

*mesora* also means that there is no *mesora* to forbid it.

A *baal nefesh*, pious person with the fortitude to refrain from a leniency, may and should practice stringency, even against a prevailing leniency. If it is not obvious, on-lookers will think that the person does not feel like doing the lenient thing, in this case eat turkey. When stringent, he may not openly argue with those practicing leniency, nor boast of his piety. [See Psachim 50a-53b, Poskim. Tur Sh Ar YD 82:4-5, commentaries.]

### C) *Kailim shel bnei Rhinus*

Most foodstuffs forbidden by the Torah are also forbidden in a mixture, as long as the flavor can be detected. This means that if non-kosher food is cooked with kosher food in a proportion that does not neutralize it, the entire mixture is forbidden. Furthermore, the flavor absorbed in the utensils in which non-kosher food is cooked is also forbidden. It can be imparted from the walls of the utensils to kosher food cooked in it later, and the kosher food is forbidden. The application of these rules to foods forbidden voluntarily, a *neder* or ban, depends on the mentality of the person undertaking the ban. In our case, the question is whether the family refraining from turkey meant to refrain from anything cooked with it as well, and from anything cooked in utensils used for turkey.

An additional dispensation might also apply here. The Talmud gives both specific sites where the *chailev*, fat, is forbidden and *simanim* for them. The fat by the rumen near the omasis (stomachs of the animal) and spleen is part of a larger membrane of forbidden fat. It also seems to have the requisite characteristics. Nonetheless, the communities of the Rhineland practiced leniency. The poskim permit members of other communities to eat food prepared in the utensils of the Rhineland communities, and even to eat their food that had small content of the controversial fat. It is suggested that the reason for this mystifying ruling is that initially the Rhineland was the main *Ashkenazic* settlement until the crusades destroyed much of it. The stringent practice seems to have originated in *Sepharadic* communities. Although some *Ashkenazic* communities adopted it, it could not override the main ruling. Thus, *Ashkenazic* Jews who avoided it could still practice leniency with regard to the utensils and mixtures. Based on this, a *baal nefesh* who adopts a stringency may use the utensils of the lenient majority. Our case is slightly different. In the *chailev* case, the original ruling was lenient. In our case, the standard could have been stringent. However, as we explained, in reality, lack of *mesora* is really neither strict nor lenient. [See Tur Sh Ar YD 64:9, commentaries.]

In conclusion, those who refrain from eating turkey may eat food prepared by others who eat it, or products produced with a *hashgacha* that certifies turkey products as well.

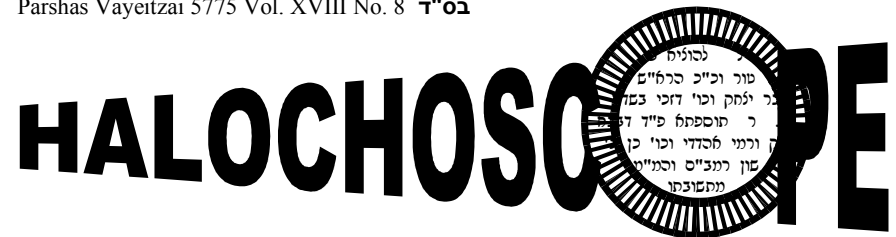
**On the parsha ...** This is not done in our place ... [29:26] If Yaakov knew the *minhag*, why did he think he could circumvent it? Why did he accuse Lavan of tricking him? He thought that if the local people were truly stringent about it, Lavan would have told him so when he made his original agreement [see *Or Hachaim*]. Sometimes, the locals allow exceptions to a *minhag*!

