

Meat, Milk and Scripture

Early Rabbinic Interpretations of the Biblical Prohibition of a Forbidden Mixture

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Declaration of independent work:

I hereby declare that I have produced the submitted thesis independently, using only the literature and resources indicated.

Berlin, 20.10.2020

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לליאן, אהובי

For Lian, my love

ABSTRACT

Meat, Milk and Scripture: Early Rabbinic Interpretations of the Biblical Prohibition of a Forbidden Mixture

This thesis addresses the early rabbinic interpretations of the thrice repeated biblical commandment, *you shall not cook a kid in his mother's milk* (Exodus 23:19; Exodus 34:26; Deuteronomy 14:21). While this commandment is considered to be the source of the Jewish prohibition of mixing meat and milk products, there is no evidence that such a dietary custom was practised until after the destruction of the Second Temple in 70 CE. In this sense, it may be assumed that this particular interpretation of the biblical commandment was a rabbinic innovation, perhaps inspired by a desire to create a protective buffer around the biblical prohibition of cooking a kid in his mother's milk.

Over the course of this thesis, I will illustrate how the rabbinic practice of separating meat and dairy was later systematically justified and given scriptural authority through the exegesis of this seemingly specific biblical commandment. Furthermore, I will illustrate that where certain rabbinic rulings regarding this forbidden mixture could not be proven through this biblical commandment alone, supplementary verses from scripture were brought and used as biblical proof texts.

Many rabbinic texts conscientiously address the problematic association of the biblical commandment with the rabbinic practice of separating meat and milk. These texts ask, why is eating forbidden if scripture states *cooking*? Why is all milk forbidden if scripture states *mother's milk*? And why are other animals forbidden if scripture states *kid*? Such questions stem from the close, critical reading of scripture that the rabbis practiced in their efforts to determine the law. However, in a further layer of dependance

on the biblical text, any authoritative answer to these questions was required to demonstrate its foundations in a similarly close, critical reading of that same scripture.

In the course of this thesis, it will be shown that in the early rabbinic discussions of meat and milk, scripture provides the inspiration, the grounds for objection, but above all, the ultimate authoritative answers.

ABSTRAKT

Fleisch, Milch und Schrift: Frühe rabbinische Interpretationen des biblischen Verbots einer untersagten Mischung

Die Dissertation befasst sich mit den frühen rabbinischen Interpretationen des dreimal wiederholten biblischen Gebotes: *Du sollst das Böcklein nicht in der Milch seiner Mutter bereiten* (2. Mose 23:19; 2. Mose 34:26; 5. Mose 14:21). Während dieses Gebot als die Quelle des jüdischen Verbots der Vermischung von Fleisch- und Milchprodukten angesehen wird, gibt es keinen Beweis dafür, dass ein solcher Ernährungsbrauch vor der Zerstörung des Zweiten Tempels im Jahre 70 CE praktiziert wurde. In diesem Sinne kann davon ausgegangen werden, dass diese spezielle Interpretation des biblischen Gebotes eine rabbinische Innovation war, womöglich inspiriert durch den Wunsch, einen schützenden Puffer um das biblische Verbot, das Böcklein nicht in der Milch seiner Mutter zu bereiten, zu schaffen.

Im Laufe dieser Dissertation werde ich zeigen, wie die rabbinische Praxis der Trennung von Fleisch- und Milchprodukten später durch die Auslegung dieses scheinbar spezifischen biblischen Gebotes systematisch begründet und schriftgebunden wurde. Außerdem werde ich illustrieren, dass, wo auch immer bestimmte rabbinische Entscheidungen bezüglich dieser verbotenen Mischung nicht durch dieses biblische Gebot allein bewiesen werden konnten, zusätzliche Verse aus der Schrift als biblische Beweistexte angeführt wurden.

Viele rabbinische Texte befassen sich gewissenhaft mit der problematischen Verknüpfung des biblischen Gebotes mit der rabbinischen Praxis der Trennung von

Fleisch und Milch. In diesen Texten wird hinterfragt, warum ist es verboten diese Speisen zu essen, wenn in der Schrift doch lediglich vom Kochen die Rede wird. Warum ist jegliche Milch verboten, wenn in der Schrift von Muttermilch die Rede ist? Und warum sind andere Tiere verboten, wenn die Schriftstelle ein Böcklein erwähnt? Solche Fragen ergeben sich aus einer genauen, kritischen Lektüre der Schriften, welcher die Rabbiner bei ihren Bemühungen um die Bestimmung des Gesetzes nachgingen. Auf einer weiteren Ebene der Abhängigkeit vom biblischen Text war es jedoch erforderlich jegliche autoritative Antwort auf diese Fragen, mit einer ähnlich engen und kritischen Lektüre derselben Schriftstelle zu bekräftigen.

Im Verlauf der Dissertation wird gezeigt, dass es die Schrift war, die in den frühen rabbinischen Diskussionen über Fleisch und Milch die Inspiration, die Gründe für Einwände, aber vor allem die letztendlich autoritativen Antworten lieferte.

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NOTE ON CONVENTIONS

In the transliteration of Hebrew and Aramaic words I have used a system whereby each letter is represented by a single letter or symbol in the Roman alphabet. I have likewise indicated and differentiated long vowels from short ones. However, I have not represented Hebrew letters that are softened or aspirated in their pronunciation, but rather transliterated these words as they are written (for example, *ḥalab* rather than *ḥalav*).

I have made exceptions to these rules for terms or titles of works that are well known and have been adopted into English (I therefore opt for Mishnah rather than *mišnāh*). The same exception applies to certain proper nouns, such as the names of individuals. I hope that this system will offer the reader optimal clarity in all cases. I have also chosen consistently to use certain key terms in Hebrew rather than English, including Eretz Israel, Bavli and Yerushalmi (for the Land of Israel, the Babylonian Talmud and the Jerusalem Talmud respectively).

Finally, throughout this thesis I have referred to ‘his’ mother’s milk rather than using the more conventional translation of ‘its’. My primary reason for this is as follows: animals (like humans) have a biological sex, and the Hebrew language requires that this be represented in the choice of either the male or female noun (having no equivalent of ‘it’). Indeed, as we shall see, the rabbis do occasionally speak of a female kid where such an example is relevant to their discussion. The predominant use of the male noun is linguistically default, but I would prefer repeatedly to refer to male kids than reduce them all to objects by using the English term ‘it’.

INTRODUCTION

While conducting research for my Master's dissertation several years ago I came across an interesting silence from my texts. My project addressed the dietary laws and practices of the various Jewish groups of the late Second Temple period (from roughly the second century BCE to the first century CE), a time when many Jews lived in a hellenised world. The threat of assimilation inspired certain groups to preserve their identity through consuming only food that was prepared by Jews and eaten in their company. Among the many texts that I read and analysed in this context I found none that made reference to the Jewish practice of separating meat and milk. This silence led me to investigate further, and I discovered that the earliest known reference to this practice was found in the Mishnah, a rabbinic text redacted at around the end of the second century CE. Knowing that the practice of separating meat and milk was founded on the biblical law, *you shall not cook a kid in his mother's milk*,¹ I also began to look into the early biblical translations, midrashic literature and talmudic discussions. With these preliminary materials in hand I thus set out to conduct my doctoral research on the earliest rabbinic discussions of meat and milk. And in working with these materials I was particularly curious to discover how the early rabbis could have interpreted this biblical law so differently from the generations that came before them.

In analysing and presenting diverse textual materials my thesis thus sits between a number of different fields, including rabbinic, Second Temple and biblical studies. Given the nature of the subject matter, it could also be categorised as food studies (a field which is interdisciplinary by its very nature). Indeed, I initially expected this research topic to

¹ See Exodus 23:19 and 34:26 and Deuteronomy 14:21.

draw me into the fields of food and religion and, more specifically, of historical Jewish dietary practice (in line with the work of scholars such as Jordan Rosenblum and David Freidenreich). However, in analysing the texts I discovered that a great part of the rabbis' discussions (and the part I found most interesting) rather concerned the biblical justifications for the practice of separating meat and milk. Thus I found myself dealing not so much with the matter of dietary practice, but rather with the scriptural interpretations that gave authority to this practice. In this sense, this thesis touches upon the topics of food, dietary laws and practices and the biblical concept of the compassionate treatment of animals, but over and above this it is concerned with illustrating how the early rabbis employed eisegesis, reading their own practices and opinions back into the Bible. Unlike scholars such as Mary Douglas,² who seek to understand the origins of a certain religious dietary practice, I seek to illustrate how a certain dietary practice was made religious through a process of reading it back into scripture.

The custom of cooking a kid in his mother's milk is not known in the context of the ancient or late antique near east. In this sense, we know little about the practice described so specifically in the biblical prohibition and have no indication that Jews in the Greco-Roman period elaborated upon the interpretation of this prohibition because it resembled one they witnessed among their non-Jewish neighbours. However, it should be noted that the cooking of a kid in milk is a ritual that might well have been practised by ancient or late antique near eastern peoples; both settled and nomadic communities raise goats, and a mother goat has very plentiful milk when her kid is born. As I will show in Chapter One, there is even evidence today that such a dish might once have been prepared in the ancient near east.

The custom of separating meat and milk is likewise unknown in the ancient and late antique near east until it first appears in rabbinic literature. However, as David Kraemer

² See, for example, Mary Douglas, 'The Abominations of Leviticus', in *Purity and Danger: An Analysis of the Concepts of Pollution and Taboo*.

has remarked, it is a custom practised by other societies, including certain east African tribes such as the Kipsigi, Nandi and Massai peoples.³ In such contexts milk and meat are kept separate because mixing them crosses the boundaries of life and death, female and male, everyday and celebratory. In this light, we might also suggest that the early rabbis initially separated milk and meat in order to maintain these distinct boundaries. Furthermore, the separation of these foods may have occurred organically: while meat was associated with the Temple, milk and milk products were considered ordinary, non-Temple foods that were not used as offerings. As Kraemer notes, the Talmud Bavli (bBaba Batra 60b) even suggests symbolically abstaining from meat in response to the loss of the Temple.⁴ Such a general categorisation of foods may well have laid the foundation stones for a more nuanced separation. However, given the pre-Mishnaic textual silence on the subject of meat and milk, we must assume that the practice of *actively* separating the two categories - whatever its origins - was initially one limited to the small social circles of the early rabbis.

In my opinion the first rabbis to practice this custom did not do so purely on the basis of a pre-existing tradition or in imitation of any other people, but rather because they read and understood the commandment *you shall not cook a kid in his mother's milk* to this effect. It is important to remember that the first Jewish social group to implement this practice was characterised by its close relationship with scripture. This relationship ultimately became definitive of rabbinic Judaism because the Temple ceased to be a central element of religious practice after its destruction in 70 CE. However, the earliest texts that discuss separating meat and milk give us no indication as to *why* the rabbis read the commandment in this way. We may speculate that it was a method of enacting the commandment in their daily lives, or that it evolved through the implementation of

³ David Kraemer, *Jewish Eating and Identity Through the Ages*, p. 46.

⁴ *Ibid.* p. 49.

rabbinic fences around the law (protective measures that ensured the commandment could not accidentally be transgressed). In my opinion the latter reason is the most likely explanation. Nonetheless, in reading the texts we find that the discussions of separating meat and milk are concerned with two subject areas: the correct method of separating these two foodstuffs and scriptural justification for the practice.

Meat, milk and the kosher kitchen

Although Jewish dietary law forbids the consumption of numerous species of animal (most famously the pig), one of its most defining characteristics is undoubtedly the requirement to separate all meat and poultry from milk and dairy products. This means that no form of meat may be consumed at the same time as milk, butter, cheese, yoghurt, cream or any other milk derivative. This requirement alone has surely had the most profound effect on Jewish cuisines worldwide, dictating cooking fats and specific combinations of ingredients, as well as inspiring Jewish variations on regional specialities and creative non-dairy desserts that may be eaten after a meal of meat. It has likewise necessitated that the kosher kitchen today have two sinks and two sets of cutlery, crockery and cooking pans, one for meat and another for milk. Naomi Alderman beautifully describes the natural and instinctive rhythm of the Orthodox kosher kitchen in her novel, *Disobedience*:

The wordless order of the kitchen, the separation of meat and milk which was not forced but seemed to emerge naturally from each utensil. Of course, each item seemed to say, meat will be cooked in the red pots, and dairy will be cooked in the

blue. It is natural, in the same way that trees remain rooted in one spot, that water runs downhill, that the walls of a building do not dance.⁵

And as life revolves around meals, so meals revolve around this Jewish dietary practice, which requires attentiveness and careful planning, especially as several hours (typically six) must elapse between eating meat and then consuming milk or milk products. Although the precise laws of this practice have been developed over centuries, the Talmud Bavli illustrates that this custom was already practised at the time of its redaction (perhaps as late as the seventh century CE). It states,

Mar 'Ukba said, In this matter I am vinegar, the son of wine, when compared with my father. For if my father were to eat meat now he would not eat cheese until tomorrow, at this time. But even though I don't eat it in this meal, I do eat it in the next meal.⁶

The waiting time between dairy and meat is considerably shorter - indeed it may not be required at all. Many Jews symbolically separate the two food groups by eating another food (which is neither meat nor dairy and does not stick to the mouth), then rinsing the mouth or drinking water and washing the hands. Where a waiting time is also required it is typically only half an hour or an hour.⁷

It should be noted here that the restrictions governing waiting times between meat and dairy and separating all kitchen items according to their category are ones that (for the most part) post-date the Talmud Bavli quite considerably. As much as the literature from

⁵ Naomi Alderman, *Disobedience*, p. 44.

⁶ bHullin 105a. Translation my own.

⁷ The only exception to this rule is the case of eating meat after hard, aged cheese. Because of the strong taste of such cheeses a waiting time of six hours is required before the consumption of meat.

the Mishnah to the Bavli is concerned with establishing the initial laws of meat and milk and providing their justification through biblical verses, Jewish texts from the following centuries - and from diverse geographical regions - indicate that with the widespread application of these laws other questions arose and further restrictions were imposed. Much halakhic (religious legal) literature from the medieval and early modern periods is concerned with the correct ways in which to separate meals of meat and meals of milk: in such instances the questions that arise concern the correct methods of separating foods (by rinsing or wiping the mouth) and the matter of waiting times between one food and another.

As David Kraemer has shown, both the ninth century *Halakhot Gedolot* (Laws of Blessings) and the work of the twelfth century French sage Rabbenu Tam indicate that washing the hands and wiping the mouth was initially considered sufficient between meat and dairy - waiting between the two categories was only necessary if one could not wash and wipe.⁸ Furthermore, 'waiting' in such circumstances could simply imply beginning a new meal: clearing the table after meat and setting it afresh in order to consume dairy. Writing in the eleventh century, Rabbi Isaac Alfasi, proposes waiting between one category of food another, but without any specific guidelines or timeframes.⁹ The customary practices of washing and wiping between dairy and meat and waiting six hours between meat and dairy were first established by Maimonides, writing in his *Mishneh Torah* in the twelfth century.¹⁰

The question of separating all kitchen items into meat and dairy categories belongs to yet a latter stage of the development of the laws of meat and milk. One passage of the

⁸ Laws of Blessings, Ch. 6. See David Kraemer, *Jewish Eating and Identity Through the Ages*, pp. 87-88.

⁹ David Kraemer, *Jewish Eating and Identity Through the Ages*, p. 88.

¹⁰ Forbidden Foods, Ch. 9. See David Kraemer, *Jewish Eating and Identity Through the Ages* pp. 88-89. Maimonides' reasoning for waiting six hours between meat and dairy is that meat remains between the teeth and cannot be removed by wiping.

Bavli (which itself is taken from the Tosefta) prohibits the cooking of milk in a pot that has just been used to cook meat, the primary concern being the transfer of tastes.¹¹ Writing in the eleventh century *Sefer Ha'oreh*, the Talmudic commentator Rashi forbids the consumption of milk with spoons that were used to eat hot meat, unless they have been first washed in boiling water.¹² Both Maimonides and Joseph Caro add nothing to the Talmudic prohibition given above in their own codifications of Jewish law and do not attempt to expand the ruling. Indeed, it appears that the first items to be kept distinct were cooking pots - the separation of bowls and other kitchen items into meat and milk categories took place as part of a secondary stage.

In 1530 Antonius Margaritha, a Jewish convert to Christianity in Bavaria published a book on Judaism, in which he gives a detailed account of the ways in which Jews separate all cooking pans, crockery, cutlery and utensils according to their category (meat/milk).¹³ While this work reflects only the context with which Margaritha was familiar, by the eighteenth century or so the custom of separating the kitchen into distinct categories was widely known and practised. The early rabbinic materials I will discuss in this thesis thus present the beginnings of a halakhic development that would continue to expand over the course of the following centuries. And while the early rabbis' biblical exegesis and legal rulings may initially have been confined to rabbinic circles in late antiquity, the practical legal developments that took place in the medieval period indicate that their concept of separating meat from milk gradually became a mainstream practice, albeit one that required further regulation.

¹¹ See tTerumot; bHullin 96a and 111b; bZevahim 96b.

¹² *Sefer Ha'oreh* 110. See David Kraemer, *Jewish Eating and Identity Through the Ages*, p. 102.

¹³ See David Kraemer, *Jewish Eating and Identity Through the Ages*, pp. 109-110.

The biblical prohibition

As I stated above, according to rabbinic law the basis for the practice of separating meat and milk products lies in the biblical commandment *you shall not cook a kid in his mother's milk*, which is thrice repeated in the Torah. In the book of Exodus this commandment appears twice in the context of festivals and the practices they entail, while in Deuteronomy it follows certain laws regarding pure and impure animals. The second occurrence of the commandment in Exodus also follows warnings against idolatry and idolatrous practices, while in Deuteronomy the commandment is preceded by a statement emphasising the holiness of those who keep these laws in the eyes of YHWH. In this sense, we may suggest that the scriptural commandment itself belongs to the biblical themes of cultic festivals (both Israelite and non-Israelite), idolatry, holiness, and pure and impure food.

In this light, one might wonder how this biblical commandment initially came to be understood not merely as a prohibition of cooking of a kid in his mother's milk in an ancient festive context, but rather as a requirement to separate all meat and all milk in the context of secular eating. Furthermore, we must also ask ourselves how the rabbis used such a highly specific commandment to justify so broad a prohibition as the mixing of meat and milk. The answers to these questions lie in early rabbinic scriptural interpretation and require the careful unravelling of the systems of rabbinic law - separating out each ruling and unpicking strand upon strand of biblical exegesis.

It is helpful to begin by looking at the various stages of interpretation. As I remarked above, in my view the rabbinic separation of meat and milk products was founded as a primary fence around the commandment forbidding the cooking of a kid in his mother's milk. According to the sources, this cannot have taken place before the destruction of the Second Temple in 70 CE, but must have been in effect among the earliest

rabbinic circles by the end of the second century, when the Mishnah was redacted. At a secondary stage the rabbis were required (perhaps within their own scholarly circles) to justify their fence and thus sought ways to anchor it in the rich and authoritative foundations of scripture. It is my intention to illustrate the numerous ways in which the rabbis achieved this secondary stage, using both the specific biblical prohibition and other biblical texts in the validation of their dietary practice.

I hope that this thesis will shed new light on a matter that has yet to be the object of much scholarly analysis. To the best of my knowledge, this is the first work of its kind, not only bringing together pre-rabbinic discussions of Jewish dietary practice but also gathering all the earliest rabbinic materials that discuss the laws of meat and milk. Furthermore, I hope to illustrate that the justification for the rabbinic custom of separating these two foodstuffs does not begin and end with the biblical commandment prohibiting cooking a kid in his mother's milk. Rather, I intend to illuminate the entire web of biblical interpretation that gave authority to this early understanding of that biblical commandment.

Overview of chapters

I will begin this thesis by addressing the question of separating meat and milk in the pre-rabbinic periods. In the first chapter I will analyse the central biblical commandment itself within its biblical context to attempt better to understand its original purpose and meaning. I will then turn to a number of post-biblical, Second Temple texts that discuss Jewish dietary laws. As we shall see, these texts appear to indicate that pre-rabbinic Jews did not practice the separation of all meat and milk products. The lack of discussion on this subject suggests that the practice was completely unknown to all the major Jewish communities of the Second Temple period (beyond the literal biblical prohibition of

cooking a kid in his mother's milk). Furthermore, even the biblical commandment itself receives little attention from pre-rabbinic authors, and thus appears to have been relatively insignificant to the majority of Jewish authors that were concerned with dietary law. As far as non-Jewish texts are concerned, I will also show that no non-Jewish authors appear to have had knowledge of a Jewish practice that entailed separating meat from milk.

My second chapter consists of analyses of the biblical commandment *you shall not cook a kid in his mother's milk* in the earliest biblical versions and translations. These works span the pre-rabbinic and rabbinic periods, but deserve to be discussed independently here as they offer us a number of insights into the early interpretation of this biblical commandment. As I will show below, there is great variation across the Greek, Samaritan, Syriac, Latin and Aramaic versions of the biblical text and many themes touched upon in these early translations and versions resurface in rabbinic texts, indicating that some early interpretations found their way into later materials. The focus of this chapter will be the Aramaic Targumim, which belong not only to the world of early biblical translation but also to the greater rabbinic corpus.

In Chapter Three I will present the commentary of the Mishnah and Tosefta on the subject of separating meat and milk, in each case found in tractate Hullin, chapter eight. As I will show, although these texts illustrate an abundance of rabbinic discussion and argumentation on this subject they also make little mention of the associations of this practice with the biblical commandment prohibiting cooking a kid in his mother's milk. These texts, the earliest rabbinic legal works, are primarily concerned with presenting concise rulings and opinions without extensive discussion (or indeed, at times, any discussion) of their scriptural authority. All manner of meat and milk combinations are brought to the table, but the biblical commandment forbidding cooking a kid in his mother's milk is mentioned only in passing.

In my fourth chapter I will address the relevant early halakhic Midrashim, focussing primarily on the Mekhilta d’Rabbi Ishmael and Sifre Devarim, which present rabbinic interpretations of the verse in Exodus and Deuteronomy respectively. Furthermore, these two texts may also offer examples of biblical interpretation from the schools of Rabbi Ishmael and Rabbi Akiva, which is of particular interest as it presents us with a fuller spectrum of interpretation for this verse and subject. Each text reveals its own methods of biblical exegesis, approaching the verse from different angles and with different intentions. To present a more complete picture, I will also analyse the various intertextual relationships that exist between the Mishnah, Tosefta, Mekhilta d’Rabbi Ishmael and Sifre Devarim. This will allow me to determine which themes are recurrent in each literary genre and which are recurrent in each rabbinic school of thought. What is most striking about the halakhic Midrashim is their creative employment of scripture: these texts illustrate the earliest examples of a need to anchor the (now firmly established) practice of separating meat and milk in verses of scripture, however seemingly unrelated they might be.

In my fifth and final chapter I will analyse relevant texts from the Talmud Yerushalmi and Talmud Bavli, which will allow me both to follow the development of earlier biblical interpretations and to present new interpretations that have not been seen in previous texts. As we shall see, the Talmud Yerushalmi scarcely mentions the biblical commandment forbidding cooking a kid in his mother’s milk (and therefore the prohibition of mixing meat and milk products). This is primary because the Yerushalmi as we know it contains no tractate Hullin, and thus does not expand on the major mishnaic discussion of meat and milk. The Talmud Bavli, however, contains a great deal of discussion and debate on this theme. I will focus on the passages of the Bavli that relate specifically to biblical interpretation and that offer scriptural justification for any given ruling. These passages largely use the prohibition of cooking a kid in his mother’s milk in their arguments, though the authors of the Bavli, like those of the halakhic Midrashim, also

use other scriptural passages to this effect and are highly creative in their biblical interpretations.

Methodology

In writing and researching this thesis I have attempted to gather all the materials that illustrate the earliest connections between the practice of separating meat and milk and its scriptural authority. As this is a text based study - concerned less with historicity and more with the history of ideas - I have not relied on any archeological findings nor made much study of texts or other data that might yield information on the practical implications of the historical separation of meat and milk. My focus here is rather on the way in which the authors of early rabbinic literature present the separation of meat and milk in relation to its biblical justification.

The earliest stage of this process has been a thorough analysis of the historical context of this phenomenon, using both Jewish and non-Jewish literature to paint a picture of pre-rabbinic descriptions of Jewish dietary law as well as of the biblical commandment prohibiting cooking a kid in his mother's milk. In so doing, I have aimed to cover all the relevant literary sources and provide a good overview of the pre-rabbinic attitudes to this subject, illustrating that no custom of separating meat and milk was known or discussed in this period.

The second stage has been the identification of all the relevant early rabbinic materials that discuss the question of separating meat and milk (though not all of them give us much indication of its detailed connection to scripture). In order to work with a manageable body of texts and timeframe, I have analysed only rabbinic literature up to and including the Talmud Bavli and have not discussed rabbinic materials beyond this point at any length. However, this has given me abundant material, not only geographically

spanning both Eretz Israel and Babylonia but also providing me with texts of numerous literary genres.

In introducing my numerous rabbinic texts I have begun by giving a description of the work in each case, and also attempted to provide each one with further context by explaining its intertextual relationships. Given both the highly edited nature of rabbinic literature and its beginnings in orality, we cannot always hope to provide a clear chronological outline for the development of texts and genres. Rather, as I shall discuss in the main body of the thesis, we may often produce more accurate results in attempting to outline the chronology of an individual tradition, noting how it has been subject to extensive expansion or else edited and condensed from one text to another.

In this sense, I have used my materials to piece together the historical development of ideas, and have indicated where I believe a tradition is particularly early or else appears to have undergone very late editing. Furthermore, I hope to show the reader how the scriptural interpretations associated with meat and milk become more sophisticated and intricate as the tradition develops, and how what constitutes biblical exegesis in one rabbinic context is considered lacking in biblical authority in another.

CHAPTER ONE

‘You shall not cook a kid’: biblical law and Second Temple practice

In this section I will analyse the biblical commandment on which the prohibition of mixing meat and milk is based. This will allow me to gain a better perspective on its various later interpretations and provide me with a fuller background for this particular commandment. I will then address the question of meat and milk separation in the Second Temple period, surveying a number of post-biblical writings that discuss food and eating practices, including the texts of the Qumran community. I will likewise discuss the commentary of the late Second Temple period authors Philo and Josephus, noting whether they mention either the practice of separating meat and milk or the commandment that forbids cooking a kid in his mother’s milk. I will then finally look at the New Testament, which offers much detail of Jewish daily life in the Second Temple period, and also the writings of non-Jewish Latin and Greek authors that deal specifically with Jewish dietary practices. In the course of this chapter it will be shown that the question of separating meat and milk does not appear to have been discussed in the pre-rabbinic period and, furthermore, that in certain cases the biblical commandment that forbids cooking a kid in his mother’s milk was specifically interpreted in an alternate way that had different implications.

1.1 The commandment in its biblical context

The prohibition of mixing meat and milk products appears in its earliest form in the commandment given in Deuteronomy 14:21 and Exodus 23:19 and 34:26: *you shall not cook a kid in his mother’s milk* (לֹא תִבְשֵׁל גְדִי בַחֲלֵב אִמּוֹ). This central commandment, the primary source text for the authors of the halakhic rulings on meat and milk, uses the

emphatic Hebrew אֵל to form the negative imperative (rather than אַל) implying a forceful, weighty and permanent prohibition. For hundreds of years scholars have offered their own interpretations regarding the origins of this elusive commandment, variously stating that it should be read in line with other ‘compassions laws’ of the Hebrew Bible, as a rejection of hybrid concepts, as a warning against idolatrous practice, or else as a text that must be readdressed and re-understood through the minor alterations of vowels or rereading of certain prepositions. These various explanations and interpretations will be expanded upon below.

The theory that this commandment should be read as a ‘compassion law’ was initially proposed by Philo of Alexandria, a Jewish philosopher of the first century CE, though it has been widely adopted by other scholars, such as Andrew Lang.¹⁴ The Torah contains various laws that appear to enforce the (relatively) compassionate treatment of animals, especially as concerns the relationship between mother and young. One such law, which appears in Exodus, states that the firstborn of a cow or sheep should remain with his mother for seven days before being slaughtered in sacrifice to YHWH.¹⁵ This sentiment is also expressed in Leviticus, in which the law extends to include the first born of a cow, sheep or goat and likewise states that the young animal and his mother should not be slaughtered on the same day.¹⁶

Another such law forbids one to take a mother bird from her nest alongside her eggs or chicks, stating that only the young should be taken while the mother should go free.¹⁷ In his discussion of the biblical compassion laws, Lang also includes the requirement to raise the animal of one’s enemy should he fall under one’s burden and the prohibition of muzzling an ox while he treads the corn. Laws of this nature appear to encourage one to be

¹⁴ Andrew Lang, ‘Seething the Kid’, pp. 180-182.

¹⁵ Exodus 22:29.

¹⁶ Leviticus 22:27-28.

¹⁷ Deuteronomy 22:6-7.

respectful of animal life and especially of the relationship between mother and young. According to G. Lansing, who also reads this commandment in line with the other compassion laws of the Bible, the idea of cooking in mother's milk may even have been used as a proverb indicating an act of a very cruel nature.¹⁸

As we shall see in more detail later in the chapter, Philo believes that the prohibition of cooking in mother's milk falls into the category of compassion law. However, it must be noted that the Bible creates no such category. These 'compassion laws' are distributed across the Torah, and according to the theory that attributes four sources to the Torah, they were not composed by a single author intent on protecting the welfare of young animals and their mothers. Furthermore, the prohibition of cooking a kid in his mother's milk also presents one major difference from the other 'compassion laws' concerning the consumption of a mother animal and her young: milking a mother animal does not deprive her of life. However, with the minor alteration of one vowel, our biblical commandment may fall more closely in line with the laws discussed above.

One theory, proposed by scholars such as Jack M. Sasson, suggests that we read חלב not as milk (*ḥālāb*) but rather fat (*ḥēleb*), thus altering the meaning and implication of the commandment.¹⁹ Cooking a kid in his mother's fat would, of course, necessitate the simultaneous death of both animals, thus contradicting one of the compassion laws discussed above. However, there is no textual evidence that *ḥēleb* was an original or common reading, and the suggestion is purely speculative. Indeed, as I will show in Chapter Five, in the Talmud Bavli Rav Aha, the son of Rav Ika uses the example of reading 'fat' for 'milk' as a demonstration of the authority of the received reading.²⁰ According to this rule, although we could theoretically read 'fat,' we know from tradition that the word is

¹⁸ G. Lansing, 'A Kid in Its Mother's Milk', pp. 19-20. Writing in 1883, Lansing made this claim on the basis of hearing an Egyptian Arabic proverb to the same effect.

¹⁹ Jack M. Sasson, 'Should Cheeseburgers Be Kosher?', pp. 41-51.

²⁰ bSanhedrin 4a.

to be read as ‘milk’. Further to this, the Masoretes appear to have been in no doubt about vocalising the written text in favour of ‘milk’ rather than ‘fat’. In the context of the thrice repeated biblical prohibition the word *ḥālāb* appears each time in the construct form *ḥalēb*. All other biblical occurrences of the term *ḥalēb* are likewise construct forms of the noun, pertaining in each case to milk (*ḥālāb*) rather than fat (*ḥēleb*).²¹

As far as textual witnesses are concerned, the Septuagint (a Greek translation of the Torah composed in Alexandria in the first centuries BCE) translates this term as *εὐγαλακτι* (in milk) which presents a strong argument for a relatively early Hebrew reading to this effect. Likewise, the Samaritan Bible (an early version of which was in circulation in the late Second Temple period) vowels the Hebrew *כלב* as ‘milk’ rather than ‘fat’. As Stefan Schorch observes, the Samaritan Bible provides us with a vocalised Hebrew text that developed separately from the Masoretic tradition and thus provides independent support for reading ‘milk’.²² Beyond textual witnesses, however, common sense dictates that a substance discussed in the context of a young animal and his mother would be milk rather than fat.

Another rereading of our biblical commandment presents us with a different interpretation of its meaning. As Schorch outlines, various scholars have proposed that we read *אמו ברחל* as ‘at his mother’s milk’ (rather than *in*), which would give the fuller meaning of ‘you shall not cook a kid that is still suckling’.²³ However, as Schorch observes, firstborn kids, lambs and calves are required by the Covenant Code of Exodus (as mentioned above) to be brought to the Temple for slaughter eight days after birth. These would certainly be kids ‘at their mother’s milk’. For Schorch, a distinction must be made

²¹ See Deuteronomy 32:14, Isaiah 60:16 and Proverbs 27:27.

²² Stefan Schorch, “A Young Goat in Its Mother’s Milk”? Understanding an Ancient Prohibition’, pp. 116-130.

²³ Stefan Schorch, “A Young Goat in Its Mother’s Milk”? Understanding an Ancient Prohibition’ p. 123.

between sacrifices performed for YHWH and animals that are slaughtered to be eaten. Given that our biblical commandment appears to belong to the realms of dietary law and festal food, it perhaps cannot be judged in parallel with the rules for consecrated animals and sacrifice. Read in isolation, this might thus be a compelling argument for the ancient Israelite origins of this commandment. However, it must be noted that the text was never translated as such by the ancient textual witnesses, nor has this particular interpretation appeared anywhere across the web of biblical traditions. We thus have no evidence that the commandment was ever read (or translated) with this meaning.

Philip Guillaume finds Schorch's argument unconvincing, and rather considers much of his findings to support his own argument, in which the kid and milk form the basic components of cheesemaking.²⁴ Guillaume reminds us that milk in the ancient near east had to be rapidly turned to cheese so that it did not spoil. This process required two components: rennet (from the stomach of a young, suckling animal) and boiling milk. Furthermore, as Guillaume notes, the connection of our biblical commandment with the prohibition of eating carrion also makes sense in this context, forbidding the use of rennet from carrion for the purpose of curdling cheese. Although I am not convinced that the original meaning of the biblical commandment was as Guillaume suggests, it certainly influenced the matter of cheesemaking in late antiquity. The rabbis of the Mishnah and Talmudim were wary of rennet largely because of its suspect origins, not knowing if it had come from carrion or from animals slaughtered by non-Jews.

Another scholarly interpretation of the biblical commandment reconsiders the very substances that form the forbidden mixture. Alan Cooper argues that the ancient Israelites may have considered mother's milk to be formed from clarified blood.²⁵ This theory was proposed by Aristotle, among other ancient Near Eastern authors. According to this

²⁴ Philip Guillaume, "Binding Sucks": A Response to Stefan Schorch', pp. 335-337.

²⁵ Alan Cooper, 'Once Again Seething A Kid In Its Mother's Milk', pp. 133-143.

understanding, both milk and offspring would be considered to be formed of the same substance (menstrual blood) and eating such a combination would likewise transgress a particular prohibition, which forbids eating meat with blood.²⁶ Cooper cites the twelfth century Midrash *Leqaḥ Tōb*, in which this explanation is given explicitly, to further illustrate his point.

It says, ‘you must not consume the life with the flesh’ [Deuteronomy 12:23] to include meat in milk, which is forbidden for consumption because the blood is clarified and becomes milk.²⁷

The difficulty, in my opinion, in suggesting that this was a widely accepted concept among the ancient Israelite community is that it would surely have made all milk and dairy products highly controversial foods. The consumption of blood is expressly prohibited in the Torah, and one would thus expect milk and other dairy foods to be avoided if they were considered to be a product of blood. For this reason, while I would not dismiss the theory entirely, I am unconvinced of its popular acceptance by the Israelite community in antiquity. Furthermore, if the original meaning of the commandment did concern a prohibited mixing with clarified blood, surely our biblical witnesses, commentaries and traditions would not be silent on the subject until Midrash *Leqaḥ Tōb*.

Yet another widely discussed explanation for the prohibition, closely related to that mentioned above, is that of the forbidden hybrid combination. In his discussion of this subject, Robert Alter cites Jean Soler’s examples of biblically forbidden hybrids, including animals that fall between categories, woven fabrics made of both linen and wool, and

²⁶ See Deuteronomy 12:23.

²⁷ Alan Cooper, ‘Once Again Seething A Kid In Its Mother’s Milk’, p.140. (Midrash *Leqaḥ Tōb* on Exodus 23:19, ed. S. Buber, p. 170.)

human transvestites.²⁸ As Alter states, this sets Hebrew literature apart from its Greek counterpart, which ‘revels in monstrosity’.²⁹ Furthermore, for Alter, the real break between Judaism and Christianity was a response to the very idea of a God-man: appealing to the Greek mind, but abhorrent to the Hebrew.

In the case of our biblical commandment, the hybrid combination would be that of life (milk) and death (meat), and perhaps even of female (milk) and male (slaughter).³⁰ In my opinion, the difficulty here is that the Torah does not tend to speak in code. The laws by which the Israelites are commanded to live are generally expressed in plain language (though their later interpretation is often far more creative). For this reason, if this theory were correct we would perhaps expect the Torah to forbid the mixing of all meat and milk, and to further state that it is life with death (or some such formula). However, given that this is not the case, and the biblical commandment is rather highly specific, singling out one species of young animal and forbidding the Israelites to cook it in its own mother’s milk, I am inclined to dismiss the idea that this theory uncovers an original meaning.

According to Max Radin, the commandment may be connected to the Greek Orphic ritual, in which a kid may have been cooked in milk accompanied by the saying, ‘a god hast thou become instead of mortal; a kid, thou didst fall into the milk’.³¹ Radin further connects the commandment with the god Dionysus, whose title was Eriphos (the kid), and who was likewise worshipped in the south of Eretz Israel. While this explanation may appear to connect various elements of the biblical commandment in its ancient context, we should perhaps be wary of assuming that this was indeed the exact ritual on which the prohibition was based, not least because it requires a problematic chronology whereby the Torah is influenced by Greek ritual in Eretz Israel. Furthermore, this explanation does not

²⁸ Robert Alter, ‘A New Theory of Kashrut’, www.commentarymagazine.com (August 1979).

²⁹ *Ibid.*

³⁰ Irving Welfeld, ‘You Shall Not Boil A Kid In Its Mother’s Milk: Beyond Exodus 23:19’, p. 6.

³¹ Max Radin, ‘The Kid and Its Mother’s Milk’, p. 215.

account for the specific prohibition of the *mother's* milk. However, there is a strong argument for the claim that it was based on some form of non-Israelite ritual in the ancient near east.

Although we have no textual or archaeological evidence, I propose that we rather turn to the theory suggested by Maimonides, a Jewish author who lived and wrote in the twelfth century. According to Maimonides, this biblical commandment relates to an ancient cultic practice from which the Israelites were anxious to refrain. He gives the following explanation in his *Guide For The Perplexed*.

As for the prohibition of meat in milk...in my opinion it also is reminiscent of idolatry: perhaps they would eat it this way as part of their service, or on one of their festivals. I find support for this view in the fact that the Law mentions the prohibition for the first two times after the festival commandment, 'Three times a year all your males shall appear before the Sovereign, the Lord', as if to say, 'When you come to the house of YHWH your God on your festivals, do not boil your food there the way the heathen used to do'.³²

Despite the lack of evidence, this theory appears to me to be the most plausible. If we follow Maimonides' suggestion, we may assume that the Torah is speaking literally and warning against a common cultic act that was no doubt associated in the Israelite mind with idolatrous practices. As Maimonides states in the quotation given above, this theory is strengthened by the recognition that the commandment appears twice in the context of festivals, and specifically in the context of bringing the first-fruits to the Temple. It may be that a particular non-Israelite festival made a cultic offering by slaughtering a kid and

³² Trans. Alan Cooper, 'Once Again Seething A Kid In Its Mother's Milk', p. 129.

cooking him in the milk of his mother. The Torah thus reminds the Israelites not to make their offerings in this way.

Further to this, to this day there exists a popular near eastern dish known in Arabic as *laban ummu* (his mother's milk), made by cooking lamb in yoghurt. Although we cannot hope to trace the origins of popular cookery, it perhaps appears too great a coincidence for the dish to be called by such a name if it bears no relation to the mixture prohibited to the Israelites. I would thus propose that *laban ummu* is a distant relative of the *ḥalab immo* referred to in the Bible, having passed through numerous translations of name, and alterations of recipe and context.

