

Clarifying Why the Muscovy Duck is Kosher: A Factually Accurate Response

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Introduction

Several years ago we summarized the halachik history of the kashrut of Muscovy duck, a story that had been static for nearly a century with the duck being accepted as kosher in Israel, France and South America and not accepted in the US.¹ Its lack of acceptance in the US and by some *badatzim* in Israel was due to its questionable mesorah [tradition] rather than a definitive statement that it is a non-kosher species. Within the last year a specific kashrut agency and its affiliated rabbinic group in the US issued strongly worded position statements declaring that Muscovy is unquestionably and definitively non-kosher because, they assert, it is a *dores* (predator) and therefore one would be required to kasher a pot in which Muscovy had been cooked. An investigation into the basis of

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¹ A. Z. Zivotofsky and Z. Amar, "The Halachic Tale of Three American Birds: Turkey, Prairie Chicken and Muscovy Duck," *Journal of Halacha and Contemporary Society*, 46 (2003), pp. 81-103 and Z. Amar and A. Z. Zivotofsky, "Kashrut HaBerberi v'HaMulourd," *HaMa'ayan* 44:1 (5764): 35-42.

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these rulings reveals factual errors and flawed methodology. Because these statements have received wide circulation and attention within worldwide rabbinic circles they call out for a factually accurate response, which we provide herein.

First, however, we will give a brief background. With one exception, all domestic ducks are believed to be derived from the wild mallard (*Anas platyrhynchos*). The common mallard *A. p. platyrhynchos* is likely the sole progenitor of all domestic forms, with the most prominent breed (in the US and Israel) being the Pekin (*Anas platyrhynchos domestica* or *Anas peking*), introduced to the West from China in the late 19th century. The only exception is the Muscovy duck (*Cairina moschata*), also known as barbary duck. It is native to Mexico, Central America, and most of South America. The male weighs 2-4 kg and the female 1-1.5 kg. It is generally accepted that it was domesticated in pre-Columbian South America, where it was found in the very early 16th century by the Spaniards. There appears to have been an early and rapid diffusion into the Old World.

There is evidence that during this spread of the New World Muscovy to the Old World, Jews in parts of Russia treated it as kosher. Rabbi Aharon HaLevi Goldman wrote (*VaYalkut Yosef* 8(9):92) from Argentina in 1900 that he had refrained from *shechting* this New World bird until Jews from the Charshan and Besarabia areas of Russia emigrated and told him that it was eaten there without any hesitation. The early Jewish settlers in the southern U.S. also began eating Muscovy duck. The Muscovy has a peelable gizzard, an “extra toe,” webbed feet, and a wide beak, all indicating that it is kosher. It does not have a standard crop, but has the same pseudo-crop found in other ducks and geese. Thus, these Jewish settlers treated it as kosher. It was its acceptance by the few Jews of New Orleans that led to the first known responsum about the Muscovy.

In 1861 Rabbi Yissachar Dov (Bernard) Illowy, PhD (1814-1871) arrived as the new rabbi in New Orleans and declared that the Muscovy duck could not possibly be treated as a kosher species because there was no valid mesorah for it. In a letter written in beautiful biblical, poetic Hebrew, Rabbi Illowy presented the question of the Muscovy duck to two European rabbis, Chief Rabbi Dr. Na-

than Adler of London and Rabbi Shimshon Raphael Hirsch of Germany.²

Rabbi Illoway states in his letter that there could be no mesorah on this New World bird, and further that the eggs of the Muscovy have the signs of non-kosher eggs. Both Rabbi Hirsch and Rabbi Adler responded that Rabbi Illoway was correct in prohibiting the Muscovy.

That was not the end of the pre-21st century discussion regarding the Muscovy. Many other authorities dealt with the question and many permitted it, some using arguments similar to those used to permit a nearly universally accepted New World bird, the turkey. For example, the Netziv (*Meishiv Davar* 22), when asked about “geese that are larger and different from the common goose,” permitted them and argued that once a bird is widely accepted the burden of proof falls upon those who would prohibit it to bring proof that it is a *dores* and thus prohibited. Barring such a proof the bird should remain permitted. This argument is equally valid for the turkey and the Muscovy duck.

