. Some poskim, for example, suggest that the "shinuy" must be understood by all, and not just by the members of the household (see Pitchei Teshuva Y.D. 97:3).

Furthermore, see http://www.koltorah.org/ravj/Dairy%20Bread.htm, where Rabbi Howard Jachter notes that Rav Hershel Schachter does NOT allow vegetarians to eat dairy bread, citing as proof the Gemara in Masekhet Pesachim 37a. There the gemara prohibits making matzot in specific shapes, lest one take too long to shape the dough and thereby allow the dough to rise and become chametz. And even if there are those, like the Beitos family, who have perfected a method of shaping matzot quickly, without any fear of delay, the gemara insists that the prohibition remains in force nonetheless, since we might confuse the matzot of Beitos and those of other bakers.

In other words, often the halakha demands a "lo pelug," in which we do not distinguish between cases in order to avoid confusion. Therefore, Rav Schachter argues, we cannot make an exception and allow a vegetarian to eat dairy bread, lest one confuse the dairy bread of a vegetarian with the bread of others.

Having concluded our study of the relevant laws of basar be-chalav, next week we will learn about the foods that Chazal prohibited because they were produced by non-Jews, such as chalav akum, pat akum, and bishul akum.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 30: Food Produced by Non-Jews

Introduction:

Tractate Avoda Zara, in addition to expounding upon the numerous laws concerning idolatrous practices, also addresses the status of non-kosher foods and utensils. Among the many kashrut issues that appear in this masekhet, special attention is given to the laws of foods that were produced by non-Jews.

The Mishna (Avoda Zara 35b) states:

These are the products of non-Jews which are forbidden, although one may derive benefit from them: milk which was milked by a non-Jew without a Jew watching, their bread and oil, although Rebbe (Rabbi Yehuda Ha-Nasi) and his court permitted their oil, and cooked foods.

In other words, the mishna records the prohibitions of chalav akum, pat akum, and bishul akum.

In the next few shiurim, we will analyze these three prohibitions, beginning with chalav akum.

Reason and Nature of Issur:

Regarding this group of prohibitions, we must ask ourselves a number of questions. Firstly, why did the rabbis forbid the consumption of these products? Secondly, what type of prohibition did they create? And finally, what are the details and applications of these specific halakhot?

Theoretically, one may suggest two reasons to prohibit food prepared by a non-Jew. On the one hand, we may suspect that food produced by a non-Jew contains non-kosher ingredients, and therefore without proper supervision or Jewish involvement, the food should be prohibited. On the other hand, there may be foods that the rabbis prohibited in order to limit our social contact with non-Jews, which may lead to intermarriage and other negative cultural influences.

The Gemara (35b) is clear regarding the issur of chalav akum. While we need not be concerned that the non-Jew will switch kosher milk for non-kosher milk (milk from a forbidden animal - as kosher milk is white and non-kosher milk is yellowish ("yarok") - we are concerned that in order to elevate the level of milk production, a non-Jew may mix kosher and non-kosher milk. Therefore, without proper Jewish supervision, a non-Jew's milk is considered "chalav akum" and is prohibited.

What type of issur did the rabbis create? Theoretically, chazal may have employed one of two different models of issurim.

On the one hand, they may have created an entirely new prohibited substance. One may claim that just as non-kosher meat may be classified as an "issur cheftza," a

substance which is inherently prohibited, similarly they may have also defined these issurim as prohibited substances.

Alternatively, they may have simply stated that one should not eat these foods, although they are not to be viewed as inherently prohibited. We may call this type of issur an "issur gavra."

The most practical difference between these two approaches - i.e., whether or not these substances are to be viewed as inherently prohibited - is whether this issur may taint other foods or utensils. Should we equate these issurim with neveila, which prohibits the utensil in which it was cooked, or not?

Logically, one might suggest that if a food produced by a non-Jew is prohibited in order to prevent socializing and intermarriage, then the food itself should NOT be perceived as an "issur cheftza" and should NOT prohibit the utensil in which is was prepared. However, if our concern is that the non-Jew may have introduced a non-kosher substance into the food, then we may be required to view the product as an inherently non-kosher substance which would thereby prohibit a utensil.

