סימן צה

A. Introduction to Zman

Bez"H, this *zman* we will learn some of the most common *halachos* in יורה דעה, including whether you are allowed to use a dishwasher for meat and milk, how to manage a kitchen with one sink, buying canned vegetables without a *hechsher,* drinking wine that was poured by a non-Jew or non-religious Jew, whether you may leave wine unattended in your home with a non-Jew, and much more! We will begin the *zman* with *siman* 95, which discusses one of the most prevalent issues in our kitchens – the status of *parve* food cooked in a *fleishig* or dairy pot. Even if you were not with us last *zman* when we learned the *halachos* of *basar b'chalav,* you will still be able to jump in easily to this *limud.*

B. נ"ט בר נ"ט

In this section, we will learn the *halachos* of *parve* food cooked in a *fleishig* pot and whether you may eat it with cheese. For example, if you make pasta in a *fleishig* pot, can you later add cheese and heat it up in the microwave? If you fry *parve* eggs in a dairy pan, can you eat them with leftover potatoes from Shabbos that were baked in a *fleishig* oven? Are you allowed to fry fish in a dairy pan and place it on a *fleishig* plate? This *sugya* is known as "נ"ט בר נ"ט," as will be explained below, and we will learn it from its original sources in the Gemara through the modern-day *posskim*.

As a mini-introduction, the Torah in three places forbids cooking meat and milk together, and included in this prohibition is eating meat and milk that were cooked together. The גמרא (מד.) **פסחים** teaches that not only is the mixture of actual meat and milk forbidden, but even the mixture and fusion of meat and milk flavor is prohibited. This is known as טעם כעיקר – the flavor of meat/milk has the status of meat/milk itself. Therefore, milk cooked in a clean *fleishig* pot is forbidden because the meat flavor absorbed in the walls of the pot enters the milk (see גמרא חולין (צז.)). However, the **גמרא** (עה.) **עבודה זרה** teaches that flavor absorbed in the walls of a pot only stays potent for 24 hours (while the pot is *ben-yomo*). After 24 hours, the absorbed flavor becomes *pagum* – defective, and can no longer forbid food subsequently cooked inside the pot. Therefore, if you cook milk in a *fleishig* pot that has not been used for 24 hours (*eino*

ben-yomo), the milk is permitted (but the pot needs to be *kashered*). All of the above is *passkined* in the S"A in סימן פז-א וסימן צג-א.

In our *siman,* we will discuss the status of *parve* food cooked in a *fleishig* or dairy pot and whether it may be eaten with the opposite type of food. The **גמרא חולין** (קיא:) 1)) quotes a dispute between Rav and Shmuel regarding the status of hot *parve* fish placed on a *fleishig ben-yomo* plate. According to **Rav**, the fish may not be eaten with dairy because it absorbed meat flavor from the plate. **Shmuel** *passkins* that the fish may be eaten with dairy because the meat flavor in the fish is נותן טעם בר נותן טעם (נ"ט בר נ"ט – lit. "imparts flavor to something which itself imparts flavor." In other words, the meat flavor in the fish is weakened because it first transferred from the meat to the plate and only afterward from the plate to the fish. When you later eat dairy together with the fish, this indirect transfer does not create a sufficiently significant fusion of meat and milk flavor that would forbid the fish. The Gemara *passkins* like Shmuel.

Tosfos in 2) ואם (צו.) ד"ה (זבחים explains that the prohibition of *basar b'chalav* takes effect only when both the meat and milk flavor are strong and fuse together (e.g., cooking milk in a *fleishig* pot). But in our case, the meat flavor in the fish was weakened twice (from the meat to the plate and from the plate to the fish); thus, when the fish is later mixed with dairy, there is no fusion of strong meat and milk flavor. What emerges from here is that the leniency of נ"ט בר נ"ט applies only to *basar b'chalav* (where the fusion of flavors forbids the food), but if something is inherently forbidden, נ"ט בר נ"ט does not apply. Therefore, if you cook non-kosher meat in a pot, then clean the pot and cook water in it, the water is forbidden and not considered נ"ט בר נ"ט. Furthermore, if you transfer that water to another pot after it cooled off and heat it up, the second pot becomes *treif* because it absorbed flavor from the non-kosher water.