Several decades after Rabbi Illoway, another European newly arrived on US shores seems to have addressed the same issue. Rabbi Leeber Cohen (born ca. 1874), upon taking a job as rabbi in Memphis, TN, discovered that he was receiving many queries about a new kind of “goose” about which he had previously answered several questions in Europe. In 1916 he published *Chiddushei Chaviva*, the first half of which is devoted to the question of the new “goose” which, according to his description, seems to have been the Muscovy duck. He concluded that based on the “egg signs” discussed in the Talmud, the bird under discussion was permitted.

Two South American rabbis also engaged in lengthy discussions about the Muscovy duck. The above-mentioned Rav Aharon Halevi Goldman permitted the Muscovy for several reasons, including a report that the Netziv and Rav Naftali (Hermann) Adler (1839-1911) had permitted it.³ In response to the fact that some rabbis continued to challenge the kashrut of the Muscovy, Rav Yosef Aha-

² See “The Controversial Letters and the Casuistic Decisions of the Late Rabbi Bernard Illoway,” by his son Henry Illoway, Berlin, 1914, p. 162-165.

³ *Divrei Aharon*, Yerushalayim, 5741, 25-31 (pp. 72-81).

ron Taran, a *shochet* in Argentina, took up the gauntlet of rebuttal. He realized that the naysayers had not personally observed the bird and were under the misimpression that it was a *dores*.

In an effort to strengthen their position, those who sought to ban it sent a pair of birds to Yerushalayim to have Rav Shmuel Salant (1816-1909), the *av beit din*, rule on it. The male bird died en route, but the female successfully completed the lengthy journey. Rav Salant initially refrained from ruling on the matter due to his advanced age and requested that Rav Chaim Berlin, who was then visiting the city, rule on the matter. When Rav Berlin was fed all manner of fiction, such as that the bird breeds with snakes, he refused to rule and returned the question to Rav Salant. Rav Salant immediately ordered his *shochet* to slaughter the bird and on *erev Pesach* a letter was promptly dispatched to Argentina stating that the bird had been eaten following Rav Salant's ruling. Rav Shmuel Salant committed his opinion to writing in a responsum dated 25 Kislev 5668 (1908). Rav Taran publicized that letter, as well as several other permissive rulings from European rabbis, including one from Rav Naftali (Herman) Adler (1839-1911), chief rabbi of the British Empire and son of former Chief Rabbi Nathan Adler (1803-1890) who had prohibited it years earlier.⁴

Almost 50 years later, the chief rabbi of Yerushalayim, Rav Tzvi Pesach Frank (1873-1961) testified (*Har Tzvi YD 75*) that the Muscovy was eaten in his day in Yerushalayim based on the ruling that was issued to an Argentinean emissary who had brought a bird with him. Although he does not specify that it was his teacher Rav Salant who had permitted it, the significance of the fact that it was well known that it was accepted and that it had been permitted after observing a live bird cannot be overemphasized. Subsequently, the Muscovy was commercially raised in Israel for decades and accepted as kosher by the chief rabbinate and various local kashrut organizations. This was not merely theoretical; it was *shechted* by the tens of thousands for decades as "mehadrin" under the Jerusalem and Kiryat Shemona rabbinate. It was and continues to be accepted and slaughtered as kosher in France. In recent years in Israel the primary usage of Muscovy was to cross a male with a pekin female to

⁴ *Zichron Yosef*, Yerushalayim 5684, 1a-5b.

yield a mulard (also spelled moulard) for the production of *foie gras* (*foie gras de canard*; as opposed to goose liver *foie gras d'oie*). With the banning of gavage by the Knesset in 2006 the raising of Muscovy in Israel has been relegated to petting zoos.

