

## I. Introduction

### A. General Issur

1. Gemarah Pesachim (36a) and Z'vachim (95b) – A person may not need dough with milk, because bread is generally eaten together with meat, and one might mistakenly eat the dairy bread with meat. The gemara in Z'vachim (ibid.) adds that one may not make the bread using any meat products either.

### B. Exceptions to the rule.

1. The gemara Pesachim (ibid.) says that if the bread is "*k'ein tura* it may be made either dairy or meat. The *rishonim* differ as to what this means.

- a. Rashi (ibid.) – *k'ein tura* is to be translated literally as "the eye of a bull." The point that the gemara is trying to communicate is that if the bread is made in small portions (the size of a bull's eye) one may knead the dough with milk. Rashi explains the logic behind this leniency to be that one would not leave bread that is in such small portions around the house, and as such, he may make dairy bread. Exactly how small one must make his bread in order to meet this qualification is the subject of a dispute between the *Mechaber* and *Rama*. The *Mechaber* (*Yoreh Deah* 97:1) maintains that the bread must be small enough to be eaten in one sitting. *Rama* (ibid.) takes a more lenient approach and allows one to bake an amount that can be consumed in one full day. *Aruch Hashulchan* (97:4) points out that if one has a large family he may bake enough bread for the entire family to eat in the prescribed amount of time.
- b. Rambam (Hilchot Ma'achalot Assurot 9:22) – *k'ein tura* is defined as shaping the bread in an unusual way, like the shape of an ox (or any other highly unusual shape). The unusual shape will serve to remind people that this is not normal bread, and encourage them to ascertain whether it is made with dairy or meat ingredients. There is a dispute amongst the *poskim* as to exactly how unusual the shape of the bread must be in order to meet this qualification. *Darkei Teshuva* (97:19) points out that most of the *poskim* do not clearly discuss this issue. However, a careful reading of the *Chochmat Adam* reveals that the bread must be different enough that even those who visit from other cities (and are not familiar with what the bread normally looks like in this city) should notice that this bread is unusual. *Chavat Da'at*, however, maintains that if one is baking for private use he need only bake it in a different shape than the rest of the bread in his house. It does not have to be as unusual a shape as the *Chochmat Adam* prescribes unless he is baking for commercial purposes.
- c. *P'sak Halachah* (*Yoreh De'ah* 97:1) – The halachah is in accordance with both Rambam and Rashi. Dough kneaded with milk/meat in either a very small amount or an unusual shape may be eaten. In fact, *Rama* (ibid.) points out that it was customary for people to bake dairy breads in honor of shavuot, and meat bread in honor of *shabbat*, provided it's made in a unique shape or a small size.

## II. The nature of the prohibition.

A. May one pour a negligible amount of milk into the dough? In general we assume that although a non-kosher ingredient becomes nullified in sixty times its volume of kosher ingredients, one may not pour even the smallest amount of a non-kosher ingredient into a mixture. For example, one may not pour even an ounce of pig fat into a large vat of chicken soup. If the pig fat was poured into the chicken soup, the soup remains kosher because the kosher ingredients nullify the non-kosher ingredient. The *poskim* debate whether or not one may pour a small amount of milk into a large dough.

1. *Gilyon Maharsha* (97:1) maintains that just as it is forbidden to pour even a small drop of milk into a large pot of chicken soup, it is also forbidden to pour even a drop of milk into a bread dough.
2. *Nachalat Tzvi* (ibid.) argues that one may distinguish between milk poured into chicken soup and milk poured into dough. When enough milk is poured into chicken soup, the soup will automatically be rendered non-kosher. When one makes dairy dough, however, the dough may still be kosher if it is small enough or is shaped in a unique fashion. As a result, one cannot refer to the dough as a truly forbidden mixture (*issur*) and it cannot be subject to the rule of "*ein mevatlin issur lechatchila*".
3. Rabbi Herschel Schachter *Shlit"a* cites *acharonim* who take a permissive approach to this question when dealing with bread that you only plan on eating together with dairy foods, but take a stringent approach when it comes to bread that will be eaten with meat foods. (note: I was unable to locate any *acharonim* who state this explicitly. *Badei Hashulchan* (97:6), however, cites Responsa Rabbi Akiva Eiger (207) who presents a similar approach too mixing milk with water. It seems to me that even the *Nachalat Tzvi* would agree to this position. See *Badei Hashulchan* who makes a very difficult comparison between the case of milk in water and the case of milk in dough.)