Regarding milk, the Rema (YD 115) notes that chalav akum DOES prohibit utensils. The Gra and the Shakh both suggest that we are stringent regarding chalav akum, as we are concerned that the non-Jew may have introduced non-kosher milk into the kosher milk. This stands in sharp contrast to pat akum, which we shall discuss next week.

Situations of Certainty:

For almost a thousand years, Rishonim and Acharonim have discussed whether this prohibition should apply in societies in which non-kosher milk is not available or not consumed. Certainly in America and other countries, where there are virtually no camels, and pigs are certainly not used for their milk, and commercially sold milk is supervised by the government, one may question whether there is any need to adhere to the gezeira of chalav akum.

I would like to present two arguments that were suggested in order to justify the lenient approach to chalav akum, which does not require, in our societies, Jewish supervision of milk production.

Firstly, the Rishonim and Acharonim discuss whether the prohibition of chalav akum is applicable even if we are certain that the milk is kosher. In other words, was this legislation a "davar she-beminyan" which requires another bet din to annul it, or is the reason incorporated into the actual legislation?

This is a broad question regarding many rabbinic prohibitions, and is often discussed in the context of the prohibition of clapping and dancing on Shabbat (see Beitza 30a and Tosafot s.v. Tenan), as well as other rabbinic prohibitions.

The first to raise this possibility was the Mordekhai (Avoda Zara 846), commenting on the Gemara's requirement that a Jew stand on the periphery of the non-Jew's herd, in order to insure that the non-Jew will be too scared to adulterate the milk. The Mordekhai questions whether this requirement is only necessary if the non-Jew has both kosher and non-kosher animals in his herd, or also if he has only kosher animals. In other words, is the gezeira of chalav akum absolute, even when the reason is not applicable, or is it subject to a true concern for the adulteration of the milk?

The Mordekhai cites Rabbeinu Peretz who maintains that supervision is still necessary, lest the non-Jew still introduce non-kosher milk or lest the utensil into which the cow was milked already contain non-kosher milk. While his ruling is stringent, his reasoning implies that if the reason for the legislation truly doesn't apply, then no Jewish supervision would be necessary.

The Radbaz (YD 2:75) points this out, and concludes that if we are certain that no non-kosher milk was added, then there is no requirement for Jewish supervision. Similarly, the Peri Chadash (YD 115) rules that if non-kosher milk isn't available in one's vicinity, or if non-kosher milk is so expensive that it was certainly not mixed with kosher milk, then there is no reason to be stringent. In fact, he testifies that aside for a few pious individuals, the custom in Amsterdam was to drink milk without supervision, and that he too drank this milk!

Other Acharonim disagree. The Chatam Sofer (YD 1:107) argues that chalav akum is an absolute gezeira (davar she-beminyan) which can only be revoked by another bet din. Furthermore, the Arukh Ha-Shulchan (YD 115) cites and dismisses the opinion of the Peri Chadash (without naming him), arguing that chalav akum is always forbidden.

(He even relates a story in which a number of merchants, accustomed to drinking chalav akum while traveling, were shocked to discover that the creamy milk drink, which they purchased each morning from a non-Jewish store owner, was actually prepared with ground animal brains. Needless to say, they confessed their sin and were then convinced of the profound wisdom of the rabbis' words.)

In summary, the relationship between the reason for the legislation and its applicability is subject to debate.

Alternative Forms of Supervision:

While the applicability of chalav akum in a society in which there is virtually no fear of adulterated milk is subject to debate, we may question what type of supervision is necessary in order to permit milk produced by a non-Jew.

The Gemara (Avoda Zara 39) rules that while a Jew does not have to witness the milking of the cow, he must at least be present, in order to create an atmosphere of "mirtat," in which the non-Jew would be afraid to adulterate the milk.

The Rema, however, extends the notion of supervision. He argues that "maids (shefachot) who milk animals in the Jew's house or pen, if their houses are not in between the Jew's house (and the field where the cows are milked), and if there is no fear that they will introduce non-kosher milk into the kosher milk, then one may leave them to milk, even le-khat'chila, even though there is no Jew present."