The Reignited Muscovy Controversy

In *Tevet* 5770 the kashrut status of the Muscovy duck again entered the public arena. The debate started anew when a supplier of birds provided Muscovy ducks instead of the usual pekin to kosher slaughter houses in Pennsylvania and Kiryas Yoel, NY. In the former the *shochtim* noticed the difference and refrained from *shechting* while in the latter the birds were slaughtered before anyone noticed that it was a different species of bird.⁵ The rabbinic authorities of the respective slaughter houses were consulted and an investigation that turned polemical was launched. In the course of researching the Muscovy, someone found a website⁶ of one Muscovy breeder that supposedly describes the violent nature of the Muscovy. The site states:

Muscovy do have a few characteristics that aren't very pleasant. One of the most distressing aspects of owning Muscovy that I have found is their omnivorous nature. They require more animal protein than mallard-derivative ducks and will eat mice, baby birds, chicks, sometimes even other Muscovy ducklings. The first time I witnessed this was when an adult Muscovy drake of mine snatched up a bantam chick from a broody & her clutch. Before I could rescue it he'd killed it and there was nothing I could do. Since that time, I've had to make sure that I do not allow chicks in the Muscovy pen, and pick up ducklings as soon as they're brought from the nest. In my ex-

⁵ It is interesting that they were slaughtering ducks in *Tevet*. The Rema (*YD* 11:4) cites a custom not to *shecht* geese, understood to include also duck, in the months of *Tevet* and *Shevat* unless the *shochet* eats from its heart. One would have expected the Kiryas Yoel slaughterhouse to observe this custom. There is no question that they *shechted* them, because KJ Poultry put an ad in the Jan 15, 2010 "Der Blatt" requesting the return of the ducks purchased while they investigated the matter.

⁶ <<http://www.muscovyduckcentral.com/thefarm/whymuscovy.html>>.

perience juvenile drakes are the most likely to kill ducklings, although at times some adult drakes & ducks will do it, too. This need for animal protein is why I like to use a pork-based poultry premix in my feed, and I often recommend people feed cat kibble or hard boiled eggs as a treat. Another consideration is the Muscovy's incredible strength and their sharp, talon-like claws. Even ducks can be difficult to manage for a lot of people.

This quote, in a garbled Hebrew translation, formed the basis of the primary ruling prohibiting Muscovy.⁷ In introducing it they stated that it was a consensus of “all the experts and farmers,” when it is in fact the site and opinion of one breeder. It is based on this that they ruled that the Muscovy is a *dores* and hence definitively prohibited. It is clear from the various proclamations and pamphlets that the authors of these prohibitions never bothered to personally examine the bird or its behavior, or to compare its behavior with that of known kosher birds such as the chicken. It seems that that one Internet site was sufficient evidence upon which to base a halachik ruling. Subsequently a second similar site⁸ was found and quoted in later pamphlets. This site reports that: “The Muscovy is the ultimate eater. They are known for eating anything that they can find, including bugs of all sorts, roots, stems, leaves, algae, seeds, small fishes, lizards, snakes, and vermin including mice, voles, and young rats... They love mosquito larva and will eat it from the water, but also enjoy eating flying ones, poisonous spiders, flies, and maggots. Because they are fierce eaters with a wide variety of food choices, they should be kept away from rabbit and guinea pig cages, especially if their [sic] are young there. They have no problems attacking the young for food.” Strangely, these reports were enough to designate the Muscovy a *dores* and therefore non-kosher.

⁷ It formed the meat of “the proclamation” issued by *Mishmeret L'Mishmeret* of the *vaad hakashrut* and *beit din tzedek*, Brooklyn, dated 7 *Shvat* 5770.

⁸ <http://www.associatedcontent.com/article/804777/muscovy_ducks_an_unusual_bird_to_go_pg3.html?cat=58>.

What is a *dores* and who cares?

