

The Halachic Challenges of Cheesecake

Rabbi Yehuda Spitz

The upcoming holiday of Shavuos, aside from its most common name, has several others: Chag HaKatzir (The Holiday of the Harvest), Atzeres (Assembly), Yom HaBikkurim (Day of the offering of the first fruits), and Zman Mattan Toraseinu (The Time of the Giving of the Torah). Yet, in Israel, it has gained a new moniker: Chag HaGevinah - The Holiday of the Cheese! Amazingly, and only in Israel, will you find a Jewish custom that has become so commercialized. Although no one really minds paying a lot less for all the various cheeses on sale during the weeks leading up to Shavuos, still, the idea that a "holiday" can be commercially sponsored (by the cheese companies, no less), should give us pause.

Interestingly, having cheesecake on Shavuos is one minhag with which many non-practicing Jews are stringent! Have you ever met someone who turned down a piece of cheesecake? But where does this time-honored traditional custom of consuming cheesecake on Shavuos come from?

Korban Cheesecake?!

It seems that one of the earliest mentions of such a minhag is by the great Rema, Rav Moshe Isserles, the authoritative decisor for all Ashkenazic Jewry, who cites the 'prevailing custom' of eating dairy items specifically on Shavuos (Orach Chaim 494, 3). Although there are many rationales and reasons opined through the ages to explain this custom^[1], the Rema himself provides an enigmatic one, to be a commemoration of the special Korban, the Shtei

HaLechem[2] (Two Loaves) offered exclusively on Shavuos during the times of the Beis Hamikdash.

However, since the connection between dairy food and a bread offering seems tenuous, the Machatzis HaShekel[3] (Orach Chaim 494, 7 s.v. h"h) offers a remarkable glimpse as to the Rema's intent. The halacha states (Shulchan Aruch Yoreh Deah 89, 4 and relevant commentaries) that one may not use the same loaf of bread at both a dairy meal and a meat meal. The reason for this is that there may be some (possibly unnoticed) residue on the bread, and thus one might come to eat a forbidden mixture of milk and meat[4].

Therefore, in order to properly commemorate this unique Korban which had two loaves of bread, one should have a separate dairy meal aside from the traditional meat meal one has on Yom Tov. This way, he will be mandated to have separate breads for each of these meals, as the challah meant for the dairy meal cannot be used for the meat meal and vice versa.

It is well known that our tables are compared to the Mizbe'ach and our food to Korbanos[5]. Therefore, serving a food item at a meal is considered an appropriate commemoration for a Korban. Consequently, by having an additional dairy meal, the outcome is a suitable commemoration for this unique Korban, as now on Shavuos, two separate distinct breads are being served. In fact, the venerated Rav Moshe Feinstein (Shu"t Igros Moshe Orach Chaim vol. 1, 160) cites this explanation as the proper one for maintaining two separate types of meals on Shavuos, one milky and one meaty.

Terrific! So now we can appreciate that by eating cheesecake on Shavuos, we are actually commemorating a special Korban! But before we sink our teeth into

a luscious calorie-laden (it can't be sinful - it's commemorating a Korban!) cheesecake, we should realize that, potentially, there might be another halachic issue involved: the prohibition against baking dairy bread.

Dairy Dilemma

Bread has been mankind's basic staple since time immemorial[6]. Therefore, Chazal worried that an unsuspecting person might mistake dairy bread for plain pareve bread and eat it together with meat. He would thus inadvertently violate the prohibition of eating a forbidden mixture of milk and meat. They thereby decreed (Gemara Pesachim 30a and 36a) that one may not bake dairy bread unless certain criteria are met[7]: either changing the shape of the dough prior to baking[8] (known as making a shinui), thereby making it instantly recognizable to all[9] as milky[10], or baking dairy bread exclusively in small quantities.[11] The same prohibition and exclusions apply to meaty bread as well, due to bread's propensity to be eaten with a dairy meal.

Bullseye!

The hetter is called by Chazal (Gemara Pesachim 36a) "k'eyn tura" (like the eye of an ox; possibly the source for the expression 'bullseye'). Although this expression is debated by the Rishonim, with Rashi (ad loc. s.v. k'eyn tura) explaining that it means a small amount (seemingly taking the bull's-eye idiom literally), while the Rif (Chullin 38a), Rashba (Toras HaBayis HaKatzner Bayis 3, Sha'ar 4, 86a), and Rambam (Hilchos Ma'achlos Asuros Ch. 9, 22) maintain that it is referring to a changed shape that makes it obvious to all that it is dairy or meaty, nonetheless, the Shulchan Aruch (Yoreh Deah 97, 1) rules that both are acceptable ways to ensure that the dairy bread will not be mixed-up.