The Chazon Ish (YD 41:4), based upon this Rema and the previously cited Peri Chadash, permits milk produced in factories. He argues the government supervision should be no worse than the Jewish supervision in the case of the Rema, and therefore the milk should be permitted.

Rav Moshe Feinstein (Y"D 1:47) also permitted government-supervised milk. He argues that just as at times, one can achieve certainty even without actually seeing something, similarly, the governments supervision should be a sufficient fulfillment of the requirement of Jewish supervision. While he notes that the "ba'ale ha-nefesh" (pious) should be stringent, and that their behavior is not considered "yuhara," and that he himself only drinks chalav yisrael, he repeats this lenient ruling in a number of responsa.

Others (see Chelkat Yaakov 2:37-8) disagree with this lenient ruling of Rav Moshe Feinstein and the Chazon Ish.

In America, the OU, based on the ruling of Rav Moshe Feinstein, does not insist upon chalav yisrael, and permits the use of what has become known as "chalav stam." Other organizations, such as the Star-K, only sanction the use of chalav yisrael.

Kashrut organizations generally "kasher" utensils which were used for chalav stam when producing chalav yisrael (see, for example, http://www.okkosher.com/Content.asp?ID=169).

However, it seems that individuals, even those who are stringent regarding chalav yisrael, may rely, be-diavad, upon, the lenient approaches developed above and use dishes and utensils of someone who does not only drink chalav yisrael.

Milk in Israel - Chalav Yisrael and Powdered Milk:

In Israel, all packaged milk is chalav yisrael. Therefore, milk that originates from non-Jewish farms is produced under Jewish supervision. Furthermore, some "mehadrin" hashgachot, such as Tnuva, insure that there is Jewish supervision even on a Jewish farm, if the workers aren't Jewish.

However, the Rabbinate is lenient, at least for the "regular" hashgachot (not "mehadrin"), regarding one issue: powdered milk. A number of Acharonim addressed the status of powdered milk. The Chazon Ish, for example, in the essay cited above, sees no distinction between powdered milk and liquid milk.

Rav Tzvi Pesach Frank (Har Tavi YD 103), however, disagreed. He claimed that even those who are stringent regarding "chalav stam" should still agree that the gezeira does not apply to milk which has assumed a new form, i.e., powder.

Based on his responsa, and because of the general shortage of powdered chalav yisrael, the "regular" hashgachot permit the use of powdered chalav stam, while the "mehadrin" hashgachot insist upon powdered chalav yisrael.

For further research into the kashrut and production of chalav yisrael, and specifically of powdered milk, see http://www.okkosher.com/Content.asp?ID=169 and http://www.kashrut-tnuva.co.il/docs/14b.doc.

Conclusion:
Before concluding, I would like to bring to our attention two other issues of concern to the consumer of kosher milk, especially in Israel.

1. The Poskim discuss the status of milk which was milked, in a prohibited manner, on Shabbat. This issue is obviously more applicable in Israel, and is a major difference between "regular" and "mehadrin" milk. See http://www.kashrut-tnuva.co.il/pg17b.htm, for example, for Tnuva's presentation of the issue.

2. In recent years, there has been much discussion regarding the impact of routine medical procedures on cows. Some procedures may render the cow a "treifa," which of course would prohibit all of its milk. American and Israeli authorities have addressed the issue. Some chalav yisrael farms in America, as well as mehadrin hashgachot in Israel, have taken steps to insure that these procedures do not compromise the kashrut of the milk. Some cite this as another reason to only drink chalav yisrael! See http://www.kashrut-tnuva.co.il/pg1b.htm for Tnuva's perspective.

Next week we will discuss the laws of pat akum and their applicability today.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 31: Food Produced by Non-Jews: Pat Akum

Introduction:

Last week, we discussed the halakha of chalav akum. We noted that the Mishna (Avoda Zara 35b) lists bread baked by a non-Jew among the foods produced by non-Jews that are prohibited.

We suggested that as we approach each of the three major prohibitions of the Mishna - i.e., chalav akum, pat akum and bishul akum - we should ask why these foods were prohibited, as well as investigate the nature of the issur and its details.