This explanation for the existence of our biblical commandment may well go hand in hand with the notion of abhorrent hybrid mixtures. The cultic sacrificial mixture of kid meat and boiled milk may have appeared especially disgusting to the ancient Israelites because it combined two different categories of food. Although it is rabbinic literature that truly expands upon the motif of categorisation, the foundations are laid out in the dietary laws (and other laws) of the Torah. It is not unreasonable to suggest that the ancient Israelites considered meat and milk to belong to different realms, in much the same way that substances such as wool and linen did. However, I do not imagine that the stricter rabbinic rules of meat and dairy separation were ever put into practice in this period. As we shall see below,³³ the biblical story of Abraham and the visiting strangers (Genesis 18:1-8) serves here to reinforce the notion that the combination of dishes of meat and milk was not taboo for the authors and redactors of the Torah.

³³ Translation based on the New Revised Standard Version. Unless otherwise stated, all translations from the Hebrew Bible, Apocrypha and New Testament are based on this version.

YHWH appeared to him [Abraham] by the oaks of Mamre, as he sat at the entrance of his tent in the heat of the day. He looked up and saw three men standing near him. When he saw them, he ran from the tent entrance to meet them, and bowed down to the ground. He said, 'My lord, if I find favour with you, do not pass by your servant. Let a little water be brought, and wash your feet, and rest yourselves under the tree. Let me bring a little bread, that you may refresh yourselves, and after that you may pass on, since you have come to your servant.' So they said, 'Do as you have said.' And Abraham hastened into the tent to Sarah, and said, 'Make ready quickly three measures of choice flour, knead it, and make cakes.' Abraham ran to the herd, and took a calf, tender and good, and gave it to the servant, who hastened to prepare it. Then he took curds and milk and the calf that he had prepared, and set it before them; and he stood by them under the tree while they ate.

וַיֵּרָא אֵלָיו ה' בְּאֵלְנֵי מַמְרֵא וְהוּא יוֹשֵׁב בְּפֶתַח הָאֹהֶל
כַּחַם הַיּוֹם: שָׂא עֵינָיו וַיֵּרָא וְהִנֵּה שְׁלֹשָׁה אַנְשִׁים
נֹצְבִים עָלָיו וַיֵּרָא וַיִּרְץ לִקְרֹאתָם מִפֶּתַח הָאֹהֶל
וַיִּשְׁתַּחוּ אַרְצָה: וַיֹּאמֶר אֲדֹנָי אִם־נָא מְצָאתִי חֵן
בְּעֵינֶיךָ אֲלֹנָא תֵעָבֵר מֵעַל עַבְדְּךָ: יִקַּח־נָא מֵעֹטְמִים
וּרְחֹצוּ רַגְלֵיכֶם וְהִשְׁעֲנוּ תַּחַת הָעֵץ: אִקְחָה פַת־לֶחֶם
וְסֻעֵדוּ לַבָּנִים אַחַר תֵּעָבְרוּ כִי־עַל־כֵּן עֲבַרְתֶּם
עַל־עַבְדְּכֶם וַיֹּאמְרוּ כֹּן תַעֲשֶׂה כְּאֲשֶׁר דִּבַּרְתָּ: וַיִּמְהַר
אַבְרָהָם הָאֹהֶלָה אֶל־שָׂרָה וַיֹּאמֶר מְהֵרָא שְׁלֵשׁ סָאִים
קִמַח סֹלֶת לְוֹשִׁי וְעֹשֵׂי עֲגוֹת: וְאֶל־הַבָּקָר נָץ אַבְרָהָם
וַיִּקַּח בֹּרֶךְ־רַךְ וְטוֹב וַיִּתֵּן אֶל־הַנָּעַר וַיִּמְהַר לַעֲשׂוֹת
אֹתוֹ: וַיִּקַּח חֲמָאָה וְחֶלֶב וּבֹרֶךְ־הַבָּקָר אֲשֶׁר עָשָׂה וַיִּתֵּן
לַפְּנֵיהֶם וְהוּא־עֹמֵד עֲלֵיהֶם תַּחַת הָעֵץ וַיֹּאכְלוּ:

In this narrative Abraham is unexpectedly visited by three men. He offers them food and respite, and, when they consent, prepares them a lavish feast. Abraham instructs the servant to slaughter a calf and then serves this delicacy with curds and milk. In all his hospitality, Abraham offers a feast which is, of course, not kosher. Needless to say, this narrative almost certainly precedes any prohibition of mixing meat and milk foods, but it is interesting nonetheless to observe the casual manner in which these foods are laid out in this biblical story. It is especially poignant to note that it is a combination of calf and milk that is served, an unthinkable mixture for the authors of the Mishnah and other early rabbinic literature. This passage reinforces the idea that although the Bible contains a

specific commandment that forbids cooking a kid in his mother's milk, it has no problem with the general combination of meat and milk products.

1.2 Jewish literature of the Second Temple period

In this section I will discuss the question of separating meat and milk in Jewish Second Temple literature with a particular emphasis on the interpretation of the biblical commandment that forbids cooking a kid in his mother's milk. As we shall see from the texts cited below, it appears unlikely that the majority of Jews in the Second Temple period would have separated meat and dairy. Indeed, the texts make no explicit mention of this combination of foods nor offer any indication that their separation was a distinctive feature of Jewish dietary law.

The most characteristic feature of Second Temple dietary practice as described in Jewish literary sources was rather the development of a distinct, separate identity based on social eating habits. This was not related to food mixings, but rather to the religious identity of those cooking and eating. The question of meat and milk separation does not even arise in this context; non-Jewish food is forbidden for the simple matter that it is prepared and eaten by non-Jews (regardless of whether or not the foodstuffs themselves are permitted to Jews). 'Jewish food', in contrast, is prepared and eaten by Jews and consists only of ingredients permitted according to biblical law.³⁴

It should be noted that this social dietary restriction may not have been widely accepted by the general Jewish population, and may rather have been confined to specific Jewish groups, perhaps as a reaction to the gradual hellenisation of Jewish communities both in Eretz Israel and in the diaspora. The process of hellenisation (which began in 332 BCE, when the armies of Alexander the Great marched into Eretz Israel following the siege

³⁴ See Deuteronomy 14 and Leviticus 11 for full lists of permitted and prohibited species of animal.

of Tyre) was perceived by certain Jews as a threat of total assimilation and thus as the beginning of the loss of distinct Jewish identity. The following examples are taken from texts from the first and second centuries BCE, which clearly demonstrate this line of thinking.

The Book of Tobit presents the belief that God will reward righteousness, and likewise upholds as virtuous the preservation of authentic identity. The work may have been composed in the diaspora, and most likely in Aramaic.³⁵ In this text, the author begins by stating:

After I was carried away captive to Assyria and came as a captive to Nineveh, everyone of my kindred and my people ate the food of the Gentiles, but I kept myself from eating the food of the Gentiles. Because I was mindful of God with all my heart, the Most High gave me favour and good standing with Shalmaneser...³⁶

The Book of Daniel likewise presents the common theme that God protects the Jews who remain faithful to him and this work may also have originated in the eastern diaspora. In much the same way as the author of Tobit, Daniel states that he ‘resolved that he would not defile himself with the royal rations of food and wine’ in the household of the Babylonian king.³⁷ The Book of Judith tells the story of how Judith defeated the Assyrian general Holofernes. It was composed in Hebrew, possibly originating in the Persian period and being rewritten in a post-Maccabean context.³⁸ Judith similarly tells the Assyrian

³⁵ Among the manuscripts found at Qumran were four copies of the Book of Tobit in Aramaic and one in Hebrew. See G. W. E. Nickelsburg, ‘Stories of Biblical and Early Post-Biblical Times’, *Jewish Writings of the Second Temple Period* (ed. Michael Stone), p. 45.

³⁶ Tobit 1:10-13.

³⁷ Daniel 1:8.

³⁸ G. W. E. Nickelsburg, ‘Stories of Biblical and Early Post-Biblical Times’, *Jewish Writings of the Second Temple Period* (ed. Michael Stone), p. 51.

general that she cannot partake of his wine or delicacies, 'or it will be an offence'.³⁹ We thus see a pattern emerging, in which a character's piety is expressed (at least on one level) through abstention from non-Jewish food and drink. As a general rule, this piety is rewarded by God's salvation of the individual or community.

However, although these texts often state that non-Jewish food is offensive or defiling, they do not explain the grounds on which this view point is founded. The Greek translation of the Book of Esther contains additions to the text (which may originally have been composed in Hebrew) that bring this work into line with the other texts mentioned above. This version of Esther may have been intended for use in the celebration of Purim in Egypt, and the Septuagint attributes the composition of the additional passages to Lysimachus the son of Ptolemy, brought to Egypt in the fourth year of Ptolemy and Cleopatra (probably Ptolemy XII, and therefore 77 BCE).⁴⁰ These additions to the text make reference to the 'wine of libations' from which Esther has abstained and give us some indication that the very idea of non-Jewish food and drink was intertwined with notions of idolatry and idolatrous practices.⁴¹

This connection is stated explicitly in The Book of Joseph and Aseneth, which tells the story of Joseph's marriage to the daughter of an Egyptian priest. This text was likely composed in Egypt at the end of the first century BCE, though it is not clear whether it was intended for a Jewish or a non-Jewish audience.⁴² In this retelling of the biblical story Aseneth is explicitly said to be impure because she has eaten and drunk the food and drink

³⁹ Judith 12:2.

⁴⁰ G. W. E. Nickelsburg, 'The Bible Rewritten and Expanded', *Jewish Writings of the Second Temple Period* (ed. Michael Stone), p. 137-8.

⁴¹ Additions to the Book of Esther, 14:17. It should be noted that this is not a biblical phenomenon. Although obsessive in the matter of avoiding idolatry, the Bible has no apparent problem with Israelites consuming non-Israelite food (provided, of course, that it is not offered in sacrifice to other gods). On this subject see David Freidenreich, *Foreigners and their Food: Constructing Otherness in Jewish, Christian and Islamic Law*, p. 18.

⁴² G. W. E. Nickelsburg, 'Stories of Biblical and Early Post-Biblical Times', *Jewish Writings of the Second Temple Period* (ed. Michael Stone), p. 70-1.

of idolatry (and on these grounds Joseph refuses to kiss her!). After her conversion she eats the food of immortality, though it should be noted that both she and Joseph partake in the wedding feast together with her family (though only Aseneth has converted).

In the survey of late Second Temple texts seen above we have found no mention of prohibited mixings, or specifically of meat and milk separation. The authors of the texts mentioned above were primarily concerned with the preservation of a distinct, Jewish identity, but not one in which dietary practice was centred around the separation of meat and dairy. As Jordan Rosenblum observes, there are also texts from the late Second Temple period that offer an alternative view, and portray Jews as eating in the company of non-Jews without scruples.⁴³ One such example is given by Josephus, who states that Hyrcanus son of Joseph ben Tobias ate at the Ptolemaic court.⁴⁴ This example (and others like it) reinforce the idea that there were differing opinions regarding the status of non-Jewish food and non-Jewish table fellowship, and that the piety-minded Jews described above may have formed a small minority. Regardless, there is no indication that any group was concerned with meat and milk.

1.2.1 Qumran

Like the texts mentioned above, the Dead Sea Scrolls, which were composed by the Qumran community and date from the third century BCE to the first century CE, make no mention of separating meat and milk products, nor do they offer any discussion of the biblical prohibition of cooking a kid in his mother's milk. The Book of Jubilees, which may also have been authored by a member of the Qumran community, echoes the texts

⁴³ Jordan Rosenblum, *Food and Identity in Early Rabbinic Judaism*, pp. 41-43.

⁴⁴ *Antiquities* 12:160-236.

mentioned above in requiring Jews to separate from non-Jews in food and eating.⁴⁵ Jubilees constitutes a retelling of Genesis 1 to Exodus 14, containing halakhic commentaries on biblical stories that are strikingly similar to the *halakōt* of the Qumran community.⁴⁶ Like the texts discussed above, it was authored during the first or second centuries BCE and reflects an environment of hellenisation and its opposition. In one passage of Jubilees, Isaac offers advice to his son Jacob, stating,

Separate from the nations, and do not eat with them. Do not act as they do, and do not become their companion, for their actions are something that is impure, and all their ways are defiled and something abominable and detestable.⁴⁷

The Qumran community, or *yaḥad*, was undoubtedly highly concerned with impurity, and the ways in which it could be contracted through contact with impure people or substances. For this reason, new members of the community could not immediately eat at communal meals nor touch pots, plates or bowls.⁴⁸ This indicates a more developed concept of ‘insider’ and ‘outsider’ than we saw above, as the Qumran community also considered Jews to be ‘outsiders’ if they did not belong to their group. As I will discuss in more detail below, the Qumran *yaḥad* was not the only such community to exist during this period, but it was perhaps the most closed off to others, as well as being the only group to have specific leadership and organisational structure.⁴⁹

⁴⁵ See Gillian Feeley-Harnik, *The Lord's Table*, p. 41.

⁴⁶ G. W. E. Nickelsburg, ‘Stories of Biblical and Early Post-Biblical Times’, *Jewish Writings of the Second Temple Period* (ed. Michael Stone), pp. 97-100.

⁴⁷ Jubilees 22:16. Translation James C. Vanderkam, *The Book of Jubilees*, p. 131.

⁴⁸ Geza Vermes, *The Complete Dead Sea Scrolls in English*, p. 33.

⁴⁹ Steven Fraade, ‘Qumran Yahad and Rabbinic Hăbūrâ : A Comparison Reconsidered’, p. 446.

The Damascus Document, which contains rulings specific to the Qumran community, indicates that they were wary in all their dealings with non-Jews, claiming,

No man shall sell clean beasts or birds to the Gentiles lest they offer them in sacrifice. He shall refuse, with all his power, to sell them anything from his granary or wine-press...⁵⁰

This shows an even greater desire to avoid idolatry, as even the meat, grain and wine of the community are to be protected from use in idolatrous sacrifice. The very idea of consuming such things from a non-Jewish kitchen was, of course, entirely out of the question according to the rules of the Qumran community.

With regard to specific dietary practices, the Damascus Document states that certain foods are to be avoided or eaten in a specific manner:

No man shall defile himself by eating any live creature or creeping thing, from the larvae of bees to all creatures which creep in water. They shall eat no fish unless split alive and their blood poured out. And as for locusts, according to their various kinds they shall plunge them alive into fire or water, for this is what their nature requires.⁵¹

These requirements are founded in the biblical laws that prohibit eating live animals, creeping creatures, and blood, and permit the consumption of locusts. However, the text offers further details, which must be reflective of the Qumran interpretation of these biblical laws. We should therefore observe that the prohibition of cooking a kid in his

⁵⁰ Geza Vermes, *The Complete Dead Sea Scrolls in English*, p.141.

⁵¹ Geza Vermes, *The Complete Dead Sea Scrolls in English*, p.141.

mother's milk is not mentioned here, with or without an interpretation. Furthermore, the concept of separating meat and dairy does not appear to have been existent.

Only in one document, the *miqṣat ma'āseh hatōrāh*, do we have any mention of subjects related to our biblical commandment. This text makes reference to an animal sacrifice that non-Jews cook in a vessel and likewise mentions the broth that accompanies this sacrifice.⁵² The text later states that one should not slaughter the unborn child of a pregnant animal on the same day as the mother. This statement is not biblical, though it clearly echoes the sentiment of certain biblical passages discussed above regarding the sacrifice of a mother animal and her young. Interestingly, the statement contradicts rabbinic opinion, which claims that a foetus is considered a mother's limb until birth.⁵³ Although the Dead Sea Scrolls offer no outright discussion of the separation of meat and milk, they thus present two loose references to the related subject of forbidden sacrificial practices.

1.2.2 Philo

The Jewish Alexandrian philosopher Philo, who wrote in the early part of the first century CE, offers an interesting perspective on the relationship between the biblical commandment prohibiting the cooking of a kid in his mother's milk and the mixing of meat and dairy products. Philo was born to a prominent family in Alexandria and received extensive Greek education, including the study of philosophy. It is not known to what extent Philo was familiar with Hebrew, but we can be certain that he referred to the Septuagint in his exegeses of scripture, which he composed in Greek.⁵⁴ In one passage of

⁵² Geza Vermes, *The Complete Dead Sea Scrolls in English*, pp. 222-224.

⁵³ On this subject see Tal Ilan, *Massekhet Hullin*, p. 57.

⁵⁴ Peder Borgen, 'Philo of Alexandria', *Jewish Writings of the Second Temple Period* (ed. Michael Stone) p. 257.

his *On Virtues*, Philo gives a clear explanation for the biblical commandment, associating it with other such commandments that appear to display compassion.

For he [God] orders them not to separate an animal from its mother before it is weaned, whether it is a lamb or a kid or any other animal in their flocks. And he also commands them not to kill a mother and offspring on the same day. Now he bestows upon them lavishly when he says, ‘You shall not boil a lamb in its mother’s milk.’

For he deemed it to be wholly improper that the food meant for a living thing should become its seasoning and flavouring when it is slaughtered, and that while nature cared enough for its survival to rain down milk and arranged for it to be conveyed through the mother’s breasts as through channels, the unpleasantness of humankind would advance to such a point as to misuse the source of its life for the purpose of the consumption of the body it leaves behind.⁵⁵

For Philo, then, the very idea of boiling an animal in the foodstuff with which it was destined to be sustained and nourished is ‘improper’.⁵⁶ It crosses the boundaries of life and death and, as such, presents an inappropriate mixing. As we saw above, this explanation for the biblical commandment has been taken up by many scholars since it was proposed by Philo. It is quite possible that Philo (and his intellectual environment) was not alone in suggesting that this law was a matter of compassion. However, as he continues Philo offers no indication that he believed the commandment should be interpreted any further in its practical application. Indeed, as far as the practical interpretation of this commandment is concerned, Philo considers that one may uphold the commandment by fulfilling it literally:

⁵⁵ Walter T. Wilson (trans.), *On Virtues*, pp. 71-72.

⁵⁶ As we shall see in the next chapter, Philo refers specifically to a lamb here rather than a kid on the basis of the Septuagint text.

But if anyone thinks it fit to boil meat and milk, let it be done with no cruelty and without impiety. There are countless herds of animals everywhere, and each day they are milked by cowherds, goatherds and shepherds, whose largest source of income in tending their herds is milk, sometimes in liquid form and sometimes reduced and congealed into cheese. And since there is such abundance, anyone who boils the meat of lambs or kids or any other animal in its mother's milk exhibits a terrible unseemliness of manners, which have been severed from that passion that is most indispensable and most closely related to the rational soul, mercy.⁵⁷

This passage states that only the specific combination of a young animal and his mother's milk is forbidden, while the combination of milk and meat from animals that do not share the mother-young relationship poses no problem. Indeed, the 'abundance' of milk and milk products means that it is perfectly possible to consume such a combination of foods without needing to mix the milk and meat of mother and child. On a practical level, one could thus buy meat from one herd and milk from another, and run no risk of creating a prohibited mixing and transgressing the biblical commandment. It is interesting to note that Philo considers milk to have two forms: liquid and solid (as cheese). This will be highly relevant to the discussion in Chapter Three, in which we will observe that much of the early rabbinic discussion of meat and milk relates to cheese, and to forbidden combinations of cheese and meat.

1.2.3 Josephus

Unlike Philo, Josephus (who wrote in Eretz Israel in the first century CE) makes no explicit mention of the biblical prohibition of cooking a kid in his mother's milk, nor does he

⁵⁷ Walter T. Wilson (trans.), *On Virtues*, pp. 71-72.

mention any dietary practice that requires the separation of the two foodstuffs. Josephus was born to a priestly family, and lived during the years that led up to the Jewish revolt against Rome. He was well versed in both Greek learning and Jewish traditions, and even spent years studying first hand the intricacies of the various Jewish groups of his time. His works allow us to gain a broader insight into the pre-rabbinic interpretation of certain biblical dietary laws as well as shedding light on the dietary practices of Eretz Israel in this period.

In his *Antiquities of the Jews* (his longest work, dated to around the end of the first century CE) Josephus describes the compassion laws that we saw above: the biblical commandments that forbid the slaughter of a mother animal with her young and the sacrifice of a young animal before he is eight days old. He states,

The law forbids us to sacrifice an animal on the same day and in the same place with its parent, nor in any case before the eighth day has passed since its birth.⁵⁸

In this context, we might have expected to find a reference to another compassion law: the prohibition of cooking a kid in his mother's milk. It should be noted that Josephus drew on a number of non-scriptural, oral traditions and exegeses in his composition of the *Antiquities*. Despite this, he does not appear to know of any association of the law forbidding cooking a kid in milk with the compassion laws cited above, or else he has chosen (for whatever reason) not to include that particular law here. In the same work, Josephus also gives a brief account of the biblical dietary laws, stating,

With regard to animals, he distinguished each one, what they [the Israelites] might eat and from which they should continue, on the other hand, to abstain... He

⁵⁸ Louis H. Feldman (trans.), *Flavius Josephus, Translation and Commentary, Volume 3, Judean Antiquities 1-4* (ed. Steve Mason), no. 236, p. 296.

prohibited the use of all blood for food, however, considering it to be the soul and the spirit, and he forbade the eating of the flesh of an animal that had died due to natural causes. He also proscribed that we abstain from the tissue covering the entrails and the fat of goats and sheep and oxen.⁵⁹

This account provides us with various biblical dietary laws, especially as regards the Jewish consumption of meat. Had meat and milk already formed a prohibited combination of foods, we might have expected a reference to this to have appeared in this section of the text, justified by reference to the biblical commandment. It is possible however, that the biblical commandment is omitted here as it concerns *cooking* a kid in milk rather than *eating* that combination of foods. Nonetheless, the absence of such a discussion here further suggests that meat and milk products were not commonly eaten separately by the Jews of Eretz Israel in the first century CE.

Josephus' *Wars of the Jews*, which predates the *Antiquities* by some twenty years, only gives us further information regarding Jewish dietary practices in relation to the Essene community. Although he discusses this community in the broader context of other Jewish groups, the Essenes are the only community whose eating habits Josephus describes at some length. On this subject he states,

After this purification they gather in a private hall, into which none of those who hold different views may enter: now pure themselves, they approach the dining room as if it were some [kind of] sanctuary. After they have seated themselves in silence, the baker serves the loaves in order, whereas the cook serves each person one dish of food. The priest offers a prayer before the food, and it is forbidden to taste anything before the prayer; when he has had his breakfast he offers another

⁵⁹ Louis H. Feldman (trans.), *Flavius Josephus, Translation and Commentary, Volume 3, Judean Antiquities 1-4* (ed. Steve Mason), no. 259-260, p. 307.

concluding prayer. While starting and also finishing then, they honour God as the sponsor of life...⁶⁰

Josephus presents the Essenes as eating in a state of purity, a practice that is also discussed in relation to the Pharisees as well as the *ḥaberīm*, a Second Temple group that followed strict halakhah (legal rulings) and therefore appear in rabbinic literature in contrast to the *‘am ha-āreṣ* (laypeople). Josephus does not mention the dietary practices of the Pharisees or Sadducees, perhaps indicating that he found nothing extraordinary in their treatment of profane food (as we shall see below, the New Testament paints a different picture). Had one Jewish group separated all meat and dairy where the others had abstained only from meat cooked in milk, we might have expected Josephus to remark on the practice here. Had all Jewish groups abstained from the forbidden combination, Josephus might rather have stated as much in his brief discussion of the dietary laws.

1.3 The New Testament

The synoptic gospels of Matthew, Mark and Luke, which were composed in Eretz Israel shortly before or after the destruction of the Second Temple in 70 CE, offer us many insights into certain Jewish dietary practices founded in oral law. These are described in the gospel narratives through the Pharisees' criticism of Jesus and his disciples, who neglect many Jewish customs, and also through Jesus' own criticism of the Pharisees' interpretation of Jewish law. Had the separation of meat and milk been a custom upheld by the Pharisees (often considered proto-rabbis) it might well have been used as an example of their stringent rules, which the New Testament describes as extending far beyond biblical law, and which were seemingly disregarded by Jesus and his followers

⁶⁰ Louis H. Feldman (trans.), *Flavius Josephus, Translation and Commentary, Volume 1b, Judean War 2* (ed. Steve Mason), no. 129-131, pp. 106-108.

among other non-Pharisaic Jews. However, the custom is not mentioned in the gospels, nor in any other writings from the New Testament. I am thus unconvinced by E. P. Sanders' claim that the Pharisees took the separation of meat and milk as a general principle (and only debated questions of cheese and poultry).⁶¹ In my study of Second Temple literature I have found no evidence to support this claim.

The charges brought against Jesus rather involve eating with sinners, failing to fast and not performing ritual hand washing before meals.⁶² The accusation regarding eating with sinners and tax collectors appears in all three of the synoptic gospels, and would suggest that the Pharisees were renowned for practising sectarian eating. This is to say that the Pharisees considered table fellowship acceptable only with the right kind of Jews, and that any other groups of Jews were considered 'outsiders' in this context. This is similar to the attitude we saw among the Qumran community, and was also characteristic of other late Second Temple Jewish groups, including the *ḥaberīm* mentioned above. However, we should not assume that the food or its preparation were greatly different from group to group, but rather suggest that each group followed its own customs regarding matters such as ritual purity, and perhaps the tithing of their produce.

Ellis Rivkin's study of the term *prūšīm* in tannaitic literature has shed much light on the identity of the Pharisees (as well as illustrating that *prūšīm* does not mean 'Pharisees' in every instance in which it is used). As he notes, the Pharisees are mostly called *prūšīm* when discussed in contrast with the Sadducees, perhaps because the term connotes separateness or heresy.⁶³ In other instances, their opinions are given anonymously, or in the name of the *ḥakamīm* (sages), *soprīm* (scribes), or even the *bet dīn* (legal court).⁶⁴ As

⁶¹ E. P. Sanders, *Jewish Law from Jesus to the Mishnah*, p. 27.

⁶² See Matthew 9:10-11, Mark 2:15-16, Luke 5:29-30; 15:1-2; Matthew 9:14, Mark 2:18, Luke 5:33; Matthew 15:1-2, Mark 7:5, Luke 11:37-38.

⁶³ Ellis Rivkin, 'Defining the Pharisees: The Tannaitic Sources', pp. 231-2.

⁶⁴ *Ibid.*, p. 247.

Rivkin remarks, the *ḥaberīm* are contrasted with the *‘am ha-āreṣ*, but *both* of these groups appear to be supporters of the Pharisees, who were likewise their legislators.⁶⁵ In this sense, the Pharisees wrote laws for all social groups, including priests, and were a scholar class with significant influence. Furthermore, although they often adhered to rules of ritual purity this was not their singular defining characteristic.

On the matter of Pharisaic laws of purity the gospel of Mark states,

For the Pharisees, and all the Jews, do not eat unless they thoroughly wash their hands, thus observing the tradition of the elders; and they do not eat anything from the market unless they wash it, and there are also many other traditions that they observe, the washing of cups, pots and bronze kettles.⁶⁶

It is thus clear that many documented rabbinic practices make an early appearance here as Pharisaic customs. This includes fasting, hand washing, and table fellowship according to one's social position. Although the absence of discussion cannot be taken as conclusive evidence of the non-existence of a particular custom, the separation of meat and milk does not appear to have been practised by the Pharisees.

Jesus' criticisms of the Pharisees shed further light on the oral law they upheld. This largely involves excessive cleansing (as we saw above) and over-tithing.⁶⁷ These accusations are made to illustrate that the Pharisees are caught up in minor details, while neglecting more serious matters of biblical law. This would likewise have been an opportunity to discuss the separation of meat and milk, had such a practice formed part of the Pharisees' dietary customs.

⁶⁵ *Ibid.*, pp. 245-6.

⁶⁶ Mark 7:3-4.

⁶⁷ See Matthew 23:23-25 and Luke 11:39-42.

However, as we have seen, there is no indication in the texts discussed above that any Jewish group engaged in this practice during the late Second Temple period. Indeed, the only significant comment we may remark upon in this context appears in the Mishnah, and concerns the houses of Hillel and Shammai (the two opposing authoritative sages of this period) and their respective attitudes towards placing poultry on a table next to cheese. The Mishnah states,

Poultry goes up with cheese on the table but is not eaten, according to Bet Shammai. Bet Hillel say, it does not go up and it is not eaten.⁶⁸

Sanders takes this statement to be an example of ‘food extremism’ in first century Eretz Israel (other such examples include priests refusing to eat food other than tithes and Essenes refusing non-Essene food).⁶⁹ In my opinion we cannot date the practice on the basis of this remark, nor can we authoritatively claim that it reflects a discussion that took place in the time of Hillel and Shammai themselves. We must therefore accept that our Jewish Second Temple sources are silent on the matter of separating meat and dairy, and work from the standpoint that this silence, too, bears great significance.

1.4 Greek and Latin authors on Jewish dietary law

In the final section of this chapter, I will briefly analyse various non-Jewish sources from the first, second and third centuries CE that discuss Jewish dietary law. These texts tend to focus on the Jewish abstinence from pork as the defining feature of Jewish dietary practice. They further discuss the sacrifice and treatment of domestic animals and the

⁶⁸ mHullin 8:1. I will discuss this text in more detail in Chapter Three.

⁶⁹ E. P. Sanders, *Jewish Law from Jesus to the Mishnah*, pp. 24-5.

Jewish tendency to separate from other peoples when eating. According to Jordan Rosenblum, the consumption of pork was as much indicative of Roman identity as abstinence from pork was indicative of Jewishness.⁷⁰ In this sense, the emphasis on Jewish abstinence from pork may illustrate a particularly noticeable break from the cultural norms of the Greco-Roman world. Furthermore, Rosenblum claims, Jewish consumption of pork is used as a literary motif for the ultimate submission to Roman control.⁷¹

Plutarch, who wrote in the first and second century CE, discusses at length the reason for the Jewish abstention from pork. In this discussion, he reviews a number of questions and opinions, variously suggesting that Jews revere the pig, consider it unclean, and fear its skin diseases.⁷² Similarly, Tacitus, who wrote in the first century CE, states,

They abstain from pork, in recollection of a plague, for the scab to which this animal is subject once afflicted them. By frequent fasts even now they bear witness to the long hunger with which they were once distressed, and the unleavened Jewish bread is still employed in memory of the haste with which they seized the grain.⁷³

Tacitus also remarks of the Jews, ‘they sit apart at meals’, no doubt indicating the sectarian Second Temple period tendency to separate from others in food and eating.⁷⁴ The third century CE author Porphyry similarly remarks,

⁷⁰ Jordan Rosenblum, ‘Why do you refuse to eat pork?’, p. 100.

⁷¹ Jordan Rosenblum, ‘Why do you refuse to eat pork?’, p. 102.

⁷² *Quaestiones Convivales*, IV, 4:4-6:2, quoted in Menahem Stern, *Greek and Latin Authors on Jews and Judaism*, Vol. 1, p. 554-557.

⁷³ *Historiae*, V, 1-13, quoted in Menahem Stern, *Greek and Latin Authors on Jews and Judaism*, Vol. 2, p. 25.

⁷⁴ *Ibid.*, p. 26.

To all the Jews it was forbidden to eat pork or unscaled fish, which the Greeks call cartilaginous, and also any of the uncloven animals. Moreover, it was forbidden to them to kill the animals which took refuge at their houses like suppliants, not to speak of eating them. Nor did the lawgiver allow to take away the parents together with the nestlings, and he enjoined that animals which are of help in work should be spared, even in an enemy country, and not to slaughter them.⁷⁵

In none of the examples given above do we find any reference to a Jewish practice of separating meat and milk products. In the case of Porphyry's writing in particular, it would have been a highly relevant detail, and yet there is no suggestion that he is aware of such a phenomenon, nor even of the biblical commandment that forbids cooking a kid in his mother's milk. We may thus conclude that separating meat and milk was not a subject that was discussed in non-Jewish commentary on Jewish food and eating practices in the Roman period.

1.5 Conclusions

The Second Temple period witnessed dramatic changes in dietary law, and saw the distinction of Jew from non-Jew in matters of profane food and communal eating. The latter part of this period also saw Jew distinguished from Jew in table fellowship according to position and group. In this survey of the relevant Second Temple period literature, however, I have found no clear indication that any group of pre-rabbinic Jews interpreted our biblical commandment as a prohibition of mixing meat and milk products. Furthermore, I have likewise found no indication that any Jewish group separated meat

⁷⁵ *De Abstinencia, IV, 11-14*, quoted in Menahem Stern, *Greek and Latin Authors on Jews and Judaism, Vol. 2*, p.441.

and milk, with or without biblical justification. This leads me to suggest the following hypotheses for its sudden appearance in Mishnah Hullin.

Firstly, it may have been a custom so deeply engrained and widely practised that it was not considered worth mentioning in passing in our Second Temple sources. However, even non-Jewish sources from late antiquity make no mention of the custom of separating meat and dairy (which would certainly have been considered strange from a Greco-Roman perspective). Furthermore, Philo's discussion of the subject confirms that it was permitted to consume a mixture of meat and milk from other animals, although we must bear in mind that this may only reflect his individual opinion or that of his Alexandrian environment.

My second proposal is that no one (or rather no major group) separated meat and milk products in the Second Temple period, and that such a practice thus began in the wake of the destruction of the Second Temple or even in response to the rise of Christianity and its nonchalant attitude towards dietary law. This would explain the silence of our Second Temple sources, and would throw us into the midst of an ongoing debate with the redaction of the Mishnah at the end of the second century CE. Indeed, the mishnaic discussion of this practice does not indicate that it was a deeply engrained custom, but rather one that was still in the process of being formulated. The separation of meat and milk in the post-Second Temple era may perhaps have been a further method of distinguishing the rabbis within their milieu. I would thus suggest that this explanation is more likely, though the rabbinic interpretation of the biblical commandment was almost certainly founded on elements of pre-rabbinic exegesis.

In the following section I will analyse the translations and variations of the biblical commandment in the earliest biblical versions. As we shall see, where our Second Temple texts offer us little in the way of interpretation of our commandment, the biblical versions provide us with much information. From these texts we are able to gain a far greater

insight into the many traditions that were associated with the biblical commandment forbidding the cooking of a kid in his mother's milk during the centuries preceding and following the destruction of the Second Temple. These interpretations stem from different geographic locations, social groups and periods in time, but collectively they have much to illustrate about the early readings of this biblical verse.

CHAPTER TWO

‘You shall not eat meat in milk’: translation, interpretation and Targum

In this section I will analyse the treatment of the biblical prohibition in the various Aramaic translations of the Hebrew Bible known as the Targumim. Though the quotations given in the Targumim differ from one another in their detail, they all translate the commandment in a similar way, explicitly interpreting the prohibition of cooking a kid in his mother’s milk as forbidding the eating of meat with milk. In this sense, they directly translate the commandment into Aramaic according to its rabbinic interpretation.

Over the course of this chapter I will address these passages of text in relation to the traditions of ancient biblical versions more generally, and will therefore begin by looking at the Greek Septuagint, the Hebrew Samaritan Pentateuch, The Syriac Peshitta and the Latin Vulgate. The early biblical versions frequently incorporated many elements of interpretation - at times in response to obscurity in the Hebrew text, at others because of its uncomfortable theological stance. Furthermore, the versions also exhibit a tendency to expand on the Hebrew text, not only for the sake of clarity, but also in order to incorporate a particular exegetical reading into scripture itself.

As we shall see, the Targumim (being chronologically later in their redacted forms than the biblical versions we shall discuss below) also offer many such interpretations and additions to the Hebrew text; some to a greater extent than others. Indeed, many of the interpretations that we find in our particular sections of text are echoed in interpretations from the halakhic Midrashim, which I shall discuss in more detail in Chapter Four. This reminds us that while the Targumim belong in one sense to the late antique tradition of biblical translation, they also form part of the body of rabbinic literature and must thus be read in the context of other halakhic and aggadic (non-legal narrative) texts.

2.1 *The biblical versions*

I will begin by looking at the individual translations of our biblical quotation in four of the early biblical versions in order to illustrate their broad range of translation styles. Texts such as these can be difficult to order chronologically, as oral translations may have existed long before their written counterparts, and all written versions were undoubtedly edited numerous times, adding further layers of interpretation. Furthermore, it must be noted that we cannot assume that all of these works were based on the same Hebrew version of the Bible, that is, the proto-Masoretic Text.

Prior to the destruction of the Second Temple and in the period that immediately followed, the Bible existed in a more ‘fluid’ state, one that allowed for textual differences and the simultaneous existence of multiple versions. This is confirmed by the Dead Sea Scrolls, which contain many versions of biblical texts. As I will discuss below, one such version appears to be an early form of the Samaritan Pentateuch, a discovery which has led some scholars to suggest that elements of this text are older, or rather as old, as the Masoretic Text, the two having existed in parallel. For this reason, the Samaritan Pentateuch and the other ancient biblical versions are especially relevant to the present study, as they may shed light on alternative readings and traditions associated with our biblical quotation prior to the rabbinic period.

2.1.1 *The Septuagint (LXX)*

The Septuagint is a biblical translation that gave rise to legend and, as Giuseppe Veltri remarks, it was this legend that provided the text with its sacred character.⁷⁶ According to the description given in the *Letter of Aristeas* (a Greek work written in around the second

⁷⁶ Giuseppe Veltri, *Libraries, Translations and Canonic Texts: The Septuagint, Aquila and Ben Sira in the Jewish and Christian Traditions*, pp. 27-31.

century BCE), the text was composed on the orders of Ptolemy II of Egypt (280-246 BCE), who, wishing to have a Greek copy of the Hebrew Torah in his library, wrote to the high priest in Jerusalem to request the services of qualified translators. According to the legend, 72 such men were sent to Alexandria (six for each tribe of Israel), and there, as guests of Ptolemy, they miraculously produced identical Greek translations of the Torah in as many days.

Many scholars propose that LXX was rather composed in response to the need for such a text among Egyptian Jews, who had lost their knowledge of Hebrew.⁷⁷ However, we need not assume that Ptolemy's involvement in the process is merely legendary. As a foreign law code, the Torah may have been of interest to him as a mark of prestige. Furthermore, such a project would have required patronage and sponsorship, the likes of which Ptolemy would have been able to provide.⁷⁸

According to Emanuel Tov, the translators themselves must have been brought from Eretz Israel, as their knowledge of Hebrew was advanced far beyond the level of the Alexandrian Jewish community at that time.⁷⁹ What's more, they were familiar with the exegetical traditions associated with the Hebrew Bible and documented in the later rabbinic writings from Eretz Israel.⁸⁰ Scholars such as Tov suggest that LXX was composed by the end of the second century BCE, and used among Greek speaking communities from the first century BCE onwards. It ultimately lost favour with these communities, however, because it exhibited textual differences from the version of the Hebrew Bible that was widely used in Eretz Israel in the early centuries CE.⁸¹ Furthermore, in gaining official

⁷⁷ See Erich S. Gruen, 'The Letter of Aristeas and the cultural context of the Septuagint', pp. 134-135.

⁷⁸ Tessa Rajak, 'Translating the Septuagint for Ptolemy's library: myth and history', pp. 192-193.

⁷⁹ Emanuel Tov, *Hebrew Bible, Greek Bible, and Qumran*, p. 336.

⁸⁰ *Ibid.*, pp. 336-337.

⁸¹ *Ibid.*, p. 365.

status as the Bible of the Christian Church, LXX was also rejected by Jewish communities (Greek speaking Jews later favoured other translations).

LXX translates our biblical commandment forbidding the cooking of a kid in his mother's milk almost identically in each instance, giving a fairly literal rendering of the text. We will look at this translation in more detail below.⁸²

Biblical verse	LXX	Masoretic Text	English translation of LXX
Exodus 23:19	τὰς ἀπαρχὰς τῶν πρωτογενημάτων τῆς γῆς σου εἰσοίσεις εἰς τὸν οἶκον κυρίου τοῦ θεοῦ σου. οὐχ ἐψήσεις ἄρνα ἐν γάλακτι μητρὸς αὐτοῦ	ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו	The first-fruits of the first products of your land you shall bring into the house of the Lord your God. You shall not boil a lamb in his mother's milk.
Exodus 34:26	τὰ πρωτογενήματα τῆς γῆς σου θήσεις εἰς τὸν οἶκον κυρίου τοῦ θεοῦ σου οὐ προσοίσεις ἄρνα ἐν γάλακτι μητρὸς αὐτοῦ	ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו	The first products of your land you shall bring into the house of the Lord your God. You shall not bring a lamb in his mother's milk.

⁸² Greek text taken from *Septuaginta* (ed. Alfred Rahlfs). English translation based on *A New English Translation of the Septuagint* (ed. Albert Pietersma).

