

# Introduction to the laws of בשר בחלב

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In three different places (שמות כג:יט, שמות לד:כו, דברים יד:כא) the תורה writes לא לבשל גדי בחלב אמו (do not cook a kid (young goat) in its mother's milk). This איסור is known in common Jewish vernacular as בשר בחלב. The תורה is teaching us a חידוש in the realm of כשרות: that even two permissible foods can be combined to create מאכלות אסורות, as we generally assume that certain foods are כשר and others are 'treif'. This איסור is completely dependant on our treatment of the foods that we acquire. It is therefore incumbent upon us to learn the הלכות that are necessary to observe this מצוה, thereby avoiding the creation of מאכלות אסורות in our own homes. To discuss all of the relevant הלכות is far beyond the scope of this essay and the abilities of this author. This is merely a brief introduction to what the תורה considers to fit into the category of בשר בחלב. In these פסוקים, the תורה uses three terms that require definition: 1) תבשל, 2) גדי, 3) חלב אמו. Thus we will attempt to define what the תורה considers milk, meat, and cooking with regard to this איסור.

## What are the איסורים?

The first issue that we will address is why the תורה writes the איסור 3 times. The גמרא (קטו:) quotes רבי ישמעאל, that we learn a different איסור from each one of the three times. The first teaches us an איסור אכילה, that one may not eat it. The second teaches us an איסור הנאה, that one may not derive any physical or monetary benefit from it, and the third teaches us an איסור בישול, that one may not cook these substances together. Any one of these 3 acts would constitute a separate איסור דאורייתא.

## What defines בשר בחלב?

The גמרא (ד:) and חולין (קח.) severely limits the scope of this איסור and teaches us that the only time a mixture of milk and meat is התורה מן and considered a legitimate form of בשר בחלב is when they are cooked together. If they are merely mixed together without being heated up or if they are eaten together while cold they do not constitute בשר בחלב. However, if one mixes the two together in any way, he may not eat this mixture because doing so still constitutes an איסור דרבנן (see תורת הבית להרשב"א בית שיש). However, the איסור דרבנן is limited to eating and does not include הנאה (see שו"ע יו"ד פי"ג). Obviously, it is irrelevant to cooking, because once one cooks the two together he violates the איסור דאורייתא.

## Defining בשר.

רבי יוסי הגלילי and רבי עקיבא relate a מחלקת תנאים (חולין קיג.) between רבי יוסי הגלילי and רבי עקיבא (kasher sheep and cattle) can become בשר בחלב and רבי יוסי הגלילי argues that even טהורה חיה בשר is included. They both agree that בשר עוף (chicken and other fowl) is not considered meat for this purpose because birds do not produce milk for their young. Thus, when the תורה says לא לבשל גדי בחלב אמו it is

excluding any animal that does not produce milk. According to (ד"ה בשר בהמה), there is actually a third opinion of the חכמים that even בשר עוף is אסור מן התורה, but most ראשונים dispute this. The (י"ד פז:א-ג) accepts the opinion of רבי עקיבא and rules that בשר חיה and עוף are only אסור מדרבנן when cooked together with milk. However, practically all of the הלכות are the same for chicken as they are for red meat, save the איסור הנאה.

As we mentioned, only kosher animals are included in the איסור. A question arises concerning בשר נבילה, which is a kosher animal that did not receive a proper שחיטה. If a cow that was killed through conventional secular means is cooked together with milk, it is questionable whether this constitutes בשר בחלב. According to the (פיהמ"ש מס' כריתות) רמב"ם (איסור חל על איסור) it is only אסור מדרבנן. He assumes that the איסור הנאה stems directly from the איסור. In this case, the איסור אכילה exists because the meat is נבילה, and it's impossible for it to be further prohibited because of בשר בחלב (because of איסור). Therefore, the איסור הנאה never sets in. This (סימן פי, סעיף ג') is accepted by the (סימן פי, סעיף ג') דגול מרובה, who assumes that none of the other major ראשונים argue against this view. However, the (שם ס"ק ו') כנפי יונה cites the חתם סופר in the name of the who argues against this and offers proof from other ראשונים who did not accept the רמב"ם's stance (עיין שם). This is extremely relevant regarding certain types of dog food. There are many flavors that consist of cow meat that is cooked together with milk. According to the דגול מרובה it is permissible to feed this food to one's dog because there is no איסור הנאה with בשר נבילה. However, according to the כנפי יונה, one may not use this type of dog food and should search for a brand that uses horse meat or another type of טמאה. It is important to note that according to all opinions it is אסור to cook בשר נבילה together with milk.

### Defining חלב

As mentioned before, the תורה does not limit this איסור to the animal's mother's milk, but prohibits all חלב בהמה טהורה. One who cooks kosher meat in pig's milk does not violate this איסור, but obviously may not eat the resulting food. Other types of milk that are מותר באכילה are permissible, but may lead to a problem of מראית עין. The (פז:ב-ג) שולחן ערוך writes that one may not cook meat in human milk because of מראית עין and the רמ"א adds that based on this, one may not cook meat in pig's milk for the same reason. The רמ"א also mentions that there was a milk made from almonds (perhaps similar to coconut milk) that was eaten together with meat. In this case, one should leave the shell of the nut on the table as a סימן that counteracts the מראית עין. The רמ"א thinks that this דין of מראית עין only applies to בשר בהמה, but not עוף, and the (ס"ק ו') ש"ך argues that it even applies to chicken.

### What is בישול?

The (סנהדרין ד:) גמרא tells us that the way we know that the תורה was referring to milk and not forbidden fat, known as חלב, is because it writes the איסור using the language of בישול, which means boiling. Had it meant חלב, it would have used a language of טיגון, which means frying. Thus one might understand that only boiling the milk and meat together can generate true בשר בחלב. Or, one can argue that this גמרא is only teaching us how to read the letters 'ח' and 'ל' properly but is not excluding other methods of cooking. The (ס"ק) פתחי תשובה quotes the (פרי חדש) who opines that both frying and roasting are included in the איסור. The (מנחת) מליחה and the word כבוש that the פסוק uses only excludes דאורייתא.

יעקב and מהר"ם שיף argue that frying is not a legitimate form of בישול, and only roasting is included because of a special ריבוי in the תורה. Even according to these opinions, a hot piece of meat that touches a hot piece of cheese is not considered אסור מן התורה because it is not דרך בישול. These foods would be considered אסור מדרבנן, because the heat affects a transference of taste from one food to the other.