Kashrut, Explained!

Part I: Meat and dairy

This article, on the origins and practices of the separation of meat and dairy, could have started with ranting. There are so many insane things happening in the kashrut industry, in private homes, and in educational institutions, that I should be complaining here that no one studies Halakha anymore. No one looks up the sources historically and methodically to see what were the definitions and boundaries of the prohibition against mixing meat and dairy in the time of the Torah, Mishnah, Talmud, Geonim, Early and Late Medieval times.

I could have pointed out that as a result of this neglect we have a wide array of laws and practices which could best be described as illogical or anti-constitutional. I should have been pulling my hair (what’s left of it) in frustration with the tri-color system for dairy, pareve, and meat, which now includes pot holders, oven mitts, and aprons. It is only a matter of time before we get tri-color toothpicks and cleaning maids (and maybe the tri-color pasta should be banned altogether, since it mixes colors representing meat, dairy, and pareve).

I could have told you how upset I was when the schools I taught at or the ones my kids attended would not sell dairy desserts in the kiosks or dining rooms on “meat days” even though many students were vegetarian or brought their own meals, and how upsetting is the mere idea of “meat days” and “dairy days”.

What is the administration afraid of? That Joey will try his friend’s cream cheese sandwich after having his own cold cuts one? Wouldn’t it be better to educate children as to what they can and cannot share, just as we do with milder allergies or gluten-free diet? Why, for heaven’s sake, would we force all students to eat meat or dairy on a certain day, when even if that rare instance of CC after CC happens, it would be only a late and secondary Minhag to have been breached, unless Joey and his friends are melting their sandwiches together over the Bunsen burner in the chemistry lab, thus rendering it a biblically forbidden food.

I could and should have protested the creation of separate eating zones in malls in Israel, or the promulgation of the idea that a Kosher household requires 2 sinks, refrigerators, ovens, microwaves, and dishwashers (or perhaps 3?). Not everyone can afford that and it is a sin to force people to spend money unnecessarily, as the rabbis said: הנותרה חסה על ממונן של ישראל.¹

I could have written all that, but I don’t want to dwell on negativity or sound belligerent, so instead I will start with a historical review of the laws of Meat and Dairy, to hopefully illuminate the boundaries of the prohibition and how it has evolved (or devolved) from generation to generation.
Before I do that, one last introduction: why is it that people are so obsessed with the separation of meat and dairy?

There are three main reasons, two of them instinctive and quite ancient, and one a product of modern time:

1. There is a deeply rooted concept of “Taboo foods”, in most cultures. Originally it was a protective device against consuming dangerous foods, but when merged with religious beliefs, we react with disgust and fear to harmless foods. Food-related taboos are among the most powerful taboos because they deal with things we put into our body, so that breaching the taboo creates a sense of violation, invasion of privacy, and contamination.

2. The fear of transgression is greater when the foods are forbidden only under certain circumstances but otherwise edible. The two most salient example in Jewish law are hametz, which is allowed year-round and forbidden on Pesah, and Meat and Dairy, which are allowed separately but forbidden when combined. We can analogize that to Fugu, the Japanese dish prepared from pufferfish. The fish is lethally poisonous but certain parts are considered a delicacy, and only certified chefs, trained for three or more years, are allowed by law to prepare the dish (there were cases of accidental death, if you were wondering). For the observant person, indoctrinated from youth, the Meat/Dairy dichotomy is an ongoing nightmare of trying to eat pufferfish. If you prepare and eat it per the strict law it is delicious, but if not, it’s a death sentence.

3. The Kashrut conglomerates have turned the fears and taboos into a tremendously successful money making machine. Everything is marketable and profitable, silly kitchen utensils, appliances, supervision, and more.

How did we get from there to here?

_A chronological review of the laws of separation of meat and dairy_

**Torah**

The prohibition is mentioned in the Torah with five words:

לֹא תְבַשֵּׁל בָּלָם אֶלָּא בַּשָּׂלָה אָבֶּד.

_You shall not cook a kid (a young goat) in its mother’s milk._

These words are repeated three times in the Torah: Ex. 23:19 and 34:26, and Deut. 14:21.