Deuteronomy 14:21	<p>πάν θνησιμαίων οὐ φάγεσθε τῷ παροίκῳ τῷ ἐν ταῖς πόλεσίν σου δοθήσεται καὶ φάγεται ἢ ἀποδώσῃ τῷ ἀλλοτρίῳ ὅτι λαὸς ἅγιος εἶ κυρίῳ τῷ θεῷ σου οὐχ ἐψήσεις ἄρνα ἐν γάλακτι μητρὸς αὐτοῦ</p>	<p>לא תאכלו כל-נבלה לגר אשר-בשעריך תתננה ואכלה או מכר לנכרי כי עם קדוש אתה לה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>And you shall not eat any carcass; it shall be given to the resident alien in your cities, and he will eat, or you shall sell to a stranger. For you are a people holy to the Lord your God. You shall not boil a lamb in his mother's milk.</p>
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One difference found in LXX is the Greek translation of *לא תבשל* (you shall not cook), which is given twice as *οὐχ ἐψήσεις* and once as *οὐ προσοίσεις*.⁸³ In the latter case (Exodus 34:26) this has the meaning 'you shall not bring', the word even implying an act of setting forth publicly.⁸⁴ This may be a simple case of scribal error, in which the term *θήσεις* (you shall bring) has influenced the mistranslation of *οὐ προσοίσεις* (you shall not bring). However, it may rather indicate an exegetical attempt to create a parallel with the first half of the verse in Exodus 34:26 ('The first products of your land you shall bring into the house of the Lord your God. You shall not *bring* a lamb in his mother's milk'). This would also allow the translator to ground this commandment in the context of sacrificial offerings. As such it would give two clear instructions: what to bring in offering and what not to bring. As we will observe in more detail below, many of the early translations of the Bible appear to place emphasis on the sacrificial elements associated with this commandment.

A further question that we must address here is why the two verses in Exodus differ from one another in LXX when they are identical in the Masoretic text. A closer reading of

⁸³ The reading *οὐ προσοίσεις* is found in the *Codex Vaticanus* (4th century) but is not supported by *Codex Alexandrius*, which reads *οὐχ ἐψήσεις* in line with Exodus 23:19 and Deuteronomy 14:21. I am highlighting the former translation here for the sake of addressing the harder reading.

⁸⁴ See C. T. R. Hayward, 'Targum Pseudo-Jonathan and the bread of the presence', p. 118.

the whole verse in each case shows us that the two texts actually differ in further details. Exodus 34:26 omits two words that are present in Exodus 23:19, and thus reads ‘the first products of your land’ where Exodus 23:19 has ‘the first-fruits of the first products of your land’.⁸⁵ There are, I think, two explanations for these differences. Firstly, the LXX may be translating a text that is different from the Masoretic one. As the discovery of the biblical Qumran scrolls has shown us, the Bible was a more variable text in the late Second Temple period, existing in a number of versions exhibiting minor differences.⁸⁶ It is thus not impossible that LXX is translating a version of Exodus in which the two verses differ from one another. Alternatively, the differences may both be examples of scribal error, two words being accidentally omitted in the copying of the text and another being mistranslated. This latter explanation is, in my opinion, the more likely of the two.

Another alteration worth noting is the use of the word ἄρνα (lamb) as a translation of יֵגֵד (kid). This may be the result of a scribal misunderstanding of the Hebrew (as such, constituting a rather imprecise translation), or else it may indicate that the Jews in Egypt used sheep products more than goat, and thus found it more relevant to translate ‘lamb’ than ‘kid’. LXX thus shows us many features characteristic of ancient biblical translation: scribal error, inconsistency, and conscious textual alterations for exegetical purposes.

2.1.2 *The Samaritan Pentateuch*

Scholars give a wide range of dates for the Samaritan version of the Hebrew Torah known as the Samaritan Pentateuch. Until the discovery of the Dead Sea Scrolls, it was widely assumed that the Samaritan Pentateuch was based on the Masoretic Text, differing from it

⁸⁵ These words are also missing from the verse in *Codex Alexandrius*.

⁸⁶ See Anderson and Giles, *The Samaritan Pentateuch*, Chapter 2, pp. 25-41.

in some 6000 details (mostly orthographic), and thus post-dating it quite considerably.⁸⁷ However, as discussed briefly above, the Dead Sea Scrolls have shown us that the situation was rather more complex. The books of the Hebrew Bible in the late Second Temple period existed in a number of different versions, some of which illustrate many textual variants identical with those found in the Samaritan Pentateuch (this version is collectively known as the proto-Samaritan Pentateuch). This does not imply that the Samaritan Pentateuch pre-dates the Masoretic Text, but rather that early versions of the two texts existed in parallel before the destruction of the Second Temple; one to be taken up by the Samaritan community, the other by the Jews. At a later date, and under the influence of Samaritan theology and tradition, the proto-Samaritan Pentateuch was altered to take on the form of the Samaritan Pentateuch as we know it from the earliest manuscripts.

In this sense, when reading a variant in the Samaritan Pentateuch we must ask ourselves if it belongs to an early version of this text or if it is rather the product of later editing. As a general rule, the early version displays variants that are context based, linguistic, or harmonising (ensuring that there are no inconsistencies in the biblical material).⁸⁸ Later editing produced a number of phonetic and orthographic changes, as well as bringing the text into line with Samaritan sectarian views, especially regarding elements such as the Samaritan preference for Mount Gerizim in place of Jerusalem.⁸⁹ As Emanuel Tov has noted, one particular feature of the Samaritan Pentateuch is the expansion of commandments and their fulfilment.⁹⁰ As we shall see below, this is particularly relevant in relation to Exodus 23:19, in which the commandment is given with additional details. Exodus 34:26 and Deuteronomy 14:21 in the Samaritan Pentateuch

⁸⁷ See 'Pentateuch' in *A Companion to Samaritan Studies* (ed. Crown, Pummer, Tal), pp. 178-179.

⁸⁸ *A Companion to Samaritan Studies* (ed. Crown, Pummer, Tal), pp. 180-181.

⁸⁹ *Ibid.*, p. 181-182.

⁹⁰ Emanuel Tov, *The Israelite Samaritan Version of the Torah* (ed. Benyamim Tsedaka), p. ix.

illustrate no substantial differences when compared with the Masoretic Text, and will thus not be discussed further here.

Biblical verse	Samaritan Pentateuch	Masoretic Text	English translation of Samaritan Pentateuch
Exodus 23:19	ראשית בכורי אדמתך תביא ביתה ה' אלהיך לא תבשל גדי בחלב אמו כי עשה זאת כזבח שכח ועברה היא לאלהי יעקב	ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו	You shall bring the earliest first-fruits of your land to the house of YHWH your God. You shall not cook a kid in his mother's milk. For doing so is like a forgetful sacrifice, and this is a transgression of the God of Jacob.

The Samaritan expansion on Exodus 23:19 gives us further information on the act of cooking a kid in his mother's milk, describing it as being 'like a forgetful sacrifice' and 'a transgression of the God of Jacob'.⁹¹ As we shall see below when we come to the discussion of the Targumim, it is my opinion that this represents an ancient tradition about this particular commandment; one which concerns the nature of this act (the combination of the two 'fruits' of the goat) and its consequences (displeasing God).⁹² I understand the Samaritan 'forgetful sacrifice' to be suggestive of an act that would involve unintentionally disregarding an accepted tradition prohibiting the sacrifice of fruit with fruit. Furthermore,

⁹¹ The Hebrew text quoted above is taken from August Freiherrn von Gall (ed.), *Der Hebräische Pentateuch Der Samaritaner*. The English translation is my own.

⁹² As we will read in Chapter Four, The Mekhilta d'Rabbi Ishmael introduces us to the question of cooking 'fruit' (kid) with 'fruit' (milk). In this context, however, the halakhic focus is on the prohibition of cooking an animal in her own milk. I am merely isolating the phrasing here, as I believe it may be useful in understanding the early tradition that kid and mother's milk constitute an improper sacrifice.

such an act is even described as a transgression before God, though this may also be inferred from the negative commandment itself. In other respects, however, the Samaritan Pentateuch presents us with a near-identical version of the biblical commandment.⁹³

2.1.3 *The Peshitta*

The earliest Syriac translation of the Hebrew Bible, known as the Peshitta, was probably composed by a number of translators at some point during the first or second century CE.⁹⁴ Little is known about the origin of this translation, but it does appear to have followed a Hebrew version very close to the Masoretic Text, its translators displaying good knowledge of both Hebrew and Syriac.⁹⁵ According to Yeshayahu Maori, there is no reason to believe that the Peshitta translation relied on LXX or any of the Targumim, though it does at times show an awareness of the rabbinic Midrashim and other oral traditions.⁹⁶ However, as J. Cook remarks in line with the theory of Koster, the inclusion of these traditions may belong to a further layer of editing, and the original Syriac text may rather have consisted of a straightforward translation of the Hebrew.⁹⁷ Certainly as regards our biblical commandment, the Peshitta illustrates no additions to the text, nor does it offer exegesis or interpretation. In all three instances of the commandment prohibiting the cooking of a kid in his mother's milk the text reads:

⁹³ The only other difference from the Masoretic text is the addition of the locative ה in ביתה ('to the house'), which is found in both verses of Exodus.

⁹⁴ Sebastian Brock, *The Bible in the Syriac Tradition*, p. 23.

⁹⁵ Robert P. Gordon, 'Variant *vorlagen* and the exegetical factor: response to Y. Maori', p. 121.

⁹⁶ See Yeshayahu Maori, 'Methodological criteria for distinguishing between variant *vorlage* and exegesis in the Peshitta' and J. Cook, 'The Composition of the Peshitta Version of the OT (Pentateuch)', pp. 118-120.

⁹⁷ J. Cook, 'The Composition of the Peshitta Version of the OT (Pentateuch)', p. 168.

*lā tebšal gadyā b-ḥalbā d-emmēh*⁹⁸

This phrase not only translates the Hebrew text literally, but it is also a word for word translation of the Hebrew. As we shall see below, this could not be further from the Aramaic renderings of this commandment that we find in the Targumim. In all three verses we find that the Peshitta offers a straightforward translation of the commandment with no suggestion of how it should be interpreted or practised halakhically. This is perhaps a reflection of the Christian attitude to the law, which placed less emphasis on upholding the biblical commandments.

2.1.4 The Vulgate

Like the Peshitta, the Latin Vulgate, which was composed by Jerome (c. 345-420 CE), appears to offer only a straight translation of the Hebrew Bible. Although there may have been Latin translations prior to Jerome's, they were likely based on the LXX, rather than the Hebrew original.⁹⁹ Indeed, one of Jerome's intentions was to identify instances where LXX diverged from the Hebrew, and to rectify this in his own Latin translation. The Vulgate translation of our biblical commandment reads:

*non coques hedum in lacte matris suae*¹⁰⁰

⁹⁸ Syriac text taken from Peshitta Institute Leiden, *The Old Testament in Syriac According to the Peshitta Version Part I, fascicle 1* and *The Old Testament in Syriac According to the Peshitta Version Part II, fascicle 1b*. I am grateful to Salam Rassi for his help in translating and transliterating the relevant Syriac texts.

⁹⁹ See 'Bible' in *Encyclopedia Judaica, Vol. 4*, pp. 856-857.

¹⁰⁰ Latin text taken from Robertus Weber (ed.), *Biblia Sacra, Iuxta Vulgatam Versionem, I Genesis-Psalmi*.

As we would expect from a biblical version that aims to offer a faithful rendering of the Hebrew, the commandment is a straight translation, with no elements of interpretation.¹⁰¹ Furthermore, LXX translation of לא-תבשל (you shall not cook) as οὐ προσοίσεις (you shall not bring) and גדי (kid) as ἄρνα (lamb) are not replicated in the Vulgate, but rather translated accurately (as they are in the Peshitta).

As we have seen from these four examples, the early biblical versions offer various readings of our biblical commandment, including variants based on interpretive translation, variants based on mistranslation, and variants that constitute additional exegetical material. In my analysis of the Targumim below it will be shown that the Targumim offer a completely different approach to the translation of these verses, one that appears to be motivated by quite different intentions.

2.2 *The Targumim*

In what follows I will look at the translation of our biblical verses in the four Jewish Aramaic Targumim and the Samaritan Targum. I will begin with Targum Onqelos, which was redacted in Babylonia, before turning to the three Targumim from Eretz Israel and the Samaritan Targum. There are no extant Targum fragments from the Cairo Genizah for the three specific verses I am concerned with here. As I will show, our passages from the four Jewish Targumim have a number of features in common, though each one also illustrates individual elements of translation and interpretation. Indeed, in comparison with the ancient biblical versions discussed above, the Targumim appear to be weighted significantly in the direction of interpretation; this is especially true of the three Eretz Israeli translations, which are very free in their style, and certainly appear to translate the interpreted meaning rather than the literal one.

¹⁰¹ Ex. 23:19 has the minor alteration of *nec* where the other two verses read *non*.

In the light of this highly interpretive nature, many scholars have questioned the purpose of the Targumim. It is often claimed that they were composed in order to be read in synagogue services alongside the Hebrew text, for the purpose of comprehension. Martin McNamara has suggested that the Targumim were also designed to make the Hebrew Bible more relevant to its audience. He has further suggested that older and cruder biblical expressions required paraphrasing for this reason.¹⁰² This is particularly relevant in relation to the question of cooking a kid in his mother's milk, which may have sounded somewhat antiquated to the audience of the Targum. Etan Levine proposes that although the synagogue reading of the Hebrew Bible *was* accompanied by the reading of Targum, this was not the original purpose of these texts.¹⁰³ Levine sees the Targumim as non-sacred texts that formed a link between the Bible and the Mishnah. Certainly, Mishnah Yadaim 4:5 confirms for us that Hebrew Scriptures translated into Aramaic do not have holy status.¹⁰⁴

Paul V. M. Flesher (among others) would further propose that the Targumim were used for study, and that they may have constituted the Bible for non-rabbinic Jewish circles.¹⁰⁵ Flesher states that rabbinic literature from Eretz Israel yields no answers as to the purpose and origin of Targum. However, given the closely intertwined nature of Targum and Midrash, we may assume that the two genres sprung from the same study houses, the same sources of authority and interpretation, and the same broader body of exegetical tradition. In my opinion the Targumim are as 'rabbinic' as other forms of

¹⁰² Martin McNamara, *Targum and Testament: Aramaic Paraphrases of the Hebrew Bible: A Light on the New Testament*, p. 71.

¹⁰³ Etan Levine, *The Aramaic Version of the Bible*, pp. 9-10.

¹⁰⁴ Literally, they do not make the hands unclean; only holy scriptures have this effect.

¹⁰⁵ Paul V. M. Flesher, 'Targum as Scripture', pp. 62-63.

biblical interpretation. For this reason, I find Emanuel Tov's description of the Targumim as 'in-house productions' to be a designation that is both fitting and accurate.¹⁰⁶

The question of their dating is one that must be addressed on a text by text basis, as there is certainly a broad margin between the earliest Targum and the latest. Furthermore, we must also allow in each case for an early layer within the text and the significant alteration of this through later editing and redaction. Martin Hengel proposes that the roots of the Targumim are pre-70, though this would presumably constitute a very early layer.¹⁰⁷ Levine would even suggest that there was an Aramaic version of the Bible at the time of LXX.¹⁰⁸ However, the redacted versions of these Targumim were, in some cases, probably not in circulation for some six or seven centuries after that date.

2.2.1 *Targum Onqelos*

According to Levine, Targum Onqelos was brought to Babylonia alongside the Mishnah and Tosefta in the second century CE and had certainly been redacted by 640 CE at the latest.¹⁰⁹ Many scholars agree with the broader implications of this suggestion, which places its origins in Eretz Israel, and its editing in Babylonia. Others, however, would rather suggest that it is entirely a Babylonian creation. While its authorship is certainly unknown, the traditions cited in Targum Onqelos suggest that it adheres to the school of Rabbi Akiva. Bernard Grossfeld has shown how this Targum has parallels in the halakhic Midrashim in 153 instances, and of these, agreement in 149 cases.¹¹⁰ Where the schools of

¹⁰⁶ Emanuel Tov, *Hebrew Bible, Greek Bible, and Qumran*, p. 369.

¹⁰⁷ Martin Hengel, 'The Scriptures and their Interpretation in Second Temple Judaism', p. 174.

¹⁰⁸ Etan Levine, *The Aramaic Version of the Bible*, p. 8.

¹⁰⁹ *Ibid.*, pp. 23-24.

¹¹⁰ Bernard Grossfeld, 'Targum Onqelos, Halakha and the halakhic Midrashim', p. 243.

Rabbi Ishmael and Rabbi Akiva differ from one another in their interpretations, Targum Onqelos tends to follow that of Rabbi Akiva.

Of all the Targumim, Targum Onqelos offers the most literal translation of the Hebrew text. However, it also presents much interpretation and expansion (we shall see examples of this below in our three verses). One theory, suggested by Chajes and Rapoport and discussed by Grossfeld, proposes that Targum Onqelos offers literal translation where the material is relevant to the authority of the Bet Din, but interpretation and expansion where it is relevant to the individual (because the individual requires explicit guidance where the Bet Din does not).¹¹¹ In response, as Grossfeld notes, Adler has brought many examples to disprove this theory, rather suggesting that Targum Onqelos uses interpretation and expansion where the relevant halakhah was subject to diverse sectarian understanding, general popular disregard, or dispute among the early Tannaim.¹¹²

In any case, Targum Onqelos holds the status of the 'official' Targum, being referenced in the Talmud Bavli, Megilah 3a. The corresponding passage of the Talmud Yerushalmi (Megilah 1:11/ 71c) attributes the Targum to Aquila instead of Onqelos, clearly a reference to Aquila's Greek translation of the Hebrew Bible. Aquila and Onqelos may have been different individuals, or one name may simply have been mistaken for another. Alternatively, the Babylonian rabbis may have reworked the story to include the key details of their own version: Onqelos and the Aramaic translation.

¹¹¹ Bernard Grossfeld, 'Targum Onqelos, Halakha and the halakhic Midrashim', pp. 228-232.

¹¹² *Ibid.*, pp. 232-235.

Biblical verse	Targum Onqelos	Masoretic Text	English translation of Targum Onqelos
Exodus 23:19	ריש בכורי ארעך תיתי לבית מקדשה דיוי אלהך לא תיכלון בסר בחלב	ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו	You shall bring the earliest first-fruits of your land to the temple of YHWH your God; you shall not eat meat in milk.
Exodus 34:26	ריש בכורי ארעך תיתי לבית מקדשה דיוי אלהך לא תיכלון בסר בחלב	ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו	You shall bring the earliest first-fruits of your land to the temple of YHWH your God; you shall not eat meat in milk.
Deuteronomy 14:21	לא תיכלון כל נבילא לתותב ערל דבקרוד תתנינה וייכלינה או תזבנינה לבר עממין ארי עם קדיש את קדם יוי אלהך לא תיכלון בסר בחלב	לא תאכלו כל-נבלה לגר אשר-בשעריך תתננה ואכלה או מכר לנכרי כי עם קדוש אתה לה' אלהיך לא-תבשל גדי בחלב אמו	You shall not eat any carcass, give it to the uncircumcised transient who is in your city and let him eat it, or sell it to a foreigner; for you are a people consecrated before YHWH your God; you shall not eat meat in milk.

As we can see from the texts above, Targum Onqelos offers a remarkably faithful rendering of the Masoretic Text, with the particular exception of the commandment forbidding cooking a kid in his mother's milk.¹¹³ In this instance, all three verses are unanimous in translating the commandment as stating that one should not eat meat in milk. This interpretation dispenses with the obscure Hebrew text and simply provides the practical implications (as interpreted in rabbinic tradition) for the commandment; it

¹¹³ Aramaic text taken from Alexander Sperber (ed.) *The Bible in Aramaic, Vol. 1: The Pentateuch According to Targum Onkelos*. English translation based on Bernard Grossfeld (trans.) *The Aramaic Bible, Vol. 7: The Targum Onqelos to Exodus* and *The Aramaic Bible, Vol. 9: The Targum Onqelos to Deuteronomy*.

functions as a very abbreviated Midrash. Between the Masoretic Text and Targum Onqelos then, the commandment has shed almost all of its distinctive features, namely the prohibition of *cooking* this mixture and the specificity of the kid and his mother's milk. It has also also shed all its exegetical commentary and presents merely the completed thought. Furthermore, the singular לא-תבשל (you shall not cook) has been exchanged for the plural לא תיכלון (you shall not eat) indicating that this Targum is speaking plainly, and speaking to all.

Grossfeld addresses this matter in his discussion of Chajes and Rapoport's theory regarding the division of literally translated *halakōt* where the matter concerns the Bet Din and expansive *halakōt* for the necessity of general understanding. As he states, the matter of not eating meat with milk was one that needed to be generally understood, and therefore required expansive translation.¹¹⁴ However, we cannot describe Targum Onqelos as expansive in this particular text; indeed, the Targum presents the commandment in only four words where the Masoretic Text requires five. As we shall see below, Targum Onqelos clearly presents an example of a concisely worded version of an expansive tradition. In this sense, when we read the commandment, we must read into it all the layers of Midrash and halakhic debate. As Grossfeld remarks, the commandment appears in Targum Onqelos without the halakhic extension prohibiting the cooking of all meat in milk or of gaining benefit from it.¹¹⁵ The Targumim from Eretz Israel, which are generally wordier and more expansive than Targum Onqelos, include the prohibitions of cooking and eating, and even offer further interpretation in the form of consequential divine punishments for those who neglect to heed this commandment. We will address this further layer of interpretation in more detail below.

¹¹⁴ Bernard Grossfeld, 'Targum Onqelos, Halakha and the halakhic Midrashim', pp. 230-231.

¹¹⁵ *Ibid.*, p. 239.

2.2.2 Targum Neofiti

In this subsection and in what follows, I will discuss the Targumim of Eretz Israel; the ‘unofficial’ counterparts to Targum Onqelos. I will begin my discussion of the Eretz Israeli Targumim with an analysis of Targum Neofiti, which Levine considers to be the oldest Targum to the Torah from Eretz Israel.¹¹⁶ Certain scholars, such as Flesher, suggest that we cannot assume any particular relationship between one Targum and another, by which measure we should not presume that if Targum Neofiti is the oldest Targum, it is likewise the source for the traditions contained within the other Eretz Israeli Targumim.¹¹⁷ We may, however, conclude that these Targumim all contain early material and traditions, and that they share a great number of exegetical expansions (regardless of relationship). For Flesher, Targum Neofiti is the ‘common denominator’ of these parallel expansions when scholars view the Targumim from Eretz Israel in parallel, using a system similar to that employed in scholarly analysis of the synoptic gospels.¹¹⁸ Using this method, Flesher proposes the existence of a proto-Eretz Israeli Targum, on which Targum Neofiti and the other Targumim from Eretz Israel were based.¹¹⁹

Targum Neofiti (as well as Targum Pseudo-Jonathan) also contains many individual expansions, at the same time providing a relatively accurate translation of the Hebrew text, and even seeking to replicate it through the use of grammatical, syntactic and morphological features.¹²⁰ In this context, Flesher questions the very purpose of the Targumim; if they were intended to be Bibles for non-Hebrew speakers, why would they have adhered so closely and consciously (in some respects) to a text that its readers or

¹¹⁶ Etan Levine, *The Aramaic Version of the Bible*, p. 25.

¹¹⁷ Paul V. M. Flesher, ‘Mapping the Synoptic Palestinian Targums of the Pentateuch’, p. 247.

¹¹⁸ Paul V. M. Flesher, ‘Exploring the Sources of the Synoptic Targums to the Pentateuch’, p. 122.

¹¹⁹ *Ibid.*, pp. 123-124.

¹²⁰ Paul V. M. Flesher, ‘Targum as Scripture’, p. 64.

listeners couldn't understand?¹²¹ He thus suggests that there was a great range of comprehension of Hebrew among the Jews of Eretz Israel in the second to fourth centuries CE, some individuals being fluent Hebrew speakers, while others had little to no knowledge of the language.

As we shall see from the text below, Targum Neofiti expands on our biblical commandment in a very different manner from Targum Onqelos. Furthermore, we shall see that its expansions run through all the Targumim of Eretz Israel, at times being given in different metaphorical guises, at times being somewhat abbreviated. As I mentioned briefly above, I propose that there was an ancient tradition prohibiting the sacrifice of 'fruit with fruit', presented here in the framework of the transgression and its fitting punishment. This tradition is hinted at in the Samaritan Pentateuch and the Mekhilta d'Rabbi Ishmael, but only in the Targumim of Eretz Israel is it fully spelled out.

Biblical verse	Targum Neofiti	Masoretic Text	English translation of Targum Neofiti
Exodus 23:19	<p>שרוי בכרית פירי עללתכון תייתון לבית מוקדשה דיי אלהכון: עמי בני ישראל לא תבשלון ולא תיכלון בשר בחלב מערבין כחדא דלא יתקף רוגזי עליכון וניבשל עבוריכון צרירין דגנה וקשה מערבין כחדא:</p>	<p>ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>You shall bring the earliest first-fruits of your produce to the temple of YHWH, your God. My people, children of Israel, you shall not cook and you shall not eat meat with milk mixed together, lest my anger overpower against you and we cook your bundled grain, the grains and the straw mixed together.</p>

¹²¹ Paul V. M. Flesher, 'Targum as Scripture', p. 71.

<p>Exodus 34:26</p>	<p>שרוי בכורת ארעכון תייתון לבית מקדשא דיי אלהכון עמי בני ישראל לא תבשלו ולא תאכלון בשר וחלב מערבין כחדא דלא יתקוף רוגזי ונבשל עבריכון צרירין דגנא וקשה מערבין כחדא:</p>	<p>ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>You shall bring the earliest first-fruits of your land to the temple of YHWH, your God. My people, children of Israel, you shall not cook and you shall not eat meat and milk mixed together, lest my anger overpower and we cook your bundled grain, the grains and the straw mixed together.</p>
<p>Deuteronomy 14:21</p>	<p>לא תאכלון כל נבלה לתותבייה מן בני עממיה די בקורייכון תתנון יתה ויכלון יתה או מזבנה תזבנון יתיה לבני עממיה ארום עם קדישין אתון קדם יי אלהכון עמי בני ישראל לא תבשלו ולא תאכלון בשר וחלב מערבין כחדא דלא יתקף רוגזי ונבשל עבוריכון צרירין דגנה וקשה מערבין כחדא</p>	<p>לא תאכלו כל-נבלה לגר אשר-בשעריך תתננה ואכלה או מכר לנכרי כי עם קדוש אתה לה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>You shall not eat any carrion; you may give it to the residents from the children of the nations who are in your cities that they may eat it or you may certainly sell it to the children of the nations; for you are a people of holy ones before YHWH your God. My people, children of Israel, you shall not cook and you shall not eat meat and milk mixed mixed together, lest my anger overpower and we cook your bundled grain, the grains and the straw mixed together.</p>

As we can see from the verses given above,¹²² Targum Neofiti presents three almost identical expansive versions of our negative commandment.¹²³ In all of these, the commandment is prefaced by the words עמי בני ישראל (my people, children of Israel), perhaps in order to capture the attention of listeners after a phrase concerning contextually irrelevant matters of temple offerings. Alternatively, these words may have been part of this particular tradition, framing the commandment and the consequence of disregarding it. According to Martin McNamara, both suggestions are valid; the phrase is a characteristic homiletic feature that was used in synagogue services to introduce exhortations to remain faithful to the law, but was also used more generally as an opening for paraphrasing in the Targumim.¹²⁴

Unlike Targum Onqelos, Targum Neofiti includes the biblical prohibition of cooking as well as the rabbinic prohibition of eating. However, like Targum Onqelos, the kid and his mother's milk are replaced by the interpretive 'meat and milk mixed together'. But it is the second half of the commandment that illustrates the tradition of the Eretz Israeli Targumim that is missing in Targum Onqelos: the consequential cooking of the bundled grain, both grains and straw mixed together. In this consequence, God cooks two 'fruits' of the grain as punishment for cooking two 'fruits' of the animal. What is particularly interesting to note here is that the parallel works far better with the biblical 'kid in his mother's milk' than it does with the rabbinic 'meat and milk mixed together'. Meat and milk are not necessarily both 'fruits' of a single mother animal (and could come from separate animals), while the kid and his mother's milk form an explicit parallel with the two 'fruits' of the grain. For this reason, I would suggest that the consequence we find in

¹²² Aramaic text taken from Alejandro Diez Macho (ed.), *Neophyti 1, Tomo II: Éxodo and Neophyti 1, Tomo V: Deuteronomio*. English translation based on Martin McNamara and Robert Hayward (trans.), *The Aramaic Bible, Vol. 2: Targum Neofiti 1: Exodus* and Michael Maher (trans.), *The Aramaic Bible, Vol. 5A: Targum Neofiti 1: Deuteronomy*.

¹²³ Exodus 23:19 contains the word עליכון (against you), which is not given in the other two verses.

¹²⁴ Martin McNamara, *Targum and Testament: Aramaic Paraphrases of the Hebrew Bible: A Light on the New Testament*, p. 78.

this exegetical expansion is given in response to the biblical text, rather than what we read in the Targum. That biblical text, however, is not provided here as the Targum gives only the rabbinic, interpretive version of this commandment. In this sense, the tradition almost certainly pre-dates both the Targum and the rabbinic interpretation.

If we read this text alongside the version seen above in the Samaritan Pentateuch, we may also reflect on the connection between the expansion that the latter gives regarding the ‘forgetful’ sacrifice of a kid in his mother’s milk, and the measure for measure consequence described here. I propose that we piece these ideas together to gain a better perspective on the pre-rabbinic and early rabbinic attitudes to cooking a kid in his mother’s milk. In my opinion, the improper nature of this act is that it constitutes ‘fruit with fruit’, and because this angers God it thus merits a punishment that destroys ‘fruit with fruit’.

One final detail to note here is the use of the first person plural for the voice of God, which is often theologically problematic for the rabbis (and thus explained by including the angels alongside God). This feature would likewise suggest an early date for this version of this tradition, as we would expect a rabbinic text to use ‘I cook’ instead of ‘we cook’. Furthermore, this is the phrasing we find in Targum Pseudo-Jonathan, possibly as a result of the later rabbinic editing of a pre-rabbinic tradition.

2.2.3 *Targum Pseudo-Jonathan*

According to Levine, the material contained within Targum-Pseudo Jonathan may be dated to the Hasmonean period in the earliest cases and to the rise of Islam in the latest.¹²⁵ In this sense, although the Targum may have a relatively late date, it almost certainly contains traditions that are pre-rabbinic. Perhaps as a result of containing materials from

¹²⁵ Etan Levine, *The Aramaic Version of the Bible*, p. 25.

such a broad timeframe, the expansive, exegetical passages of Targum Pseudo-Jonathan also go beyond those of the other Targumim. According to Flesher, these materials are independent from the proto-Eretz Israeli tradition and should be dated to a later period.¹²⁶ Beverly P. Mortensen remarks upon another place in which Targum Pseudo-Jonathan diverges from the other Eretz Israeli Targumim, noting how they present the Torah as the central image of Judaism, while Targum Pseudo-Jonathan rather emphasises the place of the Temple.¹²⁷ In this sense, this Targum presents a significant difference in what Gabriele Boccaccini would term its 'ideological system'.¹²⁸

As we shall see in the passages of text cited below, Targum Pseudo-Jonathan contains versions of the exegetical 'fruit with fruit' tradition seen above in Targum Neofiti, but does so in quite different language. Furthermore, while Targum Neofiti presents a commandment and consequence that is nearly identical in each case, Targum Pseudo-Jonathan has three quite different approaches to translating our biblical commandment, suggesting further layers of editing.

¹²⁶ Paul V. M. Flesher, 'Exploring the Sources of the Synoptic Targums to the Pentateuch', pp. 123, 128.

¹²⁷ Beverly P. Mortensen, 'Pseudo-Jonathan's Temple, Symbol of Judaism', p. 130-131.

¹²⁸ Gabriele Boccaccini, 'Targum Neofiti as a Proto-Rabbinic Document: a Systematic Analysis', p. 255.

Biblical verse	Targum Pseudo-Jonathan	Masoretic Text	English translation of Targum Pseudo-Jonathan
Exodus 23:19	<p>שירוי ביכורי פירי ארעך תיתי לבית מוקדשה דה אלהך עמי בית ישראל לית אתון רשאין לא למבשלא ולא למיכול בשר וחלב מערבין כחדא דלא יתקף רוגזי ואיבשיל עיבוריכון דגנא וקשא תריהון כחדא</p>	<p>ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>You shall bring the earliest first-fruits of your land to the temple of YHWH your God. My people, house of Israel, you are not permitted to cook nor eat meat and milk mixed together, lest my anger overpower and I caused your grain to be cooked, the grains and straw, the two of them together.</p>
Exodus 34:26	<p>שירוי בוכרת פירי ארעכון תייתון לבית מוקדשא דה אלהכון לית אתון רשאין לא למבשלא ולא למיכול בשר וחלב תריהון מערבין כחדא דלא יתקף רוגזי בכון וארשין פירי אילניכון עם בוסרא בלבלוביהון וטרפיהון כחדא</p>	<p>ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>You shall bring the earliest first-fruits of your land to the temple of YHWH your God. You are not permitted to cook nor eat meat and milk, the two of them mixed together, lest my anger overpower against you and I cause the fruits of your trees to cook along with the half-ripe fruit, in its blossoms and its leaves together.</p>

Deuteronomy 14:21	לא תיכלון כל דמיקלקלא בניכסא לגיור ערל דבקירויכון תיתנונה ויכלונה או תזבנון לבר עממין ארום עם קדיש אתון קדם ה אלהכון לית אתון רשאין למבשל כל דכין למיכול בשר וחלב תריהון מערבין כחדא	לא תאכלו כל-נבלה לגר אשר-בשעריך תתננה ואכלה או מכר לנכרי כי עם קדוש אתה לה' אלהיך לא-תבשל גדי בחלב אמו	Do not eat anything that is damaged in (an improper) sacrifice. You shall give it to the uncircumcised stranger in your cities and they will eat it or sell it to a foreigner. For you are a holy people before YHWH your God. You are not permitted to cook nor eat meat and milk, the two of them mixed together.
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The first significant difference we may remark on between Targum Pseudo-Jonathan and Targum Neofiti is the phrasing of the commandment.¹²⁹ Where Targum Neofiti (like Targum Onqelos) uses לא תבשלו ולא תאכלו (you shall not cook and you shall not eat) in parallel with the Hebrew לא-תבשל (you shall not cook), Targum Pseudo-Jonathan has לית אתון רשאין לא למבשלא ולא למיכול (you are not permitted to cook nor to eat), which reads far less like a divine prohibition than the texts cited above. This may have been consciously done, with the intention of making the language of the commandment more rabbinic than biblical, or else it may simply indicate differences of language use from one period to another.¹³⁰ In other respects, Exodus 23:19 presents us with the same text and tradition that we read in Targum Neofiti.

¹²⁹ Aramaic text taken from Moses Ginsburger (ed.), *Pseudo-Jonathan (Thargum Jonathan ben Usiël zum Pentateuch)*. English translation based on Michael Maher (trans.), *The Aramaic Bible, Vol. 2: Targum Pseudo-Jonathan: Exodus and Ernest G. Clarke (trans.), The Aramaic Bible, Vol. 5B: Targum Pseudo-Jonathan: Deuteronomy.*

¹³⁰ The difference in language may also be regional; both Targum Pseudo-Jonathan and the Fragmentary Targumim use this phrasing, and both present examples of Galilean Aramaic.

Exodus 34:26, however, introduces a new tradition built on the same foundations as that of the grains and straw. In this instance, the consequence for cooking or eating meat and milk together is the cooking of (ripe) fruit together with unripe fruit (in its blossoms and leaves). This provides us with another example of a ‘fruit with fruit’ motif, in this case both products being the fruits of trees. In my opinion, the intended image here is a single tree bearing both the fruits of the previous crop and the blossoms of the one to come. In this sense, the fruits and unripe fruits both come from the same product. Like the grain motif, it also works better in parallel with the biblical kid in his mother’s milk, and may also have been composed in response to the scriptural commandment rather than the rabbinic interpretation. The fact that the ‘grain’ exegetical expansion appears more often than the ‘fruit’ one may simply indicate that the former was more popular and frequently used.

The term *וארשין* is explained by Jastrow as a corruption of *ואיבשיל* (and I cause to cook), perhaps given here as a result of scribal error.¹³¹ No meaning for the former term is attested elsewhere in rabbinic literature, and this suggestion thus appears highly likely. It should also be noted that *ואיבשיל* may also be read with the meaning ‘I will cause to ripen’, though such a meaning would seem unlikely in a negative context. Furthermore, if that were the case it would not parallel the cooking element of the meat in milk prohibition.

Deuteronomy 14:21 in Targum Pseudo-Jonathan presents us with an ‘abbreviated expanded’ version of this commandment. While it lacks the extensive exegetical expansion seen above, it does include the two prohibitions of cooking and eating (unlike Targum Onqelos, which omits the cooking element). As we will read below, of the two verses given in the Fragmentary Targumim, one presents us with the extensive expansion common to

¹³¹ Marcus Jastrow, *Dictionary of the Targumim, the Talmud Babli and Yerushalmi and the Midrashic Literature*, p. 1501.

the Targumim of Eretz Israel, while the other presents a further example of an ‘abbreviated expanded’ version.

2.2.4 The Fragmentary Targumim

The Fragmentary Targumim provide translations for some 850 verses of the Torah, written (like Targum Pseudo-Jonathan) in Galilean Aramaic.¹³² According to R. M. Campbell, the authors had no intention of translating the entire Torah, and we must thus not consider the remaining verses to be lost.¹³³ In Flesher’s opinion, the Fragmentary Targumim may have been based on fuller texts, their ‘fragmentary’ form indicating that they were intended for a different purpose.¹³⁴

Unlike the other Targumim, the Fragmentary Targumim explicitly annotate the beginnings of the biblical *parašiyōt* (sections), according to which the Torah was read aloud in the synagogue over a period of one year. The earlier custom in Eretz Israel was to read the entire Torah over a period of three years, and the one year cycle was introduced from Babylonia around the tenth century CE. As Campbell remarks, this suggests that either the redacted Fragmentary Targumim date from around the tenth century CE (when the annual cycle of reading the Torah reached Eretz Israel) or else that this reading cycle reached Eretz Israel earlier than has previously been thought.¹³⁵ As Campbell has no evidence of the latter suggestion, he is inclined to assume the former. In this light, in analysing the Fragmentary Targumim, we must consider that we may be handling a relatively late text (whilst allowing for the traditions it cites to be much earlier).

¹³² Etan Levine, *The Aramaic Version of the Bible*, p. 25.

¹³³ R. M. Campbell, ‘*Parashiyyot* and their implications for dating the fragment-targums’, p. 105.

¹³⁴ Paul V. M. Flesher, ‘Exploring the Sources of the Synoptic Targums to the Pentateuch’, pp.126-7.

¹³⁵ R. M. Campbell, ‘*Parashiyyot* and their implications for dating the fragment-targums’, p. 111.

Biblical verse	Fragmentary Targum	Masoretic Text	English translation of Fragmentary Targum
Exodus 23:19 (MS Paris Bib. Nat.)	<p>שירוי בכרת פירי ארעכון תיתון לבית מוקדשא דה אלהכון עמי עמי בית ישראל לית אתון רשאין לא למבשלא ולא למיכלא בשר וחלב תריהן מערבין כחדא דלא יתקוף רוגזי בכון ואבשל ית עיבוריכון צבורין באדריכון דגנה וקשא תריהון מערבין כחדא</p>	<p>ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>You shall bring the earliest of the first-fruits of your land to the temple of YHWH, your God; my people, my people, house of Israel, you are not permitted to cook nor to eat meat and milk, the two of them mixed together, lest my anger overpower against you and I cook your grain heaped on your threshing places, grains and straw, the two of them mixed together.</p>
Exodus 34:26 (MS Vatican Ebr. 440)	<p>שירוי ביכר' עללתכון תיתון לבית מקדשא דה' אלהכון עמי בית ישר' לית אתון רשאין לא למבשלא ולא למיכלא בשר וחלב מעורבין כחדא</p>	<p>ראשית בכורי אדמתך תביא בית ה' אלהיך לא-תבשל גדי בחלב אמו</p>	<p>You shall bring the earliest of the first-fruits of your land to the temple of YHWH, your God; my people, house of Israel, you are not permitted to cook nor to eat meat and milk mixed together.</p>

As the texts above indicate, the Fragmentary Targumim provide translations that are very close to those of Targum Pseudo-Jonathan.¹³⁶ However, two differences in Exodus

¹³⁶ Aramaic text taken from Moses Ginsburger (ed.), *Das Fragmententargum (Thargum jeruschalmi zum Pentateuch)*. English translation based on Michael L. Klein (trans.), *The Fragment-Targums of the Pentateuch Vol. 1 and 2*. The Fragmentary Targumim do not translate Deuteronomy 14:21.