Sponsored by Noah Bass and Debbie Rotenstien in memory of Noah's father, Mordechai ben

Noach a"h, whose *yahrzeit* was on the 3<sup>rd</sup> of Kislev. 8

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**This week's question:**

**If one is *machmir* on eating turkey, must he also refrain from eating other food prepared by people who do not practice this stringency?**

**The issues:**

**A) *Off tavor*, the requirements of kosher species of fowl**

**B) People with differing *mesora***

**C) *Kailim shel benai Rhinus*, eating from utensils of *maikilim*, the lenient**

### A) *Off tavor*

The Torah describes the species of animal, fowl and fish that are permissible. For animals, specific *simanim*, signs are given: chewing the cud and having split hooves. Fish, too, are identified by their fins and scales. Fowl are not identified by *simanim*. Instead, the Torah lists twenty-four species of fowl which are not permitted. [The method of counting twenty-four is debated by the Talmud.] All sub-groups within these are included in the list. All other species are permissible. However, it is not always so easy to determine to which species a particular bird belongs. Therefore, the Talmud finds common ground between the forbidden species, which is then used in place of *simanim*.

The common denominator of forbidden species is that they are *doraiss*. This is translated by different commentaries as a manner of attacking their prey. Thus, the first characteristic is that the bird is a predator. In one view, *doraiss* means that they pick up the prey to eat it. The same commentator also explains it as a bird that holds the prey down with its foot as it eats it slowly. Others maintain that some kosher fowl do this as well. They maintain that an *off doraiss* eats its prey alive, not waiting for it to die. [Eating live insects is not included.] A third view includes any bird that digs its claws into its prey.

An additional three *simanim* are counted. Permissible birds have a crop, which is a small sack attached to their gullets where a supplementary food supply is stored. Any *off tavor* has an additional toe. According to one view, this means the claw at the back of the foot. Since birds of prey also have this claw, others explain it as having one longer toe. The stomach of a kosher bird can be peeled into layers. The Talmud says that the eggs of kosher birds have a distinct characteristic that non-kosher eggs do not have. Kosher eggs have a rounded end and a pointed end. One should be able to use this test to determine whether the bird is kosher. However, in rejecting this suggestion, the Talmud says that *simanim* must not be reliable from a Scriptural perspective.

One fully familiar with all the forbidden species listed by the Torah may eat any species omitted there. Nowadays, such familiarity does not exist. In addition, we do not know all the sub-species. [As an aside, the Talmud says that even Moshe could not have known every species in the world, including those that only exist in specific parts. The

fact that some of these exotic species are mentioned is cited as proof that Torah is divine. Only Hahsem Himself could have written about them.] Thus, it is often a *safeik*, doubtful or questionably forbidden species. Therefore, we must turn to the *simanim*. If one is unsure whether a bird species is *doraiss*, he may test it by standing it on a wire. If it separates its toes, two on either side, it is *doraiss*. Also, if it catches prey or food in mid-air and eats it immediately, not waiting to land first, it is to be considered *doraiss*. These two concepts are sometimes considered two differing views in the Talmud, or are considered two complementary explanations.

If there is evidence that it is not *doraiss* and it has the additional *simanim*, it may be considered permissible. The poskim really allow it with less *simanim*. Some allow it with a single *siman*. Some maintain that the *siman* of a layered stomach is essential. In practice, we only permit the known permissible species with a *mesorah* or *kabalah*, an unbroken tradition, that this species is eaten by Jews. Nonetheless, with certain additional *simanim*, unique to some species, we allow some fowl with no official *mesora*.

Turkey only became popular a few hundred years ago. Its name would seem to indicate that it comes from Turkey, which is not the case. The name of a species is quite important when deciding its *mesora*. Indeed, the Talmud distinguishes between two types of chicken, one of which has a feminine sounding name and the other a masculine sounding name. One is called swamp hen, and is forbidden. The other is called swamp rooster, and is permissible. The *mesora* is based on the name.

Not only is there confusion about the turkey's name, there is confusion about its origins. Some refer to it as *indick*, or *Indisher hahn*, a hen coming from India. Others call it *Englischer hahn*, English hen. Clearly, it is not a species of chicken. Rather, like the swamp hen, it is a species of fowl called a hen. Some thought it was brought from India to England, and spread throughout Europe from there. One posek maintains that the Jews of India have a *mesora* for this fowl going all the way back to *Moshe Rabeinu*. His sources are not traceable, and most poskim do not subscribe to this view. [There might have been a similar species like this.] The majority of the poskim seem to agree that the turkey originated in the Americas, which were erroneously confused with India by Columbus. It has the *simanim* needed for *off tahor*, but it certainly had no *kabalah* or *mesora* in the new world. [We can speculate that there might have been Jews who explored America thousands of years ago, unbeknown to the Europeans. However, if there was a *mesora* then, it was lost. We do not have an unbroken *kabalah*.]