We demonstrated that the rabbis prohibited chalav akum because they feared the non-Jew might adulterate the kosher milk with non-kosher milk. Subsequently, chalav akum is viewed, mi-derabanan, as an inherently prohibited substance that has the ability to cause the prohibition of keilim with which it came into contact.

What is the reason for the prohibition of pat akum? What type of issur did the rabbis create? When is this prohibition applicable?

Reason for Pat Akum:

The Gemara (35b) explicitly links the prohibition of pat akum to "chatnut." Seemingly, "chatnut" should be translated as "intermarriage," implying that the rabbis feared that if Jews would partake of non-Jews' bread – bread being a staple of every meal - this might lead to excessive socializing and ultimately to intermarriage.

Interestingly, the Rambam in his commentary on the Mishna, writes:

All of these things were prohibited in order that we should distance ourselves from them and not become mixed among them so that we should not be led, out of our extensive socializing with them, to stretch forth our hand for that which is prohibited... and that is what the rabbis are referring to when they mention "chatnut."

In other words, the Rambam is suggesting that the notion of "chatnut" may include other negative repercussions of socializing with non-Jews, in addition to intermarriage.

(Needless to say, if the major concern of pat akum is the socializing that its consumption might cause, the kashrut of the bread itself seems to be unchallenged. We may assume that bakers in those times only used kosher ingredients, and their baking utensils were considered kosher, or at least "be-chezkat eino ben yomo." See Shakh 112:3.)

Tosafot (s.v. Mi-khlal) writes that one who stringently adheres to the laws of pat akum may share a plate with one who doesn't – even though the taste of the other's pat akum may become mixed with his food – as the taste of pat akum doesn't cause another substance to be prohibited.

The Shulchan Arukh (112:15) codifies this position and adds that one may consume a drink ("kutach") that contains pieces of pat akum. The Rema explains that pat akum is "batel be-rov" (nullified by a majority of heter) regardless of whether the mixture is wet (lach be-lach) or dry (yavesh be-yavesh).

Seemingly, since the kashrut of pat akum isn't the issue but rather the impact of its consumption, Chazal didn't rule the bread not kosher.

Pat Akum in Different Contexts:

Since the reason for pat akum is chatnut, one might suggest that in contexts in which a threat of chatnut is minimal, this restriction should be relaxed.

The Gemara (Avoda Zara 35b) mentions a number of scenarios in which one might think the prohibition of pat akum is not relevant. For example, the Gemara suggests that Rebbe may have been lenient "in the fields" (i.e., outside the city), or when the bread was baked by a "palter" (a baker).

Clearly, the Gemara suggests leniency in these scenarios because they are less conducive to "chatnut." In addition, some Rishonim explain that since bread is a staple of every meal, there is good reason to be lenient.

The Rishonim differ regarding the final halakha.

Some believe that the Gemara's suggestions were no more than mistaken interpretations of Rebbe's words, and in truth there are no exceptions to the law of pat akum.

Others accept parts of the sugya, claiming that there are scenarios in which the prohibition of pat akum doesn't apply. For example, the Rambam writes that one may eat "pat palter," bread baked by a non-Jewish baker, if there is no "pat yisrael" available.

Interestingly, the Ran writes that "ein palter yisrael" refers not only to the physical absence of a Jewish palter, but also to a qualitative or subjective absence of a certain type of bread. He posits that if the bread from the non-Jewish baker is better, or of a type which the Jewish baker doesn't bake, than one may eat the pat akum.

The third approach, endorsed by the Tosafot, claims that pat akum is an example of a gezeira which "ein rov yisrael yecholin la'amod bah," i.e., which most Jews are unable to observe, and was therefore nullified. They cite a Yerushalmi, which records that the rabbis "stood up and permitted it," as supporting their assertion that the gezeira of pat akum, or at least of non-pat palter, was never accepted, and may even have been formally rescinded.

Rav Yosef Karo (Shulchan Arukh YD 112:1) records the prohibition of pat akum without any exceptions. In 112:2, he notes that there are some places in which the custom is to be lenient and purchase bread from non-Jewish bakers, as it is considered a "sha'at hedchak," i.e., extenuating circumstances.

He also cites the leniency reported by the Ran and others, which permits a non-Jew's bread if is better or different.