The two mentions in Exodus are part of a larger, almost identical text which speaks of the pilgrimage holidays:

_Three times a year all males in your household shall come to present themselves to God; Do not slaughter a sacrifice with Hametz, and do not let the meat of the Pesah stay until_
In Deuteronomy, the context is different, but the theme of pilgrimage is still mentioned. The Torah first lists non-kosher animals, then speaks of a בֵּיתֶךָ, which literally means a dead animal but according to oral tradition means an animal whose slaughtering process was flawed. The next item in the verse is cooking a kid in its mother’s milk and then the Torah moves on to speak of tithes and how one should eat those tithes in Jerusalem.

The wording of the prohibition and its context have presented many problems to Torah commentators and authors who set out to list and explain the Mitzvoth. Here are some of them:

1. What is the connection between the prohibition and pilgrimage?
2. Why is it phrased as limited to a kid in its mother’s milk?
3. Why is the prohibition of eating not mentioned?
4. The Torah always states a prohibition and a consequence: you shall not… he who does so will…, but no such formula is mentioned regarding this prohibition.
5. Why is the prohibition repeated three times, apparently with no additional information?

Since the focus of this article is Halakha I will deal only with the third problem: where is the prohibition of eating? The famous answer to this question also addresses the problem of redundancy:

The Torah mentions the prohibition three times, to teach us that there are three separate prohibitions:

- One is not allowed to cook meat with milk (even with the intention to throw it away).
- One is not allowed to eat meat which was cooked with milk.
- One is not allowed to derive benefit from such food (i.e. by selling it, giving it, or feeding it to his dog).

Many orthodox Jews who recite this answer as an axiom when questioned about the origin of the prohibition in the Torah, believe that it is a text-based interpretation and that it is the opinion of all Mishnaic and Talmudic rabbis, but the truth is not so simple, as we shall see in our discussion of Mishnaic and Talmudic sources.

**Midrash Halakha**

In the Halakhic Midrash on Exodus² we find eight different opinions regarding the triple repetition of the prohibition, and the one mentioned above is listed as the seventh of the eight. (the text of the Midrash can be found in the footnotes. I have numbered the different opinions.)

This 8-way dispute clearly shows that the text is enigmatic and that the interpretation accepted as Halakha is based more on oral tradition then on textual evidence. This is not to say that it has a lesser status, since we are commanded to adhere to the oral tradition as well, but rather to point...
out that there could be a discussion as to how comprehensive was the original tradition, as we shall see later.

**Mishna**

The chapter in the Mishna (Hullin, 8) which deals with the prohibition of cooking meat with dairy contains several contradictions. Here I will present only some excerpts.  

1. ...fowl can be served alongside cheese on the table, but they are not eaten together... the school of Hillel forbids serving fowl alongside cheese... this only refers to the dining table, but one can put fowl next to cheese on the serving table [buffet].

2. One can wrap meat and cheese in the same cloth as long as they don’t touch each other... two roommates can eat on the same table, one [eats] meat and the other [eats] cheese, with no need to be concerned.

3. If a drop of milk fell on a piece of meat, if the flavor of the milk is noticeable the meat is forbidden (note that it is not the famous 1/60 ratio but rather a taste-test, apparently performed by a non-Jew.

4. ...Rabbi Akiva says: the Torah prohibition does not include eating venison and fowl with milk...

There is of course an additional layer to the prohibition, the one we refer to as a fence erected by the Sages to prevent people from transgressing the Biblical law. We will soon discuss the next level of prohibitions as we segue into the Talmud and later writings, but it is important to be familiar with the Mishnaic text to get a perspective of the prohibition.

**Talmudic dessert: chicken and cheese?**

As we have previously seen, there is a triple dispute in the Mishnah whether fowl can be eaten with cheese, or if the two could be put side by side on the same table. The disagreement, and somewhat confusion, continue in the Talmud (I include here Mishnaic sages whose related opinions and actions are mentioned only in the Talmud):

**Second century:**

_Rabbi Shimon ben Yehudah says in the name of Rabbi Shimon [ben Yohai] that meat and milk [cooked together] cannot be eaten, but one is allowed to derive benefit from it [by selling, giving etc.]