23:19 may be noted: the usage of the particle ܩܝ and the mention of the ‘threshing places’. The particle ܩܝ appears to be an imitation of the Hebrew ִקָּח, which is used to indicate the definite object. It is not existent in Aramaic but is occasionally used in the Targumim to replicate the Hebrew ִקָּח and thus to follow the Hebrew text more accurately. This is the only occasion, however, that we find it used in the translation of our biblical commandment or the expansions thereon. The mention of the ‘threshing places’ simply adds more detail to the ‘grain’ tradition that we have seen above in the other Targumim from Eretz Israel. While Targum Neofiti mentions the ‘bundled grain’, the description given here makes it evident that both products (grains and straw) are collected together before they are due to be separated by a process of threshing and winnowing.¹³⁷ It thus presents an opportune moment for the grains and straw to be ‘cooked, the two of them mixed together.’

Exodus 34:26 presents a version of the commandment similar to that seen in Targum Pseudo-Jonathan, Deuteronomy 14:21. In this instance it includes the introductory words ‘my people, house of Israel,’ but like the verse in Deuteronomy it does not expand to give the full tradition, but merely prohibits the cooking and eating of meat in milk.

2.2.5 The Samaritan Targum

The Samaritan Targum is an Aramaic translation of the Samaritan Pentateuch, which was most likely composed between the first and fourth centuries CE in Eretz Israel. Like the Jews, the Samaritan community also required a translation of their Hebrew scriptures once their primary languages were Aramaic and Greek. However, unlike the Jews, the

¹³⁷ Threshing describes the trampling of grain, while winnowing involves separating the grains themselves from the straw (or chaff).

Samaritans did not compose a single authoritative version of their Targum (comparable to Targum Onqelos) but rather continued to revise the text, incorporating linguistic changes and new interpretations.¹³⁸ The two versions given below are taken from Abraham Tal's *Samaritan Targum of the Pentateuch*, the first manuscript (J) being slightly later than Targum Onqelos while the second (A) dates from around the ninth century CE.¹³⁹ As we shall see in more detail below, there are significant differences between the two texts, both linguistic and exegetical.

Biblical verse	Samaritan Targum J, Ms Or 7562 (British Museum)	Samaritan Pentateuch	English translation of Samaritan Targum
Exodus 23:19	קדמאית בכירי ארעתך תנדי בית ה' אלהך לא תבשל גדי בחלב אמה הלא עבד דה כדבח אנשהו ומרגזה היא לאלהי יעקב	ראשית בכורי אדמתך תביא ביתה ה' אלהיך לא תבשל גדי בחלב אמו כי עשה זאת כזבח שכח ועברה היא לאלהי יעקב	You shall bring the earliest first-fruits of your land to the house of YHWH your God. You shall not cook a kid in his mother's milk, for is not such a worshipper like a forgetful sacrifice and and this is angering to the God of Jacob.
Exodus 34:26	קדמאית בכירי ארעתך תנדי לבית ה' אלהך לא תבשל גדי בחלב אמה	ראשית בכורי אדמתך תביא ביתה ה' אלהיך לא תבשל גדי בחלב אמו	You shall bring the earliest first-fruits of your land to the house of YHWH your God. You shall not cook a kid in his mother's milk.

¹³⁸ Christian Stadel, 'A Septuagint Translation Tradition and the "Samaritan Targum" to Genesis 41:43', p. 708.

¹³⁹ The English translations are my own.

Deuteronomy 14:21	לא תיכלון כל נבלה לגיורה דבקורין תתננה וייכלנה ויזבננה לנכראה הלא עם קדש אתה לה' אלהך לא תבשל גדי בחלב אמה	לא תאכלו כל-נבלה לגר אשר-בשעריך תתננה ואכלה או מכרה לנכרי כי עם קדש אתה לה' אלהיך לא-תבשל גדי בחלב אמו	You shall not eat any carrion, you shall give it to the stranger in your cities and he shall eat or you shall sell it to a foreigner, for are you not a people holy to YHWH your God. You shall not cook a kid in his mother's milk.
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The three verses from this manuscript would suggest that this version of the Samaritan Targum does indeed date from a similar period to Targum Onqelos (or at least makes reference to Onqelos more than any other Aramaic Targum). The term בכורי ארעך (the first-fruits of your land) is used identically to Targum Onqelos, while the other Targumim from Eretz Israel favour different phrasing. However, the Samaritan Targum does not translate the cooking of a kid in his mother's milk as 'eating meat in milk' but rather presents the commandment almost exactly as it appears in the Hebrew text (both Masoretic and Samaritan). Furthermore, the Samaritan Targum translates the addition found in the Samaritan Pentateuch that describes the 'forgetful sacrifice' that this act constitutes and the anger that it causes to the 'God of Jacob'. In this sense, the Samaritan Targum differs from the Jewish Targumim not only in its literal translation of the biblical commandment but also in its preservation of this textual variant. The later manuscript given below (in which we have only the verses from Exodus) echoes these differences while presenting yet another reading of the commandment.

Biblical verse	Samaritan Targum A, Ms 3 Shechem Synagogue	Samaritan Pentateuch	English translation of Samaritan Targum
Exodus 23:19	רשואת בכירי ארעתך תנדי בית ה' אלהך לא תבשל גדיה בתרב אמה הלא עבד דה כדבח שחי ורגזה היא לאלהה דיעקב	ראשית בכורי אדמתך תביא ביתה ה' אלהיך לא תבשל גדי בחלב אמו כי עשה זאת כזבח שכח ועברה היא לאלהי יעקב	You shall bring the earliest first-fruits of your land to the house of YHWH your God. You shall not cook a kid in his mother's fat, for is not such a worshipper like a forgetful sacrifice and and this is angering to the God of Jacob.
Exodus 34:26	רשואת בכירי ארעתך תנדי בית ה' אלהך לא תבשל גדיה בתרב אמה	ראשית בכורי אדמתך תביא ביתה ה' אלהיך לא תבשל גדי בחלב אמו	You shall bring the earliest first-fruits of your land to the house of YHWH your God. You shall not cook a kid in his mother's fat.

In this version the commandment forbids cooking a kid in his mother's fat (תרב) rather than milk. As I discussed in the previous chapter, Jack M. Sasson has proposed this interpretation in his analysis of the origins of this biblical verse, noting that it could better be read in line with the other compassion laws of the Bible if the matter at hand was killing and cooking a mother animal and her young together. As I remarked above, the Talmud Bavli explicitly dismisses this interpretation and uses it to demonstrate that the received reading is authoritative. In light of the evidence from the second manuscript of the Samaritan Targum we might thus suggest that the Bavli is responding directly to an interpretation that was in circulation (among the Samaritans and perhaps other groups as well), reading *ḥēleb* (fat) for *ḥālāb* (milk). Although the manuscript given above is

considerably later than the Bavli, this interpretation may nonetheless make its first appearance as written exegesis in the Samaritan Targum.

2.3 Conclusions

As we have seen, the Jewish Aramaic Targumim consistently translate our biblical commandment as a prohibition of eating meat in milk. This falls in line with the interpretation of the commandment that we find in other rabbinic texts, and is likewise not represented in pre-rabbinic literature. The translation given in the Targumim is thus an early example of the rabbinic exegesis of this commandment. In the Targumim from Eretz Israel this exegesis is elaborated upon with the grain (and fruit) motif, a fuller version of the tradition being given in a number of instances. This version is hinted at in the Samaritan Pentateuch (and Targum) although the prohibition itself is not interpreted as a commandment that forbids the eating of all meat in milk.

In this sense I propose that we view the interpretation of the Targumim as a tradition that developed in (at least) two layers. Firstly the commandment was associated with the idea of improper sacrifice that angers God; this layer exists in the Samaritan texts and the Targumim from Eretz Israel. The tradition that these Targumim record logically reads in parallel with the biblical prohibition of cooking a kid in his mother's milk, threatening the cooking of the two 'fruits' of the grain in retaliation for the cooking of the two 'fruits' of the mother goat. This constitutes the first layer of exegesis. I propose that the second layer developed under the influence of the rabbinic interpretation of our biblical commandment. The kid in his mother's milk became all meat in all milk, and the authors of the Targumim absorbed this accepted interpretation into their translations. As we have seen, this interpretation is not recorded in any other early biblical version, but as the next chapters will illustrate it is a characteristic feature of rabbinic exegesis.

On the basis of my survey of pre-rabbinic materials and early biblical versions I may thus make the following observations. Firstly, no pre-rabbinic Jews or non-rabbinic community interpreted our biblical commandment as a prohibition of eating meat in milk. And secondly, the biblical commandment had its own early associative tradition, namely that this form of sacrifice was displeasing to God and therefore a punishable offence. It now remains to be seen exactly on what basis the rabbis interpreted and justified the kid as all meat and his mother's milk as all dairy. This question will be answered in the following chapters in which I will analyse the discussion of the biblical commandment in the Mishnah and Tosefta, the halakhic Midrashim and the Talmudim.

CHAPTER THREE

‘It is forbidden to cook all meat in milk’: the laws of the Mishnah and Tosefta

In this section I will discuss the question of separating meat and milk as it appears in the Mishnah and Tosefta, two of the earliest rabbinic legal texts to address this matter. As we shall see below, there is very little mention of the biblical verse, or indeed any scriptural verse, in either of our texts. The Mishnah and Tosefta are primarily concerned with the practicalities of separating the two foodstuffs, and with determining the correct practice in a number of hypothetical, problematic situations. As Tal Ilan states, once the general prohibition of mixing all meat and dairy had been established, the Mishnah concerned itself (in line with its general approach) with ‘border cases’.¹⁴⁰ In this sense, the Mishnah and Tosefta must be expected to discuss matters such as eating udders and curdling milk with stomach skins, but offer no explanation for the basic extension of *kid* and *his mother’s milk* to include all meat and dairy.

3.1 *The Mishnah*

The earliest record we have of a discussion regarding the separation of meat and milk is found in Mishnah Hullin 8:1-5. This passage of text does not provide us with an introduction to the practice of separating these foods, but rather launches us straight into a debate revolving around matters such as what constitutes meat, and what amount of the forbidden mixture is permissible. The Mishnah first deals with the question of placing cheese next to meat or poultry on a table, and then addresses a number of practicalities relating to the handling of milk and meat. As I shall discuss in more detail below, the

¹⁴⁰ Tal Ilan, *Massekhet Hullin*, p. 73.

Mishnah also makes very little mention of the biblical commandment forbidding cooking a kid in his mother's milk, and does not even explicitly connect this commandment with the practice of separating all meat and dairy until Mishnah Hullin 8:4. We are thus presented with a very limited explanation by way of scripture.

I shall begin by examining the authorship and intention of the Mishnah, a text that constitutes an early collection of *halakōt*, gathered according to subject, and frequently given without biblical reference or interpretation. Although the text was redacted at the end of the second century CE, it contains earlier material that had perhaps only existed as oral tradition up until that point.¹⁴¹ As Neusner observes, the Mishnah presents us with three compositional layers: the early *halakōt* that predate even the destruction of the Second Temple in 70 CE; the changes that these *halakōt* underwent in the period between the destruction of the Temple and the (failed) Bar Kokhba revolt in 130 CE; and the subsequent further editing that took place before the Mishnah reached its final form around 200 CE.¹⁴² In this sense, the Mishnah contains material that was relevant to a Judaism that practised the temple cult, a Judaism that expected the revival of this cult after the annihilation of the Temple at the hands of the Romans, and a Judaism that had begun to accept the loss of the Temple as the new status quo.

As far as its authorship is concerned, the Mishnah does not explicitly state that it outlines the customs of any particular sect or group, and although it names a great many authorities, the voice of the editor is an anonymous one (though tradition attributes this role to Rabbi Yehudah ha-Nasi). We may thus suggest that it is the collective work of an early rabbinic movement that emerged following the destruction of the Second Temple. According to Neusner, this movement developed when the Pharisees (a sect) joined

¹⁴¹ Although we have no evidence of earlier written versions of the Mishnah, it is possible that the rabbis recorded *halakōt* in brief, informal notes intended only for their own use.

¹⁴² Jacob Neusner, *Judaism Without Christianity*, p. 19.

together with scribes (a professional class).¹⁴³ As we saw in the first chapter, there are many indications that rabbinic *halakōt* appeared in their earliest forms as Pharisaic laws, though we must be careful not to oversimplify this matter by suggesting that the Pharisees became rabbis after 70 CE.

Another matter to be considered here is how the Mishnah was transmitted in the early stages of its composition and collection, and for what purpose. Tradition states that the whole of the oral law was also given to Moses at Sinai, and that it was passed through the generations until ultimately being committed to writing by Rabbi Yehudah ha-Nasi.¹⁴⁴ Certainly the way in which the Mishnah uses language suggests that it was designed to be memorised; the text is highly concentrated and stylised, using formulated patterns and expressions. Similarly, subjects that generate the same rulings are often grouped together, presumably to facilitate memorisation. It thus appears likely that this was originally an oral text, which was later (and perhaps selectively) written down as a complete text. As we shall see, many passages of our text below support the theory of a memorised Mishnah.

One further question we might pose in this context is why the Mishnah, if it did indeed belong to a tradition of oral transmission, was ever committed to writing at all. One theory, proposed by Tal Ilan, suggests that the written Mishnah was a response to the New Testament.¹⁴⁵ Early Christianity brought with it a new book and a new key to interpreting scripture. Rabbinic Judaism thus responded with its own book and its own method of interpretation. Furthermore, as we shall discuss in more detail later in this chapter, if we consider the Tosefta to be not so much an addition to the Mishnah as an alternative, then

¹⁴³ Jacob Neusner, *The Mishnah: Religious Perspectives*, p. 165.

¹⁴⁴ The Mishnah states this explicitly in Pirke Avot 1:1.

¹⁴⁵ Tal Ilan has discussed this theory with me during classes and in private meetings.

even within early rabbinic Judaism there may have been at least two schools attempting to present and articulate a distinct key to interpreting scripture.¹⁴⁶

In the light of this proposal, we must look more closely at the relationship between scripture and the Mishnah. On the surface level, the Mishnah appears to function almost independently of scripture, presenting legal rulings without their scriptural foundations and speaking in a wholly different style. However, the subjects that the Mishnah discusses are (for the most part) built on biblical laws and the terse nature of the text requires the reader to have extensive prior knowledge of its main point of reference: the Torah. Thus the Mishnah relies on scripture but does so creatively. It takes well known subjects and discusses them only in relation to its own specific laws. In this sense, the Mishnah may appear autonomous, but the full weight of its authority comes from its link to scripture (in much the same way that the New Testament's authority does). In the case of meat and milk, the Mishnah uses the biblical commandment as its point of reference, but does not explain the reasoning behind its interpretation. The argument is simple; X is interpreted as Y, and here are the correct ways in which to practice Y.

As far as the reasoning behind the interpretation of our biblical commandment is concerned, the Mishnah and pre-Mishnaic texts give us few clues. I have found no indication that the Pharisees had specific rules regarding meat and milk beyond those of the Torah and, furthermore, there is no reason to believe that scribes would have had such a specific dietary practice either. It is my opinion that the class of rabbis, the authors of our Mishnah, became distinct from that of non-rabbis following the destruction of the Second Temple and that one public manifestation of this distinction was their interpretation of the biblical commandment and their practice of separating all meat and dairy products. Where non-rabbis would avoid cooking meat in mother's milk (following biblical law), rabbis

¹⁴⁶ In what follows we shall explore the question of the relationship between the Mishnah and the Tosefta, looking at the *halakot* relating to meat and milk.

would even abstain from serving up cheeses with meat and poultry (following a law derived from biblical interpretation).

I propose that the rationale for this interpretation can be understood by viewing the prohibition of mixing meat and milk in parallel with the biblical account of the vows undertaken by a nazirite. Numbers 1:3-4 explicitly states that a nazirite must abstain from wine (and other alcoholic drinks), an idea that appears harmonious alongside vows to retain purity.¹⁴⁷ However, beyond forbidding the consumption of wine, the vows also require the nazirite to abstain from wine vinegar, other grape drinks, and even raisins and grapes themselves. If the primary concern of the nazirite was the avoidance of intoxication then the prohibition of eating grapes may be seen as a method of avoiding a substance that contains the *potential* for intoxication, though that substance itself is not intoxicating.

The same line of thinking may be applied to the question of meat and milk; eating the two foodstuffs together is not the same as cooking meat in milk (let alone specifically mother's milk) but it does carry the potential to create a forbidden combination. This, I believe, was the early rabbinic line of thinking.¹⁴⁸ As Neusner states, the limits of this prohibition were yet to be determined but the basic practice was established by the time the Mishnah underwent its final editing.¹⁴⁹ I would therefore place this particular halakhic development in the second century, between the destruction of the Temple and the redaction of the Mishnah.

Furthermore, I would certainly suggest that rabbinic Jews were most concerned with proving and distinguishing themselves in the face of non-rabbinic Jews rather than Christians. While the earliest non-Jewish Christians adopted the Hebrew Bible alongside the New Testament they virtually dispensed with the implementation of its laws. In this

¹⁴⁷ The nazirite vows specifically forbid contact with corpses. See Numbers 6:6-7.

¹⁴⁸ This may have constituted sufficient reasoning for the Mishnah, though, as the following chapter will show, in the context of biblical exegesis the rabbis were required to offer more nuanced explanations that were rooted in scripture.

¹⁴⁹ Jacob Neusner, 'From Scripture to Mishnah', p. 276.

sense, although Christians would eat almost anything, the majority of non-rabbinic Jews presumably still upheld the biblical dietary laws. Separating meat and dairy may thus initially have been more a means to identify oneself as a *rabbinic* Jew than as a Jew and, furthermore, to limit the social circles in which one could eat.

The passage of text that I will discuss below belongs to the mishnaic order of *Kodashim*, or ‘Holy Things’. This chapter deals largely with matters relating to the daily running of the Temple cult, including the altar, as well as the animal and grain offerings to be made thereon.¹⁵⁰ As Neusner notes, the only matter relating to the daily running of the Temple that is not discussed in *Kodashim* is the priesthood, which may be deliberately omitted because the authors of the Mishnah saw no need for priests under the new rabbinic and mishnaic order.¹⁵¹ Moreover, the rabbis considered themselves to have *replaced* the priests as the highest authorities in post-Temple Judaism.

Tractate *Hullin* thus represents an anomaly within its chapter. In an order relating to holy things (Temple practices), it discusses questions of unholy slaughter: meat eating outside the cult, meat eating at home. *Hullin* not only covers the separation of meat and milk, but also raises questions such as how to deal with the sinew of the hip, expressly forbidden in Genesis 32:33. *Hullin* thus represents a characteristic example of the Mishnah, taking specific biblical themes as its starting ground and then building upon them in its own direction.

¹⁵⁰ These matters are mostly based on biblical laws. See Jacob Neusner, ‘From Scripture to Mishnah’, pp. 273-279 for more details.

¹⁵¹ Jacob Neusner, ‘From Scripture to Mishnah’, p. 280.

<p>8.1 It is forbidden to cook all meat in milk except the meat of fish and locusts, and it is forbidden to put it with cheese upon the table, except for fish and locusts. The one who vows to abstain from meat is permitted the meat of fish and locusts.</p> <p>Poultry goes up with cheese on the table but is not eaten, according to Bet Shammai. Bet Hillel say, it does not go up and it is not eaten. Rabbi Yossi said, this is one of the lenient practices of Bet Shammai and restrictions of Bet Hillel. About what kind of table did they say this? About a table at which one eats, but at a table on which dishes are arranged one puts this next to that and need not worry.</p> <p>8.2 A person ties up meat and cheese in one cloth, so long as they will not touch one another. Rabban Shimon ben Gamliel says, even two strangers eating at one table, one meat and one cheese, they need not worry.</p> <p>8.3 A drop of milk that fell onto a piece [of meat] (if there is enough to give taste to that piece) is forbidden. Stirring the pot (if there is enough to give taste to that pot) is forbidden. The udder; one cuts it and takes out its milk. Though if he did not cut it, he does not commit transgression. The heart; one cuts it and takes out its blood. Though if he did not cut it, he does not commit transgression.</p> <p>The one who puts poultry with cheese upon the table, he does not commit any transgression.</p>	<p>ח,א כל הבשר אסור לבשל בחלב, חוץ מבשר דגים וחגבים; ואסור להעלותו עם הגבינה על השלחן, חוץ מבשר דגים וחגבים. הנודר מן הבשר, מתר בבשר דגים וחגבים. העוף עולה עם הגבינה על השלחן, ואינו נאכל; דברי בית שמאי. ובית הלל אומרים: לא עולה, ולא נאכל. אמר רבי יוסי: זו מקלי בית שמאי, ומחמרי בית הלל. ובאיזה שלחן אמרו? בשלחן שאוכל עליו, אבל בשלחן שסודר עליו את התבשיל, נותן זה בצד זה, ואינו חושש.</p> <p>ח,ב צורר אדם בשר וגבינה במטפחת אחת, ובלבד שלא יהו נוגעין זה בזה. רבן שמעון בן גמליאל אומר: שני אכסנאים אוכלין על שלחן אחד, זה בשר, וזה גבינה, ואינן חוששין.</p> <p>ח,ג טפת חלב שנפלה על החתיכה, אם יש בה בנותן טעם באותה חתיכה - אסור. נער את הקדרה, אם יש בה בנותן טעם באותה הקדרה - אסור. הכחל: קורעו ומוציא את חלבו; לא קרעו - אינו עובר עליו. הלב: קורעו ומוציא את דמו; לא קרעו - אינו עובר עליו. המעלה את העוף עם הגבינה על השלחן, אינו עובר בלא תעשה.</p>
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¹⁵² The Hebrew text is taken from Hanokh Albeck (ed.) *Shishah Sidrei Mishnah*. All mishnaic English translations are my own.

Our Mishnaic text begins with a collection of actions that apply to meat but not to fish and locusts - namely the prohibition of cooking it in milk, the prohibition of placing it on the table with cheese and the vow to abstain from it. Although the first of these actions is clearly a reference to the biblical prohibition of cooking a kid in his mother's milk the Mishnah does not state this explicitly. It is characteristic of the Mishnah to group such things together, even though the action of abstaining from meat is not particularly relevant to the present discussion. The other two actions, cooking it in milk and placing it on the table with cheese, form the basis of much of the discussion in Hullin 8. Furthermore, in this brief opening passage we establish what is meant by 'meat', namely every (permissible) food obtained from slaughtering an animal that is not a fish or locust. We should note here that according to this definition, poultry cannot be cooked in milk and cannot be placed on the table with cheese.¹⁵³

In what follows in this opening section we find a discussion regarding the action of putting poultry on the table with cheese. This is given in the context of a disagreement between the houses of Hillel and Shammai, two opposing schools of thought that were active in the first century CE. Given that the opening statement implies that poultry cannot be placed on the table with cheese, we may assume that the Mishnah has already adopted the opinion of Bet Hillel (as it ordinarily does). Rabbi Yossi's remark states that Bet Hillel generally give the more lenient ruling (though here they do not). Indeed, in Mishnah Eduyot 5:2 Rabbi Yossi presents a collection of six statements in which Bet Shammai are lenient and Bet Hillel restrictive. It seems likely that the six statements form the original tradition, and that one part has been repeated here because of its relevance to the subject under discussion. This first passage ends with an anonymous qualifying statement, which

¹⁵³ As we saw briefly when discussing the works of Philo in the previous section, the inhabitants of the near east in late antiquity may have considered milk to come in both liquid and solid forms. In order to read and understand these texts, therefore, we must first distance ourselves from our own perspective, in which milk, cheese, yoghurt, cream, butter and other dairy products are all seen as different foodstuffs. Although we know that dairy products are made from milk, we do not necessarily consider them to be milk (unless, perhaps, we keep a kosher kitchen).

allows for the placing of these dishes (presumably poultry and cheese) together on a table except in the context of a meal. This first section thus shows us the dispute over the question of poultry and cheese, an authoritative answer to this dispute, and a particular circumstance in which this authoritative answer does not apply.

This following passage (8.2) elaborates on the contact that is allowed between meat and cheese, permitting them to be tied together as long as they are not touching. Rabban Shimon ben Gamliel's statement provides a further expansion on the idea that one cannot eat meat and cheese at the dinner table. He states that strangers can sit together, one eating meat and one eating cheese. This suggests that in Rabban Shimon ben Gamliel's opinion only friends dining together would be likely to share food, putting them in danger of mixing the two substances. Thus meat (or poultry) and cheese may be placed together only in certain social circumstances: if the table is not a dining table, or if the diners themselves do not know one another.

The next section (8.3) deals with the actual cooking of meat in milk, offering practical guidelines for the accidental mixing of substances. Taste (rather than any specific amount) is used as the medium of judgement for prohibited and permitted mixings; a single piece of meat or a stirred pot that taste of milk are forbidden. Two things are of particular interest here: firstly, that in order to check a mixture one must perform a prohibited action (eating meat cooked with milk), and secondly, that the decision is left entirely up to the cook. This appears to be a lenient solution on the part of the rabbis, preventing the impractical and wasteful implications of discarding all meat dishes that are contaminated with a drop of milk. Furthermore, the drops of milk discussed here are accidental, unintentional ones that 'fell' into the pot. It seems to me that the rabbis' opinion is that the unintentional mixing of milk into a pot of meat is only problematic where there is such a great flavour of milk that a diner might be aware of its presence.

This passage also addresses the practicality of dealing with the udder in the context of using the animal for meat. The udder presents a natural meat/milk mixture and it is therefore necessary to establish how it should be dealt with after an animal has been slaughtered (namely, cutting it open and removing the milk). The failure to do so is not considered a transgression, however. We know that these udders are intended to be used as food, given that the ruling proposes removing the milk rather than the whole udder. The matter of cutting open the heart to remove blood is grouped with the udder here simply because the same rules that apply to the udder also apply to the heart in this regard. Putting poultry on the table with cheese is likewise grouped with the udder and the heart because it ultimately has the same repercussions: acting incorrectly is not considered a transgression. We thus further understand the question of poultry (as opposed to meat) being placed on the table with cheese. It is not permitted, but neither is it a transgression to do so. As we shall discuss below, this may be because the biblical commandment was considered to exclude poultry; it was only forbidden to go onto the table with cheese according to rabbinic law.

8.4 The meat of a pure animal and the milk of a pure animal; it is forbidden to cook it, and forbidden to benefit from it. The meat of a pure animal and the milk of an impure animal, or the meat of an impure animal and the milk of a pure animal; it is permitted to cook it, and permitted to benefit from it.

Rabbi Akiva says, wild animals and poultry are not part of the [law from the] Torah as it is said, *you shall not cook a kid in his mother's milk* three times; this excludes wild animals, poultry, and impure animals.

Rabbi Yossi ha-Galili says, it is said, *you shall not eat carrion* [Deut. 14:21], and it is said, *you shall not cook a kid in his mother's milk*. That which is forbidden according to the law of carrion it is forbidden to cook in milk. But is poultry, which is forbidden according to the law of carrion, forbidden from cooking in milk? Teaching tells us, *in his mother's milk*; this excludes poultry, which has no mother's milk.

8.5 The rennet [in the stomach of an animal] of a non-Jew and of carrion; these are forbidden. The one who curdles [milk] with a valid stomach skin, if there is enough to give taste, this is forbidden.

A fit [animal] that suckles from an unfit [animal], her rennet is forbidden. An unfit [animal] that suckles from a fit [animal], her rennet is permitted, because it is held in her intestines.

ח,ד בשר בהמה טהורה בחלב בהמה טהורה, אסור לבשל, ואסור בהנאה. בשר בהמה טהורה בחלב בהמה טמאה, בשר בהמה טמאה בחלב בהמה טהורה, מתר לבשל, ומתר בהנאה. רבי עקיבא אומר: חיה ועוף אינם מן התורה, שנאמר: לא תבשל גדי בחלב אימו שלש פעמים, פרט לחיה, ולעוף, ולבהמה טמאה. רבי יוסי הגלילי אומר: נאמר: לא תאכלו כל נבלה, ונאמר: לא תבשל גדי בחלב אימו. את שאסור משום נבלה, אסור לבשל בחלב. עוף, שאסור משום נבלה, יכול יהא אסור לבשל בחלב? תלמוד לומר: בחלב אימו, יצא העוף, שאין לו חלב אם.

ח,ה קבת הנכרי, ושל נבלה, הרי זו אסורה. המעמיד בעור של קבה כשרה, אם יש בנותן טעם, הרי זו אסורה. כשרה שינקה מן הטרפה, קבתה אסורה. טרפה שינקה מן הכשרה, קבתה מתרת, מפני שהוא כנוס במעיה.

In what follows (8.4) we first see a discussion of the meats and milks to which the restriction applies, namely the combination of 'kosher' meat and 'kosher' milk (literally the meat and milk of a 'pure animal'). This combination cannot be cooked and one cannot gain benefit from it. While the first of these prohibitions is straightforward, the second requires

a little more imagination. If one cannot cook a combination of meat and milk then how could one possibly derive benefit from such a mixture? The prohibition of deriving benefit suggests an initial accidental stage (where meat and milk are cooked unintentionally), which is followed by the opportunity to make use of this forbidden combination. ‘Deriving benefit’ in such circumstances might imply financial gain through selling the cooked meat and milk combination to a non-Jew. It might also suggest giving the combination away to an advantageous end (for example, to feed one’s dogs). The prohibition of gaining benefit from meat and milk essentially removes the possibility of making good use of the forbidden combination and leaves the individual with no choice but to discard it.

However, according to the Mishnah, meat and milk may be combined in cooking and for benefit if one element is pure and the other impure. This illustrates that the rabbis interpret the biblical commandment to apply only to kosher animals. The kid and the mother goat are symbolic of all permitted meats and milks, but also serve to exclude those that are forbidden.

We are then presented with the first example of a rabbinic ruling that is explicitly founded in scriptural interpretation. The Mishnah cites Rabbi Akiva’s explanation for the repetition of the commandment, which states that it excludes wild animals, poultry and impure animals in each case.¹⁵⁴ This suggests that for Rabbi Akiva the only animals that the biblical commandment applies to are kosher, domesticated animals (but not poultry). This is surely an interpretation based on practicality; they are the only animals for which one has access to both young and mother’s milk.

Following this, the Mishnah presents another ruling founded in scripture, in this instance offering an interpretation of the relationship between the laws given in Deuteronomy 14:21. This interpretation is given by Rabbi Yossi ha-Galili, and plays on the placement of the commandment prohibiting the cooking of a kid in his mother’s milk

¹⁵⁴ As we will see in the following chapter, the halakhic Midrashim offer a number of further explanations for the repetition of the commandment.

alongside the prohibition of eating carrion. He states that the animals to which the laws of carrion apply are also those to which the rules prohibiting cooking in milk apply. However, as Rabbi Yossi ha-Galili states, one might thus claim that the laws of meat and milk also apply to poultry, which is included under the laws of carrion. He thus applies a further interpretation of scripture, stating that the words חלב אמו (his mother's milk) serve explicitly to exclude poultry from the prohibition, as poultry has no mother's milk.

In both of the examples of scriptural interpretation given above then, the rabbis are concerned with the question of which animals it is forbidden to cook in milk. Just as we saw above with the discussion of placing poultry on the table with cheese, a loophole is given here for the cooking of poultry in milk. Although the opening section (8.1) claimed that 'it is forbidden to cook all meat in milk except the meat of fish and locusts,' it now appears that according to Rabbi Akiva and Rabbi Yossi ha-Galili this does not apply to poultry on two counts: that it is one of three excluded categories and that it has no mother's milk. It is important to note here, however, that we are only dealing with the question of cooking, rather than eating. Furthermore, as Rabbi Akiva states, this is likewise a question of determining the laws of the Torah, rather than their implications under rabbinic law.

The final section of our text (8.5) deals with the practicalities of making cheese using rennet and animal stomach skins.¹⁵⁵ This method of making cheese is one that crosses the meat/milk divide and the Mishnah therefore gives us specifications regarding the animals that produce kosher rennet and those that do not. As we would expect, the rennet in the stomachs of animals that were not ritually slaughtered according to rabbinic methods are not permitted. This includes animals that belonged to non-Jews and animals that died of natural causes. As for the stomach itself, as we saw before with regard to milk

¹⁵⁵ Rennet is a substance found in the stomachs of young animals that is used in curdling milk to make cheese. Pieces of the animal's stomach itself may also be used to curdle milk, and the rabbis make a clear distinction between these two methods.

dropped in a pot of meat, taste is used as a way of measuring appropriate amounts. Essentially, any cheese one makes using a stomach should not be allowed to taste 'meaty'. The final category of animals that produce forbidden rennet are those that are not physically fit, but only where a young animal suckles milk from them, and then holds this milk in her stomach at the time of slaughter.¹⁵⁶

What is not immediately clear in this passage is why the rabbis are concerned in one section with the status of the slaughtered animal and the other section with the status of the animal from which the slaughtered animal suckled. Rennet can only be extracted from young, suckling animals, so there can be no question of categorising the animals according to their maturity. The most obvious explanation, in my opinion, is that we have two categories here: meat and live animals. The rennet from the animals belonging to non-Jews and that from those that died of natural causes forms one category, because these animals are meat, and are thus already forbidden on the grounds that their slaughter is not kosher. The animals that are suckling and giving suck are livestock (belonging to Jews), and their rennet may be used from the stomachs of young animals so long as the mother animal giving suck is fit.

3.1.2 Further mishnaic discussions of meat and milk

The subject of meat cooked in milk also appears elsewhere in the Mishnah, in the context of a long list of things that are forbidden or taboo. The Mishnah does not connect meat in milk with any biblical commandment, but rather presents the combination as a single product. In what follows I shall discuss the following three examples, found in Mishnah Kiddushin 2:9, Avodah Zarah 5:9 and Temurah 7:4 respectively. Analysis of the context in

¹⁵⁶ Being 'fit' implies that the animal has no blemishes and is not lame or in any other way harmed, unwell or 'imperfect'.

which meat in milk appears in these examples will allow me greater insight into the specific category in which the rabbis placed this forbidden combination.

Kiddushin 2:9

<p>The one who betroths with <i>'orlah</i>, with mixed seeds of the vineyard, with an ox condemned to be stoned, or with a heifer whose neck is to be broken, with the birds of a leper, or with the hair of a nazirite, or with the firstborn of a donkey, or with meat in milk, or with unconsecrated animals slaughtered in the temple court; she is not betrothed. But if he sold them and betrothed with their price then she is betrothed.</p>	<p>המקדש בערלה, בכלאי הכרם, בשור הנסקל, ובעגלה ערופה, בצפרי מצרע, ובשער נזיר, ובפטר חמור, ובבשר בחלב, ובחלין שנשחטו בעזרה - אינה מקדשת. מכרן וקדש בדמיהן - מקדשת.</p>
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Kiddushin 2:9 includes meat in milk in a list of items that are unsuitable as a betrothal price (though their monetary equivalent is acceptable). This list is founded almost exclusively in biblical law; almost every item may be explained according to a specific scriptural prohibition. Thus the *'orlah* fruit (the fruit of a tree in the first three years) is forbidden to be eaten according to Leviticus 19:23 and the mixed seeds of the vineyard (the cultivation of a second crop) are prohibited in Deuteronomy 22:9. Likewise Exodus 21:28 states that the ox condemned to be stoned (for killing a man or woman) cannot be eaten, while Deuteronomy 21:1-9 gives a full account of how a heifer may be used to redeem a murder, where the perpetrator of the crime is unknown. Leviticus 14:1-8 recounts the ritual for the healed leper: two birds are to be taken, one for slaughter and one for sprinkling blood upon the healed leper before being set free.

The hair of a nazirite is shaven as part of the ritual that ends his period of consecration and Numbers 6:18 states that this hair must be burnt on the fire of the nazirite's offering. Exodus 34:19-20 states that the first born of a donkey may be redeemed

with a lamb, or else one must break his neck. The final invalid item on the list, unconsecrated animals slaughtered at the temple, is the only one that does not appear to be founded in scripture. This may be a reference to the matter discussed in Mishnah Hullin 5:1, of slaughtering 'him and his young' (which itself is based on Leviticus 22:28). This Mishnah states that in this instance, unconsecrated animals slaughtered within the temple are considered invalid, and the one who slaughters these animals suffers forty stripes for the slaughter of the second animal.

We thus see that this list consists of items that are biblically determined for a certain purpose. The *'orlah* must remain on the tree, the other seeds must remain separate from the vineyard. The ox, heifer, birds, and first born of a donkey are all animals destined for specific rituals. The hair of a nazirite must be burnt. Unconsecrated animals (if we read this Mishnah in line with that of Hullin 5:1) cannot be slaughtered at the temple. In this sense, we may suggest that meat in milk appears on this list as it is also scripturally prohibited and perhaps, furthermore, because just as no other seed may be mixed with the vines, so no milk may be mixed with meat.

Avodah Zarah 5:9

<p>These are forbidden and forbidden in the smallest quantity: libation wine, idolatry, skins with holes at the heart, an ox condemned to be stoned, a heifer whose neck is to be broken, the birds of a leper, the hair of a nazirite, the firstborn of a donkey, meat in milk, the goat that is sent, unconsecrated animals slaughtered in the temple court; they are forbidden and forbidden in the smallest quantity.</p>	<p>אלו אסורין ואוסרין בכל שהן: יין נסך, ועבודה זרה, ועורות לבובין, ושור הנסקל, ועגלה ערופה, וצפרי מצרע, ושער נזיר, ופטר חמור, ובשר בחלב, ושעיר המשתלח, וחולין שנשחטו בעזרה - הרי אלו אסורין ואוסרין בכל שהן.</p>
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This passage introduces items that are specifically idolatrous, beginning with libation wine and idolatry itself. These are not specifically biblical prohibitions, but rather

matters that are forbidden under the anti-idolatrous banner that scripture upholds. The skins with holes at the heart are also mentioned in Mishnah Avodah Zarah 2:3 and Nedarim 2:1 without specific explanation, though we may assume from context that they are associated with idolatrous practices. The other item that does not appear in the list given above in Mishnah Kiddushim 2:9 is the goat that is sent, but it is evident that this goat belongs more to the former list than to its additions in Avodah Zarah 5:9. This practice is based on Leviticus 16:20-22, according to which the sins of Israel may be placed upon a goat, which is set free in the wilderness. This falls very much in line with the subject of animals designated for specific purposes that we saw above rather than idolatry.

Temurah 7:4

<p>These things are buried. Miscarriages of consecrated animals must be buried. The afterbirth of this miscarriage should be buried. An ox condemned to be stoned, a heifer whose neck is to be broken, the birds of a leper, the hair of a nazirite, the first born of a donkey, meat in milk, and unconsecrated animals slaughtered in the temple court. Rabbi Shimon says, unconsecrated animals slaughtered in the temple court should be burnt, and so too a wild animal slaughtered in the temple court.</p>	<p>ואלו הן הנקברין: קדשים שהפילו - יקברו; הפילה שליא, תקבר; שור הנסקל, ועגלה ערופה, וצפרי מצרע, ושער נזיר, ופטר חמור, ובשר בחלב, וחולין שנשחטו בעזרה. רבי שמעון אומר: חלין שנשחטו בעזרה - ישרפו; וכן חיה שנשחטה בעזרה.</p>
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The list in Temurah 7:4 concerns items that must be buried, and includes three new discussions: the miscarriages of consecrated animals, the afterbirth (of these miscarriages) and wild animals slaughtered at the temple court (a variation on the law given in Avodah Zarah, presented on the authority of Rabbi Shimon). Like the examples connected to idolatry given in Avodah Zarah, these are not founded on biblical law. It should be noted that here the subject of this Mishnah is the burial of animals that cannot be sacrificed or

used for food (or other purposes). However, the list is given in full despite the fact that some of the items mentioned cannot be buried, such as one of the birds of a leper (the one that is set free) or the hair of nazirite (that is burnt). In my opinion, the inclusion of meat in milk falls somewhere in between these two categories; it can physically be buried, though it is no longer the body of an animal in the same way that the ox, heifer, bird, donkey or unconsecrated animal are.

It appears to me that meat in milk fits most naturally into the list in the context of Kiddushin 2:9, and that it appears elsewhere as a repetition. However, by piecing together the three passages we may suggest that meat in milk is invalid because it is a mixture that scripture prohibits, that even a small quantity of this mixture is forbidden, and that like an animal carcass it must be buried.