The Torah gives no identifying features to distinguish kosher from non-kosher birds and simply lists (Lev. 11:13-19 and Deut. 14:11-18) 24 categories of birds that are not kosher (*Chullin* 63b). By implication, all other birds are kosher. Over time the identity of those 24 non-kosher species has been lost and new methods of determining which birds are kosher developed. The Mishnah (*Chullin* 3:6 [59a]) states: “every bird that is 1) *dores* (“a predator”) is not kosher. Every bird that has 2) an extra toe, 3) a *zefek* (crop, the biblical *more'eh*, e.g. Lev. 1:16), and 4) a *korkuvan* (gizzard, “pupik” in Yiddish) whose inner lining can be peeled, is kosher.” While at first glance the rules in this Mishnah seem rather straightforward, they are anything but. How to understand each of the signs as well as how to use them is mired in controversy. However, what is generally agreed upon is that a bird that is a *dores* is not kosher.⁹

With that principle in hand, it becomes essential to define a “*dores*.” This is no easy task as it is a debate amongst the early medieval commentators. Some of the opinions are:

- 1) Rashi (*Chullin* 59a) and Rav Ovadiah MiBartenura (*Chullin* 3:6, the first explanation) explain that it refers to a bird that seizes its food with its claws and lifts it off the ground to its mouth. Rashi (*Chullin* 62a, *Niddah* 50b) and Rambam (*Perush HaMishnah*, *Chullin* 3:6) explain that the bird holds down its prey with its claws and breaks off small pieces to eat. The Ra'avad elaborates and says that a bird is a *dores* if it holds down its food with its feet. The food can be a live or dead animal or even vegetables.
- 2) Tosafot (*Chullin* 61a, s.v. *hadores*; in the name of Rabbenu Tam) and Rav Ovadiah MiBartenura (*Chullin* 3:6, the second explanation) question Rashi's definition because it would seem to include chickens. Rather, they explain that a *dores* is a bird that ingests its prey while it is still alive.
- 3) Ramban (*Chullin* 59a; *Vayikra* 11:4) and *Sefer HaChinuch* define *dores* as birds that either claw their prey to death or inject them with venom.
- 4) Rambam (commentary to *Chullin* 3:6; *Maachalot Asurot* 1:20)

⁹ Rambam, *Maachalot Asurot* 1:16; *Shulchan Aruch*, *Yore De'a* 82:2.

echoes the Mishnah and provides two indicators that a bird is a *dores*. If, while standing on a rope, it spreads two toes to each side it is *dores* or alternatively if it snags its food in midair and eats in the air it is a *dores*.

Because of the debate, the halacha is that if a bird meets any of those criteria, it is treated as a *dores* and prohibited. Those who want to brand the Muscovy a *dores* do so because they claim it meets criterion 2, that of Rabbenu Tam. They fail to note the reason for Rabenu Tam's explanation; he was looking for a rule that does not apply to chickens. Hence, the Beit Yosef, Meiri, and Rashba all explain that the eating of live worms by chickens is not a problem because worms are not true "animals." This would apply to flies as well. The Rashba limits *dores* to birds that eat other birds alive. Furthermore, to be a *dores*, this must be the nature of the bird, not an aberration. After all, chickens also occasionally eat rats.

The Muscovy Facts

As might have been expected, the release of the 7 *Shevat* (January 22 2010) proclamation precipitated a debate and led to a flood of interest and assorted broadsides, pamphlets, notices, and articles.¹⁰ In the proclamation it stated that the status of the Muscovy as a *dores* is attested to by the straightforward writings of experts and farmers. However, upon examination, it appears that the mountain is based on a molehill—the entire evidence is an anecdote found on one website and not facts investigated and confirmed by experts.

We decided to investigate Muscovy behavior with some experts. The Muscovy behavior as described on that website is not typical Muscovy behavior and is not substantiated by either Israeli or US experts whom we consulted. The sole commercial breeder of ducks in Israel, Naftali Levin of Kfar Baruch, has been raising ducks, in-

¹⁰ For a list of these see the *haMa'ayan* article, note 15. A summary article appeared in *Kashrus Magazine*, 149(30:4), *Nissan* 5770/May 2010, pp. 86-91 called "The Great Duck Debate: Is the Muscovy Duck Kosher." Practically everything that was published in this recent controversy relied somewhat on our previous papers; we note that unlike most, *Kashrus Magazine* was honest enough to cite it by name.

cluding Muscovy for almost 30 years. He told us that Muscovy ducks can be quite aggressive but only when they are defending territory or engaged in mating behavior. He was emphatic that as regards eating they are not predatory and do not normally display the behavior described on that website.

