

The Status of Gentile Made Soft Cheeses

The Mishna in Tractate Avoda Zara¹ brings the story of Rabbi Yishma'el asking Rabbi Yehoshua why the cheese of gentiles was prohibited. The phrasing of the question implies that, in Tannaitic times, there was no doubt that gentile cheese was prohibited, Rabbi Yishma'el simply wanted to know why. After some to-ing and fro-ing, Rabbi Yishma'el still did not feel his question had been resolved. The Gemara² explains that at that time the ban had been in effect for less than twelve months and it was not appropriate to ask such questions which may look like one was seeking to undermine Rabbinic rulings through their own logic.

The Gemara³ does go on to provide reasons for the ban, and the reason of Shmu'el is brought by Maimonides in his Yad H'azaka⁴ that, even though non-kosher animal's milk can't be made into cheese⁵, in Tannaitic times they made a blanket ban because of the tendency to use rennet from the stomachs of nevelot⁶ for the cheesemaking process. Whilst one may have thought that the tiny amount of rennet would be nullified, the fact that rennet is an integral part of the cheesemaking means it is never nullified.

Maimonides also writes that, lest one think that they could buy gentile cheese that was set with fig sap⁷ or any plant-based alternative, this would also be forbidden as the ban did not distinguish which ingredient was used to set the cheese. Kessef Mishne⁸ writes that Maimonides clearly rules this way as he does not bring dissenting opinions. We see from Maimonides that it makes no difference if the cheese was set with animal rennet or not; the product remains included in the prohibition.

In a similar vein, Bet Yosef,⁹ quoting Rashba,¹⁰ writes that the prohibition regarding the cheese of gentiles is applicable even in places where cheese setting does not involve animal rennet, nor in a case where they would be horrified to find any contamination of milk from non-kosher animals on account

¹ Mishna Avoda Zara, 2:5

² Gemara Avoda Zara 35a

³ Ibid

⁴ Laws of Forbidden Foods 3:13-14

⁵ [It certainly wasn't done then. Even today, it is extremely rare and expensive to make, so there is no risk of contamination.]

⁶[Animals that were not slaughtered according to Jewish Law.]

⁷ [The enzyme ficain is derived from fig sap.]

⁸ Ad loc.

⁹ Bet Yosef, Yore De'a 115

¹⁰ Torat Habayit Hakatzar, 3:6 with further detail in Torat Habayit Ha'aroch.

of it being repulsive. Still, any prohibition instituted by the Rabbis does not dissipate on account of the reason given no longer applying.¹¹

Rashba¹² is scathing towards those who are lenient regarding the cheese of gentiles, especially those who claim that their expertise in cheesemaking would somehow overrule the prohibition of the Rabbis. He writes that, even without the problem of rennet, there is still a problem that milk from a non-kosher animal could become mixed into the product. Shulhan Aruch¹³ rules in accordance with Maimonides, citing the reason of non-kosher rennet, even in a situation where the cheese was set with plant-based ingredients.

Up to this point, we've been discussing cheese, which needs an intermediary in order to set. Butter, on the other hand, can be made naturally by churning milk until the fat globules have separated from the buttermilk. This does not require enzymes or anything else to enable it to work and therefore is not included in the prohibition of gentile cheese. However, it would be included in the prohibition of gentile milk.¹⁴ And Shulhan Aruch¹⁵ writes that we don't object to those places that have the custom to allow it, but where there is a majority who are strict, they shouldn't change the custom. In places where there is no apparent custom, so long as the milk solids are separated, it is permitted.

Since then, the Aḥaronim have investigated whether or not so-called soft cheeses would be included in the prohibition of gentile cheese or whether it is subject to the customs mentioned in the Shulhan Aruch regarding butter.

Peri Ḥadash¹⁶ allows kaymak¹⁷ as well as ricotta cheese, comparing them to butter, arguing that there is no concern of a gentile mixing non-kosher animal's milk because it won't coagulate,¹⁸ nor would it be considered part of the prohibition of gentile cheese. The rationale appears to be based on the fact that the product comes about through cooking rather than an intermediary such as an enzyme.

¹¹ [See Gemara Beitz'a 5b.]

¹² Responsa of Rashba, 4:106

¹³ Shulhan Aruch, Yoreh De'a, 115:2

¹⁴ Despite the fact that one wouldn't use non-kosher animals to make butter, there was still a concern of contamination. This contamination would not be nullified.

¹⁵ Ibid 115:3

¹⁶ Peri Ḥadash, Yore De'a, 115:21

¹⁷ A product akin to clotted cream, it is made by boiling milk slowly, skimming the cream and allowing it to ferment.

¹⁸ [See fn.5]

In a similar vein, Rabbi Moshe Feinstein wrote about cottage cheese¹⁹ that the prohibition only applies to items that require an intermediary, whereas soft cheeses that are made by cooking and fermenting naturally are not included. He adds a novel idea that even if the product had some rennet added, this could also be permitted as the rennet is there to speed up the process and not an integral part of the cheese making.²⁰ In practice, this would only help those who are lenient about gentile milk.

Rabbi Feinstein concludes that, in any event, he is not comfortable allowing soft cheese, nor does he protest those who are lenient as they have sufficient grounds in their own right. He does feel, however, that it is inappropriate to publicise the lenient approach.