Although we *passkin* like Shmuel, the 3) **בית יוסף**) quotes a three-way dispute among the *Rishonim* on how to understand the words of the Gemara דגים שעלו בקערה", which Shmuel permitted, and the **דרכי משה** quotes a fourth opinion which contains elements of several of the opinions quoted in the בית יוסף.

1. **ריב"ן** quoting his father-in-law, Rashi **–** Shmuel only allowed eating the fish with dairy when the hot fish was placed on a *fleishig* **plate**, but if the fish was cooked or fried in a *fleishig* **pot/pan**, it may **not** be eaten with dairy. He explains that when a hot piece of fish is placed on a cold *fleishig* plate, only a little bit of flavor is absorbed in the fish – up to a כדי קליפה.[1] However, when the fish is cooked or

[1] As we learned last *zman,* that תתאה גבר cooks up until a כדי קליפה.

fried in a *fleishig* pot/pan, the fish completely absorbs the flavor of the meat and may not be eaten with dairy.

2. **ספר התרומה, רא״ש וטור** – Shmuel even allowed fish that was cooked in a *fleishig* **pot** because the meat flavor is weakened 3 times: from the meat to the pot, from the pot to the water, and from the water to the fish. However, fish that was fried in a pan may not be eaten with dairy because it was only weakened twice: From the meat to the pan and from the pan directly into the fish.
3. **רמב״ם** – Shmuel allows eating the fish with dairy even if it was fried in a *fleishig* pan because the meat flavor was weakened twice: from meat to the pan and from pan to the fish; the cheese was added only after.[2]
4. **איסור והיתר** (quoted by the דרכי משה) – *le'chatchilla,* if fish was either cooked or fried in a *fleishig* pot/pan, you should not eat it with dairy (like the ריב"ן), but if dairy was mistakenly added to it, it may be eaten, even if the fish was fried in a *fleishig* pan (like the רמב״ם). Furthermore, everyone would agree that you are allowed to place hot fish that was cooked in a *fleishig* pot/pan on a dairy plate. Lastly, we are only *machmir* not to eat fish cooked in a *fleishig* pot/pan with dairy if the pot/pan is *ben-yomo* (and the meat flavor is still strong). However, if the pot/pan is *eino ben-yomo*, the fish may be eaten with dairy *le'chatchilla*.

The S"A in **סעיף א׳** *passkins* like the רמב״ם that fish which has <u>already</u> been cooked or fried in a clean *fleishig* pot may be eaten with dairy. However, if the pot/pan was not cleaned properly (and there are still meat particles on them), you may only eat the fish with dairy if there is *shishim* in the fish against the meat.[3] The S"A in **סעיף ב׳** clarifies that the *halacha* of נ״ט בר נ״ט (that the flavor weakens through multiple transfers) applies only when the *parve* item is cooked without meat after the pot was previously used for meat, but if the *parve* item is cooked in the pot together with meat, the *parve* item absorbs strong meat flavor. Therefore, an egg cooked together with meat may not be eaten with dairy.

The *Rama* in סעיף ב' argues on the S"A and *passkins* like the איסור והיתר that fish cooked or fried in a *fleishig ben-yomo* pot/pan may not be eaten *le'chatchilla* with dairy, but if dairy was already added to it, it may be eaten, because in truth, we follow the opinion that נ״ט בר נ״ט is permitted. The א) **פרי חדש**) and ט) **יד יהודה**) explain that the prohibition of intentionally adding cheese to the fish is an added הרחקה, a safeguard to

[2] The reason the Gemara relates of case of "עלו בקערה" and not the bigger *chiddush* of the food being cooked is because it was showing the *chiddush* of רב, that even if the fish was just placed on a *fleishig* plate it may not be eaten with dairy.

[3] This differs from the (פט-יט ש״ך), who discusses whether eating pareve food cooked in a pot with meat residue renders a person fleishig; here, however, we are addressing whether that food may be eaten with dairy.

the laws of *basar b'chalav*, but in essence, it is permitted. Therefore, if the food was already mixed with dairy, it is permitted (even if it was intentionally mixed).[4]

The **קיצור שו"ע** (סי"ו פ"א-ז) clarifies that although according to the *Rama,* it is prohibited to intentionally mix *parve* food cooked in a *fleishig* pot with dairy (and vice versa), you are allowed to eat *parve* food cooked in a *ben-yomo* dairy pot during a *fleishig* meal, either before or after the meat.