Stan Searles, curator of birds and aquatics at the Cleveland (OH) Metroparks Zoo for two decades is an expert on Muscovy ducks and other birds and he stated:

The question might be posed, 'Does the animal use these methods of hunting [*dores* descriptions] as its normal method to acquire the vast majority of its food? If that is the question, then ducks and chicken are not *dores*. Fowl (ducks, chickens, etc.) were not meant to be *dores*, but they can meet some of the criteria. The main difference is that raptors always act like [*dores*]; the other birds rarely do so.

In analyzing the various definitions of *dores* he responded:

1) Chickens, pekin and Muscovy would only use their feet to catch an animal (although, more often would catch their prey with their mouth). 2) Chickens, pekin and Muscovy may hold their prey down with the foot, but I think the original description probably refers to the bird holding the prey in its talons like a bird of prey. 3) Chickens and ducks do not kill other creatures for food using their claws. Roosters may fight using their feet, but that is not for food acquisition. 4) Chickens, pekins and Muscovy do not catch prey airborne.

He concluded by observing that:

Fowl (ducks, chickens, etc.) were not meant to be *dores*, but they can meet some of the criteria; the main difference is that raptors always act like that, the other birds rarely do so.

All of the above was in email exchanges. In a phone conversation he reiterated that his generalizations about duck apply to Muscovy and that there is no way that he would categorize Muscovy as a *dores*. Such testimony of people with long-term experience regarding thousands of Muscovy indeed carries halachik weight. Rabbi

Aryeh Lebusch Bolchiver,¹¹ author of *Shem Aryeh*, when discussing turkey, reaches the startling conclusion that when the Rama requires a tradition, it is only where there is uncertainty regarding the bird's *dores* status. He posits that if a bird is no longer “new” but has been observed for a long period of time, i.e., 12 months, and observed to be non-*dores* it is appropriate to say with certainty that it is not a *dores*. These experts have observed many Muscovy for many years and attest to its non-*dores* status.

All of this begs the question—what about the author of the Internet site that is the source of information for the rabbis who prohibited the bird? She was contacted directly and responded¹² that “I have seen Muscovy kill young birds, ducklings, chicks, and wild birds but usually by the time they can eat them they are dead and have been basically pulled apart. I have not seen a Muscovy eat any of these whole.” She does think that Muscovy are violent, but her description is not of a *dores*. Chickens also eat small dead vermin, but this does not qualify them as *dores*.

The proclamations also describe the Muscovy as eating the flesh of pig and having nails like a predator. These descriptions are inaccurate and irrelevant and are clearly designed to bias the reader into thinking that these are very non-kosher birds. Chickens will also eat meat of almost any animal and I have personally fed chicken to chickens. The claws of a Muscovy are indeed larger than those of other ducks but they are not talons and are not used for hunting prey and nowhere in halacha is it suggested that larger nails categorize a bird as a *dores*. But stooping to innuendos will not deter those who are intent on prohibiting this bird which had been eaten by hundreds of thousands of Israeli Jews for a century.

Rather than rely on inexact, nonscientific Internet descriptions we decided to investigate and observe Muscovy duck behavior with our own eyes. We arranged to observe range Muscovy and to see their behavior when offered one-day-old chicks. Their reaction was quite interesting. All of the Muscovy, en masse, rapidly approached the tiny chicks and appeared to be pecking at them. We were sure that they were attacking and killing them, and verbally stated that

¹¹ *Arugot Habosem* (Russia, 1870) *kuntras ha'tshuvot* in the back, *siman* 16.

