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Hilchos Basar B'chalav

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Hilchos Basar B'chalav Shiur 1

Mareh Makomos for this shiur

עוד אדבר, ובשר בחלב, וכמה יבשל, דע Pri Megadim Psicha paragraphs

Siman 87:1-2

Mechaber Rama Shach Taz

Pischai Tshuva 4

Aruch Hashulchan 1

Pischai Tshuva 94:5

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The Definition of Cooking

Shiur

1

Siman 87:1-2 - The difference between D'oraisa and D'rabbanan How to classify a kid in its mother's milk

1 It is written three times in the Torah ¹ "Do not cook a kid in its mother's milk." Once for the issur of cooking, once for the issur of eating, and once for the issur of ha'na'ah (**benefit**). Achila (**eating**) was meant but the word bishul was used in order to teach that **1**) the issur [of basar b'chalav] is mid'oraisa only in the case of derech bishul (**the normal method of cooking**). Other methods of cooking are assur mid'rabbanan.

Rama 2) All mixtures of basar b'chalav (**1**) that are not assur mid'oraisa are mutar b'ha'na'ah.

² Lav dafka (**not specifically**) a kid, but this din applies to an ox, a sheep and a goat. Furthermore it makes no difference if the milk is that of the mother or the milk of another [animal]. The pasuk is referring to the most common case.²

INTRODUCTION

The difference between Basar B'chalav and Sha'ar Issurim :

Based on the introduction of the *Pri Megadim* to *Basar B'chalav* there are three major differences between the *issur* of *basar b'chalav* and *sha'ar issurim* ³

- 1) Meat and milk that are mixed together through cooking by a normal method are *assur b'ha'na'ah mid'oraisa*. In the majority of cases *sha'ar*

¹ *Shemos* 23:19, 34:26 and *D'varim* 14:21.

² The **Chachmas Adam** (40:1) explains that it was the way of the non-Jews to cook kid in milk.

³ Such as *treif* meat, pig etc.

issurim are *mutar b'ha'na'ab* except for *chametz* on Pesach, *orlah*⁴, and *kelai bakerem*.⁵

- 2) In the case of *basar b'chalav* the laws of *ch'n'n* and *efshar l'sochato* are *mid'oraisa* and by *sha'ar issurim* these laws are *mid'rabbanan*.
- 3) *Tam k'ikar*⁶ is *mid'oraisa* by *basar b'chalav* according to all opinions and by *sha'ar issurim* there are *Poskim* who hold that it is *mid'rabbanan*. Furthermore, by *basar b'chalav* there is *malkos* for eating a *k'zayis* of *basar* or *chalav* or a *k'zayis* of the mixture. By *sha'ar issurim* there is no *malkos* given for eating food that is *assur* based on taste if the *issur* is not present.

The **Pischai Tshuva** (1) adds from the **Rambam**⁷ that *basar b'chalav* is *assur* even if it is eaten in an unusual way and or to have benefit even in an unusual way. However, *sha'ar issurim* are *assur* only if there is *ba'na'ab* while being eaten. Therefore, it is *assur* to eat *basar b'chalav* even if one made it bitter. The **Rambam** adds that this is learned from the fact that the Torah did not use the word *achila* to *osser* eating it. However, the **Achronim**⁸ infer from the **Rambam** that if the *Basar B'chalav* became moldy to the extent that it is no longer fit for human consumption it is no longer *assur* to eat.

Min Hanikbarim

The **Pri Megadim**⁹ brings the *Mishna* in *Temurah 33b* that categorizes all *issurai ba'na'ab* into *מן הנקברים* which means it must be buried or *מן הנשרפים* which means it must be burned. The *Mishna* says that *basar b'chalav* (that is *assur mid'oraisa*) is *מן הנקברים*. Therefore, even if the *chaticha* (piece) of *basar b'chalav* is burned into ashes, the ashes are *assur*. This is how the **Rambam**¹⁰ *paskens*. However the **Minchas Yaakov** holds that the ashes would be *mutar* because there is no *chalav* at all left in them. The **Taz** holds

⁴ The fruit of a tree during the first three years of its growth.

⁵ The produce of different crops which were grown together.

⁶ See Introduction to Issur V'heter

⁷ *Ma'achlos Asurim* 14:10-11, this is learned out of the *Gemora Pesachim* 24b - 25a.

⁸ *Yad Avraham* 84:17, *Chavas Da'as* 103:1, *Sifsai Da'as* 103:4

⁹ In his introduction to *Basar B'chalav*.

¹⁰ *Hilchos Ma'acholos Assuros* 9:1

by the *svora* of the *Minchas Yaakov*¹¹ and the **Shach** holds against the *Minchas Yaakov* because both the milk and the meat become an *issur machmas atzmo* (intrinsicly *assur*).¹² The *Pri Megadim* holds by the *Shach*.