B. If one reshapes or cuts down a dairy loaf of bread, is the bread then kosher?

1. *Chavat Da'at* (cited by *Pitchei Teshuva* 97:3) maintains that one bread has been baked in a prohibited fashion, subsequently reshaping the bread does not serve to make the bread permissible to eat.
2. *Chochmat Adam* (50:5) and *Aruch Hashulchan* (97:8) rule that under certain difficult circumstances one may divide a dairy bread into small pieces and distribute the pieces to different families. Thus, although the bread was originally prohibited to eat it can subsequently become permissible.

C. Understanding the root of the disputes. Rabbi Howard Jachter *Shlit"a* (Kol Torah) cites Rabbi Yosef Dov Soloveitchik *zt"l* who notes that the opinion of the *Chavat Da'at* is conceptually identical to the opinion of the *Gilyon Maharsha*. Both maintain that the nature of the prohibition to make dairy bread as an "*issur cheftza of ma'achalot assurot*", much the same way that milk and chicken is inherently forbidden to eat. It is thus subject to the rule of *ein mevatlin issur lechatchila* and may not be rendered permissible once it has become forbidden. *Chochmat Adam* and *Nachalat Tzvi*, on the other hand, view the prohibition of dairy bread to be a prohibition on the *avra* in order to save himself from

violating *basar b'chalav*. As such one can make it permissible even after it was baked in a forbidden fashion. It is also not subject to the prohibition of *ein mevatlin issur lechatchila* because it is not technically *issur* as the prohibition is only on the *gavra*.

### III. Practical applications.

- A. English muffins. For many years the Orthodox Union has certified Thomas' English Muffins as kosher dairy. At first glance this seems like an inherent contradiction as kosher bread cannot be dairy. I have heard two explanations for the OU policy from two eminent leaders of the Orthodox Union.
  1. Rabbi Menachem Genack *Shlit"a* has stated on numerous occasions that the OU policy is based on the above mentioned Gemara in Pesachim. We have pointed out that dairy bread made in small portions or an unusual shape may be eaten. Rabbi Genack believes that English muffins meet both of these criteria.
  2. Rabbi Herschel Schachter *Shlit"a* has told this author that he does not believe either of the above mentioned leniencies to be applicable to English muffins. He pointed out that the shape of the muffins is not nearly unusual enough to meet the criteria that dairy bread must meet. Furthermore, one can argue that since many companies produce pareve English muffins, the shape can hardly be considered something unique to dairy bread. One may also argue that the small portion of each muffin would not be sufficient reason to be lenient. We have mentioned that the basis of that leniency is that one will not keep the bread around his house for more than a day or two. This is obviously not the case with English muffins that come in packs of twelve and are left in many homes for many days. Instead, Rabbi Schachter points out, that the *heter* for the English muffins is based on the above-mentioned discussion about *ein mevatlin issur lechatchila*. In reality, the dairy content of the muffins is nullified in sixty times it's amount of pareve ingredients. The OU policy is to allow one to pour milk into a dough that one only plans to eat with dairy foods.
- B. Cakes. *Chochmat Adam* points out that the prohibition of making dairy bread only applies to bread that would normally be eaten together with meat. The prohibition does not extend to types of bread that are eaten after meat meals (for desert). This is so because the prohibition to eat meat and dairy together is a much more serious prohibition than the prohibition to eat dairy after eating meat (see *Shukchan Aruch* 95 and *Rama* *ibid.*). It is permissible to bake dairy cakes, danishes, etc. because although they are often served as desert at a meat meal they are rarely served along with meat.
- C. Printing the word "dairy" on the package. Rabbi Howard Jachter *Shlit"a* points out that Rabbi Yosef Dov Soloveitchik *zt"l* maintained that printing the word "dairy" on the package is a sufficient reminder that the bread should not be eaten with meat. He clearly understands that the prohibition of dairy bread is an *issur gavra* and may be rectified after the bread was initially baked in a forbidden fashion. Rabbi Jachter reports that reputable kashrut organizations used to rely on Rav Soloveitchik's opinion. However, after a prominent Rav accidentally ate a meat sandwich with the dairy bread most kashrut organizations decided not to rely on this leniency.