3.2 The Tosefta

I will now look at the way in which Tosefta Hullin 8 deals with the subject of meat and milk, observing and accounting for differences from the Mishnah, and attempting to determine for each section of text which is the older tradition and which is a later response or addition. The question of how the Tosefta relates to the Mishnah is one that scholars have answered with varying explanations, though the vast majority consider the Tosefta to be later than the Mishnah. The traditional view claims that the Tosefta (a text which also stems from Eretz Israel) is an addition to the Mishnah, a text that fills in the gaps that were left by the latter in its redacted form. This explanation assumes two significant ideas: that the Mishnah is an earlier text than the Tosefta, and that the Tosefta was written from within the same school of thought as the Mishnah. As we shall see, this view may be challenged on both counts.

Judith Hauptman provides a thorough overview of Tosefta scholarship, beginning with the theory of Rav Sherira Gaon, who lived and wrote in tenth century Babylonia.¹⁵⁷ He claimed that Rabbi Hiyya composed the Tosefta after Rabbi had already completed the Mishnah. As Hauptmann states, this theory was widely accepted until the dawn of modern Tosefta scholarship. More recent theories have included those of Y. N. Epstein and Z. Frankel, who claimed that the Tosefta was based on an earlier Tosefta, which itself was a commentary on an earlier Mishnah. H. Albeck proposed that the Tosefta was redacted far later than the Mishnah and rather belonged to the amoraic period. S. Lieberman suggested that the Tosefta only quotes the Mishnah where it is required to add further comment. None of these theories considered the notion that the Tosefta could contain earlier material than that of the Mishnah.

Martin S. Jaffee takes a different approach, proposing that both the Mishnah and Tosefta depend upon a third source: the 'oral-performative tradition' that preceded each written text.¹⁵⁸ In Jaffee's opinion this accounts for the fact that there is no clear, consistent correlation between the Mishnah and Tosefta. He finds that although the Tosefta does respond to the Mishnah in some instances, in others it rather appears to provide the source material for the Mishnah. Jaffee thus suggests that we consider each passage of Mishnah or Tosefta in relation to its preexisting materials, rather than assuming that one text is wholly dependant on another.

The problem, in my opinion, of taking this approach, is that it assumes the existence of older traditions across the whole scope of the Mishnah and Tosefta. As with many of the theories relating to the relationship between the Mishnah and Tosefta, scholars can often produce a convincing argument based on a few passages of text, appearing to uncover a whole new perspective. However, when we look at the two texts in their entirety, we often

¹⁵⁷ See Judith Hauptman, *Rereading the Mishnah*, pp. 14-16.

¹⁵⁸ Martin S. Jaffee, *Torah in the Mouth*, p. 112.

find passages of text that do not fit the author's model. A theory that may be applied to one passage of text cannot necessarily be applied to another.

This may also be claimed in relation to Judith Hauptmann's own theory that the Tosefta (or rather, its core) is older than the Mishnah.¹⁵⁹ According to Hauptman's model, the Tosefta was composed prior to the Mishnah, but drew on an earlier text, which she refers to as the ur-Mishnah. The Mishnah condensed the Tosefta, editing out its lengthy aggadic passages, focusing on the halakhah and reordering and revising it quite freely. At times, the Mishnah also referred directly to the ur-Mishnah without reading it by way of the Tosefta. Furthermore, while the Mishnah was redacted at the end of the second century CE (or the beginning of the third), the Tosefta continued to be revised and edited (even after its materials had found their way into the Talmudim). Hauptmann thus sees the Tosefta as a multi-layered text, containing traditions that pre-date the Mishnah as well as ones that post-date it by many centuries.

Shamma Friedman proposes a similar but slightly more nuanced theory by looking specifically at the areas of the Mishnah and Tosefta that have parallel passages. In Friedman's opinion, the Tosefta contains material that is older than that of the Mishnah, and where the two texts read in parallel the Tosefta contains the older material.¹⁶⁰ As an entire text, however, Friedman maintains that the Tosefta post-dates the Mishnah. Friedman and Hauptmann's theories are among the most appealing, as they allow for the Tosefta to be a composite, patchwork text containing materials from different periods, some of them recounting pre-mishnaic oral traditions (often in fuller, aggadic versions), and others consisting of responses to the written or oral Mishnah. As Friedman observes, the same process of editing and reworking takes place in the *baraytōt* (sources from

¹⁵⁹ Judith Hauptman, *Rereading the Mishnah*, pp. 17-24.

¹⁶⁰ Shamma Friedman, 'The Primacy of Tosefta to Mishnah in Synoptic Parallels', p. 101.

outside the Mishnah) of the Talmud Bavli.¹⁶¹ Many of these *baraytōt* are based on toseftan parallels that pre-date the Mishnah, but they appear in the Bavli having been edited to conform with the Mishnah's language and style. Across the spectrum of rabbinic literature, such parallel traditions thus have the capacity to develop, respond to alternative versions, and undergo editing of their form and content.

The final theory that I shall discuss in this context is that proposed by Tal Ilan, which states that while the Tosefta is later than the Mishnah, it is not, as is traditionally believed, its complementary 'addition'. Ilan holds that the Mishnah and Tosefta were composed by different rabbinic groups, and that the Tosefta is therefore a response and challenge to the Mishnah, rather than a collection of additional materials from the same school of thought.¹⁶² This may be gauged from the numerous times in which the Tosefta disagrees with the Mishnah. Ilan further suggests that the Mishnah belongs to the school of Rabbi Yehudah ha-Nasi, who draws on the teachings of Rabbi Akiva, while the Tosefta belongs to that of Rabbi Hiyya, who in turn draws on the teachings of Rabbi Ishmael. As I will discuss in the following section, the composition of the halakhic Midrashim may also be divided between the schools of Rabbi Akiva and Rabbi Ishmael, and (according to my own findings) there is a strong correlation between the materials quoted in the Mishnah and the Midrashim of Rabbi Akiva, and between those found in the Tosefta and the Midrashim of Rabbi Ishmael. This would suggest that the hypothesis that the Mishnah and Tosefta belong to different schools of thought is highly probable.

I would thus propose a theory that combines those of Hauptman, Friedman and Ilan, according to which the earliest bodies of halakhic and aggadic traditions were oral. The earliest of these we may term the ur-Mishnah and the initial layer of the Tosefta (likely existing as an oral collection). A written version of the halakhic tradition was composed by

¹⁶¹ Shamma Friedman, 'The Primacy of Tosefta to Mishnah in Synoptic Parallels', p. 104.

¹⁶² Tal Ilan has discussed this question with me in classes and private meetings.

Rabbi Yehudah ha-Nasi, who drew on both texts in accordance with his own understanding of them (and with the opinions of the school of Rabbi Akiva). This text was terse and condensed - designed to be memorised. In response to the written Mishnah, a second layer of Tosefta was composed by Rabbi Hiyya (following the school of Rabbi Ishmael). In contrast with the Mishnah, this text was lengthy and contained much aggadah (non-legal narrative). While the written Mishnah became authoritative and fossilised in its original form, the Tosefta, a text of lesser significance, had the freedom to continue to evolve. As we shall see below, Tosefta Hullin offers us many examples of opinions and subjects that are not included in the Mishnah. Whether these statements belong to the initial layer of Tosefta or post-date the Mishnah is a question that must be answered on a case by case basis.

3.2.1 *Tosefta Hullin 8:1-4: text and analysis*¹⁶³

<p>8.1 [The law of] meat in milk is practised within the land of Israel and outside, in relation to the Temple and not in relation to the Temple, to profane slaughter and to sacrifices. The one who vows to abstain from meat is forbidden from all kinds of meat and permitted the meat of fish and locusts.</p> <p>Poultry does not go up and is not eaten. Rabbi Yossi said, this is one of the lenient practices of Bet Shammai and restrictions of Bet Hillel. Bet Shammai say, it goes up but is not eaten. Bet Hillel say, it does not go up and is not eaten. Rabbi Eleazar says in the name of Rabbi Zadok, poultry goes up with cheese on the table. Apikulos says, it is not eaten, others say, in his name, it is eaten.</p> <p>To what does this refer? To a table for eating, but at a table that is not for eating a person puts a piece [of meat] next to this, and cheese next to that.</p> <p>They put it into a basket or strike and throw them over their shoulder. This is not forbidden except at a table for eating.</p> <p>Rabban Shimon ben Gamliel says, even at a table for eating. Two that go into an inn, one coming from the north and one coming from the south, one eats his piece and one eats his cheese and they do not worry. It is only forbidden when everything is handled together.</p>	<p>ח,א בשר בחלב נוהג בארץ ובחוצה לארץ בפני הבית ושלא בפני הבית בחולין ובמוקדשין. הנודר מן הבשר אסור בכל מין בשר ומותר בבשר דגים וחגבים. העוף לא עולה ולא נאכל אמר ר' יוסי זה מקולי בית שמאי ומחומרי בית הלל. בית שמאי אומרים עולה ואין נאכל ובית הלל אומרים לא עולה ולא נאכל. ר' אלעזר ברבי צדוק אומר העוף עולה עם הגבינה על השולחן. אפיקולוס אומר אין נאכל אחרים אומרים משמו אף נאכל. במה דברים אמורים? בשלחן שהוא של מאכל אבל בשלחן שאינו של מאכל נותן אדם חתיכה בצד זה וגבינה בצד זה. נותנין בקפוף ובמחוק ומפשילין לאחורין. האוי לא אסור אלא בשולחן שהוא של מאכל. רבן שמעון בן גמליאל אומר אף שולחן של מאכל. שנים שנכנסו לפונדוק זה בא מן הצפון וזה בא מן הדרום זה אוכל בחתיכתו וזה אוכל בגבינתו ואין חוששין. הוי לא אסרו אלא בזמן שכולי תפיסה אחת.</p>
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¹⁶³ Hebrew text taken from M. S. Zuckerman (ed.) *Tosefta*, pp. 509-510. The English translation is my own.

<p>8.2 A drop of milk that fell onto a piece: Rabbi Yehudah says, if there is enough to give taste to that piece, and the sages say, to that pot. Rabbi said, we follow the words of Rabbi Yehudah when it is not stirred, and the words of the sages when it is stirred. Hot onto hot and cold onto hot are forbidden. Hot onto cold is dried off and one eats it. The udder of a nursing animal; one cuts it and takes out its milk. If he does not cut it, he does not commit transgression. The heart; one cuts it and takes out its blood. If cooking it one cuts it after cooking.</p>	<p>ח,ב טיפת חלב שנפלה על החתיכה ר' יהודה אומר אם יש בנותן טעם באותה חתיכה וחכמים אומ' באותה הקדורה. אמר רבי נראין דברי ר' יהודה בזמן שלא ניער ולא כסה דברי חכמים בזמן שניער וכסה. חם לתוך חם וצונן לתוך חם אסור. חם לתוך צונן מדיחו ואוכלו. כחל של מניקה קורעו ומוציא את חלבו. לא קרעו אין עובר עליו. הלב קורעו ומציא אתו דמו. אם בשלו קורעו לאחר בישולו.</p>
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The Tosefta begins at a very different point from the Mishnah, having established something that its authors call [the law of] **בשר בחלב** (meat in milk). While the mishnaic rulings work towards formulating this concept, it is never articulated in this way. This is one indication, in my opinion, that this particular passage of the Tosefta is a later reflection on the laws surrounding the separation of meat and milk. The Tosefta then gives three statements that relate to the where, when and what of the halakhah in question. The Tosefta claims that the halakhah applies both in the land of Israel and outside, in Temple times and non, and in relation to both sacrifices and profane slaughter.¹⁶⁴ Thus does the Tosefta open not only with a clear idea of the halakhah it is discussing, but also with a statement claiming that it applies in all times, places and circumstances.

We next come to the statement regarding what may be done with fish and locusts but not with meat. Where the Mishnah used three examples, gathering them into a kind of category, the Tosefta uses only that of the one who vows to abstain from meat. As we shall see, it may be that the Tosefta actively disagrees with the Mishnah on the other two examples it cites (cooking meat in milk and putting meat on the table with cheese). This

¹⁶⁴ This formula exists elsewhere in the Mishnah, but is not found in Hullin 8.

may thus be a conscious decision to omit a pair of blanket statements with which the Tosefta does not agree. Nonetheless, as we saw above, even the Mishnah disagrees with these statements to a certain extent and contradicts itself by providing loopholes that render these statements null. It is thus also possible that Tosefta excludes them for this reason.

The Tosefta then comes to the matter of putting poultry on the table with cheese. However, readers may only make sense of the Tosefta's statement if they are already familiar with the mishnaic text. The toseftan statement reads simply 'poultry does not go up and is not eaten'. This, in my opinion, is a clear indication of two things: that this section of the Tosefta is highly aware of the exact wording of the Mishnah, and that the former post-dates the latter. The rulings of the houses of Hillel and Shammai and the statement of Rabbi Yossi are also given here, but in this instance are given *after* the Tosefta has presented its opinion (siding with the house of Hillel). Two further opinions are also stated here, both of which offer a controversial, lenient approach to putting poultry on the table with cheese. However, the opinion of the Tosefta may be gauged from the earlier statement that 'poultry does not go up and is not eaten'.

However, just as we saw in the Mishnah, we are then provided with a loophole for this ruling; namely, that it only applies in the context of eating. The Tosefta uses slightly different terminology here, speaking of a חתיכה (piece), presumably meaning a piece of poultry in the context. It also allows (like the Mishnah) for these things to be tied up and carried together. The statement of Rabban Shimon ben Gamliel is given in a fuller, more aggadic version, but the sentiment is the same: two strangers eating at one table may each eat a different category of food (one dairy, one meat). However, it should be noted that where the Mishnah begins a new section here, introducing the subject of meat (בשר) and cheese after a discussion about poultry, the Tosefta simply continues onto the next passage, appearing to be speaking in reference to poultry. Given that the terminology is

vague, we cannot be sure if this is intended, or if we are rather expected to understand the shift to the subject of meat based on our knowledge of the Mishnah.

The Tosefta then moves to the matter of milk that falls into a pot of meat (8.2). In this instance, the Tosefta seems to explain the ruling, providing us with a little more background than the Mishnah does. The Tosefta cites both Rabbi Yehudah, who claims that the status of the meat in these circumstances must be judged by the flavour of one piece, and the sages, who claim that it must be judged by the whole pot. The actual statement that it is forbidden is missing here, though it is implied. The question, however, is *what* exactly is forbidden? According to Rabbi Yehudah one must judge according to the piece, but it is unclear whether that one piece makes the whole pot forbidden or whether that one piece alone must be removed. Given what follows, it is more logical to assume that we are only questioning whether that one piece is forbidden, which makes the opinion of the sages appear the more stringent ruling (because the whole pot must be checked even if the milk has only dropped onto one piece). Rabbi Yehudah only requires us to check one piece, while the sages' opinion risks us losing the whole dish.

The Tosefta then illustrates for us what the Mishnah (or 'Rabbi') does with these two opinions, using one in the case of not stirring and one in the case of stirring. It then provides us with further rulings not mentioned in the Mishnah. These relate to the temperature of the food discussed, and state that the combination is only forbidden where milk drops onto hot meat. Hot milk that drops onto cold meat does not produce a forbidden combination, and the milk may be dried off. This ruling may be based on the idea that the cold meat is not considered to be 'cooking' (in reference to the biblical commandment, though that commandment itself is not mentioned). In this instance again it appears that the toseftan passage is later than the mishnaic one because it shows us the whole picture: the arguments that prevailed, the way in which the Mishnah handled them, and the additional questions that the Mishnah did not address.

The discussion of the udder in the Tosefta is extremely similar to that found in the Mishnah. The Tosefta simply specifies that this is the udder of a nursing animal (this is assumed in the Mishnah). However, where the Mishnah creates a group of three acts by which one does not commit transgression in failing to perform, the Tosefta makes this observation only in relation to not removing the milk from the udder. Although it mentions the heart, it gives a different ruling for its correct preparation. The matter of putting poultry on the table with cheese is not found here, presumably because without the stylistic grouping technique it is irrelevant to the present subject.

<p>8.3 An udder cooked with its milk is permitted, rennet cooked is liable. The one who cooks meat in milk is liable. How much must one cook to be liable? Half an olive of meat and half an olive of milk such that it is like an olive. As one is liable for cooking it, one is liable for eating it. How much must he eat to be liable? As much for eating as for cooking. The one who cooks in whey is not liable, and [the one who cooks] in the milk of males is not liable, blood that is cooked in milk is not liable, bones, sinews, horns and hooves that are cooked in milk are not liable. Refuse, remnant and [the meat of] impure animals that are cooked in milk are liable because of [the laws of] refuse, remnant and unclean animals.</p> <p>The meat of a pure animal in the milk of a pure animal is forbidden for healing and benefit. Rabbi Shimon permits it for benefit. The meat of a pure animal in the milk of an impure wild animal, the meat of a wild animal or pure poultry in the milk of an impure animal, Rabbi Akiva declares these not liable for cooking, as it is said, <i>kid, kid</i>, three times.</p>	<p>ח,ג כחל שבשלו בחלבו מותר קיבה שבשלה חייב. המבשל בשר בחלב הרי זה חייב כמה יבשלם ויהא חייב? כחצי זית בשר וכחצי זית חלב כדי שיהו זה בכזית. כשם שחייב על בישולו כך חייב על אכילתו. כמה יאכל ויהא חייב? כדי שיהא נאכל משום בישול. המבשל במי חלב פטור בחלב זכר פטור דם שבשל בחלב פטור העצמות והגדים והקרנים והטלפים שבישולן בחלב פטור. הפגול והנותר והטמא שבישולן בחלב חייב עליהן משום פיגל נותר וטמא. בשר בהמה טהורה בחלב בהמה טהורה אסור ברפואה ובהנאה. ר' שמעון מתיר בהנאה. בשר בהמה טהורה בחלב חיה טמאה בשר חיה ועופות טהורין בחלב בהמה טמאה ר' עקיבא פוטר על בישולו שנאמר גדי גדי שלשה פעמים.</p>
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<p>8.4 The rennet [in the stomach of an animal] of a foreigner and of carrion, this is forbidden. They went back to saying, the one who curdles [milk] with the rennet of a foreigner and of carrion, they need not worry. Rabbi Yehudah says, a fit [animal] that suckles from an unfit [animal], her rennet is forbidden, and an unfit [animal] that suckles from a fit [animal] her rennet is permitted because milk is held in the intestines.</p>	<p>ח,ד קיבה של נכרי ושל נבלה הרי זו אסורה. חזרו לומר מעמידין בקיבת נכרי ובקיבת נבלה ואין חוששין. ר"י אומר כשרה שינקה מן הטרפה קיבתה אסורה וטרפה שינקה מן הכשרה קיבתה מותרת מפני שכנוס במעיה חלב.</p>
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The next passage of the Tosefta (8.3) has no parallel in the Mishnah. It concerns practical information: which combined foodstuffs are allowed and which forbidden, how much of each combination is permitted, and what one must do with the combination in order to transgress. For the Tosefta, an udder cooked with its milk is permitted but not so rennet (in the stomach) with its milk.¹⁶⁵ What is the reasoning behind this? As we saw above, the udder should be cut open and relieved of its milk before cooking, but failing to do so does not cause one to commit transgression. This combination is, of course, the meat of a mother animal with her own milk. As for rennet, the combination is necessarily the meat of a young animal (in the form of a stomach) with the milk of his mother (which he drank before slaughter). In this sense, it specifically constitutes cooking a young animal in the milk of his mother. We thus see that the Tosefta, in creating rulings that go beyond the Mishnah, is closely following the biblical commandment, although it gives no such reference.¹⁶⁶

We then reach the discussion of how much of each substance must be cooked in order to be liable. The unit of measurement, the half olive's bulk, is characteristic of

¹⁶⁵ This of course, is the same בחלב that we have seen before meaning *in* the milk, but here I have translated it to mean *with* the milk because the context suggests that we are dealing with meats that contain milk (the udder and stomach of a young animal that is still nursing).

¹⁶⁶ As we will observe in the next section, many elements of this passage of the Tosefta are also dealt with in the halakhic Midrashim.

rabbinic literature, in which we find many foods used to illustrate size and amount (this list includes egg, lentil, fig, date and barleycorn). While the Mishnah uses these units of measurement in relation to numerous other subjects, it does not give a set amount for the cooking of meat and milk. The Tosefta may thus be adding this detail to answer a practical question. Furthermore, it goes on to state explicitly that the law also forbids one from eating this combination, not merely from cooking it, and that the same measurements may be applied in each case. This ruling also appears to answer a practical question based on engagement with the biblical commandment, which forbids the cooking of these combined substances but says nothing about eating them.

The next section of text asks the question, what constitutes meat and what constitutes milk? Cooking in whey, the watery part of milk that remains after it has been curdled, is permitted. This indicates that the authors of the Tosefta are taking the process of cheesemaking into account when formulating halakhah (this is also indicated by the discussions that relate to rennet). Likewise, cooking in the ‘milk of males’ is permitted. Although this may seem an unlikely scenario, there is evidence to suggest that male mammals can, under certain conditions, begin to produce milk.¹⁶⁷ This has even been observed among goats, which are undoubtedly the species to which the majority of the rabbis’ discussions relate. It is characteristic of the formulation of halakhah to consider all hypothetical possibilities, including that of male milk. Again, as we saw above, the Tosefta appears to be working closely with the wording of the biblical commandment, which forbids cooking a kid in the milk of his mother (but not his father).

As for the category of meat: blood, bones, sinews, horns, and hooves are all considered to fall outside, and are therefore permitted to be cooked in milk. It should be noted that in this particular section we are discussing the matter of *cooking* these combinations, but not necessarily of eating them. This must be understood from the

¹⁶⁷ Jared Diamond, ‘Father’s Milk’.

inclusion of blood in this category, which is forbidden as a foodstuff in all circumstances on the basis of biblical law.¹⁶⁸ In my opinion, this list must be read in parallel with the ruling regarding cooking in whey; just as a watery by-product made from milk is not considered to be milk, so too meaty remains that are not flesh are not considered to be meat. These discussions relate to the question of demarcating boundaries, and likely also to the wholly practical matter of not accidentally transgressing the biblical commandment (though once again, this commandment is not mentioned).

The final statement in this passage deals with three different categories of meat and the halakhic implications of cooking them in milk. The first of these is פגול (abomination), a sacrifice deemed unfit because the priest had improper intentions regarding the time of its disposal.¹⁶⁹ The second is נותר (remnant), portions of a sacrifice that are left over beyond the permitted time and are therefore forbidden.¹⁷⁰ And finally טמא (impure), the meat of animals that are forbidden according to biblical dietary law and are, as such, not kosher.¹⁷¹ The Tosefta states that these categories of meat (when cooked in milk) are all forbidden on the basis of the laws that make them forbidden in the first place. In this sense, they are all forbidden before they even reach the cooking pot and the combination is therefore halakhically irrelevant. In simpler terms, if one is going to eat a pork chop, it doesn't make a great deal of difference whether or not it is cooked in a cream sauce.

The Mishnah makes no mention of these categories, perhaps because its authors did not consider them worth mentioning. In adding these rulings, the Tosefta is likely to be responding to a halakhic question, even if it was one discussed in purely academic terms. In my opinion this question concerned the hierarchy of *halakōt*. One might have asked, is

¹⁶⁸ See Genesis 9:4; Deuteronomy 12:16, 23; Leviticus 3:17; 17:10,14.

¹⁶⁹ See Leviticus 7:15-18.

¹⁷⁰ See Exodus 29:24 and Leviticus 7:17, 8:32, 19:6.

¹⁷¹ See Deuteronomy 14 and Leviticus 11.

the pork in a cream sauce forbidden first and foremost because it is pork, or because it is cooked in a cream sauce? The Tosefta answers this question decisively: one is guilty of transgression because the meat is impure, and this takes precedence over its being cooked in milk.

The next passage of text has a clear parallel in the Mishnah, discussing the various combinations of pure and impure meat and milk. The Tosefta states that the pure milk/pure meat combination is forbidden for healing and benefit. This is slightly different from the statement we saw in the Mishnah, which says that it is forbidden to *cook* it or benefit from it. The Tosefta may perhaps be presuming that the reader is already familiar with the prohibition of cooking this combination. The question of using it for healing is perhaps more complex; this ruling may belong to the greater collection of pre-mishnaic traditions, and have been edited out by the Mishnah and reintroduced by the Tosefta. Alternatively, it may be an addition introduced by the Tosefta, perhaps in response to a question relating to the status of a medicinal combination of meat and milk products. Furthermore, the Tosefta cites the dissenting opinion of Rabbi Shimon, who permits the combination of pure meat and milk for benefit. We thus have two statements here that differ from those found in the Mishnah.

We then come to Rabbi Akiva's opinion that the repetition of the biblical commandment three times is an indication that three different types of animal are exempt from the ruling: wild animals, poultry, and impure animals. As with the mishnaic text, this is the first example we find of an explicit reference to the biblical commandment on which these *halakōt* are based. However, where the Mishnah uses a very simple paradigm, the Tosefta's appears more complex and convoluted. The Mishnah gives us the following examples:

pure meat + impure milk = permitted for cooking and benefit

impure meat + pure milk = permitted for cooking and benefit

Essentially, any combination which contains one non-kosher element is permitted for cooking and benefit because it does not violate biblical law, which the rabbis assume relates only to kosher animals. Obviously such a combination cannot be eaten because one element is not kosher, and it is therefore forbidden, primarily on this basis. The Tosefta's examples are less straightforward:

pure meat + impure, wild milk = permitted for cooking

wild meat/pure poultry + impure milk = permitted for cooking

Here I should perhaps offer a brief discussion of the difference between 'wild' and 'impure' animals, given that both must designate an animal that is not among the domesticated species raised by Jews for the purpose of food. The word חיה (*ḥayyāh*) simply means 'animal', though it is also used with the more specific meaning of an animal that is hunted. In the first toseftan example *ḥayyāh* is qualified by the adjective טמאה (impure), indicating that we are discussing the milk of an impure wild animal. In the second example, I propose that we ought to read *ḥayyāh* as a pure wild animal, making the equation balanced (milk is the impure element here, and it is explicitly stated that the poultry is pure). Indeed, the adjective טהורין (pure) may be intended to refer to both the *ḥayyāh* and the 'opōt (poultry). Rabbi Akiva's statement excludes all of the categories in the second example and, as such, the Tosefta is saying something slightly different from the Mishnah. According to the Tosefta, even the combination of two elements from Rabbi Akiva's excluded categories is permitted for cooking. In the Mishnah's examples one food in the combination is always the meat or milk of a pure animal.

One further point to observe here is that one cannot read and understand Rabbi Akiva's statement in the Tosefta unless one is already familiar with it from the Mishnah (or elsewhere). I would suggest that the Tosefta's examples are later than the Mishnah's, but that none of them belong to Rabbi Akiva's original statement. The Tosefta's examples have been included here to extend the interpretation of the statement, but the statement itself is not considered to be worthy of repetition, presumably because it was so widely known.

The final section of the toseftan text (8.4) concerns rennet, and is almost identical to its parallel text in the Mishnah. The Tosefta first agrees with the Mishnah that rennet taken from livestock that belong to non-Jews or from carrion is forbidden. Having given this ruling, the Tosefta then contradicts it, stating that 'they went back to saying' that the ones who use this kind of rennet do so without worrying. This confirms that the ruling given in the Mishnah (and above in the Tosefta) was authoritatively overturned in the period after the redaction of the Mishnah, and before that of the Tosefta. This is stated explicitly in the Talmud Bavli, in which it is claimed that Rabbi Shmuel ben Rabbi Yitzhak (who came to Babylonia from Eretz Israel) ruled that one may curdle milk with the rennet *inside* the stomach of such animals but not with the stomach skin itself.¹⁷² This may have been a practical decision, allowing for Jews to make cheese with the rennet of any animal. Furthermore, it is an indication that this passage of Tosefta is very late, being aware of amoraic alterations to the halakhah.

The final passage of our toseftan text reads in parallel with the Mishnah, with the exception of the authority on which the ruling is given. Where the Mishnah presents it anonymously the Tosefta gives the ruling on the authority of Rabbi Yehudah. Near-identical passages such as these may further suggest that the Tosefta was composed in opposition to the Mishnah, as no supplement or addition would need to repeat a ruling almost word for word. As we have seen, there are many indications that the Tosefta is not

¹⁷² bHullin 116b.

always in agreement with the Mishnah, and that its 'additions' are corrections. There are also indications that the Tosefta may preserve some pre-mishnaic versions of mishnaic rulings, as well as citing rulings that it knows from amoraic literature.

Like the Mishnah, the Tosefta makes very little reference to scripture in determining the laws of separating meat and milk. However, as we saw above in section (8.3) the Tosefta does appear to be actively engaging with questions that arise from close analysis of the biblical commandment, though this commandment is not mentioned explicitly. In the next section we will see how many of these questions are dealt with in the halakhic Midrashim and further explore the question of the relationships between the Mishnah and the Midrash of Rabbi Akiva and the Tosefta and the Midrash of Rabbi Ishmael.

CHAPTER FOUR

‘Why is it said in three places?’: Halakhic Midrashim and the analysis of scripture

In this section I will analyse texts from two of the halakhic Midrashim, the *Mekhilta d’Rabbi Ishmael* and *Sifre Devarim* (*Sifre to Deuteronomy*). In each instance I will begin with a discussion of each text, before moving to the passages I have selected for analysis. These texts, constituting exegetical commentaries on the books of Exodus and Deuteronomy respectively, are the only (complete) early midrashic works that discuss the biblical commandment forbidding the cooking of a kid in his mother’s milk. They therefore offer us an insight into the early interpretation of this verse (and that of other verses) as well as its halakhic implications in relation to the separation of meat and milk products.

4.1 The Mekhilta d’Rabbi Ishmael

The *Mekhilta* (literally meaning ‘measure’) is a commentary containing early traditions of biblical interpretation that were likely first composed orally, and later set down in writing. It is attributed to Rabbi Ishmael ben Elisha (a contemporary of Rabbi Akiva), usually on the basis that Rabbi Ishmael was the authority of the first major tradition contained within the work, or that the work as a whole belonged to the school of Rabbi Ishmael.¹⁷³ According to the traditional model, the *Mekhilta* and *Sifre to Numbers* were composed by the school of Rabbi Ishmael, while *Sifre Devarim* and the *Sifra* (to Leviticus) stem from that of Rabbi Akiva. The two schools not only frequently base their rulings on the authority of different sages but also exhibit different styles of exegesis. As Simcha Goldsmith has observed, both

¹⁷³ See David Stern’s Introduction to *Mekhilta de-Rabbi Ishmael* (trans. Jacob Z. Lauterbauch), p. ix.

schools rely mainly on the apodictic style of Midrash, a simple method in which single words or phrases are expounded upon.¹⁷⁴ However, where the Midrashim from the school of Rabbi Akiva illustrate a greater tendency towards a derived style (in which a previously established halakhah is proven or justified through scripture), the school of Rabbi Ishmael relies more heavily on exegesis by way of logic. Usage of the former style should not be surprising when we consider that the school of Rabbi Akiva was also responsible for the Mishnah, a text that discusses similarly established *halakōt* without their explicit scriptural authority.

Furthermore, as Azzan Yadin states, the cases in which the Rabbi Ishmael Midrashim use traditions as a basis for halakhah are exceptional and there is no (known) Mishnah from the school of Rabbi Ishmael.¹⁷⁵ However, as we shall see below, in certain instances there is a clear crossover of ideas between the Mekhilta and the Tosefta. Indeed, section (5) of our Mekhilta text is an obvious attempt to find biblical proof for a law concerning consecrated and unconsecrated animals that is found in the Tosefta but not in the Mishnah. As I discussed in the previous chapter, it may be that the Tosefta was not so much a complement to the Mishnah but an alternative. In this case, and in the light of the corresponding ideas in the Tosefta and the Mekhilta, we might suggest either that the Tosefta often follows the same school of thought as the Mekhilta, or that a later, redacted version of the Mekhilta was influenced by the Tosefta. A fuller analysis of the complete body of halakhic Midrash alongside the Mishnah and Tosefta would be needed to draw any substantial conclusions on this subject.

As regards its dating, the sages whose rulings and opinions are mentioned in the Mekhilta are tannaim, placing the composition of its content in Eretz Israel the first two centuries CE. This is not to say, however, that the work was completed at this stage; its

¹⁷⁴ Simcha Goldsmith, 'Were There Really Midreshei Halakhah?', pp. 39-40.

¹⁷⁵ Azzan Yadin, *Scripture as Logos: Rabbi Ishmael and the Origins of Midrash*, pp. 144-146.

editing is likely to have taken place at a later date. However, given its authorities, we must allow for much of its material to be very early in the canon of rabbinic literature.

The Mekhilta begins at Exodus 12:1 (the first verse of this biblical book to contain significant legal portions) and is divided into nine sections. If we assess its content, we find that this Midrash contains more aggadah than it does halakhah, though its starting point is perhaps evidence that it was intended for halakhic purposes. It may be more helpful to think of the Mekhilta as an early companion to reading certain passages of Exodus, offering insights into the legal material, but likewise not neglecting the numerous non-legal portions of text. As with the Mishnah, it is important to remember that the intention of the completed text may have been constructed alongside its redaction, rather than its composition. In their raw, initial stages halakhic statements may be individual opinions, and even when compiled they may only constitute a collection of such opinions. Selective editing is often required in order to create the kind of polished text that exhibits a particular agenda.

In the case of the Mekhilta, this early collection of opinions was likely of use to those preaching on the biblical text, or studying it in the school house. Each discussion recorded in the text begins with a biblical quotation, often extracting from it a particular detail and expanding upon it at length. As regards the commandment prohibiting cooking a kid in his mother's milk, there are no fewer than five such discussions beginning with the biblical quotation, each one addressing a different element of its interpretation. The way in which these interpretations unfold suggests that they were discussed and debated in groups, with opinions being formed in response to those of other scholars. Indeed, many of the discussions appear to respond to legitimate halakhic queries, as though one scholar had posed a hypothetical question to the others. Although rabbinic law may often appear 'academic' in character, most of the queries responded to in our section of the Mekhilta are

realistic. Indeed, the work as a whole even omits those sections of Exodus that relate to the tabernacle, and were presumably considered irrelevant.

According to Lauterbach there was no original intention to comment on the entire book of Exodus, but only on certain portions.¹⁷⁶ Others have suggested that its selective nature is evidence of extensive editing, and that the original Mekhilta would have commented on the entire biblical book. This is supported, in their opinion, by the fact that the Talmudim contain *baraytōt* that claim to be of the school of Rabbi Ishmael, though they are not included in the Mekhilta. In my opinion this is not evidence that the Mekhilta was once a larger work; I would rather suggest that the teachings of the school of Rabbi Ishmael constitutes a vast collection, some (but not all) of which was recorded in written collections. Individual excerpts may appear as Talmudic *baraytōt*, but this does not necessarily imply that they must once have belonged to a particular written work. Furthermore, we cannot not dismiss the possibility that a number of these *baraytōt* are inauthentic.

It must be noted that we know little about the Mekhilta beyond the preliminary remarks mentioned above; much concerning its dating, authors, and influences remains unclear. Before beginning the analysis of our passages of text, I will, however, make one observation regarding the relationship of the Mekhilta to the Mishnah and Tosefta. This observation centres on the absence of cheese in the Mekhilta's discussion of meat and milk. Where the Mishnah and Tosefta are concerned with the halakhic status of the meat/cheese and poultry/cheese combinations and with the preparation of cheese using the stomachs of animals, the Mekhilta is silent on these questions. Instead the Mekhilta answers questions relating to the milk that is forbidden, expressly stating that a kid is forbidden to be cooked in all kinds of milk, and not only the milk of his mother. Likewise, there is much discussion of the meat that is forbidden to be cooked in milk, with some rabbis considering poultry

¹⁷⁶ Jacob Z. Lauterbach (trans.), *Mekhilta de-Rabbi Ishmael*, pp. xxx-xxi.

exempt, while others include it in the prohibition. Other concerns discussed in the Mekhilta include the question of eating this mixture and of benefitting therefrom, and the matters of consecrated animals and cooking other forbidden things.

If the biblical commandment forbids cooking a kid in the milk of his mother, the Mekhilta (and other Midrashim, as we shall see) forbids cooking kosher mammals in the milk of kosher mammals. It is the Mishnah (and Tosefta), therefore, that first present the idea of extending 'milk' to include cheese and other dairy products, making the prohibition one that governs the separation of whole food groups. However, this cannot be taken as evidence that the Mishnah and Tosefta post-date the earliest Midrashim. The Mishnah and Tosefta may rather be concerned with establishing the correct way in which to separate all meat and milk products based on their own interpretation of the biblical commandment. In this sense, the discussion within the Midrashim remains deliberately close to the biblical commandment, not only because these texts are commentaries on scripture, but because they are also aware of the lack of scriptural justification given within the Mishnah and Tosefta. For this reason, I would suggest that the vast majority of the material contained within these Midrashim post-dates the Mishnah and Tosefta.

<p>1. You shall not cook a kid in his mother's milk.</p> <p>i) Rabbi Ishmael says, why is this said in three places? For the three covenants that the Holy One Blessed be He made with Israel. One in Horeb, one in Arvot Moab, and one in Mount Gerizim and Mount Ebal.</p> <p>ii) Rabbi Yoshiyah says, the first [case] is the first instance, and one does not expound upon first instances. The second instance gives this ruling; a pure animal confers impurity through carrying, and an impure animal confers impurity through carrying. If you have learnt that it is forbidden to cook a pure animal's meat in her milk, then it might have been thought that it was even forbidden to cook the meat of an impure one in her milk. Teaching tells us [therefore] <i>in his mother's milk</i>, and not in the milk of an impure animal. And the third; not in human milk.</p> <p>iii) Rabbi Yonatan says, why is it said in three places? Once for domesticated animals, once for wild animals, and once for poultry.</p> <p>iv) Abba Hanin says, in the name of Rabbi Eliezer, why is it said in three places? Once for large animals, once for goats and once for sheep.</p> <p>v) Rabbi Shimon ben Elazar says, why is it said in three places? Once for large animals, once for small, and once for wild animals.</p> <p>vi) Rabbi Shimon ben Yohai says, why is it said in three places? Once forbidding eating, once forbidding benefit, and once forbidding cooking.</p>	<p>לא תבשל גדי בחלב אמו</p> <p>רבי ישמעאל אומר מפני מה נאמר בשלשה מקומות? כנגד שלש בריתות שכרת הקדוש ברוך הוא עם ישראל. אחת בחורב ואחת בערבות מואב ואחת על הר גריזים ועל הר עיבל.</p> <p>רבי יאשיה אומר, הראשון תחלה נאמר ואין דורשין תחלות. שני לו מפני הדין בהמה טהורה מטמאה במשא וטמאה מטמאה במשא. אם למדת על טהורה שבשרה אסור להתבשל בחלבה יכול אף טמאה יהיה בשרה אסור להתבשל בחלבה. תלמוד לומר בחלב אמו ולא בחלב טמאה. שלישית ולא בחלב אדם.</p> <p>רבי יונתן אומר מפני מה נאמרה בשלשה מקומות? אחת לבהמה ואחת לחיה ואחת לעוף.</p> <p>אבא חנין אומר משום רבי אליעזר מפני מה נאמר בשלשה מקומות? אחת לבהמה גסה ואחת לעזים ואחת לרחלים.</p> <p>רבי שמעון בן אלעזר אומר מפני מה נאמר בשלשה מקומות? אחת לבהמה גסה ואחת לבהמה דקה ואחד לחיה.</p> <p>רבי שמעון בן יוחאי אומר מפני מה נאמר בשלשה מקומות? אחת איסור אכילה ואחד איסור הנאה ואחד איסור בשול.</p>
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¹⁷⁷ Hebrew from Jacob Z. Lauterbauch's edition, Vol. 2, pp. 486-492. English translation my own.

vii) Alternatively; once for within the land of Israel and outside, once for Temple times and once for non-Temple times.