The *Rama* adds four more *halachos,* three of which we will learn now: 1) Fish that was cooked in a *fleishig ben-yomo* pan may be placed on a clean dairy plate.[5] 2) If the fish was cooked in a *parve* pan and placed on a *fleishig* plate, you may *le'chatchilla* eat the fish with dairy (after removing it from the plate). 3) Fish cooked in an *eino ben-yomo fleishig* frying pan may *le'chatchilla* be eaten with dairy (and vice versa).

What emerges according to the S"A is that if plain spaghetti was cooked in a *fleishig ben-yomo* pot, you may *le'chatchilla* add cheese to the spaghetti. The *Rama* would forbid deliberately adding cheese, but if cheese was already added, you may eat it. Additionally, if the spaghetti was made in an *eino ben-yomo* pot, the *Rama* allows *le'chatchilla* adding cheese to it.

The question we need to ask, both according to the S"A and *Rama,* is whether one is allowed to **intentionally** cook *parve* food in a *fleishig* pot knowing that he will later add cheese to it (according to the S"A, even a *ben-yomo* pot, and according to the *Rama,* only an *eino ben-yomo* pot). This could happen on *erev*-Shabbos when all your *fleishig* pots are already being used and you would like to make spaghetti for a spaghetti and meat dish. According to the S"A, are you allowed to deliberately use a *ben-yomo* dairy pot to cook the spaghetti, and according to the *Rama* are you allowed to deliberately use an *eino ben-yomo* dairy pot?

Rav Yosef Karo in 4) **בדק הבית**) (the edits he made to his בית יוסף) quotes רבינו ירוחם, who only allows eating the fish with dairy once it was already cooked, but intentionally cooking it in a *ben-yomo fleishig* pan to be eaten with dairy is forbidden (and in our case, one would not be allowed to cook the spaghetti in a dairy pot knowing it will later be mixed with meat). Rav Yosef Karo argues and *passkins* that it is permitted even intentionally.

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[4] The משב"ז-ד) פמ"ג) writes that it is forbidden because אין מבטלין איסור לכתחילה, and if you mix the cheese intentionally, there is a קנס forbidding you from eating it.

[5] We will learn below that if the food is a liquid (e.g., *parve* soup), there are some opinions who forbid placing it in the opposite bowl.

From the language of the S"A, "שנתבשלו או שנצלו" – "that were <u>already</u> cooked or fried," it seems that one may not deliberately cook fish in *fleishig* dishes with the intention of eating it with dairy, and this is how the (קרח שנה ב-יג **בן איש חי**) (ג), **ש"ך**), and (צה-ט **כף החיים**) *passkin.* However, **Rav Ovadya** in 5) (ח"ז-עמ' עד (הליכות עולם) *passkins* that even cooking fish with intention to eat it later with dairy is allowed. In the footnote, he brings many proofs to this, including that the בדק הבית was written by Rav Yosef Karo after he wrote the S"A, and thus he retracted what he wrote in the S"A.[6]

Regarding the *Rama,* the (י **גר"א**), as explained by the (ביאורים ד"ה אם **בדה"ש** 6) (היה), writes that the *Rama* allows cooking *parve* food in an *eino ben-yomo* dairy pot even if you intend to later add meat to it. He explains that in general, one is not allowed to cook meat in a dairy *eino ben-yomo* pot, even though the food will not become forbidden since the dairy flavor is *pagum*, because Chazal were concerned that you might come to use a *ben-yomo* pot. However, in our case, even if you cook *parve* in a dairy *ben-yomo* pot, the *Rama* agrees that *m'ikar ha'din* it may be eaten with meat. Therefore, Chazal would never forbid cooking *parve* in an *eino ben-yomo* pot lest you come to use a *ben-yomo* pot, because strictly speaking, the *ben-yomo* pot itself is permitted.