Even so, there is a practical difference between Sefardic and Ashkenazic psak. According to the Shulchan Aruch (ibid.) the small amount of milchig bread that is permissible to make is only enough for one meal. This is how Sefardim rule [See Ben Ish Chai (Year 2, Parshas Shelach 17), and Kaf Hachaim (Yoreh Deah 97, 7)]. The Rema (ad loc. & Toras Chatas 36, 9), however, is a bit more lenient, allowing an amount necessary for one day, meaning a 24-hour period. This is the custom that Ashkenazim follow. [See Pri Megadim (ad loc. Sifsei Daas 1, s.v. v'im), Chavas Daas (ad loc. Biurim 3), Yad Yehuda (ad loc. Pirush HaKatzer 6), Aruch Hashulchan (ad loc. 4), Atzei HaOlah (Hilchos Basar BeChalav 12, 1) and Darchei Teshuva (ad loc. 17)].

Let Them Eat (Cheese)Cake!

Although several authorities extend this prohibition to include other baked goods, such as cookies and bourekas[12], which, if baked milky, might be mistakenly eaten with meat, nevertheless, the prevailing ruling is that the prohibition only applies to bread[13]. Even so, aside from the signs in the bakeries proclaiming which items are dairy and which are pareve, it is nonetheless a widespread practice throughout Israel that bakeries form the dairy baked goods (cheese bourekas, anyone?) in a triangular shape and the pareve ones in a rectangular shape as an extra safeguard against mix-ups. Since at busy bakeries the potential for mistakes is quite high, this is done as an added precaution, even though m'ikar hadin it is deemed unnecessary by most authorities.

So...does this ruling affect our beloved cheesecake in any way?

Actually, not much. In a typical cheesecake, since the cheese aspect of it is quite conspicuous[14], it would be considered as if produced with a changed shape from standard dough. Additionally, cheesecake is universally recognized as... containing cheese (!), and thus known world-wide as being dairy[15]. No one would make a mistake confusing cheesecake with pareve bread. Therefore, even according to the opinions of those authorities who maintain that the prohibition of dairy bread extends to cakes, even so, they all agree it would be permissible to make plenty of cheesecake for Shavuos, even in large quantities.

Thankfully, when it comes time to indulge in a piece of traditional cheesecake on the holiday of Shavuos, we can “have our cake and eat it too”, both in the literal sense as well as in the spiritual sense; knowing we have fulfilled the halachic requirements and are even commemorating a unique Korban.

Postscript: Another common question related to cheesecake concerns the proper bracha to recite, whether Mezonos or Shehakol. This topic is discussed at length in many recent sefarim including V'zos HaBracha, V'sein Bracha, and Rabbi Binyomin Forst's Pischei Halacha: The Laws of Brachos. It seems that the consensus of contemporary authorities is that the correct bracha is subjective, depending on the makeup of each individual cheesecake and its crust, based on the laws of primary and secondary food (Ikar and Tafel)[16]. If the crust is indeed deemed significant and adds necessary taste and crunch, many poskim maintain that two separate brachos be recited. One should ascertain a final ruling on the matter from his or her own local halachic authority.

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Lezechus Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua teikif umiyad.

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

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[1] This topic has been addressed by many - see the relevant commentaries to the Rema's comment, as well as Rav Yaakov Kamenetsky zt"l's Emes L'Yaakov on Tur / Shulchan Aruch (Orach Chaim 494 s.v. v'nohagin) and Rav Shlomo Zalman Auerbach zt"l's Halichos Shlomo (Moadim vol. 2, Ch. 12, Orchos Halacha 1 and 35, and Dvar Halacha 10). There is even a recent sefer, Meta'amei Moshe, which lists 149 (!) different reasons for this minhag. Actually, several Rishonim, including the Kol Bo (72 and in Orchos Chaim - Tefillas HaMo'adim 13) and the Melamed HaTalmidim (pg. 121b) predate the Rema on this by several centuries, yet their mention is that of eating 'milk and honey' together in order to be yotzei the pasuk in Shir HaShirim (Ch. 4, 11)'dvash v'chalav tachas leshonecha', that the Torah is compared to milk and honey. Interestingly, other Rishonim, Rav Avigdor HaTzarfati (pg. 478) and Rav Yitzchak Isaack Tirnau in his Sefer HaMinhagim (Hilchos Shavuos, Haghos 49) both write a different reason to eat milchigs on Shavuos. The pasuk that describes the holiday of Shavuos (Bamidbar, Parshas Pinchas Ch. 28, 26) states that one should bring a 'm incha ch adasha la'Hashem B ashavuoseichem' of which the first letters spell - 'meichalav' - with milk, implying that milk products should be eaten on Shavuos. This minhag is also mentioned by the Terumas Hadeshen (Leket Yosher pg. 103) and Maharil (Minhagim pg. 85), yet, it was not until the Rema

codified this minhag in halacha that it became widespread. See also Rabbi Eliezer Brodt's excellent recent 'The Mysteries of Milchigs'.