Because it says, *the earliest of the first-fruits of your land* etc., [Ex. 23:19], we have heard only that when [the law of] first-fruits applies and where [the law of] first-fruits applies, there also [the law of] meat in milk applies. When [the law of] first-fruits does not apply, and where [the law of] first-fruits does not apply; we have not heard [about this]. Teaching tells us *you shall not eat any carrion* [Deut. 14:21] and [there] it is also said *you shall not cook a kid in his mother's milk*. Just as [the law of] carrion applies in the land of Israel and outside it, in Temple times and in non-Temple times, so too does [the law of] meat in milk apply in the land of Israel and outside it, in Temple times and in non-Temple times.

viii) Rabbi Akiva says, why is it said in three places? To specify domesticated animals, to specify wild animals, and to specify poultry. Rabbi Yossi ha-Galili says, it says, *you shall not eat any carrion* and it says, *you shall not cook a kid in his mother's milk*. What is forbidden by reason of [the law of] carrion is forbidden to cook in milk. Poultry, which is forbidden by reason of [the law of] carrion, should therefore be forbidden to cook in milk. Teaching therefore tells us *in his mother's milk*. This excludes poultry, which has no mother's milk. An impure animal is excluded whether it is slaughtered or whether it died of natural causes.

דבר אחר אחת בין בארץ בין בחוצה לארץ ואחת בפני הבית ואחת שלא בפני הבית. לפי שהוא אומר ראשית ביכורי אדמתך וגו' ולא שמענו אלא בזמן שהביכורים נוהגים במקום שהביכורים נוהגים שם בשר בחלב נוהג. בזמן שאין הביכורים נוהגין מקום שאין הביכורים נוהגין לא שמענו. תלמוד לומר לא תאכלו כל נבלה ונאמר לא תבשל גדי בחלב אמו. מה נבלה נוהגת בין בארץ בין בחוצה לארץ בפני הבית ושלא בפני הבית בחלב יהיה נוהג בארץ ובחוצה לארץ בפני הבית ושלא בפני הבית. רבי עקיבא אומר מפני מה נאמר בשלשה מקומות? פרט לבהמה פרט לחיה פרט לעוף. רבי יוסי הגלילי אומר נאמר לא תאכלו כל נבלה ונאמר לא תבשל גדי בחלב אמו. את שהוא אסור משום בנבלה אסור לבשל בחלב. עוף שהוא אסור משום בנבלה יכול יהא אסור לבשל בחלב. תלמוד לומר בחלב אמו. יצא עוף שאין לו חלב אם. יצאת בהמה טמאה אחת בשחיטתה ואחת במיתתה.

The first discussion we find in our section of the Mekhilta relates largely to the repetition of the biblical quotation. As we saw before in the discussion of the Mishnah, the rabbis often consider the repetition of biblical statements to be symbolic; in this instance

eight different rabbinic interpretations are offered for its symbolic meaning. The first of these (i), the interpretation of Rabbi Ishmael, considers the three occurrences of the biblical statement to relate to the three covenants between God and Israel. This interpretation is likely founded on the following bases. Firstly, that one of these covenants (that of Horeb) comes shortly after our biblical quotation in the book of Exodus.¹⁷⁸ The other two are found in Deuteronomy,¹⁷⁹ and like that of Exodus they are illustrative of God's unique relationship with Israel. The matter of not cooking meat in milk is likewise a prohibition decreed for Israel alone and not for other peoples.¹⁸⁰ In linking abstention from cooking meat in milk to God's covenants with Israel, Rabbi Ishmael is also giving great significance to the former.

The second interpretation (ii) discusses the matter of the milk in which it is forbidden to cook meat. According to Rabbi Yoshiyah the first instance of the biblical commandment bears only its literal meaning, while the second and third exclude the milk of impure animals and humans from the prohibition respectively. The second interpretation is one that we encountered in the Mishnah and Tosefta; this biblical commandment applies to kosher animals only. What are the practical implications of this line of thinking? We may assume that for those following biblical and early rabbinic law there was no intention to *eat* non-kosher animals cooked in milk. However, Jews may have benefitted from a mixture of non-kosher meat and milk by selling it to non-Jews. According to Rabbi Yoshiyah, then, this did not constitute a transgression of the biblical commandment. As we will discuss below (and elsewhere), many rabbis did consider that benefitting from meat cooked in milk was forbidden, though such opinions may be said to be based only on the kosher meat/ kosher milk paradigm.

¹⁷⁸ See Exodus 24:7-8.

¹⁷⁹ See Deuteronomy 28:69 and 29:11.

¹⁸⁰ As we have seen before, it may even have been a prohibition initially decreed *in relation* to other peoples who did practise such a custom.

For Rabbi Yoshiyah, the third instance of the biblical commandment makes human breastmilk exempt from the prohibition. This is interesting to note, especially as later rabbinic law does not permit meat to be cooked in human milk, not because it is considered to be dairy but rather as a precaution, so that it might not be observed and mistaken for another kind of milk.¹⁸¹ Human milk is considered to be *parve* (neutral), presumably for practical reasons.¹⁸² Humans are not kosher mammals, but their milk must be permitted in some category for the sake of nourishing infants.¹⁸³ Furthermore rabbinic law states that a child may be nursed to the age of four (or five, in the case of ill health), by which time such a child might be eating meat as well.¹⁸⁴ The *parve* status of human milk thus allows for liberal breastfeeding, without the need to wait a certain amount of time after meals of meat.

One other significant point must be made on the subject of human milk. If we assume that Rabbi Yoshiyah is not truly anticipating that a woman will express breastmilk for the purpose of cooking meat in it, we may suggest that where he speaks of cooking ‘in human milk’ he already has in mind the idea of mixing the two substances, perhaps accidentally when cooking, or perhaps even in eating. This idea is closer to sentiments expressed in the Mishnah and Tosefta, but has little in common with the other interpretations in the Mekhilta, which are largely founded on the practical implications of cooking meat in milk (and eating this mixture, and gaining benefit therefrom). The three

¹⁸¹ See Shulhan Arukh, Yoreh Deah 81:7. We should also note here that according to rabbinic law if a person cooks meat in almond milk he is required to leave out a few almonds as a marker that it is not dairy.

¹⁸² It should be stated that the term *parve* (a Yiddish word) only appears in later works. The rabbis refer to no such category and have no parallel Hebrew term.

¹⁸³ See Mishneh Torah, Forbidden Foods 3:2-4. Maimonides explicitly states here that an adult (or older child) cannot nurse directly from a woman’s breast, but must rather drink from a vessel into which she has expressed milk.

¹⁸⁴ Shulhan Arukh, Yoreh Deah 81:7.

words לא בחלב אדם (not in human milk) thus moves us, the reader, out of the realm of cooking meat in milk into the broader question of mixing foodstuffs.

Of the other six interpretations, four are concerned with the 'kid' element of the biblical prohibition ((iii), (iv), (v), (viii)), seeking to determine which animals are forbidden by extension. One of these interpretations is that of Rabbi Akiva (viii), which we saw above in both the Mishnah and Tosefta. However, it is not placed alongside the other three similar interpretations, but rather comes following a discussion of first-fruits and carrion. The Mekhilta's discussion of carrion also serves as a link to the section in which Rabbi Akiva's interpretation is given, primarily because the latter also contains Rabbi Yossi ha-Galili's opinion, which states that carrion laws determine the laws of meat in milk (with the exception of poultry, which has no mother's milk). Given the somewhat illogical order in which these interpretations are given, I would suggest that Rabbi Akiva's has been added to the work at a later date, perhaps having been lifted from a parallel source.¹⁸⁵

This Mekhilta passage also offers us the first example of deriving the prohibition of cooking, eating and benefit from the three occurrences of the biblical commandment. This particular interpretation is given in the voice of Rabbi Shimon ben Yohai, who typically represents the voice of the school of Rabbi Akiva. As we saw in the previous chapter, the Mishnah (8.4) extends the biblical prohibition to include benefit as well as cooking, but says nothing on the matter of eating. However, as I will show below, the midrash from the school of Rabbi Akiva does discuss the matter of eating (as opposed to cooking), though it says nothing of gaining benefit. The Tosefta (8.3), perhaps in line with the Mekhilta here, discusses cooking, eating and gaining benefit - and even includes the fourth prohibition of using the forbidden mixture for healing.

¹⁸⁵ A further statement (that we do not find in the Mishnah) is added to these two opinions, observing that an impure animal is excluded from the prohibition regardless of whether it was slaughtered or died of natural causes.

Yet another interpretation given here supports the argument that the Mekhilta and the Tosefta come from a common legal school. As we saw in the previous section, the Tosefta passage opens with a statement declaring that the law of meat in milk applies both within the land of Israel and outside, and in Temple times and non-Temple times. The Mekhilta passage likewise presents us with all of these ideas, but in this case they appear as explanations for the repetition of the biblical verse. Thus an anonymous voice states that the three occurrences of the commandment represent the prohibition in the land of Israel and outside, in Temple times, and in non-Temple times (vii).¹⁸⁶ It is significant that the Mishnah makes no mention of these ideas, nor, as we shall see, does the Midrash from the school of Rabbi Akiva.

The questions of where and when the prohibition applies are expanded upon in the association of the law of meat in milk with the laws of first-fruits and carrion.¹⁸⁷ The notion that one law should apply in the same way that an associated law applies is a formula typical of the Mekhilta (we will see further examples of this below). As far as first-fruits are concerned, the laws apply within the land of Israel and during times in which there is a Temple. This thus limits the extent to which the law of meat in milk applies. However, the law of carrion applies in the land of Israel and outside, and in Temple times and non-Temple times. This secondary statement illustrates, therefore, that the law of meat in milk must likewise be considered to apply in all circumstances.

¹⁸⁶ This statement makes it particularly evident that an earlier idea is being remoulded to fit this particular subject; these are really two or four rulings, which have been awkwardly fitted to form three.

¹⁸⁷ These laws appear together in Exodus 23:19; 34:26 and in Deuteronomy 14:21 respectively.

2. You shall not cook a kid in his mother's milk.

I thus only know it is forbidden to cook it. How do I know it is forbidden to eat it? You say, *a fortiori*, if you are prohibited to eat the Passover lamb offering, which you are not prohibited to cook, how much more would you be prohibited to eat meat in milk, which you *are* prohibited to cook! No, if you say this about the Passover lamb offering, which is forbidden [to be cooked] in anything and is thus forbidden to be eaten, would you say this about meat in milk, which is not forbidden [to be cooked] in everything, and should thus not be forbidden to be eaten?

Rabbi Akiva says, it is not necessary [to state the above]. If you are prohibited to eat the thigh sinew, which you are not prohibited to cook, how much more are you prohibited to eat meat in milk, which you *are* prohibited to cook! No, if you say this of the thigh sinew, which was forbidden before the giving of the Torah and is therefore forbidden to eat, would you say this of meat in milk, which was not forbidden before the giving of the Torah, and should therefore not be forbidden to eat?

This is evidenced by carrion, which was not forbidden before the giving of the Torah, but is forbidden to be eaten. Concerning meat in milk, this is evidence that although it was not forbidden before the giving of the Torah it should be forbidden to be eaten. No, if you say this of carrion, which confers impurity by carrying and is therefore forbidden to be eaten, would you say this of meat in milk, which does not confer impurity by carrying and should therefore not be forbidden to be eaten?

לא תבשל גדי בחלב אמו אין לי אלא שהוא אסור בבשול. מנין שהוא אסור באכילה? אמרת קל וחומר ומה אם הפסח שאין בו בל תבשל יש בו בל תאכל בשר בחלב שיש בו בל תבשל דין הוא שיהיה בו בל תאכל! לא אם אמרת בפסח שאיסורו בכל דבר לפיכך הוא אסור באכילה תאמר בבשר בחלב שאין איסורו בכל דבר לפיכך לא יהיה אסור באכילה?

רבי עקיבא אומר אינו צריך. אם גיד הנשה שאין בו בל תבשל יש בו בל תאכל בשר בחלב שיש בו בל תבשל דין הוא שיהא בו בל תאכל! לא אם אמרת בגיד הנשה שאיסורו קודם מתן תורה לפיכך הוא אסור באכילה תאמר בבשר בחלב שאין איסורו קודם מתן תורה לפיכך לא יהא אסור באכילה?

הרי נבלה תוכיח שאין אסורה קודם למתן תורה ואסורה באכילה. היא תוכיח על בשר בחלב אף על פי שאין איסורו קודם למתן תורה יהיה אסור באכילה. לא אם אמרת בנבלה שהיא מטמאה במשא לפיכך אסורה באכילה תאמר בבשר בחלב שאינו מטמא במשא לפיכך לא יהיה אסור באכילה?

This is evidenced by fat and blood, as they do not confer impurity through carrying but are forbidden to be eaten. As regards meat in milk, this is evidence that although it does not confer impurity through carrying it should be forbidden to be eaten. No, if you say this of fat and blood, which make one liable for punishment, will you say it of meat in milk, which does not make one liable for punishment? Therefore it should not be forbidden to be eaten.

Teaching tells us, *you shall not eat it* [Deut. 12:24], to illustrate that meat in milk should be forbidden to be eaten. Issi says [furthermore], *you shall not eat the life with the meat* [Deut. 12:23], to illustrate that meat in milk should be forbidden to be eaten. Issi ben Gur Ariyeh says, here it says *holiness* and there it says *holiness*. What is there forbidden to be eaten is also here forbidden to be eaten.

This tells me only of the prohibition of eating, but where does the prohibition of benefit come from? You say, *a fortiori*, if it is forbidden to eat or benefit from the *'orlāh*, which has not been subject to any transgression, how much more should it be forbidden to eat or benefit from meat in milk, which *has* been subject to transgression! No, if you say this of *'orlāh*, which was never permitted, and is therefore forbidden for benefit, will you say this of meat in milk, which was [once] permitted and should therefore not be forbidden for benefit?

והרי חלב דם יוכיחו שאין מטמאין במשא ואסורין באכילה. הם יוכיחו על בשר בחלב אף על פי שאין מטמא במשא יהיה אסור באכילה. לא אם אמרת בחלב דם שחייבין עליהם כרת תאמר בבשר בחלב שאין חייבין עליהן כרת? לפיכך לא יהיה אסור באכילה.

תלמוד לומר לא תאכלנו להביא בשר בחלב שיהיה אסור באכילה. איסי אומר ולא תאכל הנפש עם הבשר להביא בשר בחלב שיהיה אסור באכילה. איסי בן גור אריה אומר נאמר כאן קדושה ונאמר להלן קדושה. מה להלן אסור באכילה אף כאן אסור באכילה.

אין לי אלא שהוא אסור באכילה בהנאה מנין? אמרת קל וחומר ומה ערלה שלא נעבדה בה עבירה אסורה באכילה ובהנאה בשר בחלב שנעבדה בו עבירה דין הוא שיהיה אסור באכילה ובהנאה! לא אם אמרת בערלה שלא היתה לה שעת היתר לפיכך אסורה בהנאה תאמר בבשר בחלב שהיתה לו שעת היתר לפיכך לא יהיה אסור בהנאה?

<p>This is evidenced by <i>ḥameš</i> at Passover, which was [once] permitted and yet is forbidden for benefit. Concerning meat in milk, this is evidence that although it had a time when it was permitted, it should be forbidden for benefit. No, if you say this of <i>ḥameš</i> at Passover, which incurs punishment and is therefore forbidden for benefit, will you say it of meat in milk, which does not incur punishment and should therefore not be forbidden for benefit?</p> <p>But this is evidenced by the mixed seeds of the vineyard, which do not incur punishment, but are forbidden for benefit. Concerning meat in milk, they are evidence that although it does not incur punishment, it should be forbidden for benefit.</p> <p>Rabbi says, <i>...or sell it to the gentile. You shall not cook a kid...</i> [Deut. 14:21]. The Torah says, when you sell it, do not cook it first and then sell it. Here you learn that it is forbidden for benefit.</p>	<p>והרי חמץ בפסח יוכיח שהיתה לו שעת היתר ואסור בהנאה. הוא יוכיח על בשר בחלב אף על פי שהיתה לו שעת היתר יהא אסור בהנאה. לא אם אמרת בחמץ בפסח שחייבין עליו כרת לפיכך אסור בהנאה תאמר בבשר בחלב שאין חייבין עליו כרת לפיכך לא יהיה אסור בהנאה?</p> <p>והרי כלאי הכרם יוכיחו שאין חייבין עליו כרת ואסורין בהנאה. הם יוכיחו על בשר בחלב אף על פי שאין חייבין עליו כרת יהא אסור בהנאה. רבי אומר או מכור לנכרי לא תבשל גדי. אמרה תורה כשתמכרנו לא תבשלנו ותמכרנו. הא למדת שהוא אסור בהנאה.</p>
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The second discussion of the biblical commandment (2) addresses the question of the prohibition of eating and gaining benefit in further detail. As we saw above, Rabbi Shimon ben Yohai states that two of the repetitions of the biblical commandment are representative of these two prohibitions respectively, though he gives this statement without explanation or legal argument. In this section, however, we find detailed passages of legal reasoning, using examples of similar situations in an attempt to determine the halakhah regarding meat in milk. This technique is highly characteristic of the Mekhilta; a similar halakhic situation is presented as a model for the present case on the basis of one particular detail. The parallel is discussed, and then frequently dismissed on the basis that the model differs from the present case in one crucial detail. The answer is then generally

found not in comparing cases but rather in another biblical verse, giving the impression that the tradition itself precedes any real explanation for the tradition.

The discussion of eating meat in milk, and on what grounds such a practice is forbidden, thus takes the following direction. It is compared firstly to the case of the lamb offering at Passover, which one is forbidden to eat (but not specifically to cook). This is dismissed on the grounds that the Passover lamb is forbidden to be cooked in anything, while meat is only forbidden to be cooked in milk. The second argument (Rabbi Akiva's) uses the example of the thigh sinew, which is likewise forbidden to eat but not to cook. This is dismissed because the thigh sinew was forbidden before the giving of the Torah (unlike the prohibition of cooking meat in milk). The third argument uses the prohibition of eating carrion, which was not forbidden before the giving of the Torah, as a model for the prohibition of eating meat in milk. This is dismissed on the basis that carrying carrion confers impurity while carrying meat in milk does not. The final parallel given is that of fat and blood, which do not confer impurity by carrying but are forbidden to be eaten. This is dismissed on the basis that eating fat and blood makes one liable for punishment while eating meat in milk does not.

We thus reach the biblical explanation for the prohibition of eating meat in milk: the verses *you shall not eat it* and *you shall not eat the life with the meat*.¹⁸⁸ In the context of Deuteronomy, blood is explicitly said to be 'life' (נפש), and its consumption is forbidden on these grounds. In the Mekhilta, however, the mother's milk becomes the 'life' - an argument perhaps founded in the idea that milk is a life-giving substance.¹⁸⁹ Furthermore, the preceding commandment *you shall not eat it*, which in its biblical context refers again

¹⁸⁸ Deuteronomy 12:24, 23.

¹⁸⁹ As I mentioned in Chapter One, the twelfth century Midrash *Leqah Tōb* makes an explicit connection between menstrual blood and milk, claiming that the former curdles to form the latter (see *Leqah Tōb* to Exodus 23). However, this claim is not made in any earlier rabbinic literature and we thus cannot assert that the Mekhilta has such a connection in mind here.

to blood, is used here as a clear authority for the prohibition of eating meat in milk. The interpretation is rabbinic, but the material itself is biblical.

The Mekhilta thus demonstrates two significant points here. Firstly, that the biblical prohibition of *eating* meat in milk is based not on Exodus 23:19 (or 34:26, or Deuteronomy 14:21) but rather on the verse discussed above, in which it is (according to the interpretation) explicitly forbidden. And secondly, that this is a clear example of eisegesis. On the basis of the biblical commandment forbidding cooking a kid in his mother's milk, it has become customary to abstain from eating meat and milk together. For the authors of halakhic Midrash however, this must be explained with reference to the biblical text, and Deuteronomy 12:23-24 is thus re-understood to this effect.

The reasoning for the prohibition of benefitting from meat and milk takes a similar direction to that of the prohibition of eating such a mixture. The first parallel to be considered is the *'orlāh* fruit (the fruit of a tree in its first three years), which has involved no transgression in its making and yet is still forbidden for benefit. This is dismissed on the grounds that the *'orlāh* fruit was never permitted, while meat and milk in their former, separate states were both permitted foods. The next parallel is made with *ḥameš* (grains that may ferment) at Passover, which was likewise once permitted. This is also dismissed, this time on the basis that benefitting from *ḥameš* makes one liable for punishment, while benefitting from meat in milk does not. The final parallel is that of the mixed seeds of the vineyard, which do not make one liable for punishment but are forbidden for benefit; this is thus considered a model for meat in milk.

However, as further authority for this reasoning, the Mekhilta also gives us a biblical verse by means of explanation (in this instance on the authority of Rabbi). The verse in question (Deuteronomy 14:21) contains three principle ideas, as given below.

- a) Israelites should not eat any carrion, but they may give this as food to non-Israelites in their towns, or sell it to foreigners.
- b) The Israelites are a holy people.
- c) Israelites should not cook a kid in the milk of his mother.

The explanation given by Rabbi thus picks up on one element of a) (selling to a foreigner) and applies it to c) (meat in milk). However, while Deuteronomy 14:21 states that Israelites *may* sell carrion to a foreigner, Rabbi rather uses it as evidence that Jews *may not* sell meat in milk. This is another clear example of eisegesis; a certain agenda must be evidenced by the biblical text (in this case, that it is forbidden to benefit from meat in milk), and this agenda is thus read into a verse that contains certain relevant key-words, but is otherwise unrelated. Again, the interpretation is rabbinic, but the material is biblical, and therefore authoritative.

<p>3. You shall not cook a kid in his mother's milk. This only tells me of his mother's milk; from where does [the prohibition against] his sister's milk come? If you say, <i>a fortiori</i>, it is forbidden to cook him in the milk of his mother, who does enter the shed with him for tithing, then how much more must it be forbidden to cook him in the milk of his sister, who does not enter the shed with him for tithing!</p> <p>And where does the prohibition against cooking her own milk with her meat come from? If you say, <i>a fortiori</i>, where slaughtering fruit with fruit is permitted, fruit with mother is forbidden. Here, where fruit with fruit is forbidden, how much more is fruit with mother forbidden!</p>	<p style="text-align: center;">לא תבשל גדי בחלב אמו</p> <p>אין לי אלא חלב אמו חלב אחותו מנין? אמרת קל וחומר הוא ומה אם אמו שנכנסת עמו לדיר להתעשר אסור להתבשל בחלבה אחותו שאינה נכנסת עמו לדיר להתעשר דין הוא שיהא אסור להתבשל בחלבה!</p> <p>חלב עצמה בבשרה מנין? אמרת קל וחומר ומה אם במקום שהתיר פרי עם פרי בשחיטה אסר פרי עם האם. כאן שאסר פרי עם פרי דין הוא שנאסור פרי עם האם!</p>
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<p>And where does the prohibition of cooking goats' milk with sheep come from? If you say, <i>a fortiori</i>, where it is permitted to use fruit with fruit in mating, fruit with mother is forbidden. Here, where fruit with fruit is forbidden in mating, how much more is fruit with mother forbidden! This is also the rule for cattle. So why does scripture state <i>kid</i>? Because his mother has much milk.</p> <p>Rabbi says, it says here <i>his mother</i> and it says there <i>his mother</i> [Lev. 22:27]. Just as there <i>his mother</i> is said when scripture speaks of the ox, sheep, or goat, so here is <i>his mother</i> said when scripture speaks of the ox, sheep or goat.</p>	<p>חלב עזים ברחלים מנין? אמרת קל וחומר ומה אם במקום שהתיר פרי עם פרי ברביעה אסר פרי עם האם. כאן שאסר פרי עם פרי ברביעה דין הוא שנאסר פרי עם האם! הוא הדין אף לבקר. מפני מה דיבר הכתוב בגדי? מפני שהחלב מרובה באמו.</p> <p>רבי אומר נאמר כאן אמו ונאמר להלן אמו. מה אמו האמורה להלן בשור וכשב ועז הכתוב מדבר אף אמו האמורה כאן בשור וכשב ועז הכתוב מדבר.</p>
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The next section (3) addresses the question of cooking meat in other kinds of milk: the milk of an animal's sister, her own milk, and the milk of a different species. The first of these, the prohibition of cooking in the milk of a sister animal, is based on the practice of collectively tithing kids born within the same twelve month period.¹⁹⁰ According to the rabbis, kids of the same mother are necessarily born twelve months apart, and thus a female kid cannot be tithed with her older sister. However, during the twelve month period a kid may reach maturity and bear her own kid. This mother goat and kid would be tithed together, since they were both born in the same year. Regarding cooking in milk, the logic here is that if two animals cannot even be tithed together (the kid and her older sister), they could certainly not be cooked together (one providing meat, the other milk).

Cooking an animal in her own milk is forbidden on the following basis. Fruit and fruit (i.e. two young animals) may be slaughtered together, but not fruit (young animal) and mother.¹⁹¹ Therefore, where cooking fruit (kid) with fruit (milk; both are 'fruits' of the

¹⁹⁰ Tal Ilan, *Massekhet Hullin*, p. 516.

¹⁹¹ This follows the prohibition in Leviticus 22:28.

mother animal) is expressly forbidden, then cooking fruit (milk) with mother must be all the more forbidden. By this logic, a mother animal cannot be cooked in her own milk.

The discussion then moves to the question of mixing different species in the meat/milk combination, beginning with sheep cooked in goats' milk. The reasoning goes as follows: mating fruit with fruit (two young animals of the same species) is permitted but mating fruit with mother is forbidden.¹⁹² However, where mixed species are concerned, coupling fruit with fruit is forbidden¹⁹³ and therefore coupling fruit with mother should be all the more forbidden. We, the reader, are left to apply this logic to the mixing of meat and milk, but it is not explicitly stated. This interpretation is also said to apply to cattle, and the Mekhilta states that scripture speaks of goats only because they produce so much milk.

In the same way we saw above, this section ends by anchoring the claim in a biblical verse, and thus providing it with the required authority. In this instance, the tradition is given in the name of Rabbi, and it connects our biblical verse with Leviticus 22:27 by connecting the word *מא* (his mother). In Leviticus the word is used in reference to an ox, sheep or goat, and Rabbi uses this to claim that it is also used thus in Exodus 23:19. This gives weight to the notion that not cooking a young animal in milk is something that may be applied to other species of animals, and not merely to goats.

¹⁹² This is not explicitly stated in the Bible, but may be said in reference to the human prohibition of this form of incest in Leviticus 18:7. As Tal Ilan remarks, the rulings given in rabbinic texts often move easily from animal examples to those of humans (and especially of female slaves). See (for example) *Masskhet Hullin*, pp. 172-175 and 517-518. Interestingly, this statement also contradicts one found in Bavli Hullin 114a, in which it is stated that a mother is not forbidden to her young for breeding.

¹⁹³ See Leviticus 19:19.

4. *You shall not cook a kid in his mother's milk.* You are forbidden to cook meat in milk, but not the rest of the things forbidden in the Torah. The ruling could follow, if meat in milk, of which each is permitted by itself, is forbidden to cook [together], then how much more should the other things forbidden in the Torah, which are forbidden by themselves, be forbidden to cook [together]! Teaching tells us, therefore, *you shall not cook a kid* (etc.). You are forbidden to cook meat in milk, but not the rest of the things forbidden in the Torah.

5. *You shall not cook a kid in his mother's milk.* This only tells me about unconsecrated things, where does [the law of] consecrated things come from? You say, if it is forbidden for unconsecrated things, should it not be forbidden for consecrated things? No, if you speak of unconsecrated things, where pinching [a bird's head] is forbidden, will you say the same of consecrated animals, where pinching is not forbidden? Teaching tells us, *...the house of YHWH your God. You shall not cook a kid in his mother's milk* [Ex. 23:19].

לא תבשל גדי בחלב אמו בשר בחלב את אסור לבשל ולא כל שאר האיסורין שבתורה. והדין נותן ומה אם בשר בחלב שזה מותר בפני עצמו וזה מותר בפני עצמו הרי הן אסורין בבישול שאר כל האסורין שבתורה שזה אסור בפני עצמו וזה אסור בפני עצמו אינו דין שיהיו אסורין בבישול! תלמוד לומר לא תבשל גדי וגו'. בשר בחלב את אסור לבשל ולא שאר כל האיסורין שבתורה.

לא תבשל גדי בחלב אמו אין לי אלא בחולין במוקדשין מניין? אמרת אם נאסר בחולין לא נאסר במוקדשין? לא אם אמרת בחולין שכן אסר מליקה בחולין תאמר במוקדשין שלא אסר מליקה במוקדשין? תלמוד לומר בית ה' אלהיך לא תבשל גדי בחלב אמו.

The fourth discussion relating to this verse of Exodus (4) deals with the question of cooking other forbidden things. If the first three discussions (1-3) may be said to constitute detailed analysis of the verse (or of a particular element of the verse) then the final two (4 and 5) may be said to present us with related halakhic questions. Both of these discussions are brief, each addressing a single question and providing an answer through reasoning and biblical authority. In the first instance, the question centres around things that are forbidden in the Torah, and whether they are also forbidden to cook together on the basis that meat and milk (which are permitted separately) cannot be cooked together. However,

this is simply resolved: the biblical verse *you shall not cook a kid in his mother's milk* is considered specific and therefore specifies these things only. It is interesting to note that here we begin with a related halakhic question and resolve it by returning to our biblical verse, and using it as our authority.

The second of these halakhic questions (5) deals with the matter of consecrated and unconsecrated animals. The basic reasoning is that what applies to unconsecrated things must surely apply to consecrated ones, but this is disproven with the example of pinching', which is an acceptable method of slaughter only in the context of consecrated birds. Just as we saw above, we thus return to Exodus 23:19 in order to find the authority for the ruling regarding consecrated animals. The verse in full reads, *the earliest of the first-fruits of your ground you will bring into the house of YHWH your God. You shall not cook a kid in his mother's milk.* This reference to *the house of YHWH your God* (the Temple) is interpreted in the Mekhilta as an indication that the biblical prohibition of cooking a kid in his mother's milk also applies to consecrated animals. These two final discussions exhibit many similar characteristics, including their anonymous authority, and we should thus perhaps view them as later additions to the text, penned by a single author. This is further supported (for the first of these) by the use of the phrase *בשר בחלב* (meat in milk), which, as we have seen, could only be employed without explanation once such a concept had been established within the sphere of halakhah.

4.2 *Sifre Devarim*

Sifre Devarim (*Sifre D.*), an early halakhic Midrash to the book of Deuteronomy from Eretz Israel, is generally considered to belong to the school of Rabbi Akiva. Lieberman has stated that it was not composed later than the beginning of the third century CE.¹⁹⁴ This opinion

¹⁹⁴ Reuven Hammer, *Sifre: A Tannaitic Commentary on the Book of Deuteronomy*, p. 8.

is no doubt partly based on the Talmudic account of its origins; the Talmud claims that Sifre D. is the product of the school of Rabbi Akiva, transmitted by his student, Rabbi Shimon ben Yohai.¹⁹⁵ Many scholars have suggested that certain parts of the text may indeed come from the school of Rabbi Akiva, while others belong to that of Rabbi Ishmael. Abraham Goldberg has proposed that the first section of Sifre D. should be seen as a continuation of Sifre to Numbers, which is widely considered to come from the school of Rabbi Ishmael, although the rest of the text should be attributed to the school of Rabbi Akiva.¹⁹⁶ Others have proposed that the halakhic elements of the text are the work of Rabbi Akiva's school, while the aggadic ones stem from that of Rabbi Ishmael.

According to this latter division of the text, our passages constitute halakhic material from the school of Rabbi Akiva, as they belong to the section comprising commentary on Deuteronomy 12:1-26:15. As we shall see below, Sifre D. treats our biblical commandment (*you shall not cook a kid in his mother's milk*) in a way that is almost identical to its treatment in the Mekhilta. The main difference between the two discussions of the biblical commandment is that the Mekhilta offers more: additional parallels, further arguments, and extended reasoning.

As I will show in more detail below, Sifre D. addresses the matter of meat and milk in two sections of the text. One of these, as we would expect, is the occurrence of the biblical commandment in Deuteronomy 14:21. This discussion is brief, consisting of only three explanations for the repetition of the commandment. The other section of text that addresses the question of cooking meat in milk (which occurs first, as the text is structured according to biblical verse) is that relating to Deuteronomy 12:24 (*you shall not eat it*), which we encountered above in the Mekhilta as an explanation for the prohibition of

¹⁹⁵ Reuven Hammer, *Sifre: A Tannaitic Commentary on the Book of Deuteronomy*, p. 6. bSanhedrin 86a states that an anonymous dictum in the Sifre comes from Rabbi Shimon (ben Yohai) and that such a dictum is taught according to the views of Rabbi Akiva.

¹⁹⁶ *Ibid.*, pp. 5-6.

eating meat and milk as opposed to cooking it. In Sifre D. this verse is likewise discussed in relation to the prohibition of eating this forbidden combination, and the same methods of reasoning seen in the Mekhilta are employed to determine the authority of this ruling. The same parallels are used, and the language is almost identical. We must therefore assume that the relationship between these two sections of text follows one of the models outlined below.

Firstly, the passages in Sifre D. may constitute edited versions of those given in the Mekhilta (such editing may be the work of the school of Rabbi Akiva or of later, amoraic scholars). Secondly, the Mekhilta text may be an amplification of that which we find in Sifre D. In this instance, we might assume that the initial interpretation is the work of the school of Rabbi Akiva, while the additional reasoning is the result of further discussion within the school of Rabbi Ishmael. Alternatively, both texts may rely on a common source, perhaps even an oral one. In this case, the authors of each text may have selectively edited or expanded on this common source as they deemed appropriate. I would suggest that the existence of such a source is highly probable, and that it was likely expanded on first by the school of Rabbi Akiva, and later by that of Rabbi Ishmael. According to this model, the Mekhilta would give us a fuller picture of an image that already existed, presenting expanded reasoning, and addressing further questions, such as that of benefit (Sifre D. discusses only cooking and eating).

Like the Mekhilta, Sifre D. is a tannaitic text that underwent editing in the amoraic period. We must therefore exercise the same caution as with the Mekhilta when attempting to date individual traditions or rulings, and particularly when discussing these midrashic texts in relation to the Mishnah and Tosefta. This question of chronology is one that many scholars have grappled with, variously suggesting that independent rulings (Mishnah) predate their connection to scripture (Midrash) and vice versa. Urbach has suggested that these two things may even have occurred at the same time, with Midrash belonging to the

realm of scribes and the Mishnah to that of sages.¹⁹⁷ For Tal Ilan, they represent two conflicting opinions as to how Jewish law ought to be derived.¹⁹⁸ However, we may also suggest that even before these halakhic and midrashic texts were committed to writing they were mutually influential, with biblical commentaries affecting the nature of tradition and oral law, and established legal rulings shaping the exegesis of scripture.

In this sense, I would propose that in the early rabbinic period certain sages began to separate meat and milk on the basis of the biblical commandment forbidding the cooking of a kid in his mother's milk. As a result of this, the authors of midrashic literature (who accepted this understanding of the scriptural passage) subjected the verse to both extensive interpretation and to a process of eisegesis, anchoring the practice in biblical authority. Furthermore, the practice was formalised by the development of detailed halakhic rulings in the written Mishnah and Tosefta, and later in Talmud Bavli.

4.2.1 *Sifre D., Piska 104 and 76: text and analysis*¹⁹⁹

Sifre D., Piska 104

<p><i>You shall not cook a kid in his mother's milk.</i> Why is this said three times? For the three covenants that the Holy One Blessed Be He made with Israel, one in Horeb, one in Arvot Moab, and one in Mount Gerizim and Mount Ebal.</p>	<p>לא תבשל גדי בחלב אמו למ' נא' ג' פע' כנגד ג' בריתות שכרת הקב"ה עם יש' א' בחורב וא[ח]ת בערבות מואב ואחת בהר גריזים ובהר עיבל.</p>
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¹⁹⁷ Reuven Hammer, *Sifre: A Tannaitic Commentary on the Book of Deuteronomy*, p. 3.

¹⁹⁸ Tal Ilan, "Daughters of Israel, Weep for Rabbi Ishmael": The Schools of Rabbi Akiva and Rabbi Ishmael on Women', p. 19.

¹⁹⁹ The Hebrew text follows the Vatican manuscript and is taken from Bar Ilan University online text archive. The English translation is my own (likewise Piska 76 below).

<p>Rabbi Akiva says, wild animals and poultry are not from the [law of the] Torah, as it is said, <i>you shall not cook a kid in his mother's milk</i> three times, this excludes wild animals, poultry and impure animals. Rabbi Yossi ha-Galili says, it is said, <i>you shall not eat any carrion</i>, excluding poultry, which has no mother's milk.</p>	<p>ר' עקי' או' חיה ועוף אינן מן התורה שנ' לא תבשל גדי בחלב אמ' ג' פע' פרט לחיה ועוף ובהמה טמאה. ר' יוס' הגל' או' נא' לא תאכ' כל נבלה יצא עוף שאין לו חלב אם.</p>
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The first section under discussion here, Piska 104, presents three main points in its interpretation of the biblical commandment. Firstly, the explanation of its repetition by means of the three covenants, which we saw above in the Mekhilta on the authority of Rabbi Ishmael.²⁰⁰ Secondly, the explanation given by Rabbi Akiva, which excludes wild animals, poultry and unclean animals from the biblical prohibition. And thirdly, a highly abbreviated version of Rabbi Yossi ha-Galili's interpretation (which goes hand in hand with Rabbi Akiva's), associating the commandment with the laws of carrion, and stating that poultry is exempt from the prohibition.

Of all the early traditions relating to meat and milk, the statement given by Rabbi Akiva is the only ruling that is given in the Mishnah, Tosefta, Mekhilta and Sifre D. This makes it a basic starting point for the interpretations that follow and develop, but it also makes Rabbi Akiva a significant and authoritative figure in this debate. The focus of Rabbi Akiva's statement would suggest that he is demarcating the boundaries of the biblical commandment, perhaps in response to the question of how far they ought to be extended. As we saw in the Mishnah and Tosefta, the question of mixing poultry and milk was one that was debated, although the Mishnah ultimately advocates the prohibition of this mixture. Rabbi Akiva may have been aware that certain sages were abstaining from mixing poultry and dairy, and have deemed it important to remark that according to his understanding of scripture only kosher, domesticated mammals were forbidden to be

²⁰⁰ It may be that Rabbi Ishmael has been deliberately edited out of this tradition in Sifre D.

cooked in milk. This is different from stating that it is permissible to cook poultry in milk; according to rabbinic interpretation and practice the combination is forbidden. Rabbi Akiva merely specifies that such a prohibition is not biblical.

Sifre D., Piska 76

<p><i>You shall not eat it</i> [Deut. 12:24]; this includes meat in milk, is it not the ruling? If [in the case of] carrion one is not liable for cooking but is liable for eating, then should one not be liable for eating meat in milk, which one is liable for cooking? Mixed seeds prove [otherwise], as one is liable for sowing them but not liable for eating them. Therefore do not wonder at meat in milk, for although one is liable for cooking it, one might not be liable for eating it. Teaching tells us, <i>you shall not eat it</i> to include meat in milk.</p> <p>Rabbi Eliezer says, if [in the case of] the Passover [lamb offering] one is not liable for cooking but is liable for eating, then should one not be liable [for eating] meat in milk, which one is liable for cooking? The compounding of incense proves [otherwise] as one is liable for compounding it but one is not liable for inhaling it. Therefore do not wonder at meat in milk, for although one is liable for cooking it, one might not be liable for eating it. Teaching tells us, <i>you shall not eat it</i> to include meat in milk.</p>	<p>לא תאכלו לרבות בשר בחלב והלא דין הוא? מה נבלה שאין חייבין על בשולה חייבין על אכילתה בשר בחלב שחייבין על בישולו אינו דין שחייבין על אכיל? כילאי זרעין יוכיחו שחייבין על זרען ואין חייבין על אכילתן. אף את אל תתמה על בשר בחלב שאף על פי שחייבין על בישולו שלא יהו חייבין על אכילתו. תל' לומ' לא תאכלנו לרבות בשר בחלב. ר' אליעזר אומ' ומה פסח שאין חייבין על בישולו חייבין על אכילתו בשר בחלב שחייבין על בישולו אינו דין שחייבין? פיטום הקטורת תוכיח שחייבי על פיטומה ואי' חיי' על ריחה. וא' את' אל תתמה ע' בש' בח' שאפע' שחיי' על בישולו שלא יהו חייב' על אכיל'. ת' ל' לא תא' לרב' בש' בח'.</p>
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The second section under analysis here, Piska 76, relates to Deuteronomy 12:24, *you shall not eat it*. According to the Mekhilta, this is interpreted as the biblical authority for not eating meat in milk (as opposed to cooking it). As we saw above, in the specific

commentary given in Sifre D. this verse is likewise said to represent the prohibition of eating meat in milk. This suggests a strong tradition of associating Deuteronomy 12:24 with the prohibition of eating meat in milk. As we discussed before, it is also clear evidence for the practice of reading a particular agenda back into the biblical text in order to give that practice authority.