This statement, which might seem marginal, is of extreme importance, since it shows that not everyone agreed with the Midrashic interpretation that the triple repetition of the prohibition refers to cooking, eating, and deriving benefit from meat and milk. Even though this is the Halakhic norm accepted today, there is no clear statement in the Talmud that this opinion, which as we saw previously is one of eight, has been accepted as the final ruling.
The implications of this understanding are not immediately applicable, but it sheds light on the Talmudic Halakhic process, in the sense that sometimes a certain opinion became the norm without rigorous legal discussions.

**Third century**

In the third century, in Israel, people still followed the opinion of Rabbi Yosse of the Galilee, recorded in the Mishnah, that one can eat fowl with milk. In tractate Hullin (116:1), after the Talmud states that in the place where Rabbi Yosse of Galilee was the rabbi, people would in practice eat fowl with milk, the following story is told.⁵

*Levi [a scholar and colleague of Rabbi Yehudah HaNasi] happened to visit the house of one Yosef, who was a hunter. He was served a peacock head cooked in milk, and he did not say a word [it is not clear if he ate it]. He then came to Rabbi Yehudah HaNasi, who opined that Levi should have excommunicated that family. Levi answered that since that locale was under the jurisdiction of Rabbi Yehudah Ben Bethera, he thought that Rabbi Yehudah followed the opinion of Rabbi Yosse, who says that the prohibition applies only to mammals, since they produce milk.*

This story teaches us that not only in Rabbi Yosse’s place, but in other places around Israel, and even in Babylonia, where Rabbi Yehudah Ben Bethera lived, eating fowl with milk was commonplace. It is well known that the Mishnah was the culmination of a process meant to unify Halakha, but it was easier to impose the unified law in the public arena then in the private one. It is hard for us to think of a similar situation today because we live in an industrialized, global society, where products come from all over the world and are supervised by an almost standardized system. Another major difference is that in Talmudic times people ate in the privacy of their families and the concept of restaurants was limited to meals served in travelers’ inns.

**Fourth century**

In the fourth century in Babylonia a practice started spreading, according to which one was not allowed to eat dairy after eating meat. This is the first indication of our practice today of waiting between meat and dairy, but as we shall see, this reference in the Talmud is to a personal practice of several scholars, and it was only signed into law by Maimonides, in the 12th century.

This is the discussion in the Talmud, tractate Hullin:⁶

*Agra, the father-in-law of Rabbi Aba [possibly 5th century], taught that fowl and cheese can be eaten [together] as dessert... he explained that this means that there is no need to wash hands or eat something else between the two [it is not clear which one comes first, though it seems to suggest that fowl is first and then cheese].*
Rabbi Yitzhak ben Mesharsheya happened to visit the house of Rav Ashei [352-427]. He was served cheese and later meat, and he did not wash his hands between the two, and explained that washing hands after eating cheese is needed only if there are visible leftovers on the hands.

Rav Asei asked Rabbi Yohanan [3rd century] how long should one wait after meat before eating cheese? He answered: there is no need to wait...

This is not the end of the Talmudic text, but before we continue the presentation and analysis of this very important paragraph, let me first say a word about:

The Chronology of a Talmud Page

The subtitle before our previous discussion, of the paragraph in tractate Hullin, indicated that it belongs to the fourth century, but as some readers may have noticed, the scholars mentioned in the paragraph lived in periods ranging from the 3rd to the 5th century.

This is a typical phenomenon in the Talmud, and it has to do with the question of the final editing of the Talmud, or better yet, of whether such editing took place. This is still debated by scholars, some of whom claim that the Talmud was carefully and meticulously edited. The textual and historical evidence, however, points at the other direction. In the relatively dark period, between the last known Talmudic sages and the first Geonim, a group of scholars, known as the Sevoraim, shaped much of what we know as the Talmud. They merged discussions from different periods and places, with varying results. In some places the work of the Sevoraim is seamless and the reader feels that he is dealing with one continuous text, unaware of the diverse origin of the particular pieces, while in other places the discussion seems to digress or repeat itself. The Sevoraim worked anonymously, a fact which complicates the attempts of reconstructing the original text and separating the layers chronologically. In this Talmudic discussion, I will try to illustrate how this hidden editing works and how it affected the Halakhic mindset.

Let us now return to the Talmudic discussion: we left it with Rav Asei asking Rabbi Yohanan how long should one wait after meat before eating cheese? He answered: there is no need to wait.