¹² Personal email Feb 12 2010.

and expressed surprise at what we were seeing. In reality, first impressions can be misleading, and that is not at all what was taking place. The Muscovy were merely expressing curiosity and were, in an animated manner, checking out these newcomers. The chicks were not injured and within several minutes the Muscovy lost interest in the chicks and moved on to other activities.¹³

Within the US haredei community there was some dissent from the position expressed in the proclamation described above, and an anonymous cynical proclamation was issued strongly disagreeing with its position. They pointed out that there are Internet sites¹⁴ that describe the chicken as a merciless eater that will devour live mice, and they therefore sarcastically called on all religious Jews to refrain from chicken and to realize that anyone who has ever eaten chicken has eaten non kosher-meat. This cynical broadside was the exception; for the most part the vast majority of major kashrut organizations in the US simply did not get involved. While they maintained their position of not certifying Muscovy, they did not form a chorus in declaring the Muscovy a *dores* and thereby an absolute non-kosher species. It may be that they treat it as non-kosher for lack of a mesorah, or that they actually deem it kosher but maintain the long-standing US custom and therefore do not certify it. But it appears that the OU and the other major agencies realized that an illegitimate halachik process was taking place, and stayed out of the fray.

It would seem much more significant that the information from the Internet sites is what our traditional sources reveal about the violent nature of chickens. Rav Yehuda ben Bava testified (*Eduyyot* 6:1) regarding a chicken that was stoned to death in Yerushalayim on account of it having killed a person. Despite this irrefutable evi-

¹³ The observations and experiment were conducted on 21 *Iyar* 5770 at Kfar Baruch. A short video of the experiment can be seen at: <<http://www.youtube.com/watch?v=BjXtACakIi4>>.

¹⁴ See for example: <<http://en.wikipedia.org/wiki/Debeaking>>; <http://www.cnr.uidaho.edu/range556/Appl_BEHAVE/projects/Chicken_Cannibalism.html>; <<http://badapple.wordpress.com/2009/03/27/pecked-to-death-by-the-cannibal-chickens/>>.

dence that a chicken is capable of much more than killing a rat—it can kill a human being—there is no commentary on that Mishnah that suggests that because of that behavior a chicken should therefore be treated as non-kosher. So too the (factually inaccurate) charges raised by those who seek to prohibit the Muscovy are based on its violent nature. Those accusations have no halachik bearing.

Interestingly, in the initial Muscovy controversy over a hundred years ago unsubstantiated facts that are incorrect were bandied about as well. Clearly, these who wrote the statements never saw the object upon which they were commenting and ruling. Rav Illoway wrote that the eggs of the Muscovy are round (as opposed to the shape of kosher eggs such as chicken eggs) and are greenish. There seems to be no question that Rav Illoway saw the Muscovy, but it is hard to reconcile his description of the eggs with a firsthand observation. The eggs of the Muscovy duck are shaped like every other kosher egg, rounder at one end and pointed at the other, and are uniformly white. While it can be assumed that Rav Illoway did not see the eggs, the same cannot be said of the anonymous author of the 2010 pamphlet *l'Taber Temaim*, where on page 96 a picture of the eggs is shown. Where that picture comes from is not clear, but it misrepresents the facts that we and our experts have seen of countless Muscovy eggs all looking like kosher eggs. And indeed if that picture is looked at carefully it too can be seen to be kosher. The documents from that debate talk about a bird that swallows chicks whole and mates with snakes. These are myths that anyone who saw the bird would know to reject.