The Rema adds, "Some say that even if pat yisrael is available [one may be lenient]." He seems to adopt the position of the Mordekhai and Tosafot, reflecting the Ashkenazic tradition that did not insist upon pat yisrael from a baker.

The Acharonim debate whether optimally one should strive to eat pat yisrael when it is readily available. See Shakh (112:9), Arukh Ha-shulchan (112:9) and Biur HaGra.

It is worth noting that the Shulchan Arukh (OC 603) writes that even one who is not stringent regarding pat akum during the year should eat only pat yisrael during the Aseret Yemei Teshuva (the ten days between Rosh Ha-shana and Yom Kippur).

(It is worth investigating whether the assumption of the Shulchan Arukh is that one should ideally be more stringent during the year, in which case one might ask why this recommended behavior isn't considered an act of hypocrisy, or whether during the year one is actually permitted to eat pat akum, in which case - what is the message behind this additional stringency during the Aseret Yemei Yeshuva?)

One last point: The Ra'ah (Bedek Ha-Bayit Bayit 3 pg. 94b) suggests that one should certainly be allowed to eat the bread of the "beit ha-ofim," i.e., commercial bread. Since the baker and the customer don't know each other, and the baker isn't baking specifically for this person, there is no "kiruv da'at," and the bread should be permitted. While the Shulchan Arukh does NOT cite this opinion, it certainly highlights the role of "context" in pat akum, and may provide an even stronger basis for permitting commercial breads baked by non-Jews.

Definition of Pat Yisrael:

Can bread that is produced by a non-Jew ever be considered pat yisrael? This question is of great importance regarding pat ba'al ha-bayit (bread not baked by a baker), or regarding pat palter for those who do not follow the leniency of the Tosafot and Rema.

The Gemara (Avoda Zara 38b) states,

The halakha is that whether a non-Jew lights the oven and a Jew bakes the bread, or a Jew lights the oven and a non-Jew bakes the bread, or a non-Jew lights the oven and bakes the bread and a Jew stokes the coals (chata bah chituye), the bread is permitted.

Similarly, the Rishonim write that there are "three melakhot in baking bread," lighting the oven, placing the bread in the oven, and stoking the coals. If a Jew participates in any of these actions, the bread is permitted.

While lighting the oven and baking the bread appear to be significant actions, why does stoking the coals permit the bread? This question convinced the Ramban, cited by the Ritva, that the act of "chituy" must significantly impact upon the baking of the bread.

He seems to believe that in order for the bread to be permitted, a Jew must do an action that is the equivalent of baking the bread. In other words, only pat yisrael, bread baked by a Jew, is permitted.

Most Rishonim, however, disagree. The Rambam (Hilkhot Ma'akhalot Asurot 17:13) writes, "Even if he only throws a small twig into the fire the bread is permitted, as the reason for this is so that there should be a sign ("heker") that their bread is prohibited."

The Shulchan Arukh (112:9) adopts the Rambam's position, allowing one to throw even a twig ("hashlakhat kisam") into the fire. The Rema even permits the bread if a Jew simply blew on the fire!

Again, this leniency is only necessary for pat ba'al ha-bayit, or for those who are stringent regarding pat palter.

Next week we will discuss the third prohibition mentioned in the Mishna, "bishul akum," and compare and contrast it to what we have learned concerning chalav akum and pat akum.

The Laws of Kashrut
By Rabbi Yosef Ben David

Shiur 32: Food Produced by Non-Jews: Bishul Akum

Introduction:

In previous shiurim, we discussed the halakhot of pat akum and chalav akum, two categories of food produced by non-Jews that Chazal forbade for consumption. We saw two reasons for these prohibitions. On the one hand, the gemara explains that Chazal prohibited milk produced without supervision out of concern that it had been adulterated by non-kosher milk. On the other hand, the gemara attributes the prohibition of pat akum to "chatnut," the fear of excessive socializing and even intermarriage with non-Jews.

We noted that these different reasons might explain the discrepancies between the two issurim. For example, while chalav akum prohibits the utensil in which it is cooked (noten ta'am), pat akum does not. Clearly, the rabbis viewed chalav akum as an inherently prohibited substance (issur cheftza), since the issur itself is based upon the concern of a prohibited mixture. Pat akum, however, which Chazal prohibited for social reasons, is NOT seen as an inherently prohibited substance (but rather as an issur gavra) and therefore cannot prohibit a utensil.