HALACHA 87:1

The Types of Cooking:

The **Pri Megadim** in his introduction (paragraphs starting *וכמה יבשל*, *ועוד אדבר* and *והנה* *נגע*) discusses which types of taste transfers are *assur mid'oraisa* and which are *assur mid'rabbanan*.

- 1) Food placed in a *keli rishon* is *assur mid'oraisa*. A pot on the stove or removed from the stove has the *din* of a *keli rishon*. If the pot is on the stove and has not yet reached *yad soledes bo*¹³ or has been removed from the stove and has cooled to less than *yad soledes bo* it is not called cooking *mid'oraisa*. If the pot is on the stove and has reached *yad soledes bo* if the food was removed from the pot immediately according to the **Pri Chadash** it is not *assur mid'oraisa* but it is still *assur* to eat *mid'rabbanan*. However the *Pri Megadim* says that it is *assur b'ha'na'ah* implying that there is an *issur d'oraisa*.
- 2) *Melicha*, *kavush* *מעט לעת* (pickling for 24 hours) and *kavush* in *tzir* (salty meat juices) is *assur mid'rabbanan*.¹⁴ **R' Akiva Eiger** (3) says that to cook it afterwards would be *assur mid'oraisa*.
- 3) *Cham l'toch tzonen* (hot food falling onto cold food) is *assur k'dai kelipa* but only *mid'rabbanan*.
- 4) Food placed in a *keli shaini*¹⁵ is *assur mid'rabbanan*.

¹¹ *Taz* 105:13-14, *Mishb'tzos Zahav* 105:14, *M.Z.* 92:3 towards the end.

¹² *Shach* 105:17

¹³ This is the measurement of temperature that causes the hand to be withdrawn spontaneously for fear of being burnt (*Shabbos* 40B, eighth wide line, *Rashi*) and would cause the abdomen of an infant to be scalded (*Orach Chaim* 318:14). The exact temperature of *yad soledes bo* is questionable. One may assume it is between 110 F – 120 F (43 C – 49 C).

¹⁴ There is a *machlokes* how long *kavush b'tzir* takes, the opinions range between 6 and 18 minutes.

¹⁵ A *keli shaini* is the container that a *keli rishon* is poured into.

- 5) *Iru* (pouring) *mikli rishon* שלא נפסק הקילוה (that the stream from the *kli* has not been broken) is a *safek mid'oraisa* whether it cooks *k'dai kelipa* or not.
- 6) *Tzli* (roasting milk and meat together) is *assur mid'oraisa*.¹⁶
- 7) *Tigun* (frying) is *assur mid'oraisa* according to the *Pri Chadash* and only *mid'rabbanan* ¹⁷ according to the *Minchas Yaakov*.
- 8) *Cham b'cham* (hot meat touching hot cheese without liquid) is *assur d'rabbanan* and *mutar b'ha'na'ab*.
- 9) *Meushan* (smoking) is discussed in *seif* 6 and we will discuss it in Shiur 4.

Bishul Achar Bishul

The **Pishchai Tshuva** (4) brings the **Sha'ar Ephraim** who ruled that butter that was cooked in a *ben yomo* meat pot ¹⁸ can not be used as the oil to light the Chanukah candles. The *assur* butter/oil should be *mutar* to use because there is no *ha'na'ab* derived from the *mitzvah*. However there is an overriding reason to *osser* using this oil because that which is *assur b'ha'na'ab* is considered as not having a *shiur* (measurement) (*Succah* 31B) and *nair* Chanukah needs a *shiur*.

He then brings the **Eliyahu Raba** that holds that there is an *issur* that by lighting the wicks it will be cooking *basar b'chalah*. This is because he holds that there is *bishul achar bishul* by *basar b'chalah*. However, the **Pri Megadim** (*Aishel Avraham Orach Chaim* 673:1) says that to take meat and milk that were both already cooked separately and cook them together is *assur mid'oraisa* but if the meat and milk were already cooked together it is *mutar* to cook them again. Therefore, in the case of *nair* Chanukah there would not be an *issur* of cooking *basar b'chalah*. See also *Gilyon Maharsha* 2.

¹⁶ Both **R' Akiva Eiger** and the *Pri Megadim* bring this down in the name of the *Pri Chadash*. However the *Aruch Hashulchan* 87:11 holds that *tzli* is *osser mid'rabbanan*.

¹⁷ Sanhedrin 4B, last *Rasbi* and *Tosefos*.

¹⁸ The pot was used within 24 hours of cooking meat. Therefore it gives off a good taste of meat which will go into the milk and *osser* the milk.