Just like then, so too today, those who prohibit never bothered to verify the facts or even observe the bird. They simply based their position on a selection of quotes from those who prohibited last time and on a few Internet sites. They ignored all of Rav Taran's counterarguments that he presented to show it is not a *dores*. For example, there were those who argued that it grabs its food in the air and he thus did many experiments to show it is factually not true.¹⁵ Rav Taran did experiments and verified facts; they, however, blustered and prohibited. In order to bolster their positions, when-

¹⁵ Videos can be found on the Internet that show Muscovy catching in its beak small bits of food, but that is clearly not its natural behavior pattern.

ever one of those who permitted is mentioned it is to attack him. For example, they argue that Rav Naftali Adler, who permitted, was not as great as his father, Rav Natan Adler, who prohibited, so he must be ignored. The height of irony is when they argue that the Netziv and the Divrei Makiel, who permitted, were not familiar with the characteristics of the bird and therefore did not know that it is a *dores*. They ignore or question the ruling of Rav Shmuel Salant who permitted the Muscovy.

The proclamation states that in the original debate all rabbis prohibited it except for a few who were not informed that it is a *dores*. A more factually accurate statement would be that many of those who examined it and were given accurate facts permitted it, while those who were told that it breeds with snakes, eats live birds, and has round eggs prohibited it, as anyone who is told such facts would and should do. Since those “facts” have nothing to do with the Muscovy, a ruling based on those facts is inapplicable to the Muscovy. There were others who did prohibit it even recognizing that it was not a *dores*, for the simple fact that it lacked a valid mesorah. That was Rav Illoway’s primary concern as well as the next occurrence of “Muscovy duck” in US literature in 1872, well before the major controversy.¹⁶

One of the stars of these anonymous pamphlets and proclamations is Rav Chaim Soloveitchik who prohibited the bird. What they fail to note is that he prohibited it after hearing that it is a classic *dores* who eats other birds and swallows them live and grabs and eats prey in the air before it ever reaches the ground. Given these facts, who would not prohibit? Such a bird of course may not be eaten. But that says nothing about the Muscovy, which does not have those characteristics. Yet Rav Chaim Soloveitchik’s position is cited without providing the background. Furthermore, this position of Rav Chaim Soloveitchik is found quoted in a responsum attributed to Rav Chaim Berlin. It seems unusual that Rav Chaim Berlin would pen this in opposition to his father the Netziv and after he himself supposedly refused to rule on the issue while in Jerusalem. It is also strange that in Jerusalem this position was unknown and

¹⁶ See *Hatsofe B'erez Hachadasha* (Hebrew), NY, vol. 7, 2 *Tammuz* 5633 (June 27, 1873) p. 56.

Rav Tzvi Pesach Frank does not cite it. This has led some to question the authenticity of this responsum attributed to Rav Berlin.

Is Muscovy duck kosher?

We have previously discussed this in our earlier papers and it is not the main point of this article. But we cannot simply ignore that question. The Mishnah gives signs for how to determine which birds are kosher. For many centuries now we do not rely on those signs and eat only those birds for which a mesorah (tradition) exists. This is how both the *mechaber* (YD 82:2) and the Rema (YD 82:3) rule. The only exception is that the *mechaber* is lenient if the bird passes the “goose comparison,” in that if it has a wide beak and webbed feet there is no need to be concerned that it is a *dores* and the signs of the Mishnah may be relied upon. The Rema says not to rely even on that and always require a mesorah. The Muscovy obviously passes the “goose comparison” and is thus clearly not a *dores*. The Rema still requires a mesorah to permit it, but it is absurd to label it a *dores* and a definitive *min tamei* (non-kosher species).

So is there a mesorah for the Muscovy? That depends on how widely one is willing to expand the mesorah of the similar pekin duck. They are clearly two different species and can readily be told apart. Yet the *shochtim* in Kiryas Yoel who slaughter ducks by the thousands did not notice the difference! They *shechted* the birds brought to them without any question. Clearly there is a great similarity between the birds or those *shochtim* are highly incompetent. We would rather believe the former option. Rav Eliyahu Klatzkin (1852-1932) from Lublin permitted a duck that he was asked about in 1911 (it may have been the Muscovy duck) because, he stated, it does not require its own mesorah due to its similarity to known kosher ducks (*Dvar Halacha*, 1921, #53, pp. 37a-b).