The reasoning used in Sifre D. has many elements in common with the Mekhilta, although they are not always used in the same order, or to the same effect. Three of the four examples in Sifre D. are also used (if differently) in the Mekhilta: carrion, mixed seeds and the Passover lamb offering. Sifre D. also uses the example of compounding incense, which is not found in the Mekhilta. However, the method of reasoning in Sifre D. is quite different. As we saw above, the Mekhilta tends to use a particular pattern, taking a parallel and then dismissing it on the basis of one detail. It then finds another parallel in which this detail is fulfilled, and dismisses the second parallel on the basis of a second detail (and so on). Sifre D., in contrast, simply finds a parallel that would suggest eating meat in milk was prohibited and then a parallel that would suggest the opposite.

Just as we saw in the Mekhilta, the authoritative answer in Sifre D. is given at the end of this reasoning, on the basis of scripture. The two texts thus appear to be dipping into a common pool of interpretations but producing independent arguments (this is further support for the notion of a common source). However, both the matter that each text is attempting to prove and the biblical authority that each text uses are identical. Essentially, the two texts start and end their arguments at given points but take different routes in order to arrive at their conclusions, at times crossing over and using common material, at times veering off independently.

4.3 The Mekhilta d'Rabbi Shimon bar Yohai and Midrash Tannaim

As I discussed above, it is widely believed that midrashic texts from the tannaitic period may be said to belong either to the school of Rabbi Ishmael or to that of Rabbi Akiva. In addition to this, many scholars would suggest that each school had its own halakhic Midrash to each of the four books of the Torah containing legal material (Exodus, Leviticus, Numbers and Deuteronomy). Up until the nineteenth century, only four such Midrashim were known: the Mekhilta d'Rabbi Ishmael (to Exodus), Sifra (to Leviticus), Sifre (to Numbers) and Sifre D. (to Deuteronomy). According to the Rabbi Akiva/Rabbi Ishmael model, the Mekhilta and Sifre to Numbers belong to the school of Rabbi Ishmael and Sifra and Sifre D. to that of Rabbi Akiva. With the discovery of midrashic manuscript fragments, scholars such as Hoffmann have begun to fill in the gaps in the paradigm of the eight halakhic Midrashim. However, much of this work has been done by reconstructing the missing Midrashim on the basis of Midrash ha-Gadol, a fourteenth century work containing Midrash to the Torah drawn from many different sources.

I will mention the relevant reconstructed works (Mekhilta d'Rabbi Shimon bar Yohai and Midrash Tannaim) only briefly here. While the content may be of interest in the present context, I do not consider them to be works that may be analysed in parallel with the two texts discussed above, given that they are based, primarily, on a work that is medieval. Furthermore, given that the question of meat and milk is discussed in both an Ishmaelian and an Akivan Midrash, reconstructing the missing Midrashim in this case would have been fairly straightforward. For this reason I will discuss them only in passing, and exercise caution in making assumptions regarding their authenticity as tannaitic sources.

The relevant passage of the Mekhilta d'Rabbi Shimon bar Yohai (the commentary on Exodus from the school of Rabbi Akiva) presents us with three main points of

discussion: the opinion of Rabbi Akiva regarding the repetition of the biblical commandment; that of Rabbi Yossi ha-Galili, which is frequently cited after the former ruling; and a question regarding the animals to which the commandment applies.²⁰¹ This third point specifically questions the cooking of a cow in her mother's milk (פרה בחלב אמה) (מנין).²⁰² This is highly reminiscent of questions that we saw in section (3) of the Mekhilta d'Rabbi Ishmael above, in which the author questions both the cooking of sheep in goats' milk, and the reason for the specific mention of a goat in the biblical commandment. The Mekhilta d'Rabbi Shimon bar Yohai resolves the question rather more simply. For this author, the use of the term 'in milk' (בחלב) in the biblical commandment is evidence that it should be applied in all circumstances involving milk (מכל מקום). The Mekhilta d'Rabbi Ishmael, in contrast, plays on the term 'his mother' (אמו) and links this with Leviticus 22:27, which speaks of the ox, sheep and goat. We thus come to the same conclusion, but find that the Mekhilta d'Rabbi Shimon bar Yohai lacks the elegant interpretive methods seen above in the Mekhilta d'Rabbi Ishmael.

Midrash Tannaim (the commentary on Deuteronomy from the school of Rabbi Ishmael) presents us with an extended passage of commentary, which appears to be a compilation of many different sources.²⁰³ It begins with a discussion regarding the forbidden combination of a pure animal's meat and a pure animal's milk, and the permitted combination of a pure animal's meat and an impure animal's milk (and vice versa; this is permitted for cooking and benefit, but not for eating). This ruling is familiar to us from the Mishnah and Tosefta, and we may thus suggest that these are the sources for Midrash ha-Gadol in this instance. Like all the Midrashim discussed so far, Midrash

²⁰¹ W. David Nelson, *The Mekhilta de-Rabbi Shimon bar Yohai*, pp. 369-370.

²⁰² W. David Nelson, *The Mekhilta de-Rabbi Shimon bar Yohai*, LXXX:5, p. 370.

²⁰³ David Tsevi Hoffmann, *Midrash Tannaim*, p. 75.

Tannaim also cites Rabbi Akiva's opinion stating that wild animals, poultry and impure animals are excluded from the biblical commandment.

The following sections echo many of the opinions and rulings seen above in the Mekhilta d'Rabbi Ishmael. These include the question of cooking in cow or sheep's milk, the question of cooking an animal in her own milk, the matter of gaining benefit (for which the parallels of *'orlāh*, *ḥameš* at Passover, and the mixed seeds of the vineyard are used) and the association of the repetition of the biblical commandment with the three covenants God made with Israel. Much of the reasoning seen in the Mekhilta is also seen here in Midrash Tannaim, and certain biblical proof texts found in the former are also used in Midrash Tannaim. Indeed, one such parallel proof text in Midrash Tannaim sheds light on one used ambiguously in the Mekhilta d'Rabbi Ishmael. In section (2) of the Mekhilta d'Rabbi Yishmael we found the following statement:

<p>Issi ben Gur Ariyeh says, here it says <i>holiness</i> and there it says <i>holiness</i>. What is there forbidden to be eaten is also here forbidden to be eaten.</p>	<p>איסי בן גור אריה אומר נאמר כאן קדושה ונאמר להלן קדושה. מה להלן אסור באכילה אף כאן אסור באכילה.</p>
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In Midrash Tannaim we find an expanded version of this interpretation, given on the authority of Issi ben Yehudah, linking the biblical verse to Exodus 22:30, on the basis of the term 'holiness'. In the latter verse, Israel (the holy people) is commanded not to eat the flesh of animals that have been torn by beasts. In this interpretation it is stated that what applies there (Exodus 22:30) also applies here (Deuteronomy 14:21). This may be understood as implying that those animals to whom the laws of being torn apply, are the same animals for whom the laws of cooking in milk apply. This cannot be deduced from the Mekhilta d'Rabbi Ishmael alone, but we are able to understand this ruling on the basis of the full version of the tradition given in Midrash Tannaim. However, all of the

interpretations cited and discussed in this work (and in the Mekhilta d’Rabbi Shimon bar Yohai) can be found elsewhere in our early rabbinic sources, and there is nothing in our passages to suggest that these versions must originate from early parallel sources.

As far as the midrashic Genizah fragments are concerned, there is nothing in the work of Menahem Kahana to offer us insight into the Mekhilta d’Simon bar Yohai or Midrash Tannaim (which Kahana calls Mekhilta Devarim).²⁰⁴ Indeed, the only genizah fragments in this work that relate to the question of cooking meat in milk are those from the Mekhilta d’Rabbi Ishmael.²⁰⁵ These fragments illustrate little difference from the version seen above; where we do find inconsistencies they are minor and inconsequential. However, it is perhaps interesting to note that in many cases traditions are reversed, given in a different order, or presented on an alternative authority. In my opinion, this is evidence that in texts such as these details can often be incorrectly transmitted, though the broader ideas are retained.

4.4 Comparisons of the Mishnah, Tosefta and Halakhic Midrashim

As we have seen, there are many points of crossover in the four main texts discussed thus far. In particular, we have noticed that the Mishnah and Tosefta, as works that constitute the formalisation of rabbinic traditions and rulings, often address the same subjects, being mostly concerned with the practical boundaries of meat and milk separation. Similarly, the two Midrashim, as commentaries concerned with deriving rulings from scripture, tend to focus on the same areas of interpretation. We have also seen that in certain instances the Tosefta and Mekhilta d’Rabbi Ishmael illustrate certain points of crossover. For clarity, I have presented all of this information in the chart given below:

²⁰⁴ See Menahem I. Kahana, *The Genizah Fragments of the Halakhic Midrashim*.

²⁰⁵ *Ibid.* See pp. 147-151.

	Mishnah	Tosefta	Mekhilta d'R. I.	Sifre D.
Meat vs. fish and locusts	X	X		
Meat and poultry with cheese	X	X		
Fallen drop of milk	X	X		
Using the udder	X	X		
Pure meat with impure milk (etc.)	X	X		
Rabbi Akiva's interpretation of repetition	X	X	X	X
Laws of carrion	X		X	X
Coagulated milk and the stomach	X	X		
Repetition as 3 covenants			X	X
<i>You shall not eat it</i> (Deut. 12:24)			X	X
<i>'Orlāh, hameš,</i> mixed seeds			X	
Passover lamb offering			X	X
Quantities of meat and milk permitted		X		
What constitutes meat and milk		X		
Application within the land of Israel and outside		X	X	
Application in Temple times and non		X	X	
Consecrated and unconsecrated animals		X	X	
Thigh sinew, carrion, tallow and blood			X	
Cooking with other kinds of milk			X	
Other prohibited mixings			X	

The correlation this chart illustrates suggest that as far as meat and milk are concerned, the Mishnah and Tosefta belong (for the most part) to a different sphere from that of the Midrashim and address different matters. This may indicate a difference in their authors; as I discussed above they may have been scribes in the first instance and sages in the second. Alternatively, they may have been written at different times, with the redacted and expanded Midrashim likely post-dating and justifying the Mishnah and Tosefta, and early scriptural interpretation providing the authority on which the laws of the Mishnah and Tosefta could be constructed.

What does appear evident is that the starting point for all of these texts is the accepted practice of not eating meat with milk and the association of this practice with the biblical commandment *you shall not cook a kid in his mother's milk*. The Mishnah and Tosefta intend to formalise this practice and provide a framework with established rulings, only occasionally making mention of its connections to scripture. The Midrashim intend to anchor the practice in scripture and give it biblical authority. In each case, however, it is evident that we begin with the rabbinic practice of separating meat and milk. I do not think that this practice was necessarily the result of extensive scriptural interpretation, but rather an early rabbinic identity marker, establishing one of the many characteristic fences around the Torah. Furthermore, the Mishnah's reluctance to anchor the practice in scripture places it firmly in the category of oral Torah. In the halakhic Midrashim, however, we see how the practice of separating meat and milk was carefully read back into scripture through a system of logical argumentation, close analysis of individual words and phrases, and liberal usage of seemingly unrelated scriptural quotations.

In the following chapter it will be shown that the Talmud Bavli ultimately brought these two elements together, using as its framework the established authority of the Mishnah in combination with biblical interpretations from other rabbinic sources, as well as its own.

CHAPTER FIVE

‘How do we know that meat in milk is forbidden?’: scriptural interpretation in the Talmudim

In this section I will analyse the ways in which the Talmud Yerushalmi (from Eretz Israel) and Talmud Bavli (from Babylonia) address the biblical commandment forbidding the cooking of a kid in his mother’s milk. Furthermore, I will discuss the ways in which the Talmudim attempt to draw from this commandment the relevant requirements for the correct practice of separating meat and dairy products. In addition to this, I will illustrate how the authors of the Talmudim use other passages of scripture to justify the separation of meat and milk, and with what focus they do this. It will be shown that while the Talmud Yerushalmi barely touches upon the subject, the Talmud Bavli brings together many strands of exegesis of our biblical verse, as well as incorporating the exegesis of further biblical verses connected with the prohibition of eating meat and milk.

5.1 The Talmud Yerushalmi

I begin this section of analysis with the text from the Yerushalmi for two reasons. Firstly, the completion of the Yerushalmi took place at around the end of the fourth century (in a Roman context), predating the completion of the Bavli. It therefore makes chronological sense for us to read the texts in this order. Secondly, as we shall see below, the Yerushalmi has only one brief mention of our biblical commandment, while the Bavli presents nine examples (in addition to other discussions of the subject, presented with their related scriptural justifications). The primary reason for this difference is that although the two Talmudim are commentaries on the Mishnah, the Yerushalmi has no known commentary

to Kodashim (the order of the Mishnah containing tractate Hullin, in which we found extensive discussion of meat and milk in the Mishnah and Tosefta). For this reason, when we discuss the matter of meat and milk as presented in the Yerushalmi, we are merely searching for references, rather than identifying passages of subject-specific, substantial debate.

Although the Yerushalmi and the Bavli contain shared materials, many scholars believe that there is no indication that the rabbinic authorities in Eretz Israel were working with a version of the Bavli, or that in Babylonia they had a copy of the Yerushalmi.²⁰⁶ Indeed, some such scholars suggest that the sections of these texts that can be read in parallel are more likely to quote these shared materials than to quote each other.²⁰⁷ However, an alternative view would suggest that the Bavli, as the later text of the two, was working with an early form of the Yerushalmi and was influenced by its content. Due to the lack of relevant texts on meat and milk in the Yerushalmi, our passages do little to shed light on this matter.

The Yerushalmi exhibits some major differences from its Babylonian counterpart. Firstly, the commentary is written in western Aramaic, with evident Greek linguistic influence.²⁰⁸ Secondly, the Yerushalmi underwent far less editing than the Bavli (given both its earlier date and the fact that it was never canonised) and thus has fewer compositional layers. Thirdly, when compared proportionally to the Bavli, it contains very little aggadah; according to Abraham Goldberg the Bavli is composed of around one third aggadah, while the Yerushalmi is only one sixth.²⁰⁹ This indicates not only a different style, but a different intention in composition. Fourthly, although the Yerushalmi contains some exegesis of scripture, this is generally presented separately from its commentary on the

²⁰⁶ Louis Jacobs, *Structure and Form in the Babylonian Talmud*, p. 3.

²⁰⁷ Jacob Neusner, *Judaism: The Classical Statement: The Evidence of the Bavli*, p. 73.

²⁰⁸ Abraham Goldberg, *The Literature of the Sages, Part 1* (ed. Shmuel Safrai), p. 305.

²⁰⁹ *Ibid.*, p. 306.

Mishnah. According to Neusner, this is the great difference between the Yerushalmi and the Bavli; where the Bavli seeks completion in bringing Mishnah and scripture together, the Yerushalmi adheres to the system of the Mishnah with the small addition of some sections of scripture.²¹⁰

As we shall see below, in this instance the Yerushalmi does not have enough relevant sections of text for us to prove or disprove Neusner's claim. The only mention of our biblical commandment in the Yerushalmi appears in Avodah Zarah 36b,²¹¹ in which we find expansions on the mishnaic list of forbidden things (which we saw in Chapter 3 above). Among the other items on this list is 'meat in milk', which the Yerushalmi addresses thus:²¹²

<p>And meat in milk, it was taught, <i>you shall not cook a kid</i> is written in three places; for eating, for benefit and for cooking.</p>	<p>ובשר בחלב תני בשלשה מקומות כתיב לא תבשל גדי לאכילה ולהנייה ולבישול.</p>
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In this case, then, the Yerushalmi is using scripture to explain the Mishnah. While the text in Mishnah Avodah Zarah merely prohibits meat in milk, the Yerushalmi links this prohibition to the biblical commandment. It is interesting to remind ourselves here that the particular explanation given (explaining the commandment and its repetitions as prohibiting eating, benefit and cooking respectively) is not given in the Mishnah or the Tosefta. Indeed, in the survey of rabbinic literature seen thus far, this argument has only been presented in the Mekhilta d'Rabbi Ishmael. For this reason, we must assume that the Yerushalmi is relying on the Mekhilta in this context, or else that it is drawing on another

²¹⁰ Jacob Neusner, *Judaism: The Classical Statement: The Evidence of the Bavli*, pp. 209-210 and p. 233-234.

²¹¹ Or Avodah Zarah 5:9.

²¹² Hebrew/Aramaic text taken from *Talmud Yerushalmi: According to Ms. Or. 4720 (Scal. 3) of the Leiden University Library*. The English translation is my own.

external source familiar with this particular exegesis. Furthermore, this also indicates to us that the Yerushalmi is merely using a *barayta* here rather than offering an independent opinion.

The absence of other discussions relating to our biblical commandment may be an indication that this explanation for the prohibition of eating meat with milk was widely accepted in Eretz Israel. In this sense, while the practice may have become accepted as a fundamental feature of rabbinic dietary law (as the Mishnah and Tosefta suggest), by the time the Yerushalmi was redacted, this explanation for the practice may have been favoured over the other ones given in the halakhic Midrashim. Of course, it is not impossible that there was once a Yerushalmi to Hullin, containing all the relevant debates and opinions relating to meat and milk. However, we cannot assume that such a document has been lost, as it may simply never have been composed. In this sense, we may only gather the evidence at hand and remark that the Yerushalmi contains one text that cites our biblical commandment, in which a single exegetical explanation is presented, possibly as the primary authoritative one. This brevity will not be echoed in the relevant texts from the Bavli given below, in which both the commandment and the discussion will be pulled in all manner of directions.

5.2 *The Talmud Bavli*

The Bavli first appeared as a fixed text from the eighth century CE²¹³ and may have been edited as late as the end of the seventh.²¹⁴ It was composed in the context of the Sassanid Empire, and at a time in which many of the great seats of Jewish learning were located in Babylonia. Like the Yerushalmi's, its commentary was based on the Mishnah, though in

²¹³ Michael Krupp, *The Literature of the Sages, Part 1* (ed. Shmuel Safrai), p. 346.

²¹⁴ Abraham Goldberg, *The Literature of the Sages, Part 1* (ed. Shmuel Safrai), p. 327.

the case of the Bavli this text (along with other tannaitic materials) was reworked in accordance with the authors' method of interpretation. According to David Kraemer, the first two generations of Babylonian amoraim (including Rav, Shmuel, Rav Yehudah and Rav Huna) essentially followed the style of the Mishnah, giving brief halakhic declarations that did not quote from scripture and were largely composed in Hebrew.²¹⁵ With the third and fourth generations came a shift in style that gradually became characteristic of the Bavli. This included longer passages, argumentation on the basis of reason and justification, exegesis of scripture and a preference for Aramaic over Hebrew. With the fifth and sixth generations, the argumentative nature of the text increased and the style seen in the previous two generations became fixed.

According to Kraemer, the authors of the Bavli used the Mishnah because they needed its authority, but they used it creatively. This is evident in the Bavli's dramatic departure in style from that of the Mishnah. Where the Mishnah is consistently terse and assured in its own authoritative decisions, the Bavli is a web of opinion, argumentation, extended narrative and expansion into scriptural exegesis. It is characterised by the argumentation that is lacking in the Mishnah (as well as the Yerushalmi). In the final editing of the Bavli this argumentation was yet further embellished. For Kraemer, this indicates that the Bavli's declarative stance is that scripture has many possible interpretations, that the truth is elusive, but that seeking this truth through study is the ultimate pious act.²¹⁶

As Neusner observes, the Bavli was also the first rabbinic text to explore the system of the two Torahs (oral and written).²¹⁷ As he notes, the Mishnah itself makes no suggestion that it is oral Torah, and although the Yerushalmi places the Mishnah alongside

²¹⁵ See David Kraemer, *The Mind of the Talmud* (pp. 30-41) for an overview on this subject.

²¹⁶ David Kraemer, *The Mind of the Talmud*, p. 123-124.

²¹⁷ Jacob Neusner, *Judaism: the Classical Statement: The Evidence of the Bavli*, pp. 213-222.

scripture it does not call the former ‘Torah’. In this sense, this characteristic element of rabbinic tradition is introduced by the Bavli. Furthermore, not only does the Bavli present this idea, but it also brings it to fruition through its use of scriptural exegesis. The Bavli claims that the Mishnah is built on the foundations of scripture, and that these texts constitute the two elements of the dual Torah. It then proceeds to illustrate this through scriptural proof texts. Indeed, a third of the content of the Bavli is concerned with interpretation of scripture, and it was in joining the Mishnah to scripture that the Bavli gained its authoritative status in the canon of rabbinic literature.²¹⁸

I have divided the texts from the Bavli given below into two categories: texts that use the biblical commandment *you shall not cook a kid in his mother’s milk* and texts that use a different scriptural commandment to justify the separation of meat and milk. The former are taken from a number of different places in the Bavli, while the latter belong solely to the major discussion of this subject found in tractate Hullin.

5.2.1 ‘You shall not cook a kid...’ in the context of the Bavli

It seems appropriate to begin this section with a passage that appears to answer the text given above in the Yerushalmi (or at least the text on which it was based in the Mekhilta or an alternative early source). This passage also addresses meat in milk as part of a list of forbidden things, as we saw above in the Mishnah.

²¹⁸ Jacob Neusner, *Judaism: the Classical Statement: The Evidence of the Bavli*, p. 212 and 233-234.

<p>Meat in milk; how do we know it? The school of Rabbi Ishmael taught: <i>you shall not cook a kid in his mother's milk</i> [is stated] three times; one is a prohibition against eating, one a prohibition of benefit, and one a prohibition of cooking.</p> <p>Our Mishnah does not agree with this Tanna. For it was taught: Rabbi Shimon ben Yehudah said, meat in milk is forbidden to be eaten, and permitted for benefit, as it is said, <i>for you are a holy people unto YHWH your God. You shall not cook a kid in his mother's milk</i> [Deut. 14:21], whilst elsewhere it is said, <i>and you shall be my holy people [therefore you shall not eat any flesh that is torn of beasts in the field; you shall cast it to the dogs]</i> [Ex. 22:30]. Just as there it is forbidden to be eaten and permitted for benefit, so here it is forbidden to be eaten and permitted for benefit.</p>	<p>בשר בחלב מנלן? דתנא דבי רבי ישמעאל: לא תבשל גדי בחלב אמו שלש פעמים אחד איסור אכילה ואחד איסור הנאה ואחד איסור בישול.</p> <p>מתניתין דלא כי האי תנא. דתניא רבי שמעון בן יהודה אומר: בשר בחלב אסור באכילה ומותר בהנאה, שנאמר כי עם קדוש אתה לה' אלהיך לא תבשל גדי בחלב אמו ולהלן הוא אומר ואנשי קדש תהיון לי. מה להלן אסור באכילה ומותר בהנאה אף כאן אסור באכילה ומותר בהנאה.</p>
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In this text the interpretation of the repetition of the commandment is specifically attributed to the school of Rabbi Ishmael, which reaffirms that it is taken from the Mekhilta. Furthermore the tradition begins by stating תנא (it was taught in the time of the tannaim) which indicates that this is a *barayta*. The text then presents an opposing opinion, given on the authority of Rabbi Shimon ben Yehudah. This interpretation takes the biblical commandment into the context in which it is given in Deuteronomy 14:21 and plays on the detail of Israel as 'a holy people', which is also stated in Exodus 22:30 (עם קדוש and אנשי קדש respectively). This association was also seen ambiguously in the Mekhilta d'Rabbi Ishmael and expanded upon in Midrash Tannaim. Although the relevant

²¹⁹ I have given the Hebrew/Aramaic text following the Vilna Edition of the Talmud. The English translations are my own.

text is not cited in the Bavli, it is implied by giving the beginning of the verse; just as flesh torn of the field may be cast to the dogs, so may a kid cooked in his mother's milk be used for some form of benefit. This passage, then, presents an alternative opinion to that which we saw above in the Yerushalmi, and suggests that another interpretation of the text would permit meat in milk for benefit.

The following text explores the same list of forbidden things, and presents the question of meat and milk in the light of conveying food impurity. This text also uses the connection seen above between Deuteronomy 14:21 and Exodus 22:30, but it likewise uses Leviticus 11:34 to determine whether or not meat in milk may be considered 'food' and therefore whether or not it conveys food impurity. Furthermore, meat in milk is singled out from the list of forbidden things as being the only one that had a time when it was valid (presumably as meat *and* milk but not meat *in* milk).

Menahot 101a-b

<p>It has been taught: <i>‘orlāh</i>, the mixed seeds of the vineyard, the ox condemned to be stoned, the heifer whose neck is to be broken, the birds of the leper, the firstling of a donkey, and meat in milk; all of these convey food impurity.</p>	<p>דתנן: הערלה וכלאי הכרם ושור הנסקל ועגלה ערופה וצפורי מצורע ופטר חמור ובשר בחלב כולם מטמאין טומאת אוכלין.</p>
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Rabbi Shimon says, not all these convey food impurity. But Rabbi Shimon agrees that meat cooked in milk conveys food impurity, for there was a time when it was valid. And Rav Assi has said in the name of Rabbi Yohanan, what is the reason for Rabbi Shimon's opinion? [Because it is written], *all food that may be eaten* [Leviticus 11:34]; [therefore] food that you may give others to eat is called food. Food that you may not give others to eat is not called food. The meal offering that was made *piggul* is a food that you may not give others to eat. If that is so, then meat cooked in milk [should convey food impurity] by virtue of the fact that it is a food that you may give others to eat!

It has been taught: Rabbi Shimon ben Yehudah says in the name of Rabbi Shimon, meat in milk is forbidden to be eaten but is permitted for use, for it is written, *for you are a holy people unto YHWH your God. You shall not cook a kid in his mother's milk* [Deut. 14:21]; whilst elsewhere it says, *and you shall be my holy people; therefore you shall not eat any flesh that is torn of beasts in the field [you shall cast it to the dogs]* [Exodus 22:30]. Just as there it is forbidden to be eaten but is permitted for benefit, so here it is forbidden to be eaten but is permitted for benefit. [He gave] one and yet another, for he said, one thing it is a food which you may give others to eat, and besides, even for himself there was a time when it was valid.

רבי שמעון אומר
 כולן אין מטמאין טומאת אוכלין.
 ומודה רבי שמעון בבשר בחלב שמטמא טומאת
 אוכלין הואיל והיתה לו שעת הכושר.
 ואמר רב אסי אמר רבי יוחנן:
 מאי טעמא דרבי שמעון?
 מכל האוכל אשר יאכל, אוכל שאתה יכול להאכילו
 לאחרים קרוי אוכל. אוכל שאי אתה יכול להאכילו
 לאחרים אינו קרוי אוכל.
 והא פיגל במנחה נמי אוכל שאי אתה יכול
 להאכילו לאחרים הוא.
 אי הכי בשר בחלב נמי תיפוק ליה דאוכל שאתה
 יכול להאכילו לאחרים הוא!

דתניא רבי שמעון בן יהודה אומר משום רבי שמעון:
 בשר בחלב אסור באכילה ומותר בהנאה, שנאמר כי
 עם קדוש אתה לה' אלהיך לא תבשל גדי בחלב
 אמו, ולהלן הוא אומר ואנשי קדש תהיון לי ובשר
 בשדה טריפה לא תאכלו. מה להלן אסור באכילה
 ומותר בהנאה אף כאן אסור באכילה ומותר
 בהנאה.
 חדא ועוד קאמר חדא דאוכל שאתה יכול להאכילו
 לאחרים הוא
 ועוד לדידיה נמי היתה לו שעת הכושר.

The discussion begins here with the opinion of Rabbi Shimon, who states that meat in milk does convey food impurity. We then begin to determine the reason for this claim, which is twofold. Firstly, meat in milk had a time when it was valid, and secondly, on the basis of Leviticus 11:34, any food that can be eaten (or liquid that can be drunk) can

contract food impurity. Therefore meat in milk must convey food impurity, because it may be given to non-Jews as food. The food offering made *piggul* is an example of a food that cannot be given to others because it must be burnt. In this sense, the food offering is no longer considered to be 'food'. Furthermore, a food offering made *piggul* is one regarding which a priest had improper intentions. Meat and milk however, before they are combined, exist as two valid food products that may be eaten and drunk. Unlike the improper sacrifice, they had a time when they were considered food.

In the second section of argumentation we find the same interplay of scriptural quotations seen above, with the 'holy people' being identified as a link between Deuteronomy 14:21 and Exodus 22:30. In this case, the idea that meat in milk is permitted for use serves to support the previous argument, in which meat in milk is considered to be food that may be given to non-Jews (just as flesh torn in the field may be given to dogs). Meat in milk is thus presented as conveying food impurity on two counts: that it may be given to non-Jews as food (determined though scriptural exegesis, by associating Deuteronomy 14:21 with Exodus 22:30), and that it had a time when it was valid (determined through reasoning but without scriptural support).

The following passage of text begins with a different interpretation of Deuteronomy 14:21, which incorporates not cooking a kid in his mother's milk into the matter of selling carrion to a foreigner. The text then brings together the question of the commandment being given three times (and its explanation), which in this instance is identical with that which we have seen in the Bavli, Yerushalmi and the Mekhilta. The text also echoes the scriptural association of Deuteronomy 14:21 with Exodus 22:30 as seen above in the Bavli. As we shall see in the text below, although the connection is familiar, the verse is used here with a different emphasis.

<p>The school of Rabbi Eliezer taught, <i>you shall not eat any carrion [but you may give it to the stranger residing in your towns for them to eat, or you may sell it to a foreigner, for you are a holy people to YHWH your God. You shall not cook a kid in his mother's milk]</i> [Deut. 14:21]. The Torah states here that when you sell it you may not cook it [in milk] and then sell it.</p> <p>The school of Rabbi Ishmael taught, <i>you shall not cook a kid in his mother's milk</i> is stated three times, one as a prohibition of eating, one as a prohibition of deriving benefit, and one as a prohibition of cooking.</p> <p>It was taught, Issi ben Yehudah says, how do we know that meat in milk is forbidden? As it says here: <i>for you are a holy people</i> [Deut. 14:21], and it says there, <i>and you shall be my holy people; therefore you shall not eat any flesh that is torn of beasts in the field</i> [Exodus 22:30]. Just as there it is forbidden, so here it is also forbidden.</p>	<p>דבי רבי אליעזר תנא: לא תאכלו כל נבלה [וגו']. אמרה תורה כשתמכרנה לא תבשלנה ותמכרנה.</p> <p>דבי רבי ישמעאל תנא: לא תבשל גדי בחלב אמו שלש פעמים אחד לאיסור אכילה ואחד לאיסור הנאה ואחד לאיסור בשול.</p> <p>תניא, איסי בן יהודה אומר: מנין לבשר בחלב שאסור? נאמר כאן, כי עם קדוש אתה, ונאמר להלן, ואנשי קדש תהיון לי ובשר בשדה טרפה לא תאכלו. מה להלן אסור אף כאן אסור.</p>
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As we have seen, the school of Rabbi Eliezer creates a link between selling carrion to a foreigner and not cooking a kid (any meat) in his mother's milk (any milk). This interpretation uses no other scriptural verses, but manages to offer a creative understanding of the biblical text, implying that one must not derive benefit from meat in milk. Indeed, the relevant part of the verse is not even cited here by the Bavli, though it is understood. The second interpretation (given in the name of Rabbi Ishmael) is already well known to us, basing the prohibition of eating, deriving benefit and cooking on the three places in which the commandment appears in the Bible.

The third interpretation is another example in which a connection is made between the 'holy people' in Deuteronomy 14:21 and in Exodus 22:30. However, where above the connection was based on the idea that meat that could not be eaten could be used in benefit, here the connection is based on the prohibition of *eating* such meat. This indicates to us that while these two verses were commonly associated with one another, more than one interpretation was derived from this association, with contradictory results. In this instance, in a passage in which arguments are made for not deriving benefit from meat in milk, Exodus 22:30 is used to imply that one must not *eat* meat in milk (just as one must not eat meat torn of the field). Of the three prohibitions determined by the repetition of the biblical commandment, the easiest to justify through scripture is that of cooking (since it is stated explicitly). We see from the contradictory associations with Exodus 22:30 that the prohibitions of eating and benefit were more difficult to determine through biblical proof texts, and that the same verse might be made to fit either prohibition.

The following passage centres on the opinion of Rabbi Yossi ha-Galili that we saw above in Mishnah Hullin. This opinion states that because the verses addressing carrion and cooking a kid in his mother's milk are given together (Deuteronomy 14:21), one might deduce that the laws of the former apply to the latter. According to Rabbi Yossi ha-Galili this is not so in the case of poultry; what's more, scripture makes this explicit with the use of the words 'his mother's milk' (as poultry has none). As we will recognise, the second half of this passage of text is already familiar to us from the Mishnah, though it is used here within the framework of the first half of the text: a new narrative composed largely in Aramaic.

<p>In the area of Rabbi Yossi ha-Galili they used to eat the meat of poultry with milk. Levi happened upon the house of Yosef the fowler [and] was offered the head of a peacock in milk, [which] he did not eat. When he came before Rabbi he said to him, why did you not place them under the ban? He said to him, it was the place of Rabbi Yehudah ben Batira, and I thought, perhaps he has lectured to them in accordance with Rabbi Yossi ha-Galili. For we learnt, Rabbi Yossi ha-Galili said, it is said, <i>you shall not eat any carrion</i> [Deut. 14:21], and it is said, <i>you shall not cook a kid in his mother's milk</i> [ibid.]. That which is forbidden by reason of [the law of] carrion is forbidden to be cooked in milk. Poultry, which is forbidden by reason of [the law of] carrion might thus have been forbidden to be cooked in milk. Teaching tells us [therefore] <i>in his mother's milk</i>, excluding poultry, which has no mother's milk.</p>	<p>במקומו של רבי יוסי הגלילי היו אוכלין בשר עוף בחלב. לוי איקלע לבי יוסף רישבא, קריבו ליה רישא דטוואתא בחלבא, לא אכל. כי אתא לקמיה דרבי אמר ליה: אמאי לא תשמתינהו? אמר ליה: אתריה דרבי יהודה בן בתירה הוה, ואמינא דילמא דרש להו כרבי יוסי הגלילי. דתנן רבי יוסי הגלילי אומר: נאמר לא תאכלו כל נבלה, ונאמר לא תבשל גדי בחלב אמו. את שאסור משום נבלה אסור לבשל בחלב. עוף שאסור משום נבלה יכול יהא אסור לבשל בחלב. תלמוד לומר בחלב אמו יצא עוף שאין לו חלב אם.</p>
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From the Aramaic story presented above, we may deduce that eating poultry cooked in milk is unacceptable to the rabbis of the Bavli. However, when confronted with a situation in which such a combination is being served, Levi does not object nor criticise his host. Furthermore, he does not even condemn the meal when he comes to speak to Rabbi but rather defends it on the basis that it might be the fruit of alternative teachings and rulings. This serves as an excellent example of the Bavli's tendency to encourage the plurality of opinions, as well as seeking reason and grounding that reason in scripture. As far as the exegesis of our biblical verse is concerned, the Bavli brings nothing new here; the interpretation is taken from the Mishnah. However, it is certainly worth noting that the Bavli takes particular care to include this interpretation, even though it might stand in opposition to its general halakhic opinion.

The following excerpts of text use our biblical commandment as part of a discussion relating to *masōrāh* (the written text of scripture, also called *ketīb*) and *miqrā'* (scripture pronounced differently from the written text, also known as *qerē*). These brief passages address the question of the written Hebrew word בחלב, which (without its vowels) could be read as either *beḥalēb* (in milk) or *beḥeleb* (in fat).

Sanhedrin 4b

<p>Rather, it is disputable [whether <i>miqrā'</i> is determinant in biblical exegesis], but this is only where <i>miqrā'</i> and <i>masōrāh</i> differ in the spelling of a word. But in this case 'milk' and 'fat' are [written] alike, <i>miqrā'</i> is the determinant...</p> <p>Thus says Rav Aha, the son of Rav Ika, the scriptural text says, <i>you shall not cook a kid</i>. The method of cooking is forbidden according to the Torah.</p>	<p>אלא לעולם פליגי, והני מילי כי פליגי היכא דשני קרא ממסורת. אבל האי חלב וחלב דכי הדדי נינהו יש אם למקרא...</p> <p>אלא אמר רב אחא בריה דרב איקא: אמר קרא לא תבשל גדי. דרך בישול אסרה תורה.</p>
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The first passage thus states that in a case such as בחלב one must follow the *qerē* to determine whether to read *beḥalēb* or *beḥeleb*. It is interesting to note that this is the only occasion in all of the rabbinic materials surveyed that the very words of the biblical commandment are called into question. Although other passages of the Bavli challenge the implied *meaning* of terms such as 'kid' and 'milk' this is the sole example of a challenge to those written consonantal terms themselves.

While the first passage determines that the text should be read *beḥalēb* (in milk) on the basis of its own rules, the second section reaffirms this through exegesis of the verse. The saying of Rav Aha focusses on the negative commandment לא תבשל (you shall not cook), and on the method of cooking that is forbidden. The implication is that since the

verb לבשל (to cook) is used more specifically for cooking in liquids, the commandment must refer to milk rather than fat. Although one could argue that melted fat used for frying is also liquid, this cooking method is more accurately represented by other Hebrew terms, such as לצלות. The question is thus neatly resolved by a process of reason and scriptural interpretation.

The following passage of text addresses the biblical commandment with yet another perspective and change of emphasis, focusing on the kid over and above the milk.

Hullin 108a-b

<p>And it has been said, an olive's bulk of meat that fell into a pot of milk, Rav says the meat is forbidden and the milk is permitted. And if you consider that even when it is considered extracted it is still forbidden, why is the milk permitted? The milk is like carrion! I still maintain that Rav holds that even when it can be considered extracted it is still forbidden, but there it is different, for the scripture says, <i>you shall not cook a kid in his mother's milk</i>. Torah forbade the kid but not the milk.</p>	<p>והאיתמר כזית בשר שנפל לתוך יורה של חלב, אמר רב: בשר אסור וחלב מותר. ואי סלקא דעתך אפשר לסוחטו אסור, חלב אמאי מותר? חלב נבלה הוא! לעולם קסבר רב אפשר לסוחטו אסור, ושאני התם דאמר קרא, לא תבשל גדי בחלב אמו. גדי אסרה תורה ולא חלב.</p>
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In this instance we are presented with the opinion of Rav, which states that when meat falls into a pot of milk the meat is forbidden but the milk permitted. The editor of the Bavli frames this opinion with its scriptural justification, reading the commandment as *you shall not cook a kid (in his mother's milk)*, and stating that it is the kid that is forbidden to be cooked according to the Torah. In this sense, the forbidden element of a meat and milk mixture should be the meat. However, in this case the scriptural justification does not settle the matter; it rather dissolves into further discussion of the

exact details of the incident (such as whether or not the milk was boiling). This discussion, however, is based on imagined situations and reasoning, rather than scripture.

The text given below is also taken from Hullin, and it likewise presents alternative perspectives on the biblical commandment. In this case the focus is on the interpretation of the term גדי (*kid*) and the repetition of the commandment. As we saw above, a common interpretation understood the three occurrences of the commandment as being representative of the prohibition of cooking, eating and deriving benefit. In this text, we discover that there were many variations on this theme.

Hullin 113b

<p>Shmuel said, <i>kid</i> includes the fat; <i>kid</i> includes that which has died; <i>kid</i> includes the foetus. <i>Kid</i> excludes the blood; <i>kid</i> excludes the placenta; <i>kid</i> excludes the impure animal. <i>In his mother's milk</i>, and not in the milk of a male; <i>in his mother's milk</i>, and not in the milk of a slaughtered animal; <i>in his mother's milk</i> and not in the milk of an impure animal. But is not the term <i>kid</i> written only three times, yet we give six interpretations to it! Shmuel holds the view that a prohibition can be superimposed upon an existing prohibition, so that the prohibition of fat and that which has died is derived from one verse; blood [is excluded because] it does not come under the term <i>kid</i>; the afterbirth also because it is mere secretion. Two verses now remain, one to include the foetus and the other to exclude an impure animal.</p>	<p>אמר שמואל: גדי לרבות את החלב, גדי לרבות את המתה, גדי לרבות את השליל. גדי להוציא את הדם, גדי להוציא את השליא, גדי להוציא את הטמאה. בחלב אמו ולא בחלב זכר, בחלב אמו ולא בחלב שחוטה, בחלב אמו ולא בחלב טמאה. הא תלתא גדי כתיבי ואנן שיתא דרשינן! קסבר שמואל, איסור חל על איסור ואיסור חלב ומתה מחד קרא נפקי, דם נמי לאו גדי הוא, ושליא נמי פירשא בעלמא הוא. פשו להו תרי, חד לרבות את השליל וחד למעוטי בהמה טמאה.</p>
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This passage begins with Shmuel's understanding of what is included in the term 'kid' in the context of the thrice repeated biblical prohibition. He appears to use each

occurrence of this term to identify a different inclusion and exclusion, claiming that a 'kid' implies forbidden fat,²²⁰ an animal that has died, and a foetus, but not blood, the afterbirth or an impure animal. However, the editors of the Bavli find Shmuel's understanding problematic because it amounts to six interpretations in total, though the word 'kid' is repeated only three times. As I will illustrate below, they thus reorganise the material to allow the inclusions and exclusions they deem essential to be covered by the three occurrences of the biblical verse. The passage given above also cites Shmuel's understanding of the phrase 'in his mother's milk', which he claims excludes the milk of a male, a slaughtered animal or an impure animal. In this instance the three interpretations correspond to the three occurrences of the biblical commandment and the editors of the Bavli do not find fault.