This week we will explore the laws of bishul akum, while attempting to determine the reason and nature of the prohibition.

Source and Reason for Bishul Akum

The gemara (Avoda Zara 37B – 40A), after attempting to attribute the prohibition of bishul akum to a biblical source, concludes that bishul akum is prohibited "mi-derabbanan ve-kra esmachta be-alma" (the prohibition was legislated by the rabbis, but they made a textual connection in the Torah to support their enactment in the Torah).

Why did Chazal prohibit food cooked by non-Jews?

Rashi (38a s.v. mi-derabbanan) explains that a "Jew should not be accustomed to eat and drink with a non-Jew (etzlo) as he may come to feed him impure (non-kosher) food." According to Rashi, the prohibition of bishul akum in intended to prevent the consumption of non-kosher food.

Tosafot (38a s.v. ela) cite Rashi's explanation and disagree, explaining that the prohibition results from the fear of "chatnut" - socialization and intermarriage.

If so, then we may already point to a debate regarding the reason for bishul akum, whether it stems from kashrut concerns or the fear of intermarriage.

Based on the rationale we employed in previous shiurim, it should follow that this debate between Rashi and Tosefot will have practical ramifications regarding the status of utensils used by a non-Jew to prepare food. According to Tosafot, the issur of bishul akum should be viewed as an "issur cheftza" and will thus extend to the utensils, as well. Rashi, by contrast, should permit the utensils, since in his view the prohibition is merely

intended to prevent excessive socialization with non-Jews, and may thus be viewed as an "issur gavra."

Though we have no concrete evidence as to the opinions of Rashi and Tosafot on this matter, we can point to other rishonim who indeed appear to debate this issue.

The Tur (Y.D. 113), for example, cites the Rashba who maintains that bishul akum may prohibit utensils, as "everything the Rabbis enacted is similar to their Biblical counterpart" ("kol de-takun rabbanan ke-ein de-oraita takun"). He therefore warns that one's non-Jewish servants should not cook for themselves in the Jew's home as this may prohibit continued use of the kelim.

The Tur then proceeds to cite his father, the Rosh, as ruling leniently in this regard, claiming that Chazal were certainly not SO stringent with respect to bishul akum. The Ra'a, who agrees with this ruling, explains that since this prohibition is based upon the concern of "chatnut," there is no reason to prohibit the utensils.

The Shulchan Arukh (Y.D. 113:16) cites both opinions, and adds that even the more stringent view allows one to "kasher" earthenware ('cheres') used for bishul akum by immersing it in hot water (hag'ala) three times.

While the acharonim (see Arukh Ha-Shulchan Y.D. 113:50) seem to adopt the more stringent approach, we shall see that bishul akum may very well apply to only specific foods and to specific people.

Interestingly, elsewhere (Avoda Zara 35b s.v. ve-hashelakot) Rashi himself explains that bishul akum is prohibited because of "chatnut," implying that he accepts BOTH reasons.

Furthermore, the Rambam (see Peirush Ha-Mishnayot 2:6) explains that "these things, such as their [non-Jews'] bread and cooked foods and the like, were only prohibited in order that we should distance ourselves from them and not come in our mingling with them to be lax (hefkerut) regarding prohibited things. This is what they meant by 'chatnut'."

In other words, the Rambam ALSO implies that the issur stems from a broader concern, and that the term "chatnut" refers to numerous prohibitions, and not just intermarriage.

"Who made the Food?" - Slaves and Servants

Seemingly, we might suggest that if the prohibition of bishul akum is linked to "chatnut," then under certain circumstances, bishul akum may not be applicable.