[2] See Shemos (Parshas Ki Sisa) Ch. 34, verse 32; Vayikra (Parshas Emor) Ch. 23, verses 15 - 22; Bamidbar (Parshas Pinchas) Ch. 28, verse 26. This is the first Temple offering from the new wheat crop.

[3] This is also cited by the Mishna Berura (Orach Chaim 493, 14 & 15) and Kaf Hachaim (ad loc. 63).

[4] See also Rav Chaim Falag'i's Kaf Hachaim (Ch. 24, 20) and Yalkut Me'am Loez (Shemos, Parshas Mishpatim pg. 890 s.v. basar achar gevina) and Shu"t Igros Moshe (Yoreh Deah vol. 1, 38) for the parameters of this halacha.

[5] See Gemara Brachos (55a), Beis Yosef (Orach Chaim 167, quoting the Shiblei Leket 141), Rema (ad loc.), Mishna Berura (ad loc. 30) and Shla"h (Shaar HaOsiyos, Eimek Bra cha 66). This was addressed at length in an article titled 'Salting With Sugar'.

[6] Devarim (Parshas Eikev) Ch. 8, verse 3: "Ki lo al halechem levado yichyeh ha'adam".

[8] According to the vast majority of poskim this leniency only applies if the change was made prior to the baking. See Pri Megadim (Yoreh Deah 97, Sifsei Daas 1 s.v. v'im), Pischei Teshuva (ad loc. 3), Gilyon Maharsha (ad loc. 2), Chavas Daas (ad loc. Chiddushim 5 & Biurim 3), Arugas HaBosem (ad loc.), Maharsham (Daas Torah ad loc. 1), Ben Ish Chai (Year 2, Parshas Shelach 17 & Shu"t Rav Pealim vol. 2, Yoreh Deah 11), Yad Yehuda (ad loc. Pirush HaAruch

3), Zer Zahav (on the Issur V'Hetter 40, 4), Levushei Srad (Yoreh Deah 41, 139), Ksav Sofer (Shu"t Yoreh Deah end 61), and Aruch Hashulchan (Yoreh Deah 97, 9). See also footnote 11.

[9] Shu"t Mahari" t (vol. 2, 18), Pischei Teshuva (Yoreh Deah 97, 3), Pri Chadash (ad loc. 1), Pri Toar (ad loc. 2 - who adds that this is an issue only lechatchila), Chochmas Adam (50, 3), Aruch Hashulchan (ad loc. 7), and Kaf Hachaim (ad loc. 12). They all maintain that the shinui made to allow dairy bread must be known to all, and not just the local townspeople. The dissenting opinion is that of the Yad Yehuda (ad loc. Pirush HaKatzner 7), who argues that we need not concern ourselves with visiting guests for this halacha. The Kreisi U'Pleisi (ad loc. Kreisi 2) mentions similarly (although he notes that he protested), that since in his town every bakery baked with milk and everyone knew about it, it was considered a hekker. He concludes that it would be preferable not to rely on this, though.

[10] There is an interesting debate on "biskugies", apparently a type of bread that was commonly sold as pareve, with the Mahar"i Chagiz (Shu"t Halachos Ketanos vol. 1, 56) writing briefly that since they are a type of bread and everyone assumes they are pareve, they also fall in the category of the dairy bread prohibition. This is according to the understanding of the Rav Yaakov Emden (Shu"t Sheilas Ya'avetz vol. 1, 62), Chida (Shiyurei Bracha Yoreh Deah 97, 1), and Zivchei Tzedek (Yoreh Deah 97, 8), and not like the Mahar"i's own son, who wrote (by amending and adding a few words to his father's responsum) that his father meant to permit them. The Ya'avetz himself concludes that he does not know what "biskugies" actually are, but if they are, as he suspects, biscuits or cookies, then they are permitted to be baked dairy as they are not an actual bread. See also footnotes 12 and 13.