The passage is also reminiscent of one that we saw previously in the Tosefta, in which it is stated that 'the one who cooks in whey is not liable, and [the one who cooks] in the milk of males is not liable, blood that is cooked in milk is not liable, bones, sinews, horns and hooves that are cooked in milk are not liable.'²²¹ The Talmudic passage given above may be drawing on two permissible elements here: cooking in the milk of a male and cooking blood (in milk). The question of cooking the meat or milk of an impure animal is raised in the Mishnah and Tosefta, both of which claim that cooking the meat of a pure animal in the milk of an impure one is permitted (and vice versa).²²² This ruling is associated with the opinion of Rabbi Akiva, which states that impure animals are exempt from the prohibition. The subject is also addressed in the Mekhilta d'Rabbi Ishmael, in which it is stated, 'teaching tells us [therefore] *in his mother's milk*, and not in the milk of

²²⁰ In this instance we can be sure that כֹּלֵךְ is used with the meaning of 'fat'.

²²¹ tHullin 8.3.

²²² mHullin 8:4, tHullin 8:3.

an impure animal.’²²³ This interpretation is presented as explaining the second occurrence of the biblical commandment.²²⁴

The Tosefta thus presents the basic idea that certain meat and milk by-products (or unusual examples) are excluded from the prohibition, while the Mekhilta introduces the notion that the repetition of the commandment is symbolic of the various kinds of milk in which meat may not be cooked. The Bavli then incorporates both of these elements into a more developed interpretation, one that identifies the interpretive meaning of ‘kid’ and ‘in his mother’s milk’. Furthermore, the editor of this text uses another of Shmuel’s opinions to explain that two prohibitions may be derived from one occurrence of a verse. The editor then proceeds to explain that (by his own logic) the exclusion of elements that do not come under the term ‘kid’ - blood and the afterbirth - need no scriptural justification. The three occurrences of the verse are therefore explained as relating to 1) the prohibition of forbidden fat *and* an animal that has died, 2) the inclusion of the foetus in this prohibition and 3) the exclusion of an impure animal. Although many elements of this interpretation are familiar to us, as a unit it represents a wholly different example of scriptural exegesis.

The passage below is a continuation of this discussion, centring on Shmuel’s opinion that the milk of a male animal is excluded from the prohibition. As we saw in Tosefta Hullin 8:3, the Tosefta does not consider one to be liable for cooking in the milk of males (a scenario that is highly unlikely but not physically impossible).

²²³ Mekhilta d’Rabbi Ishmael, Tractate Kaspa, Chapter V.

²²⁴ This is Rabbi Yoshiah’s interpretation; according to this, the third occurrence of the biblical commandment implies that meat may not be cooked in human milk.

<p>Rav Ahadaboi bar Ammi asked Rav, what of the one who cooks [meat] in the milk of a kid that has not suckled [her young]? He said, since it was necessary for Shmuel to state the expression ‘<i>in his mother’s milk</i> and not in the milk of a male,’ only a male [is excluded] for he can never become a mother, but [in the milk of] this [kid], since she can become a mother, it is forbidden.</p>	<p>בעא מיניה רב אחדבוי בר אמי מרב: המבשל בחלב גדי שלא הניקה מהו? אמר ליה: מדאיצטריכא לשמואל למימר בחלב אמו ולא בחלב זכר, זכר הוא דלא אתי לכלל אם, אבל האי כיון דבא לכלל אם אסור.</p>
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In this instance, Rav Ahadaboi asks Rav about cooking in the milk of a female goat that has not suckled a kid. The implication is that this goat is therefore not a mother, and thus her milk might not be included in the category of mother’s milk. Presumably this example refers to a goat that miraculously has milk (like the male milk mentioned above) despite her not being pregnant or having young. The expression ‘not suckled [her young]’ is rather obscure, since it could include a pregnant goat or a goat that had given birth but not suckled. However, the final clause, stating that such a goat ‘can become a mother’ makes it clear that we are certainly debating in the realm of the miraculous. This interpretation thus considers all the milk of pure, female animals to be forbidden, since it has the potential to become mother’s milk. On a practical level, of course, this is simply another way of forbidding all (kosher) milk in this context.

The following text, which is also taken from tractate Hullin, addresses the question of the milk in which it is forbidden to cook a kid, as well as seeking a certain logic for this prohibition. The Bavli presents four possible situations, relating to the milk of a cow or ewe, the older sister’s milk, the younger sister’s milk and the animal’s own milk. This is reminiscent of the text we saw above in the Mekhilta, in which the same question was raised in relation to the sister’s milk, the animal’s own milk, and the question of cooking sheep in goat’s milk. As we shall see, not only is the subject matter extremely similar, but

the questions and answers are likewise posed almost identically, indicating that the Bavli is borrowing heavily from the Mekhilta here. As we would anticipate, the Bavli extends the debate, brings further examples and takes the discussion in new directions. However, this is certainly one instance in which the Bavli's approach to interpreting scripture is based on an exegetical Midrash.

Hullin 114a-b

<p>Our Rabbis taught: <i>in his mother's milk</i>. From this I know [that the kid is forbidden] in his mother's milk, but how do I know [that he is also forbidden] in cow or ewe's milk? From the following <i>a fortiori</i> argument; if it is forbidden to cook [the kid] with his mother, with whom he may be mated, how much more is it is forbidden to cook [the kid] with a cow or a ewe, with whom he may not be mated! Teaching tells us, <i>in his mother's milk</i>. But why is this [latter] verse necessary? Has it not been implied?</p> <p>Rav Ashi said, because one can argue that the first proposition of the argument is unsound. How do you adduce the argument? From <i>his mother</i>. But what of his mother, who is forbidden to be slaughtered with him; will you then say the same for a cow, who is not forbidden to be slaughtered with him? Teaching tells us, <i>in his mother's milk</i>.</p>	<p>תנו רבנן: בחלב אמו. אין לי אלא בחלב אמו, בחלב פרה ורחל מנין? אמרת, קל וחומר: ומה אמו שלא נאסרה עמו בהרבעה נאסרה עמו בבשולו. פרה ורחל שנאסרו עמו בהרבעה אינו דין שנאסרו עמו בבשולו! תלמוד לומר בחלב אמו. והא למה לי קרא? הא אתיא ליה? אמר רב אשי: משום דאיכא למימר, מעיקרא דדינא פירכא. מהיכא קא מייתית לה? מאמו. מה לאמו שכן נאסרה עמו בשחיטה, תאמר בפרה שלא נאסרה עמו בשחיטה? תלמוד לומר בחלב אמו.</p>
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<p>Elsewhere it is taught, <i>in his mother's milk</i>. From this I know [that the kid is forbidden] in his mother's milk, but whence do I know [that he is forbidden] in the milk of his older sister? From the following <i>a fortiori</i> argument; if it is forbidden to cook [the kid] with his mother, who enters the shed together [with the kid] to be tithed, how much more is it forbidden to cook [the kid] with his sister, who does not enter the shed together [with the kid] to be tithed! Teaching tells us, <i>in his mother's milk</i>.</p> <p>But why is this latter verse necessary? Has it not been implied? Rav Ashi said, because one can argue that the first proposition of the argument is unsound. How do you adduce the argument? From <i>his mother</i>. But what of his mother, who is forbidden to be slaughtered with him; will you then say the same for his older sister, who is not forbidden to be slaughtered with him? Teaching tells us, <i>in his mother's milk</i>.</p>	<p>תניא אידך: בחלב אמו. אין לי אלא בחלב אמו, בחלב אחותו גדולה מנין? אמרת קל וחומר: ומה אמו שנכנסה עמו לדיר להתעשר נאסרה עמו בבשול. אחותו שלא נכנסה עמו לדיר להתעשר אינו דין שנאסרה עמו בבשול! תלמוד לומר בחלב אמו.</p> <p>והא למה לי קרא? הא אתיא ליה? אמר רב אשי: משום דאיכא למימר, מעיקרא דדינא פירכא. מהיכא קא מייתית לה? מאמו. מה לאמו שכן נאסרה עמו בשחיטה, תאמר באחותו גדולה שלא נאסרה עמו בשחיטה? תלמוד לומר בחלב אמו.</p>
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As Tal Ilan observes, the discussion here is concerned with the repetition of the biblical commandment.²²⁵ As we shall see, the passage as a whole concludes that the first instance forbids cooking a kid in his mother's milk, while the second forbids this in all kinds of milk and the third in the animal's own milk. In constructing this argument, the Bavli uses the same arguments and methods of argumentation that we saw above in the Mekhilta. The Mekhilta builds its discussion on the following themes: cooking in an older sister's milk may be challenged on the basis that they cannot even be tithed together; cooking in an animal's own milk may be challenged on the basis the mother animal and her fruit cannot even be slaughtered on the same day; and cooking one species in the milk

²²⁵ Tal Ilan, *Massekhet Hullin*, p. 515.

of another species may be challenged on the basis that animals of different species cannot even be mated together. In the case of the Mekhilta, the final argument is supported by the use of biblical exegesis; the term 'his mother' is read in parallel with 'his mother' in Leviticus 22:27, in which it refers to the ox, sheep or goat.

The argument in the Bavli is more complex. In essence, its authors take the arguments of the Mekhilta but challenge them further in order to explore all their different angles. The first example of this is the Bavli's discussion of cooking a kid in cow or ewe's milk, which begins with the mating argument seen above in the Mekhilta. The Bavli challenges the authority of this argument on the basis that it revolves around the term *his mother* and, using another theme seen in the Mekhilta, it remarks that a kid may be slaughtered on the same day as a cow or ewe but not on the same day as his mother. In exactly the same way, the Bavli uses the Mekhilta's tithing argument for the prohibition of cooking a kid in his older sister's milk, but challenges it on the basis that a kid may be slaughtered on the same day as his older sister but not on the same day as his mother. As we will read, the discussion continues below in relation to the younger sister.

We have thus learnt about the older sister, but how do we know it with regard to the younger sister? It is implied from both together. But from which do you make the inference? You may infer it from *his mother*. But [if it be objected to that] this is so in the case of his mother, since she is forbidden to be slaughtered with him, then the case of the older sister argues otherwise. And [if it be objected to that] this is so in the case of the older sister, since she does not enter the shed with the kid to be tithed, then the case of his mother argues otherwise. The argument thus goes round; the reason given for this does not apply to the other, and the reason given for the other does not apply to this one. What they have in common is that each is meat, and it is forbidden to cook [meat] in milk. Thus I will include the younger sister too, since she is meat, and may not be cooked in milk. But by this argument the older sister can also be inferred from both together? This is indeed so. Then for what purpose do I require the verse, *in his mother's milk*? It is required for what has been taught.

In his mother's milk. We know [that he is forbidden] in his mother's milk, but how do we know [that she is forbidden] in her own milk? From the following *a fortiori* argument; if where the fruit is not forbidden with the fruit in slaughter, the fruit with the mother is forbidden, how much more is the fruit forbidden with the mother in cooking, where the fruit is forbidden with the fruit! Teaching tells us, *in his mother's milk*.

אשכחן אחותו גדולה, אחותו קטנה מנין?
אתיא מביניא.
מהי תיתי?
תיתי מאמו. מה לאמו שכן נאסרה עמו בשחיטה,
אחותו גדולה תוכיח.
מה לאחותו גדולה שלא נכנסה עמו לדיר להתעשר,
אמו תוכיח.
וחזר הדין לא ראי זה כראי זה, ולא ראי זה כראי זה.
הצד השווה שבהן שהוא בשר ואסור לבשל בחלב.
אף אני אביא אחותו קטנה, שהוא בשר, ואסור
לבשל בחלב.
אי הכי אחותו גדולה נמי, תיתי מביניא
אין הכי נמי אלא בחלב אמו למה לי
מבעי ליה לכדתניא.
בחלב אמו אין לי אלא בחלב אמו,
היא עצמה בחלבה מנין?
אמרת קל וחומר:
ומה במקום שלא נאסר פרי עם פרי בשחיטה נאסר
פרי עם האם בשחיטה.
מקום שנאסר פרי עם פרי בבשול אינו דין שנאסר
פרי עם האם בבשול!
תלמוד לומר בחלב אמו.

The Bavli observes that while one interpretation supports the argument, another interpretation can just as easily refute it. It thus brings us to the simple statement that the older and younger sisters (as well as other animals) are meat, and it is forbidden to cook meat in milk. According the Bavli then, the second occurrence of the biblical commandment (forbidding cooking a kid in his mother's milk) is necessary in order to prove that a kid may not be cooked in the milk of other animals. The Bavli then turns to the matter of cooking a kid in her own milk, bringing the slaughter argument seen above in the Mekhilta. In the following section we see how the Bavli approaches the question of the third occurrence of the biblical commandment.

<p>But why is this latter verse necessary? Has it not been implied? Rav Ahadboi bar Ammi said, because we can refute the argument thus; a colt, the offspring of a mare, which is also the brother of a mule, could prove otherwise. The fruit is forbidden with the fruit [in mating], but the fruit with the mother is permitted. But that is due to the seed of the father only; the case of a male mule, the offspring of a mare, which is also the brother of a female mule, proves otherwise, for the fruit is permitted with the fruit and the fruit with the mother is forbidden!</p> <p>Rather, said Mar the son of Rabina, because one can refute the argument thus; a slave, the son of a maidservant, who is also the brother of a freed [maidservant], proves otherwise, for the fruit is forbidden with the fruit, but the fruit with the mother is permitted. But that is due solely to the deed of emancipation; in the case of a slave, the son of a freed [maidservant], who is also the brother of a maidservant proves otherwise. The fruit is permitted with the fruit, and the fruit with the mother is forbidden!</p>	<p>הא למה לי קרא? הא אתיא לה? אמר רב אחדבוי בר אממי: משום דאיכא למימר, סוס בן סוסיא אחי פרדה יוכיח. שאסור פרי עם פרי ומותר פרי עם האם. התם זרע האב הוא דקא גרים דהא פרד בן סוסיא אחי פרדה יוכיח. שמותר פרי עם פרי ואסור פרי עם האם.</p> <p>אלא אמר מר בריה דרבינא: משום דאיכא למימר עבד בן שפחה אחי משוחררת יוכיח. שאסור פרי עם פרי ומותר פרי עם האם. התם גט שיחרור הוא דקא גרים דהא עבד בן משוחררת אחי שפחה יוכיח. שמותר פרי עם פרי ואסור פרי עם האם.</p>
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<p>Rather, said Rav Idi bar Abin, because one can refute the argument thus, the case of the mixed seeds could prove otherwise. For the fruit is forbidden with the fruit, but the fruit with the mother is permitted. But isn't the fruit with the fruit forbidden only because of the mother? When grains of wheat and barley are together in a vessel they are not forbidden.</p> <p>Rather said Rav Ashi, because one can refute the argument thus; it is indeed [forbidden] in the case of fruit with fruit as they are two bodies. Will you say the same of the fruit with the mother, which is one body? Therefore the verse is necessary.</p>	<p>אלא אמר רב אידי בר אבין: משום דאיכא למימר כלאי זרעים יוכיחו. שאסור פרי עם פרי ומותר פרי עם האם. כלום נאסר פרי עם פרי אלא על ידי האם? דהא חיטי ושערי בכדא ולא מיתסרו.</p> <p>אלא אמר רב אשי: משום דאיכא למימר מה לפרי עם פרי שכן שני גופים. תאמר בפרי עם האם שכן גוף אחד? משום הכי איצטריך קרא.</p>
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The Bavli challenges the third occurrence of the biblical commandment thus; if the argument above is sufficient to forbid cooking a kid in her own milk then the third occurrence of the verse is superfluous. The Bavli thus presents several examples (not seen in the Mekhilta) of cases where fruit may be permitted with fruit in some instances and forbidden in others, and where fruit and mother may be permitted in some instances and forbidden in others. These are the colt, the slave and the mixed seeds. A colt may be mated with his mother (a mare) but not with a female mule who is his sister. However, a male mule may not mate with his mother, but he may mate with a female mule who is his sister. The example is thus not considered fully to refute the argument, as it can be easily reversed.

In the case of a slave, he is permitted sexually to his mother who is a slave but not to his sister who is a freed slave. However, this argument may likewise be reversed, as he is forbidden sexually to his mother who is a freed slave and permitted to his sister who is a slave. The third example concerns seeds that may not be sown together, but may be sown with the mother (in the earth). In this case the argument is also found to be lacking, as the

seeds are only forbidden in the context of the mother (in the earth) and not as two separate bodies. The overall intention here is to prove that the initial argument cannot be deemed sufficient when there are numerous examples that would challenge it. In this sense, it gives full authority for the prohibition of cooking a kid in her own milk to scripture, as reasoning alone is not capable of determining this.

These nine passages have shown us the numerous ways in which the Bavli approaches the biblical commandment forbidding cooking a kid in his mother's milk. In the following subsection we will look at the ways in which the Bavli uses other biblical verses in its justification of the rabbinic laws prohibiting cooking, eating and benefitting from meat in milk.

5.2.2 Meat and milk in the Bavli

The following passages contribute to the discussion of meat and milk, but do so by using other scriptural verses as the authorities for their rulings. The first passage given below responds to the Mishnah stating that whatever is prohibited under the law of carrion is also prohibited to be cooked in milk (with the exception of poultry, which has no mother's milk). It addresses a certain interpretation, which uses two verses from Genesis to prove that the term 'kid' can be applied to calves and lambs (as well as kids). Although these two verses have no connection to the biblical commandment forbidding cooking a kid in his mother's milk, they use the term גדי (kid) as part of the phrase גדי העזים (the kid of the goats), thus suggesting that in other cases 'kid' may also refer to the young of other animals.

<p>Rabbi Eleazar said, scripture says, <i>and Judah sent the kid of the goats</i> [Gen. 38:20]; here it was a 'kid of the goats', but elsewhere whenever it says 'kid' it may even imply [the young of] a cow or a ewe. And might we not derive the rule from that? Another verse says, <i>the skins of the kids of the goats</i> [Gen. 27:16], here it says 'the kids of the goats' but elsewhere whenever it says 'kid' it may even imply [the young of] a cow or a ewe.</p>	<p>אמר רבי אלעזר, אמר קרא, וישלח יהודה את גדי העזים. כאן גדי עזים הא כל מקום שנאמר גדי סתם אפילו פרה ורחל במשמע. ולילף מיניה? כתיב קרא אחרנא, ואת ערת גדיי העזים. כאן גדיי העזים הא כל מקום שנאמר גדי סתם אפילו פרה ורחל במשמע.</p>
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In this text, we see how the authors of the Bavli address the matter of including the young of other animals under the term גדי (kid) on the basis of these two verses, thus forbidding all animals to be cooked in milk. In each instance the term is used specifically with the word עזים (goats), leading to Rabbi Eleazar's suggestion that גדי (kid) may be applied to other young animals as well and, in the context of Hullin, also arguing by extension that these young animals are included in the biblical prohibition of cooking in mother's milk. This suggestion is based on a close reading of the biblical text and a process of reasoning.²²⁶

The next passage uses Deuteronomy 14:3 in explaining the prohibition of eating meat cooked in milk; such a foodstuff falls into the category of an 'abomination' and is therefore forbidden to be eaten. Furthermore, according to Rabbi Eleazar, where scripture forbids eating a particular food it likewise forbids deriving benefit from it. The verse regarding carrion (Deuteronomy 14:21) is thus brought as an example of scripture forbidding the consumption of a food but expressly permitting it to be used in benefit.

²²⁶ In the continuation of this passage the Bavli debates whether we ought to derive the rule regarding the meaning of גדי (kid) from two biblical verses that appear to teach the same thing, and the passage unfolds into a discussion of methods and rules of interpretation.

<p>Rav Ashi said, how do we know that meat in milk is forbidden to be eaten? As it is said, <i>you shall not eat any abominable thing</i> [Deut. 14:3]; everything which I declared to be abominable to you comes under the law of <i>you shall not eat</i>. I only know from this that it is forbidden to be eaten, how do I know that it is forbidden to derive benefit? From Rabbi Abbahu's statement. Rabbi Abbahu said in the name of Rabbi Eleazar, wherever scripture says, <i>it shall not be eaten</i>, or <i>you shall not eat</i>, or <i>you [pl.] shall not eat</i>, it implies a prohibition of eating and a prohibition of deriving benefit, unless scripture specifies [otherwise] as it did in the case of giving carrion to the stranger and selling it to the idolater. It has been taught, <i>you shall not eat any carrion; you may give it to the stranger within your gates, so that he may eat it, or you may sell it to a foreigner</i> [Deut. 14:21].</p>	<p>אמר רב אשי: מנין לבשר בחלב שאסור באכילה? שנאמר, לא תאכל כל תועבה. כל שתעבתי לך הרי הוא בבל תאכל. ואין לי אלא באכילה, בהנאה מנין? כדרכי אבהו, דאמר רבי אבהו, אמר רבי אלעזר: כל מקום שנאמר לא יאכל לא תאכל לא תאכלו אחד איסור אכילה ואחד איסור הנאה במשמע, עד שיפרוט לך הכתוב כדרך שפרט לך בנבלה לגר בנתינה ולעובד כוכבים במכירה. דתניא: לא תאכלו כל נבלה לגר אשר בשעריך תתננה ואכלה או מכר לנכרי.</p>
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The verse quoted at the beginning of this passage, *you shall not eat any abominable thing* (Deuteronomy 14:3), follows a statement declaring that the Israelites are a holy people and precedes the verses that lists the particular foods that are permitted and forbidden to them. The connection between this verse and the prohibition of eating meat in milk is interesting for two reasons. Firstly, it gives the prohibition further biblical authority (beyond the verses forbidding cooking a kid in his mother's milk), and in this instance the prohibition even concerns *eating* rather than cooking. And secondly because meat cooked in milk is rejected as a foodstuff here because it is considered an 'abomination'. This perspective is reminiscent of the Samaritan Pentateuch, which describes cooking a kid in his mother's milk as a 'forgetful sacrifice' and a 'transgression to the God of Jacob'. In the same way, Targum Neofiti and Targum Pseudo-Jonathan

describe how such an act will cause divine anger and punishment. Seen in this light, meat in milk does appear to hold the status of an abomination, being not merely forbidden, but expressly despised.

The next matter for consideration in this passage is the question of gaining benefit from meat and milk. According to Rabbi Eleazar, in all cases where eating is forbidden according to scripture, benefit is likewise forbidden unless otherwise stated. This opinion is given without explanation or justification, and certainly without authority from a scriptural interpretation. Indeed, the only authority for this line of reasoning is that scripture does indeed state in Deuteronomy 14:21 that benefit is *not* forbidden (by permitting carrion to be sold or given away). In this particular passage the Bavli thus begins with the matter of scriptural justification for forbidding eating meat and milk, by including this combination in the prohibition of eating anything that is an ‘abomination’. It then links this prohibition to the broader statement that considers all foods forbidden for eating to be likewise forbidden for benefit. We understand this to be the general rule because where scripture intends otherwise it is explicitly stated.

The final text I shall analyse in this section brings together three biblical verses that are used to explain the prohibition of cooking, eating and deriving benefit from meat and milk. None of these biblical texts mentions meat or milk explicitly (nor kids and their mother’s milk), but through close textual analysis and interpretation the authors of the Bavli connect them with each activity. In the first case this is based on a single superfluous word, in the second on a context relating to ‘two kinds’, and in the third on wordplay on the root $\psi\kappa\delta$ (holy) and a context of benefit/pleasure.

Reish Lakish said, how do we know that meat in milk is forbidden [to be eaten]? Teaching tells us, *eat not of it raw, nor cooked in any cooking [with water]* [Exodus 12:9]. Scripture need not have said *in any cooking*; so why does scripture say *in any cooking*? To tell you that there is another cooking like this [that is forbidden to be eaten]. And which is it? Meat in milk.

Rabbi Yohanan said to him, and is the teaching of Rabbi so unsatisfactory? *You shall not eat it*, [here] scripture refers to meat in milk. You say scripture refers to meat in milk, but perhaps it rather refers to one of the other things forbidden in the Torah? You may reply, go forth and derive it by one of the thirteen exegetical principles by which the Torah is interpreted, namely, 'the meaning of a verse is to be deduced from its context'. What does scripture speak of [here]? Of two kinds. Also here [it speaks] of two kinds!

From that I might have thought that the prohibition referred to eating but not to deriving benefit, he therefore teaches us [another teaching]. And how does Rabbi determine that it is also forbidden to derive benefit from it? He infers it from this, it is written here, *for you are a holy people unto YHWH* [Deut. 14:21], and it is written there, *there shall be no consecrated prostitutes of the sons of Israel* [Deut. 18:23]. Just as there [it refers] to pleasure, so here [it refers] to pleasure.

אמר ריש לקיש:

מנין לבשר בחלב שאסור? תלמוד לומר, אל תאכלו ממנו נא ובשל מבשל. שאין תלמוד לומר מבשל מה תלמוד לומר מבשל? לומר לך, יש לך בשול אחר שהוא כזה. ואי זה? זה בשר בחלב.

אמר לו רבי יוחנן:

כעורה זו ששנה רבי? לא תאכלנו, בבשר בחלב הכתוב מדבר. אתה אומר בבשר בחלב הכתוב מדבר או אינו אלא באחד מכל האיסורין שבתורה? אמרת: צא ולמד משלש עשרה מדות שהתורה נדרשת בהן, דבר הלמד מענינו. במה הכתוב מדבר? בשני מיניו. אף כאן בשני מיניו!

אי מההיא הוה אמינא

הני מילי באכילה אבל בהנאה לא קמשמע לן. ורבי, בהנאה מנא ליה? נפקא ליה מהכא, נאמר כאן, כי עם קדוש אתה לה' ונאמר להלן, ולא יהיה קדש בבני ישראל. מה להלן בהנאה אף כאן בהנאה.

The first section of the passage above uses Exodus 12:9 in formulating its argument for the prohibition of cooking meat in milk. It should be noted that we are discussing the general cooking of the two foodstuffs here and not the cooking of a kid in his mother's milk. This suggests that the Bavli is responding to the need for scriptural justification for the prohibition of cooking (any) meat in (any) milk. The verse used relates to the correct cooking of the Passover offering: the full text reading, *do not eat any of it raw or cooked in any cooking with water, but roasted, its head with its legs and its inner parts*. The Bavli responds to the Hebrew phrasing *ובשל מבושל* (cooked in any cooking) and finds the second word to be superfluous. It thus proposes that the 'cooking' must refer to another cooking, namely meat in milk.

The second section presents the opinion of Rabbi, given by Rabbi Yohanan, on the biblical justification for not eating meat in milk. In this case the scriptural phrase *לא תאכלנו* (you shall not eat it) is interpreted as referring to meat in milk. This phrase appears twice in the Torah, in Deuteronomy 12:24 and Deuteronomy 12:25, in which it refers to blood in meat (which is prohibited for consumption). The Bavli acknowledges the challenge that this might rather refer to other forbidden things, but reminds us that the verse must be understood from the context, which here is considered to be the reference to 'two kinds'; these are meat and blood in the context of Deuteronomy and meat and milk in the context of the Bavli's argumentation.

As we saw in the previous chapter, the association of this biblical verse with meat and milk also appears in Sifre D. Piska 76. The relevant passage concludes with the phrase, 'teaching tells us, *you shall not eat it* to include meat in milk.' Furthermore, although it is not mentioned explicitly in the Bavli, the passage in Deuteronomy 12 also forbids the consumption of the 'the life with the meat' (*הנפש עם הבשר*). This prohibition is linked with meat and milk in one of the passages we saw above in the Mekhilta, stating, 'teaching tells us, *you shall not eat it* [Deuteronomy 12:24], to illustrate that meat in milk should be

forbidden to be eaten. Issi says [furthermore], *you shall not eat the life with the meat* [Deuteronomy 12:23], to illustrate that meat in milk should be forbidden to be eaten.’ These halakhic Midrashim may thus have been the source texts for the Bavli here, illustrating an early association of these verses with meat and milk. As I will show, this text has a further connection with the Mekhilta in its emphasis on the term ‘holiness’.

Following the discussion of cooking and eating the Bavli questions the reason for the prohibition of benefit. Rabbi’s opinion is cited here, stating that just as Deuteronomy 14:21 claims that the Israelites are a holy people (שקדע), so Deuteronomy 14:17 claims that there shall be no consecrated prostitutes (שקד) among the people of Israel. Deuteronomy 14:21 connects us to the question of meat and milk because the prohibition of cooking a kid in his mother’s milk also appears in this verse. Rabbi’s opinion is an example of a *gezerāh šavāh*, a method of deriving halakhah in which the same three letter root appears in another verse, where the relevant prohibition is found. In this instance the root שקד (*q-d-š*) connects the words for ‘holy’ and for ‘consecrated prostitutes’.²²⁷ The argument thus follows that just as there shall be no pleasure/benefit from the latter, so shall there be no pleasure/benefit from the former. Meat and milk is thus forbidden for benefit.

It is interesting to note that the passage of the Mekhilta cited above concludes with the statement, ‘Issi ben Gur Ariyeh says, here it says “holiness” (שקדושה) and there it says “holiness” (שקדושה). What is there forbidden to be eaten is also here forbidden to be eaten.’ As we saw above, this interpretation is expanded upon in Midrash Tannaim, and is explained as connecting Exodus 22:30 (Israel, the holy people, being forbidden to eat animals that have been injured in the field) and Deuteronomy 14:21 (Israel, the holy people, being prohibited to cook a kid in his mother’s milk). According to Midrash Tannaim, the animals to which the first prohibition apply are also those to which the

²²⁷ On this subject see Tal Ilan, *Massekhet Hullin*, pp. 520-522.

second applies. The Bavli likewise uses this associated verse in its discussions in Kiddushin 57b, Menahot 101a-b and Hullin 115b. While the interpretation cited here (Hullin 115a-b) is clearly different, and aims at a different conclusion, it does appear that there is a common tradition that places holiness and the root $\psi\delta\kappa$ at the centre of the prohibition of using meat in milk in all its forms.

5.3 Conclusions

As we have seen in the numerous texts cited above, the Bavli was greatly concerned not only with the interpretation of the biblical verse forbidding cooking a kid in his mother's milk but also with the scriptural justification for the rabbinic prohibition of cooking, eating and benefitting from all combinations of meat and milk. In this respect, it is evident that the Bavli sought to justify the practices and rulings laid down in the Mishnah. The Bavli used the Mishnah as its foundation text and authority (and as the basis for its commentary), but it also connected the Mishnah to scripture and in so doing presented scriptural justifications for the claims of the Mishnah. And while the Bavli drew on many earlier rabbinic sources in composing its argumentation, its interpretations went beyond those of prior texts. Only the Bavli fully expounded the biblical commandment, only the Bavli successfully rooted rabbinic practice in scripture, and only the Bavli managed to do so by incorporating centuries' worth of interpretations into its lengthy discussions on the subject of meat and milk. Although the Mishnah introduced the concept of separating meat and dairy, it did so with almost no reference to biblical proof texts. The Bavli thus joined these elements together, giving weight to the practices outlined in the Mishnah by supplying their scriptural authority.

GENERAL CONCLUSION

Over the course of this thesis I have shown how scriptural interpretations were instrumental in formalising the *halakōt* relating to the separation of meat and milk. Not only did the early rabbis closely analyse the fundamental biblical commandment, *you shall not cook a kid in his mother's milk*, in order to make a number of different halakhic claims, but where necessary they also brought further quotations from scripture, which provided authority for their claims and anchored their practices in the Torah.

As we have seen, prior to the rabbinic period there is no indication that our biblical commandment was interpreted any differently from its literal meaning. Second Temple Jews familiar with scripture would have known that it forbade the cooking of a kid in his mother's milk, but would not have considered this a reason to separate meat from dairy. Even Philo, who sees cooking a kid, lamb or any other animal in his mother's milk as an act of cruelty, is willing for such animals to be cooked in other kinds of milk and finds no controversy in such a practice.²²⁸

On the basis of the pre-rabbinic sources seen in the first chapter, I would suggest that the separation of meat and milk was first practised by the earliest rabbinic groups (or group), sometime after the destruction of the Second Temple in 70 CE and that it was well established within those groups by the time of the redaction of the Mishnah around 200 CE. In my opinion, the biblical commandment forbidding the cooking of a kid in his mother's milk may have been of particular interest to the rabbis because it appeared three times in the Torah, and as a result it may have received special attention and consideration.

²²⁸ See Walter T. Wilson (trans.), *On Virtues*, pp. 71-72.

To my mind, the separation would have begun as a simple fence around the law, perhaps prohibiting the cooking of a kid in any kind of milk (in case that milk was his mother's milk, even accidentally). From here it might seem logical to forbid the cooking of any kind of young animal in milk, and ultimately of any kind of meat in any kind of milk. Mishnah Hullin enters the debate concerned with the questions of poultry and placing meat and dairy foods together on a table; these are clearly fences that needed to be dealt with further down the line, though they are not representative of the initial debate. And beyond the question of establishing fences around the law, the separation of meat and milk also gave the rabbis a new identity marker during a period in which Jewish identity was being entirely reimagined. It not only set them further apart from non-Jews, but also created a distinction between rabbinic and non-rabbinic Jews.

As we saw in Chapter Two, the early biblical versions also give us some insight into the interpretation of the biblical commandment forbidding cooking a kid in his mother's milk. The Samaritan Pentateuch in particular may indicate that there was an early tradition associated with this commandment that influenced how it was read and understood. This tradition explicitly stated that a kid cooked in his mother's milk was an improper sacrifice displeasing to God. Furthermore, the Targumim confirm that the version of this verse that came from the rabbinic schoolhouse condensed the Hebrew *you shall not cook a kid in his mother's milk* into the highly interpretive Aramaic 'you shall not eat meat with milk'. Targum Neofiti, Targum Pseudo-Jonathan and the Fragmentary Targumim also indicate that this commandment was understood alongside the tradition that saw mixing meat and milk as so angering to God that he would cook one's straw and grains (or fruits and half-ripe fruits) together in retaliation. If this tradition is pre-rabbinic, then it may further explain why the rabbis were so concerned with elaborating upon the biblical commandment and developing the laws of meat and milk.

In Chapter Three I illustrated how the Mishnah and Tosefta make little explicit mention of scripture, though they undoubtedly rely upon it for the subjects and themes they address. As we saw, the Mishnah and Tosefta only make explicit mention of the biblical commandment forbidding the cooking of a kid in his mother's milk on one occasion, and in this instance they are specifically concerned with the question of its repetition three times and with its association with carrion (by way of Deuteronomy 14:21).²²⁹ In other respects, however, the arguments and rulings of the Mishnah and Tosefta are not founded in scriptural exegesis, but rather stand alone. In this sense the Mishnah and Tosefta appear to belong to the same school of thought that was responsible for the initial separation of meat and milk; the rulings stand on a loose understanding of the thrice repeated biblical commandment, but without the intricate scriptural interpretation that is characteristic of other rabbinic writings.

The halakhic Midrashim, however, tell quite a different story. As I showed in Chapter Four, the Mekhilta d'Rabbi Ishmael uses many methods of scriptural interpretation to justify the separation of meat and milk. Furthermore, the Mekhilta addresses questions that go beyond the simple prohibition of consuming of meat and milk, considering the matter of benefit as well as the question of other prohibited mixings and that of consecrated (versus unconsecrated) animals. More significantly, the Mekhilta uses other biblical verses to justify its halakhic claims. Sifre Devarim echoes this by offering a passage of biblical exegesis on Deuteronomy 12:24 (*you shall not eat it*) that relates entirely to the prohibition of eating meat and milk, though the biblical context for this verse is wholly unconnected. In this way, the halakhic Midrashim offer us a new insight into the scriptural justification of the separation of meat and milk, indicating that the initial understanding of the kid in his mother's milk as being representative of all meat in all milk was not deemed sufficient for the formulation of halakhah beyond the Mishnah.

²²⁹ See mHullin 8.4 and tHullin 8.3.

Rather, the authors of these Midrashim considered it necessary to scrutinise each and every detail of the biblical commandment and to bring further citations from scripture where the primary biblical commandment was lacking. Furthermore, although they engaged in arguments based in logic, logic alone rarely appears to have been sufficient grounds for the justification of halakhah. Time and time again the authors of the Mekhilta show us that arguments based in logic can be refuted because they can always be reversed, or viewed from an alternative angle. Scripture, however, has the final word, and for this reason its interpretation is a powerful tool.

As we saw in Chapter Five, the Talmud Yerushalmi has no independent interpretation to add to the discussion of meat and milk, but simply echoes an interpretation seen above in the Mekhilta. The Talmud Bavli, however, offers extensive examples that bring together the Mishnah and biblical interpretation. Just as the halakhic Midrashim expand on individual details of scripture, so too does the Bavli - but on a far greater scale (and consistently in relation to the Mishnah on which it is commenting). As I discussed in this chapter, the great success of the Bavli is that it brought these two elements together, supplementing the Mishnah with expansions that consistently ground halakhah in scripture. Furthermore, in the same way that the halakhic Midrashim are creative with the biblical verses that they use in the justification of halakhah, the Bavli likewise takes this approach, going even further and drawing extensively on scriptural citations outside the prohibition of cooking a kid in his mother's milk.

As we have seen, the relationship between the laws of meat and milk and scripture does not display a simple model whereby a particular verse of scripture was understood in a particular way, giving rise to a particular practice. Rather, the relationship begins with a kind of rudimentary biblical exegesis, on which basis the early rabbis prohibit eating meat with milk. In the formation of halakhah, however, we find that many of the authors of our early rabbinic texts rely on eisegesis: accepting a determined ruling and then reading it

back into scripture. The model is thus more complex; a particular verse of scripture (which itself has certain associated traditions) is understood in a particular way, giving rise to a particular practice. The foundations of this practice are challenged from within the rabbinic schoolhouse, exposing the need for biblical authority and justification. This is followed by the development of creative scriptural interpretation and the selective usage of biblical passages to legitimise rabbinic claims.

To give a more concrete example, the initial rabbinic understanding of the biblical commandment prohibiting cooking a kid in his mother's milk determined that meat and milk could not be eaten together. The biblical verse, of course, says nothing of eating this combination but only forbids cooking it. This is not a problem for the Mishnah or Tosefta, but the Midrashim recognise that one cannot claim such a combination is forbidden to be eaten unless one can prove that the Torah says as much. We thus find one explanation that states that the repetition of the biblical commandment is representative of the prohibition of cooking, eating and gaining benefit, and another, more imaginative explanation that rereads Deuteronomy 12:24 (*you shall not eat it*) as a prohibition of eating meat and milk.²³⁰ The Bavli uses both of these explanations, but also takes up another, citing Deuteronomy 14:3, *you shall not eat any abominable thing*, as a reference to eating meat and milk.²³¹

These examples offer an excellent illustration of what it means to interpret scripture with a specific intention. Furthermore, this is not the kind of interpretation that constitutes commentary on scripture but rather deliberate usage of scripture as a means to justify a specific, independent claim. The boundaries become blurred simply because this claim itself was also inspired by a particular reading of scripture. The example of meat and milk is especially interesting because it shows us how scripture may play this dual role in

²³⁰ Mekhilta d'Rabbi Ishmael, Tractate Kaspā, Chapter V: 1-2 and Sifre Devarim, Piska 76.

²³¹ bHullin 114b.

the formation of halakhah. Ultimately, the rabbis posed their questions often knowing exactly what they wished to find; biblical interpretation would determine precisely where, but there was no doubt that scripture would hold all the answers.

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