Here the Sevoraim [whose names are not mentioned] interrupt the flow of the story with a statement: this cannot be, since Rav Hisda [died 309] said that one is allowed to eat meat after cheese, but not cheese after meat. The Sevoraim therefore conclude that there must have been a mistake in the transmission of the story so they rewrite it to say:

He asked how long should one wait after cheese before eating meat and was answered that there is no need to wait.

This is a classic example of the hidden work of the Sevoraim. The story, which took place 150-200 years before their time did not make sense to them, because in their time it was already customary among some scholars to avoid eating cheese immediately after eating meat. They changed the story to fit their reality, but made it illogical from the other end, by suggesting that
Rav Asei had to ask whether one should wait between milk and meat. To claim that he asked this question, when the wide spread custom was to only wash hands between the two and not wait, borders in portraying him as ignorant. Furthermore, the Sevoraim argue that the Rabbi Yohanan who lived in Israel, should have adhered to the ruling of Rav Hisda, who lived in a later period in Babylonia.

The Talmud then digresses to tell a story about Rav Hisda who was asked by his disciple what is the status of meat stuck between the teeth. Rav Hisda replied with a verse: “the meat was still between their teeth” (Numbers 11:33). Most commentators understand Rav Hisda as saying that the meat never loses its status as meat, even if it was stuck between the teeth until the next meal. There is, however, the possibility that Rav Hisda alluded to the end of the verse which speaks of God’s anger with the people who behaved with gluttony, leading to their annihilation.

This seems to suggest that Rav Hisda espoused a particularly extreme opinion, not accepted by many in his generation, regarding a waiting period between meat and dairy, and that he warned of dire consequences and Divine punishment if people fail to follow his ruling.

The next and final segment in this Talmudic discussion quotes Mar Ukva, who says that he is like wine vinegar compared to his father. In Hebrew wine vinegar is חומץ בן יין – vinegar born of wine, and it is used as a metaphor for a son who is inferior to his father. The reason for that self-deprecation of Mar Ukva? His father used to wait 24 hours between meat and cheese, while Mar Ukva only avoided eating them at the same meal.

Geonic Period – 9th Century

It is very hard to reach a conclusive decision based on this Talmudic passage since there is no methodical discussion of the need to wait between meat and dairy. Rather, we have a collection of anecdotes, one of which is unsuccessfully altered.

Luckily, we have a source which helps us find out what was the outcome of the Talmudic discussion, and whether most people adhered to the strict views of Mar Ukva’s father and Rav Hisda, or accepted the more lenient approach of Rabbi Yohanan and Mar Ukva. That source is the work called הלכות גדולות, which was authored in 825 by Rabbi Shimon Kayara in Babylonia, and which reflects the normative Halakha in the Geonic period, between the Talmud and Maimonides. Writes Rabbi Shimon Kayara: 7

Rav Nahman said that washing hands during the meal between courses is optional, unless one is about to eat cheese after meat, in which case he must wash hands in between. Rav Nahman’s statement is the reason the rabbis [today] allow eating cheese after meat.

Rabbi Shimon Kayara continues to explain that when Rav Hisda, whom we met in the previous discussion, said that eating cheese after meat is forbidden, he referred to those who do not eat something else, such as bread, in between, but even he agrees that one can eat meat and then cheese in the same meal if he eats something else between them.
**Maimonides – 12th Century**

The next reference to the issue of eating dairy after meat was made centuries later, by Maimonides. He rules like Mar Ukva, that meat and dairy cannot be eaten during the same meal, and adds a time barrier of six hours. He explains that six hours are needed to get rid of the meat which gets stuck between the teeth. As is typical for Maimonides, he does not explain why he chose to follow this opinion and to ignore Rabbi Shimon Kayara, and he also does not explain the source for the six-hours’ time barrier.

Rabbi Meir ben Yequiel HaCohen (13th century, Germany), who represents the Ashkenazi practice, quotes in his commentary on Maimonides two leading Tosafists who interpret this Halakha differently:

> According to Rabbenu Yitzhak, when Mar Ukva spoke of another meal, he did not refer to breakfast and lunch or dinner… once the table is cleared and the blessing recited [after eating meat] it is allowed immediately [to eat dairy]… and Rabbenu Tam said that even in the same meal one is allowed to eat dairy after meat if he ate bread and washed his mouth in between…

**Rabbi Yosef Karo – 16th Century**

The last stop in our meat and dairy journey will be the Shulhan Arukh:

> If one ate meat, even meat of wild animals or fowl, he must wait six hours before eating cheese. And even if he waited six hours, if he found meat between his teeth he should remove it.

