

Insights into Halacha

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(PhiloTorah editor's notes in green)

The Lox & Cream Cheese Dilemma

The next time you are at a brit, as you are about to smear a nice dollop of cream cheese on your bagel and add the lox (obviously not at the fleishig britot that are ubiquitous here in Eretz Yisrael, and rightly so), look around and see if others are doing the same. You might just find that certain people (probably Sefardic or Chassidish) will refrain from doing so. Aside from those who are allergic to or can't stand fish, there is a large portion of observant Jewry who will not eat a fish and milk combination.

“Hold your horses!” one might exclaim. “I’ve never seen any mention of this in my Chumash, or even Shulchan Aruch! Not only that, The Shulchan Aruch says that the exact converse is true – that one may cook together milk and fish, for there is no issur involved, even d’rabbanan! Is this a new chumra of the week? And how exactly am I expected to go to a brit and not have bagels with lox and cream cheese? It just wouldn’t seem Jewish!”

Actually, although this is not a new chumra, he would be correct, as there is no mention of such a halacha in the Shulchan Aruch at all. But, to better

understand where such a shita comes from, first one must understand the halachos of mixing fish and meat.

The Shulchan Aruch writes that one must be careful not to eat meat and fish together, for this mixture may cause tzara’at. It is generally accepted that this prohibition includes chicken, turkey, and all other fowl as well.

This is also the reason why in between a meat and fish course, for example on Shabbat, after the gefilte fish, we rinse our mouths (or drink a l’chaim) and eat something – KINUACH V’HADACHA. Sefardic custom is to also wash hands in between. Some maintain it is preferable to have the fish course (usually the appetizer) before the meat course as well.

All this, just to maintain a separation between the two, and to make sure that at the time of eating one, there should not remain even a trace or residue of the other, due to the Talmudic dictum CHAMIRA SAKANTA MEI-ISURA. This means that something that involves a severe health risk is considered more stringent than regular prohibitions. A good example of this involves the halacha of bitul (nullification). In a normal scenario where one encounters something non-kosher which might have accidentally fallen into a kosher mixture, the halacha, in most cases, maintains that if there is present 60 times the amount kosher against the non-kosher, the non-kosher product is considered

nullified, and one is permitted to partake of the mixture. However, in a case of a severe health risk, halachically there is no nullification, as halacha is extremely cautious when it comes to people's health.

However, our situation may not be the standard one, for some opine that there are plenty of people in the world who do mix meat and fish, and there has not been any recent news of disease outbreaks!

The Magen Avraham actually addresses this and advances the notion that the teva (roughly translated as environmental conditions) has since changed, and therefore one does not have worry about this. Other notable authorities, including the Aruch HaShulchan and the Mishna Berura seem to accept his argument as halacha. Furthermore, there is no mention of this danger of eating meat and fish together in any of the works of the Rambam, the best known Jewish doctor.

However, most halachic authorities do not agree with this chiddush and maintain that the basic halacha follows the Shulchan Aruch and that this mixture remains forbidden.

Yet, many authorities do take the lenient opinion into consideration to allow for some leniency in certain questionable situations. They therefore maintain that nullification is applicable here, as it is not considered a true case of sakana. In

fact, the OU designates certain Worcestershire and steak sauces with an OU Fish designation, denoting that the fish content within is not nullified, and one may not serve it on meat. If it contains 60 times the fish content, they assume it to be nullified and do not designate it as OU Fish.

The bottom line is that if meat and fish would not be actually cooked together in the same pot, the majority of halachic decisors would permit it to be eaten. In fact, one may cook fish in a meat pot, as long as no actual meat remains in the pot. The same would apply to cooking fish in a meaty oven.

“That's all fine and dandy”, one might exclaim, “but what does that have to do with mixing fish and milk?”

The answer to this lies in the Beit Yosef, The Shulchan Aruch's commentary on the Tur, for in Yorah De'ah 87:3 (s.v. dagim), the Beit Yosef writes that "one should not eat fish and milk together because of the danger involved, as it is explained in O.C. 173." A number of poskim follow this ruling, and likewise maintain that one should not eat a combination of milk and fish, based on the reasoning of the Beit Yosef.

However, many authorities point out that the location the Beit Yosef referenced for his halachic decision to be machmir is referring to eating fish with meat, not milk. They therefore maintain that this issue is a case of

mistaken identity (misprint) and that eating fish with milk is 100% permissible. Some add that if the Beit Yosef truly intended to rule stringently in this matter, he would not have mentioned it only in his commentary, but rather would have written it as official psak halacha in the Shulchan Aruch.

On the other hand, many authorities hold that there still is a sakana involved in eating fish and milk, but it's not a halachic issue, rather a medical one. They maintain that since both fish and milk serve to cool down the human body, when they are ingested together it can cause bodily harm. This, they hold, is the reason the Beit Yosef intended in saying not to eat them together, and not because of a disease.

While these poskim do cite this logic and say one should therefore refrain, many decisors, most notably the Chatam Sofer, argue that this can not possibly be true, for we see many people eating them together and not becoming (noticeably) sick. (Anchovies on pizza, anyone? Actually, the thought of that makes me sick.) Also, the greatest (and best known) Jewish doctor, the Rambam, makes absolutely no mention of this danger.

Still, others maintain that this depends on the time and place. Just because someone won't get sick from it in New York, there is no assurance that the same would be true in Kabul. (Although I am assuming that if one is in Kabul, he

has other sakanot to worry about...)

The bottom line is that different minhagim developed over time among different segments of Jewry. An oversimplified generalization is that Sefardim (since they follow the psakim of the Beit Yosef) should be machmir and Ashkenazim can be meikil. But there are Sefardi poskim who rule that a Sefardi can be lenient (some hold only b'dieved and others hold even l'chatchila), and there are Ashkenazi poskim who hold that even an Ashkenazi should be machmir. An interesting side point is that most of the authorities who are machmir when it comes to mixing fish with milk and/or cheese are nevertheless lenient when it comes to mixing fish with butter. This heter of butter also includes "shmetinin", the layer of fat skimmed off of the top of milk.

However, it should be noted that the Ben Ish Chai disagrees and is machmir concerning butter as well. Interestingly, his rebbe and Chief Rabbi of Baghdad before him, the Zivchei Tzedek, wrote that his disciple's stance is too machmir, and that one may at least be lenient with butter and fish. Of course, there is also the majority opinion that the whole issue is a non-starter and there is no problem whatsoever, even with a tuna melt.

So, back at that brit, even if you decide not to take a bite of your Bagels and Lox Deluxe, at least you now have some food for thought.

Rabbi Spitz's footnotes are very extensive. The ones I decide to include are few among the many. If you want more than this PhiloTorah column provides, click on the website, find the topic and do some more reading.

For any questions, comments or for the full Mareh Mekomot / sources, please email the author: yspitz@ohr.edu

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Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

Rabbi Yehuda Spitz's English halacha sefer, "Food: A Halachic Analysis" (Mosaica/ Feldheim) containing over 500 pages featuring over 30 comprehensive chapters discussing the myriad halachic issues pertaining to food, is now available online and in bookstores everywhere.

PhiloTorah editor's note: I remember reading that the S'fardic p'sak against fish and milk was based on a misread of the word CHET-LAMED-BET. The word can be read as CHEILEV (meat fat) or CHALAV (milk). The ban on fish and milk was based on the reading of not cooking fish in CHEILEV (fish & meat), as not cooking fish in CHALAV (milk). If I remember correctly, Rav Ovadya Yosef said that even though the ban on fish and milk was based on a misreading of the word, those Eidot who follow the ban, should continue to do so.