For example, some rishonim cite an opinion that permits food cooked by non-Jewish slaves (avadim u-shefachot). However, they disagree as to the reason underlying this leniency. The Ramban (see Teshuvot Ha-Meyuchasot Le-Ramban 284), in response to Rabbenu Yona, justifies the practice of allowing non-Jewish slaves to cook for Jews, as "there is no issur for these slaves, which are our property, as work performed by a non-Jewish slave is considered a Jew's… One is warned not to allow them to work on Shabbat, and they ARE NOT CONSIDERED NON-JEWS ('leitei bi-khlal nokhrim'); therefore, the prohibitions do not apply to them…"

In other words, since a non-Jewish slave is actually not legally considered non-Jewish, given that he is obligated in certain mitzvot, the prohibition of bishul akum does not apply to food cooked by them. According to the Ramban, then, this leniency evolves from the personal status of avadim; the context, however, plays no role in this leniency.

The Rashba (see Teshuvot Ha-Meyuchasot Le-Ramban 149), by contrast, cites an opinion which maintains that a non-Jewish slave's (avadim u-shefachot) food is not prohibited since the prohibition of bishul akum applies only when the gentile willingly cooks for a Jew, out of his or her affection for him. A slave, however, cooks whether or not he or she wants to, and therefore the reason of "chatnut" does not apply. The Rashba concludes that one should not rely on this leniency.

This reasoning, also cited by the Ra'a (Bedek Ha-Bayit Bayit 3 pg. 94b) in the name of Rav Yitzhak Ben Rav Manoach, and by the Levush (Y.D. 113), attributes the leniency to the absence of the concern of "chatnut" in this situation. In other words, the context of the cooking will determine whether or not the prohibition should apply.

Interestingly, a practical difference between these two explanations arises in the case of "hired help" (shefachot sekhurot). Does the leniency regarding slaves apply as well to hired servants?

The Shulchan Arukh writes that "there are some who permit OUR servants, and others prohibit even be-diavad." The commentators on the Shulchan Arukh question what the term "OUR servants" means, and ask whether it refers to slaves or to hired servants. Both the Shakh (Y.D. 113:7) and Taz (Y.D. 113:3) explain that the Shulchan Arukh refers to a paid helper working in a Jew's house, rather than an actual slave.

In any case, we clearly see that according to some views, the specific context within which the food is cooked may dictate its status. We will return to the Shulchan Arukh's ruling shortly.

A Non-Jew Cooking in a Jew's Home

Recall that some authorities suggest that when the gentile cooks for himself, rather than out of affection for the Jewish recipient, the prohibition of bishul akum does not apply. Some rishonim go even further, suggesting that bishul akum should NEVER apply when the food is cooked in the home of a Jew.

Tosafot (Avoda Zara 38a s.v. ela) cite the opinion of Rav Avraham ben HaRav David (Ra'avad) who maintains that bishul akum is prohibited only when the non-Jew cooks the food in his or her house. If, however, the food is prepared in the house of a Jew, it is permitted.

Rabbenu Tam disagrees, insisting that we do not distinguish between the house of a Jew and of a non-Jew, and that we must always be concerned "that he will not be careful," even in the house of a Jew. It is not clear whether Rabbenu Tam felt that we must be concerned that he may adulterate the food, or that we STILL fear inappropriate socializing – even in the Jew's home.

As mentioned, the Shulchan Arukh (Y.D. 113:4) cites two opinions regarding "OUR servants." The Rema writes that "be-diavad one may rely upon those who are lenient." The acharonim explain that this post-facto leniency is based either upon the Ramban (see Shakh) or the Ra'avad (see Taz). Therefore, while le-chatchila one must not allow a non-Jewish employee to cook in his house, be-diavad the food may be permitted.

The question of non-Jewish help is complex and relates to a number of issues, including the type of foods prohibited by bishul akum, as well as to the minimal Jewish involvement in the cooking process which may permit the food. We will return to this point numerous times throughout our series on bishul akum.

Commercially Produced Food

Last week we noted that the Ra'a (Bedek HaBayit Bayit 3 pg. 94b) questions whether food cooked by a non-Jew for his livelihood in a factory or other commercial cite not used for dining, rather than for a specific person, may be permitted. Since in this case we need not be concerned about "ikruvei da'atei" - warm feelings of camaraderie between the cook and the customer, perhaps the prohibition should not apply. He concludes that one may be MORE inclined to rule leniently when it comes to commercially baked bread, as we are generally more lenient regarding pat akum.