How did turkey become acceptable? One suggested answer is that the stringency to eat only fowl with an unbroken *mesora* is a relatively recent institution. [The Talmud uses *mesora* to permit, rather than to forbid.] It was not widely adopted at first. During this early period, turkey was permitted based on the *simanim*. In one view, since we now observe the institution, we may no longer permit the fowl with no *kabalah*. In the other view, once it was permitted, it assumes the status of a permitted species. This is as good as a *kabalah*. A slightly different view is that we are in no position to cast doubts on the poskim and Jews of earlier generations. Firstly, they might have had a good reason to permit it, to which we are not privy. Secondly, by our forbidding it, we effectively condemn their practices. We are always careful to avoid this. Finally, there is one posek who

maintains that this species is so commonplace that we can observe it well enough to well enough to be certain that it is not *doraiss*. This based on a Talmudic passage about a species that had always been considered kosher based on a *mesora*. However, when it became common, it was observed to be a *doraiss*.

The prevailing practice is to permit turkey, based on the aforementioned ideas. Nevertheless, some practice stringency. Some families practice the *chumra* as a family. They pass this down to the next generation. Strictly speaking, a personal *chumra* cannot be passed down to the next generation. The basis here is to found a family tradition, where the fathers are considered the teachers of their children. The children follow their teachers' rulings. Some maintain the tradition through the male line, and some females stipulate with their spouses to follow it. [See Parshas Shemini 11:13-19, Re'ay 14:11-18. Chulin 59a-65a, Poskim. Tur Sh Ar YD 82:1-3, Darkei Teshuva 26, commentaries.]

### **B) People with differing mesora**

The concept of *mesora* in this context has an interesting side to it. The absence of the *mesora* does not really mean that the species is forbidden. There is no *mesora* to permit it. There is also no *mesora* to forbid it. Accordingly, unusual rules apply to its permissibility for those who have no *mesora* on it.

Different practices of communities are usually based on the rulings of their rabbis. Thus, it is the result of a dispute between poskim. In a community, one must follow the rulings of the local rabbi. *Lo sisgodedu* is a quasi-Scriptural prohibition against following a dissenting view in the presence of the followers of the other view, causing factions in the community. Nonetheless, if one travels to a different community with the intent of returning home, he must follow his own stringencies in private, as well as the stringencies of his hosts. The former is to comply with the ruling of his home-town *rav*. The latter is to avoid factionalism. Furthermore, if a scholar arrives in a community where the custom is to follow an erroneous stringency, he may not practice leniency in their presence.

With regard to *mesora* on fowl species, these rules are not followed. One who travels from a community with no *mesora* on a species, to a community with a *mesora*, may eat it in that community, even if he plans to return home. It is not forbidden in his home town. They just have no *mesora* that it is permitted. Furthermore, if he has a *mesora* and brings some of the poultry with him to a community where there is no *mesora*, he may eat it there in private. Furthermore, there is even a debate on whether a community that has no *mesora* may start relying on the *mesora* of another community. There is no conclusive ruling, but it is recommended to follow the view that forbids it.

All of this is based on the same basic idea mentioned here. This would probably not apply to a family practicing personal stringency within a larger community. Firstly, the community does practice leniency. Secondly, the family needs a good reason to practice stringency. Since they obviously believe that they have the right to do so, they must have adopted it regardless of the *mesora*. In reality, their stringency is not against a *mesora*. Rather, they do not wish to rely on the reasons given for turkey's having become acceptable despite the absence of a *mesora*. Thus, it is not quite the same as two communities, one with a *mesora* and the other without it. It is more like two rulings, one relying on the acceptability and the other not relying. Nonetheless, we have shown that the absence of