The Sephardi authorities were less willing to compromise, including Radvaz²¹ who even banned yoghurt and Rabbi Yaakov de Castro²² who vehemently disagreed with Peri H'adash regarding kaymak. Rabbi Haim Benveniste²³ brings the opinions of Rabbi Eliyahu Mizrahi who was strict and the opinion of Rabbi Avraham Ben Ya'ish who made a distinction between butter/kaymak and yoghurt because of the latter's more liquid tendency. Rabbi Benveniste concludes that, even though Rabbi Avraham Ben Ya'ish was lenient regarding kaymak, the custom is to be strict. Furthermore, Rabbi Yaakov H'agiz²⁴ writes that unless there is an established custom to be lenient, the default position must be strict.

Hida²⁵ brings the opinion of his teacher Rabbi Avraham Yitzhaki²⁶ who warned that those who guard themselves would avoid gentile made fermented cheese such as ricotta. He notes the aforementioned leniency of Peri H'adash as well as Rabbi Yosef David of Thessaloniki²⁷ who allowed kaymak. Hida concludes that even in places where the custom is to be lenient, a person who guards

¹⁹ Responsa Igrot Moshe, Yore De'a 2:48

²⁰ [This is based on the concept known as "*Ze veze gorem*". If a product contains permitted and prohibited ingredients, but the product would still come about without the aid of the prohibited ingredient, the product is permitted (see Talmud Avoda Zara 48b-49a). There is considerable debate about whether this concept applies here, but it is beyond the scope of this article.]

²¹ Responsa Radvaz 6:2291

²² Erech Lehem, Yore De'a, 115

²³ Keneset Hagedola, Yore De'a. 115:14-15

²⁴ Responsa Halachot Ketanot, 1:1

²⁵ Shiyyurei Beracha, Yore De'a, 115:5

²⁶ Responsa Zera Avraham Yore De'a 25

²⁷ Responsa Bet David, Yore De'a 55

themselves should be strict. Elsewhere,²⁸ he writes that the custom in Jerusalem is to prohibit kaymak and not to rely on Peri H'adash.

Rabbi Haim Palachi²⁹ was also asked about kaymak and went to great lengths to argue with Rabbi Joseph Molcho³⁰ who himself relied on Peri H'adash. His conclusion was that it is prohibited as he believed the majority of authorities were opposed to Peri H'adash's reasoning. He found over forty opinions to support his own view and held it to be prohibited. In Baghdad, Rabbi Abdallah Somech³¹ and, later, Rabbi Yaakov H'ayyim Sofer³² were of the view that such products are not permitted.³³

And my teacher, the previous Rishon LeTziyyon Rabbi Mordechai Eliyahu, told me that his view was to be stringent with regard to all of these products and consider them as part of the prohibition of gentile cheese.³⁴ So too, the current Rishon LeTziyyon Rabbi Yitzhak Yosef³⁵ is stringent, except with regard to cream itself which he categorises with butter.³⁶

Amongst the Ashkenazi sages, Rabbi Avraham Danzig³⁷ forbade cheese, even when not set with rennet. Rabbi Ye'hi'el Michel Epstein³⁸ also prohibited all cheeses, making room for leniency with cream only.³⁹

We've seen previously that most authorities, in the wake of Radvaz, are of the opinion that all dairy products, regardless of how they were set, are generally forbidden. Indeed, we can trace this back to the original discussion of the Gemara,⁴⁰ where Rav H'sda opines that the prohibition is because gentiles set the cheese with wine vinegar. Rashi⁴¹ comments that the vinegar is the active ingredient that sets the cheese. As Rav H'sda specified acid-set cheese, and the Gemara does not say that the different reasons affect which cheeses are

²⁸ Responsa H'ayyim Sha'al 1:43

²⁹ Responsa H'ikekei Lev, Yore De'a 37

³⁰ Shulhan Gav'o'ah

³¹ Zivhei Tzedek 115:34-36

³² Kaf H'ahayyim 115:46-50

³³ [Rabbi Abdallah Somech reversed the custom of permitting kaymak, but he felt he wasn't able to change the custom of allowing yoghurt. However, ricotta was already established as being forbidden.]

³⁴ This view is brought in Rav Mordechai Eliyahu's name in Amma Davar 40.

³⁵ See Yalkut Yosef, Issur VeHeter 2

³⁶ Interestingly, Rav Tzvi Pesah Frank also felt this way about cream, whereas Rav Kook was stringent.

³⁷ H'ochmat Adam 53:38

³⁸ Aruch Hashulhan 115:16

³⁹ Ibid para.28

⁴⁰ Talmud Avoda Zara 35b

⁴¹ Ad loc.

included in the prohibition, it stands to reason that acid-set cheese is always included.

Furthermore, the Gemara notes Rabbi Yirmiya's incredulity at Rabbi Yehoshua ben Levi's concern about puncturing.⁴² Rabbi Yirmiya says that this would mean even dry cheese would need to be permitted. The implication here is that gentile cheese is prohibited, regardless of whether it is dry or wet.

Therefore, it is my humble opinion that we cannot, as a kashrut authority, be seen to be lenient in this regard. We certainly cannot put our kashrut logo on such products when the vast majority of halachic authorities prohibit them. This is especially true when Rabbi Moshe Feinstein, who vindicated those who were lenient, was not advocating being lenient in the first instance, and he wrote that publicising the leniency is certainly not ideal.

However, we have a responsibility to those who rely on the lenient opinions to point out which products do not fall foul of other kashrut laws. We should endeavour to provide up-to-date information about soft cheeses to enable those who are lenient to be able to discern between different products.

With hope of being freed from this lockdown in order to praise His Name,⁴³

Yosef Hayyim David

⁴² Talmud Avoda Zara 35a

⁴³ Cf. Psalms 142:8