An additional reason the Muscovy duck is kosher is the “hybridization principle.” The Talmud (*Bechorot* 7a) states that kosher species cannot mate with non-kosher species and therefore the fact that an unknown species can interbreed with a known kosher species confirms the kosher status of the unknown species. In the Talmud it is not explicitly stated if this principle applies only to animals or to birds as well. The Avnei Nezer (*Yoreh De`ab* 1:75:19-21)

and many others explicitly apply this rule to birds as well as mammals. The pekin and Muscovy freely and happily crossbreed with each other without the need for human intervention. Most of the time, although not always, the cross is infertile and it has recently been suggested that this is a reason not to apply the principle in this case. Fertility of the offspring does not appear to be a requirement, merely the ability to produce live offspring. The free and frequent hybridization would seem to be icing on the cake that makes it an unquestionable proof of kashrut in this instance.

Finally, the logic of the Netziv regarding turkey should apply here as well. As Rav Amitai Ben David, author of *Sichat Chullin*, wrote (19 *Shvat* 5761) in letter to Rav Naftali Weinberger that is appended to R. Weinberger's book *Shaleach Tishalach* (5761, Jerusalem, p. 180), the Muscovy had been given a de facto okay by the Netziv and the Avnei Nezer because it was already being eaten by masses of Jews. In addition he states that he personally received a mesorah on the Muscovy from his teacher who taught him *shechita*, the well-known Rav Chochaima.

It is often difficult to know about which specific bird 19th century responsa are dealing. In the case of the Muscovy it may be immaterial. Based on the three points above: 1) similarity to the Muscovy as so poignantly demonstrated by the Kiryas Yoel *shochtim*, 2) the hybridization principle, and 3) the fact that Jews by the millions have been eating it, and of course the facts that it is not a *dores*, passes the goose comparison, and has kosher-type eggs, the Muscovy should certainly be treated as kosher.

Conclusion

Rav Tzvi Pesach Frank, a member of the court headed by Rav Shmuel Salant and later the long-time and well-respected chief rabbi of Jerusalem penned a response on the Muscovy years after the heated controversy. He sought to limit the eating of this New World bird, and he is thus sometimes quoted by those who seek to ban it. What they fail to note, and it is important to stress this, is that Rav Frank did not prohibit the bird, and attested to the fact that it was permitted and eaten in Jerusalem. That evidence alone should be sufficient to quell the voices that state that it was never really permitted. It is clear that for decades it was treated as a per-

mitted bird in Jerusalem and Rav Frank did not contradict that fact or seek to reverse it. In a fair review of the history, Rav Shalom Landa¹⁷ concludes that most of the significant rabbinic authorities indeed permitted the Muscovy and ruled that it may be eaten without question.

There is nothing new under the sun, and an analysis of the recent debate reveals that practically all of the arguments raised to prohibit it 100 years ago were raised again and that, “surprisingly” all of the century-old responses were ignored. Those seeking to prohibit the bird mobilized all tactics including utilized rumors, hearsay, suppression of facts, and simple lies.¹⁸ There is no question that the discussion of the kashrut of the Muscovy was not carried out as a legitimate halchik discussion, the facts were not verified or examined in depth and thus the process and the conclusion are invalid from the start. This is a reckless ruling that should never have seen the light of day and through it the honorable names of Torah scholars of earlier generations and the masses who ate the bird relying on the earlier ruling were besmirched. It is legitimate and understandable if one personally wants to refrain from eating Muscovy due to a questionable mesorah, the issue of force-feeding ducks, or any of a host of other reasons. But one may not, in the name of “chumra” or “frumkeit,” misrepresent the truth, distort the Torah, and make the pure impure. ❧

¹⁷ *Ohr Yisrael*, 59 (Nissan 5770) 19-30.

¹⁸ We are herein reporting facts and not attempting to assign motives. But one cannot avoid noticing that the events took place in a Satmar slaughterhouse and shortly thereafter an anonymous 5 part(!) series strongly prohibiting the Muscovy appeared in the weekly *Chomas Hadas* newsletter of the other Satmar faction.