Rabbi Moshe Iserles, the Rema, writes the following regarding the Ashkenazi practice, which in his time already included Eastern Europe:

> Some say that there is no need to wait six hours, and clearing the table is enough, in addition to saying Birkat Hamazon, eating something else, and washing the mouth. The widespread practice in these countries is to wait one hour after meat and then eat cheese.

**Summary:**

The Torah writes the prohibition in a somewhat enigmatic manner, but in Talmudic times the consensus is that cooking and consuming meat of domestic animals with milk is biblically forbidden. There is a dispute whether wild animals’ meat is forbidden by the Torah or by rabbinic decree, but all agree that fowl with milk is a rabbinical fence.

Up until the third century there were several enclaves in Israel and Babylonia where cooking and eating fowl with milk was allowed by decree of the local rabbis.

Around that time, the idea of additional separation has evolved in Babylonia. Few scholars went to extremes such as forbidding eating dairy after meat without waiting for the next meal, or even
the next day. Despite all this, the prevalent practice, documented in the ninth century, was to wash hands after meat, and then eat cheese immediately, even during the same meal.

In the 12\textsuperscript{th} century, Maimonides rules, against the prevalent practice, that one must wait six hours between meat and dairy. His opinion is amplified in the 16\textsuperscript{th} century by Rabbi Yosef Karo, who requires four levels of separation between meat and dairy:

1) waiting six hours; 2) eating something else in between; 3) tooth-picking; 4) saying Birchat HaMazon after the first meal;

Ashkenazi scholars opposed both Maimonides and the Shulhan Arukh. In the 12\textsuperscript{th} century the Ashkenazi practice was to eat dairy after meat with only Birchat HaAmazon or hand-washing as separation. In the 16\textsuperscript{th} century Ashkenazim became a little stricter and required a one hour barrier between the two, with some scholars speaking of three and four hours.

When we come to talk of modern times, one must admit that we face special challenges. Our work and eating habits are different, we consume processed foods marked as dairy, and we need our coffee. Can one then choose to follow Talmudic law, or the ruling of the Ashkenazi rabbis of the 12\textsuperscript{th} or 16\textsuperscript{th} century, instead of adhering to the very limiting measure of six hours of separation?

The answer is that though we try to follow our forefathers’ practice, no one can argue that following the Talmudic custom, or the Ashkenazi custom, which is stricter, would be considered breaching the law. One should consider the advantages and disadvantages of the different practices, and might decide to act differently in accordance with circumstances and environment (e.g. work, friends, children, when traveling etc.)

Rabbi Haim Ovadia
מלומד בברלו, מכסה חולח, וַיַּעַמֵּד אֶל מַכְּמֵן שָׁלֹק וֹמִי הַנַּעַל וַיָּדֵרְבּוּ אֵלֵיהּ שָׁלוֹק. וַיָּרְדוֹ בָּרוּ מִדָּבָא, לִמְזוּזֶה פָּכוּךָ רַוְּעָא רֹאשֶׁהָ, יַעַרְתָּ.

5 יְרוּרָא, מַכְּמְתָּ בְּרִיא הַנַּעַל. זוֹ אָשֶׁר הָמוּנָה: בְּמֻכּוֹמִן שְׁלֹק וֹמִי הַנַּעַל וַיָּדֵרְבּוּ אֵלֵיהּ שָׁלוֹק. וַיָּרְדוֹ בָּרוּ מִדָּבָא, לִמְזוּזֶה פָּכוּךָ רַוְּעָא רֹאשֶׁהָ, יַעַרְתָּ.

6 היְרוּרָא וַיַּעַמֵּד בַּרְּנָא הַנַּעַל, וַיָּדֵרְבּוּ אֵלֵיהּ שָׁלוֹק. וַיָּרְדוֹ בָּרוּ מִדָּבָא, לִמְזוּזֶה פָּכוּךָ רַוְּעָא רֹאשֶׁהָ, יַעַרְתָּ.