Other's Milk

The Torah refers to a kid in its mother's milk. The **Aruch Hashulchan** (87:1) says that we can make a *kal v'chomer* from mother's milk to other milk as follows: even though mother's milk and the kid were at one time in the same *guf* (body) they are *assur* if they are cooked together *kal v'chomer* milk from another *b'haima* is *assur* if cooked with a kid since they were never from the same *guf*. This type of *kal v'chomer* is a גילוי מילתא בעלמא (a fact constructed by logic) otherwise it would not carry the same punishment as a kid cooked in its mother's milk.

Review Questions

1. In what ways are the laws of *basar b'chalav* stricter than those of *sha'ar issurim*?
2. What is the *din* of ashes of *Basar B'chalav*?
3. Which kinds of cooking are *assur mid'oraisa* and which kinds of cooking are *assur mid'rabbanan*?
4. Is there *bishul achar bishul* by *basar b'chalav*?
5. Can one use butter that was cooked in a meat pot as oil for the *Chanukah* candles?
6. How do we know that it is *assur* to cook meat in milk even if it is not its mothers milk?

Questions on Shiurim

Clarification:

When we say that it is *assur* to eat *basar b'chalav* that is moldy we mean that it is still edible under duress. If it totally unfit for human consumption, the **Chavas Da'as** says there is no *issur* to eat it, the **Plaisi** says that there is an *issur* to eat it.

Question:

Is *basar b'chalav assur b'hana'ah* if a non-Jew cooks it?

Answer:

The **Darchai Tshuva** (11) brings the *Yisbrai Lev* who asks this question. He answers that the *Kesef Mishna* says that the reason why it is *assur* to cook *basar b'chalav* together is because we may come to eat *basar b'chalav*. Therefore, if a non-Jew cooks *basar b'chalav* together then it should be *mutar b'hana'ah* since we will not eat food cooked by a non-Jew because of the *issur* of *bishul akum*. However, the *Sdai Chemed* says that there is an *issur d'rabbanan*. The *Yalkut Yosef* also brings the *Rambam* in *Moreh Nevucham* that says that cooking *basar b'chalav* together was a form of idol worship and therefore he asks on the *Kesef Mishna* that there is no *heter hana'ah* based on whether we would eat it or not.

Question:

Can I throw milk and meat away in the same garbage can?

Answer:

It depends. If you are for example pouring hot meaty oil onto a pizza in the garbage than then this is a problem for those that hold *irni* (pouring) is called cooking. Otherwise there is no reason why meat and milk cannot be thrown away in the same garbage pail.

Question:

Since we learned that liver is made out of blood and is therefore not meat, is there a *din* of *basar b'chalav* if liver is cooked with milk?

Answer:

The **Mishb'tzos Zahav** (1) quoted in *Pischai Tshuva* (5) brings that the **Maharam Shif** says that since liver is made out of blood you can use this as a point to be lenient if it was fried with butter. However, the *Pri Megadim* says that this *heter* can only be used with a *tziruf* (combination) of other *hetairim*. (In this case being that *tigun* is a *machlokes* if it is *mid'oraisa* of *mid'rabbanan*.)

The *Mechaber* says (in the name of the *Rambam*) that cooking blood and milk is not called cooking *basar b'chalah*. If liver was truly not a problem then the *Mechaber* should have said the bigger *chidush*; that cooking liver with milk is not called cooking *basar b'chalah*. Furthermore the *Tur* and *Shulchan Aruch* never mentioned it. Therefore, we can assume that liver has the *din* of *basar*. (*Yalkut Yosef*)

Question:

Concerning the *nair Chanukah*: isn't using the *assur* butter saving me money and therefore giving me *hana'ah*?

Answer:

Saving money is not getting *hana'ah* directly from the object. Therefore it is not really *halachikally* called *hana'ah*.

Question:

If I cook meat in a *ben yomo* milk pot is the meat *assur mid'oraisa* or because there was no milk in the pot, but only the taste of milk, perhaps the food is *mutar mid'oraisa*?

Answer:

The food is *assur mid'oraisa*. Even though there is no milk that went into the meat it is enough that the taste of milk goes into the meat because of the law of *tam k'ikar*.

Question:

The *Pischai Tshuva* felt butter cooked in a *ben yomo* meat pot shouldn't be used for *nair Chanukah* since as an *issur* it doesn't have a *shiur* while *nair Chanukah* requires a *shiur*. However this is a time *shiur*, not a physical *shiur* (e.g. *k'zayis*) so would his logic still hold?

Answer:

Very good question. However, this would be only according to the *Minchas Yaakov* who says that the ashes are *mutar*. This is because you have some oil, even the smallest amount. If the ashes are *assur*, then *halachikly* they have the *din* of being non-existent. Consequently, even though it will burn for the proper amount of time we say that the oil is *min hanikbarim*, meaning it must be buried. We are in essence saying there is no oil there, not even a tiny drop since it is all *assur*.