This opinion was never cited by the Shulchan Arukh, or by other major halachic works. However, Rav Moshe Feinstein zt"l (see the teshuva authored by Rav Neta Greenblatt with Rav Feinstein zt"l's approval, printed in Mesora vol.1 pg. 94) cites a debate from the previous generation as to whether bishul akum poses a problem for commercially produced sardines. He concludes that even if one employs a "lo pelug" and prohibits bishul akum even when there is no concern of "ikruvei da'atei," when the cooking is done is an irregular manner, such as by a machine, then there is certainly no concern for "chatnut" and the prohibition of bishul akum would not apply.

Incidentally, the policy of the Orthodox Union (according to Rav Menachem Genack, cited in the aforementioned journal) is to rely upon this leniency only regarding bread (pat palter), and not for cooked foods.

Summary

This week we discussed the reasons for, and nature of, the prohibition of bishul akum. We also questioned whether the context in which the food was cooked, or the general role of the person who cooked the food, should impact upon the issur. We concluded that while le-chatekhila, the prohibition applies in all circumstances, be-diavad, the food may be permitted if it was cooked by a non-Jewish worker in the home of a Jew.

About the Author



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The Rosh Yeshiva grew up in San Diego, California and learned in Yeshivat Torah Emet as a talmid of Maran Hagaon Harav Chaim Pinchos Scheinberg zt"l. He received Semichah from Rabbi Aaron Gartner, Rav Yaakev Agavir. For twelve years, he taught and inspired talmidim in various yeshivas who still have a very close connection with him today. Patient and determined, the Rosh Yeshiva always believed in every bochur. He is a sought out speaker worldwide. He is also the Rov at the Kav Halacha Beis Hora'ah, and the author of Ethics of Interpersonal Conduct (Halacha) and The Jewish Halacha Series.

The Rosh Yeshiva devotes his entire life to the success of every bochur, always concerned about their spiritual and physical well-being. Here every bochur is unique and is encouraged to reach his full potential. With constant encouragement, overflowing love, and infinite patience, every bochur is nurtured and developed to be an accomplished ben-Torah. Yeshiva Beit David is a yeshiva designed for post-high school students looking for a focused yet relaxed atmosphere in which to grow. Our warm, down to earth Rebbeim are ready to help you have a productive, enjoyable and inspiring year. The yeshiva aims to give boys an authentic and honest Torah Hashkofa with, exceptionally dedicated rebbeim in an atmosphere that exudes warmth and tremendous simchos hachaim This is handed over not just through exciting and interactive Shmoozen and vaadim but with a living example of the Rosh Yeshiva and Rebbeim. A major part of this enterprise is to encourage a genuine understanding of spirituality which begins with making G-d a real and important part of our lives.

Personal Growth
Each boy is able to grow with his own personality and characteristics without suppression of his traits, interests and most importantly sense of humour. The Yeshiva views each boy's individuality as a blessing to be nurtured. An inquiring, questioning mind is highly regarded in the Yeshiva. Outlets, tiyulim and activities are built into the semester to ensure that each boy remains well-rounded, healthy and productive. Here every bochur is unique and is encouraged to reach his full potential. With an emphasis on retaining a thorough knowledge of every sugya and completing the masechtah, the bochurim are trained to set goals and to reach them at all costs. Character development and interpersonal relationships are a key area in the bochurim's growth as they are carefully molded to be the future leaders and role models of Klal Yisroel.

Hanholo
The qualification for being on the Beit David hanhola is primarily a commitment to care for and nurture a boy as if he were one's own child. As a result the Rebbeim take a very broad and devoted approach to their role providing support and guidance on every possible front. This includes ensuring a boy is settled, happy with accommodation, socially integrated, engaging in his preferred outlets, balanced in his learning. Whether it be on major issues or the finest details in learning or extra-curricular matters. The Rosh Yeshiva Rabbi Yosef Netanyahu Ben David makes every effort to give every bochur a loving and caring environment, and gives every bochur a chance to learn with him individually. Through his love and sensitivity for every bochur who enters the yeshiva, he builds every bochurs self-esteem, enables them to make and accomplish goals, and to succeed in Torah and in building exceptional middos.