The 7) (מח-ב **חכמת אדם**) argues that the *Rama* only allows eating the fish with dairy if it was already cooked in an *eino ben-yomo fleishig* pot, but you may not intentionally cook it in an *eino ben-yomo fleishig* pot in order to add dairy to it later. However, the (מח-ב **חכמת אדם**) *passkins* that if you do not have other pots or cannot borrow, you may rely on the גר"א. **Rav Elyashiv** quoted by Rav Forst (p. 162) *passkins* like the חכמת אדם.

To summarize:

- Everyone agrees that if dairy was already added to *parve* food cooked in a *ben-yomo* pot or pan (after the food was removed from the pot), it may be eaten.
- Everyone agrees that dairy may be added to *parve* food cooked in an *eino ben-yomo fleishig* pot/pan.
- S"A – You may add dairy to *parve* food cooked in a *ben-yomo fleishig* pot (after the food was removed from pot).
    - ש"ך – You may not cook *parve* food with intention to add dairy.
    - Rav Ovadya – You may even cook it with intention to add dairy.

[6] Rav Ovadya quotes others who hold that the S"A was written after the בדק הבית, but nonetheless, there is no proof from the language of the S"A to the more stringent position, because Rav Karo was merely using the language of the Gemara.

- *Rama* – You may not add dairy to *parve* food cooked in a *ben-yomo* pot, but if added it is permitted.
- *Rama* – Dairy may be added to *parve* food cooked in an *eino ben-yomo fleishig* pot/pan.
    - Gra – You may cook the *parve* food in *eino ben-yomo* pot with intention to later add dairy.
    - חכ"א – You may later add dairy only if *parve* food was already cooked in an *eino ben-yomo* pot, but if you have no other pots, you may rely on the Gra.
- According to the *Rama, parve* food cooked in a *ben-yomo fleishig* pot may be placed on a dairy plate.
- Hot *parve* food cooked in a *parve* pot and placed on a *fleishig* plate may be eaten later with dairy (Gemara above quoted by *Rama*).

	Ben-Yomo Fleishig Pot			***Eino-Ben Yomo Fleishig Pot***		
Case	**Cooking *parve* food with intention to eat with dairy**	**Already cooked *parve* food and want to add dairy**	**Cooked *parve food* and added dairy**	**Cooking *parve* food with intention to eat with dairy**	**Already cooked *parve* food and want to add dairy**	**Cooked *parve food* and added dairy**
S"A	**ש"ך** – forbidden. **Rav Ovadya** permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Rama	Forbidden	Forbidden	Permitted	**גר"א** – Permitted **חכ"א** – forbidden	Permitted	Permitted

Practical Applications

<u>*Parve* ice cream</u>

As mentioned earlier, the *Rama passkins* that *parve* food cooked in an *eino ben-yomo* dairy pot may be eaten with *fleishig,* and there is a dispute whether you may intentionally cook in this pot knowing you will eat the food with meat – the גר"א permits and the חכ"א forbids. Many kosher ice cream or chocolate companies produce both dairy and *parve* products. In Israel, there was an ice cream company that made *parve* ice cream in *eino ben-yomo* dairy utensils and marketed as "*parve."* The logic was that even

the *Rama* agrees that *parve* food made in *eino ben-yomo* utensil may be eaten *le'chatchilla* with meat and is essentially *parve.*

However, the 8) (ח״י-עז:ג **מנחת יצחק**) *passkined* that this was erroneous because according to the חכ״א, the *Rama* does not allow cooking *parve* food in an *eino ben-yomo* pot with the intention of being eaten with the opposite food. When labeling the ice cream "*parve,*" the *hashgacha* is implying that it may even be eaten with meat, but this is only true according to the גר״א, and a *hechsher* should follow the stringent opinion.

The 9) (עמ׳ תיד **אהל יעקב**) argues that it may be labeled "*parve*" because the ice cream company produces the ice cream to be eaten as dessert at the end of the meal or as a stand-alone treat, but it is not made with intention to be eaten with meat. Therefore, it is just like any *parve* food made in an *eino ben-yomo* pot without intention to be eaten with the opposite food, in which case the *halacha* is that it may be eaten with the opposite food *le'chatchilla.* The חכ״א only forbids when your sole intention while cooking the *parve* food in an *eino ben-yomo* pot is to eat it with the opposite food. But if your intention is to eat it alone, even the חכ״א would agree that it may be eaten with the opposite food.

