

שאני היכל¹ דלתוכו עשוי –

The *Heichohl* is different for it is made for its inside

OVERVIEW

ר' יוחנן is permitted from the fact that לא אפשר וקא מכוין sought to prove that לא אפשר וקא מכוין (who maintains that it is forbidden) responded that there is no proof from this story since the walls of the היכל were made for the inside of the היכל (the usage of the area inside the היכל), but not for the outside. response. רבא's clarify תוספות and רש"י.

פירש הקונטרס³ ואין הנאת צילו נאסרת שאין זה דרך⁴ הנאתו⁵ -

explained; therefore deriving benefit from the shade (of the היכל) is not prohibited (as an act of מעילה) since it is not in the usual manner of utilizing the benefit of the היכל.

asks: תוספות

ואם תאמר והא לא כתיב אכילה⁶ ואפילו שלא כדרך הנאה יהא אסור -

And if you will say; but it does not state 'eating' by the מעילה, so it should be prohibited even הנאה כדרך הנאה?!

answers: תוספות

ויש לומר דמעילה ילפינן חטא חטא⁷ מתרומה ובתרומה כתיב אכילה -

And one can say that we derive the laws of מעילה from the laws of תרומה through

¹ The היכל (or sanctuary) was a large building (one hundred אמות square by one hundred אמות high) which contained the קודש and the קודש the קודש הקדשים (in front of the קודש), plus many לשכות or offices.

² It is לא אפשר; it is not possible not to give this דרשה (of הלכות החג קודם החג), however he was מכוין to derive benefit from the היכל, צל the היכל, which seemingly transgresses the איסור of מעילה (the prohibition from deriving benefit from הקדש).

³ ד"ה דלתוכו.

⁴ The walls (and their קדושה) were made for the purpose of the area which they enclosed. Deriving such a benefit (for instance protecting oneself from the elements by entering the היכל) would be prohibited. However the outside shadow of the היכל is not the הנאתו; דרך the היכל were not made to provide an outside shadow.

⁵ [Even though there may be an איסור for deriving benefit דרך הנאתן (כד, ב) that there is no מלקות for deriving benefit הנאתן (where there was no other option) it is מותר לכתחלה (see מאירי).]

⁶ Previously (on כד, ב) אביי taught that by those prohibitions where the word אכילה is not mentioned; their prohibition extends even if it is הנאתן. Therefore by מעילה where the prohibition does not mention אכילה (the פסוק [in תוספות] merely states [ויקרא ה, טו] it should be אסור (and be חייב) even הנאתן (nevertheless) agrees with אביי (even though he disagrees with אביי regarding וקמכוין). See "Thinking it over" # 2]

⁷ See ולא (ויקרא [אמור] כב, ט) and by תרומה (in טו) that וְהִטָּא בשגגה (ויקרא ה, טו) it states לקמן לג, א. יִשְׂאוּ עָלָיו חֲטָא.

a זר of **חטא חטא**, and by **תרומה** it states⁸ **אכילה** regarding the prohibition of a זר to eat תרומה. Therefore just as by תרומה a זר is חייב only כדרך הנאתן (since it states **אכילה**), the same applies to מעילה that one is חייב only כדרך הנאתן.

תוספות anticipates a difficulty:

והא דאסר בפרק כל הצלמים (עבודה זרה מח,ב) לישוב תחת אשירה⁹ -

And that which the משנה in פרק כל הצלמים prohibits to sit under the shade of an אשירה; when we just concluded here that sitting in the shade is considered הנאתן and is permitted –

תוספות responds that we cannot compare the shade of the היכל to the shade of an אשירה; firstly -

משום דאשירה לצל עשויה והיא דרך הנאה ועוד דגבי עבודה זרה לא כתיב אכילה:

Because that אשירה tree is made for shade (as opposed to כותלי ההיכל), **so it is דרך** **הנאה**, **and additionally by the prohibition of serving ע"ז there is no mention of** **אכילה**, therefore it would be אסור even if it is הנאתה שלא בדרך.

SUMMARY

גז"ש חטא חטא מתרומה, since we derive it through a חטא חטא, אסור כדרך הנאתה מעילה is only made for a חטא חטא and אכילה is not mentioned by ע"ז, therefore it is אסור to sit under an אשירה.

THINKING IT OVER

1. What is a practical difference between the last two answers of תוספות?

2. assumes¹⁰ that (even) according to רבא there is a שלא כדרך whenever חיוב is not mentioned, except for מעילה (וכיו"ב) where רבא maintains there is no חיוב since we derive מעילה from תרומה where אכילה is written. Previously (כה, א) the כלאי challenged that we cannot derive by ח"ה from כלאי הכרם since כלאי ח"ה is אסור even שלא כדרך. אביי answered that ח"ה is also אסור. However since אכילה is mentioned, so ח"ה is derived¹¹ by אסור אכילה, there should be no חיוב by ח"ה if it is שלא כדרך (like ח"ה); how will ח"ה derive ח"ה from כלאי הכרם?¹²

⁸ See ויקרא (אמור) כב,י where it states לא יאכל קודש referring to תרומה.

⁹ עבו"ז is a tree that was planted in order to worship it as an אשירה.

¹⁰ See footnote # 6 [in the bracketed area].

¹¹ See ב, 7.

¹² See מהרש"א (הארוך).