[11] Although most authorities are stringent even if someone violated the prohibition accidentally, (as mentioned in footnote 8), there are those however, who are lenient if a tiny amount of milk accidentally spilled on bread [see Shu"t Aish Das (end 12); Shu"t Shoel U'Meishiv (Tinyana vol. 4, end 189); Nachlas Tzvi (Yoreh Deah 97, 1); Shu"t Nefesh Chaya (36); and Imrei Binah (Hilchos Basar BeChalav 13).]. The Kreisi U'Pleisi i (Yoreh Deah 97, Pleisi 1 s.v. shamaati, Kreisi 3) quotes his grandfather as allowing one who made a large batch of dairy bread without a shinui to divide it up into small quantities and give it out to various households. Although the Chamudei Daniel (Taaruvos vol. 2, 18) agrees with this, nevertheless most authorities do not (see footnote 8) and rule that it is prohibited. The Kreisi U'Pleisi himself concludes that it is tzarich iyun to be lenient with this, and only allows its use as a snif lehakel. Yet, the Yad Yehuda (Yoreh Deah 97, Pirush HaAruch 3), Chochmas Adam (50, 5 & Binas Adam 51; in some editions 70), Zivchei Tzedek (Yoreh Deah 97, 6), Atzei HaOlah (Hilchos Basar BeChalav 12, 3), Aruch Hashulchan (Yoreh Deah 97, 9), and Kaf Hachaim (ad loc. 9 and 11), rule that in case of great loss and it was done accidentally, one may indeed rely on this. This is also the ruling of the B'tzeil HaChochma (Shu"t vol. 6, 84, 3 and 4) and the Maadanei Hashulchan (3 and in his Shu"t Maadanei Melachim 123). The Ksav Sofer (Shu"t Yoreh Deah end 61) maintains that a baker is allowed to mass produce dairy bread on condition to exclusively sell a small amount to each family, as that is the normal method of selling. See also Rav Yisrael Yaakov Fischer zt"l's Shu"t Even Yisrael (vol. 9, 67). And Rav Shammai Kehas Gross's Shu"t Shevet HaKehasi (vol. 5, 128).

[12] Including the Taz (Yoreh Deah 97, 1), Pri Toar (ad loc. 2), Erech Hashulchan (ad loc. 2), Zivchei Tzedek (ibid.), and Ben Ish Chai (ibid.).

[13] Including the Mahari"t (Shu"t ibid.), Pri Chadash (Yoreh Deah 97, 1), Minchas Yaakov (60, 3), Chavas Daas (Yoreh Deah 97, 1), Chida (Shiyurei Bracha Yoreh Deah 97, 3), Pischei Teshuva (ad loc. end 3), Yeshuos Yaakov (ad loc. 1), Ya'avetz (Shu"t ibid.), Machatzis HaShekel (Yoreh Deah 97 s.v. ayin), Chochmas Adam (50, 3 & 7), Atzei HaOlah (ibid. 4), and Aruch Hashulchan (Yoreh Deah 97, 2). See also Rav Yisrael Belsky's Shu"t Shulchan HaLevi (vol. 1, Ch. 22, 7 and 8).

[14] The Be'er Sheva (Shu"t 32) maintains as long as some cheese is noticeable, it is considered an adequate shinui to allow it to be made. This is also cited by the Pri Chadash (Yoreh Deah 97, end 3), Pri Megadim (ad loc. Sifsei Daas 1), Zivchei Tzedek (ad loc. 10), Aruch Hashulchan (ad loc. 5; who calls it "Minhag Yisrael Torah'), and Kaf Hachaim (ad loc. 1). Although the Atzei HaOlah (Basar BeChalav 12, Chukey Chaim 1) is uneasy about a small amount of cheese being noticed, and others, including the Gilyon Maharsha (ibid.) and Chamudei Daniel (ibid.) maintain that said shinui must affect the entire dairy bread, nevertheless, where it would be recognizable throughout, as a cheesecake is, it would definitely be permitted.

[15] Mahari"t (Shu"t ibid.), Pri Chadash (Yoreh Deah 97, 1), Ben Ish Chai (ibid.), Yad Yehuda (ad loc. Pirush HaKatzner 7), Aruch Hashulchan (ad loc. 8), Kaf Hachaim (ad loc. 12, s.v. u'va'ir). See also footnote 9 - If it is recognizable to all, it is considered a proper shinui.

[16] For more on this topic see Rav Nissan Kaplan's Shalmei Nissan (Perek Keitzad Mevorchin Ch. 80 - 84), Rabbi Mordechai Zev Trenk's Brachos Basics (Ch. 4), and Rabbi Avi Wiesenfeld's discussion on the DinOnline.org website:

http://www.dinonline.org/2011/04/05/q-a-guide-to-the-halachos-of-brachos-ika-r-tafel/#identifier_72_10407 - Par. Cheesecake.

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.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.