For this reason, the 10) (בב״ח לח-ב **מגילת ספר**) allows baking a *parve* chocolate cake for dessert in an *eino ben-yomo fleishig* pan, even if you know that you will eat the leftover slices with dairy coffee in the morning. Here too, since your main intention is to bake the cake for dessert and not for it to be eaten with the opposite food, it is like any food that has already been made in an *eino ben-yomo* pot, where *le'chatchilla* it may be eaten with the opposite food.

<u>*Hechsheirim* with "Dairy Equipment" symbol</u>

The OU, OK, KOF-K and COR all give the companies they service the option to put DE on their products. DE stands for "Dairy Equipment" and means that the *parve* food was made with dairy equipment. For *Sephardim,* DE foods are 100% *parve* and may be eaten with meat. However, for *Ashkenazim,* it would depend on whether the machines used in production are *benei yoman* or not. If they are *benei-yoman,* the food may not intentionally be added to meat, and if the food was already added, it may be eaten. However, if the machines are not *benei-yoman* and the product is not made to be eaten just with meat*,* the product is essentially *parve* and may be eaten with *fleishig le'chatchilla.*

I reached out to a few *kashrus organizations* to see if they place a DE even on products that are made on *eino ben-yomo* machines and what other criteria are needed to label their products as DE. Rav Yehuda Rosenbaum from the Kof-K explained that

most large companies have their machines running around the clock, so if the company decides to make a non-dairy run, the machines are usually *benei-yoman.* Sometimes the non-dairy run will last for days, or even weeks, and after the first 24 hours, the machines are *eino-benei yoman* and the product is essentially *parve.* Yet, the Kof-K still labels them as DE for two reasons. First, the companies often change their minds in the middle of a non-dairy run and spend a day doing just dairy (depending on demands and availability of ingredients). Second, if the product uses *chalav stam,* they will always write DE, even if they know it is an *eino ben-yomo* run, because consumers who do not eat *chalav stam* consider the machines to be not kosher and would never buy a product made with non-kosher *keilim.*

The OU related that many companies run multiple dairy and non-dairy runs in a single day. The OU goes one step further and sometimes labels dairy equipment products with an OU-D even though there is no dairy in it. Rav Eli Gersten from the OU explained that in order to get an OU-DE *hechsher,* a *mashgiach* needs to come in and make sure the machine is clean[7] (even though it doesn't need to be *kashered*) and many companies prefer to skip this step and have their products labeled as D.

For example, plain Oreo cookies in the US do not contain dairy but are made on dairy equipment (and should not be eaten with meat). Nevertheless, they are marked OU-D because the company wants the ability to run multiple runs a day of dairy Oreos and non-dairy Oreos, without having to call in a *mashgiach* each time for the non-dairy run.

The OU also related that certain companies prefer to keep an OU-D even on their fully *parve* products because they want to have uniform symbols on their packaging for aesthetic and marketing reasons. For example, all Snyder's pretzels are marked OU-D even though many of their products do not contain any dairy, and some are not even made on dairy *ben-yomo* equipment. An easy way to determine if your Snyder's pretzels are *parve* is by looking at the ingredients: if you do not see an allergy warning for milk, they are 100% *parve* and may be eaten together with steak. If you do, then you must assume they either contain dairy or were made on dairy equipment.

However, it should be noted that for other products, the lack of a milk allergy warning does not necessarily verify that there is no milk in the product. The cRc (Chicago Rabbinical Council) writes: "There are times when something is 100% bona fide *milchigs*, but it is not labeled as dairy in the allergy panel. This is because only certain components

[7] If the machine is dirty and there is *shishim* in the *parve* product against the dairy residue, the product is still *parve* (i.e., DE), as the S"A *passkins* in סעיף א׳, but Rav Gersten explained that often times there is residue on the belt that may be added to the *parve* product and there will not be *shishim* against it.

of the milk trigger common dairy allergies. However, as far as kosher is concerned, the food is decidedly dairy. (A similar example would be wheat that has been modified so that it lacks the elements that are problematic for people who are gluten intolerant. Thus, it can be entirely gluten free but also entirely *chametzdik*. This is one reason why not everything that is gluten-free is kosher for Pesach.)”