

What is the logic behind איסורי הנאה, those items/foods from which one may not derive benefit?

Chullin 114b

Jewish law not only forbids cooking meat and milk together, or consuming a cooked mixture, but even deriving benefit - such as feeding one's animals or making money - off a mixture of milk and meat. While the Gemara from Chullin 114b and on will discuss this issue for a while - moving from universal reasons to reasons that are particular to the prohibition of milk and meat per se - in this shiur we will try to offer an overall logic for the notion that an item would be prohibited not only for consumption but for deriving benefit.

1. חולין קיד:

ואין לי אלא באכילה, בהנאה מניין? כדרבי 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 בבבילה לגר בנתינה ולגוי במכירה...

And I have derived only that meat cooked in milk is prohibited with regard to consumption; from where do I derive that it is also prohibited with regard to benefit? It is derived in accordance with the statement of Rabbi Abbahu, as Rabbi Abbahu says that Rabbi Elazar says: Wherever it is stated, "He shall not eat," or "you," in the singular, "shall not eat," or "you," in the plural, "shall not eat," both a prohibition against eating and a prohibition against deriving benefit are indicated. This is so unless the verse specifies for you that one may derive benefit, in the manner that it specified for you with regard to an animal carcass, from which the verse explicitly permits one to derive benefit, as it states: "You may sell it to a foreigner" (Deuteronomy 14:21). Accordingly, one may provide such meat to a gentile resident alien in Eretz Yisrael by giving it to him as a gift, and to any other gentile by sale...

2. רמב"ם משנה תורה הל' מאכלות אסורות ה:טו

כל מקום שנאמר בתורה לא תאכל לא תאכלו לא יאכלו לא יאכל אחד אסור אכילה ואחד אסור הנאה במשמע עד שיפרט לך הכתוב כדרך שפרט לך בבבילה שנאמר (דברים יד כא) "לגר אשר בשעריך תתננה ואכלה" וכחלב שנאמר בו (ויקרא ז כד) "יעשה לכל מלאכה". או עד שיתפרש בתורה שבעל פה שהוא מתר בהנאה. כגון שקצים ורמשים ודם ואיבר מן החי וגיד הנשה. שכל אלו מתרין בהנאה מפי הקב"ה אף על פי שהן אסורין באכילה:

Wherever the Torah states: "Do not eat," "You shall not eat," "They shall not eat," or "It shall not be eaten," the intent is that it is forbidden both to partake of or benefit from the forbidden entity unless:

a) a verse explicitly states otherwise, as it does with regard to a *nevelah* [Deuteronomy 14:21]: "Give it to the stranger in your gate and he shall partake of it," or with regard to forbidden fat [Leviticus 7:24]: "You may use it for any task"; or

b) the Oral Law states explicitly that it is permitted to benefit from it, as is the case with regarding to teeming animals, swarming animals, blood, a limb from a living animal, and the *gid hanefesh*. For according to the Oral Tradition, it is permitted to benefit from all these prohibited entities, even though it is forbidden to partake of them.

3. רמב"ם פירוש המשנה כריתות ג:ד

...בשר בחלב נאסר בהנאה מפני שאסרו הכתוב לאכילה כמו שהקדמנו שכל איסור האכילה אסור בהנאה עד שיפרט לך הכתוב ואין שם כתוב שאוסר אכילתו וכתב איסור הנאתו רק שני הענינים יחד הם איסור בשר בחלב...

And the answer to this is that milk and meat are prohibited from benefit because the Torah prohibited them for consumption, as we explained that every prohibition of eating is also a prohibition of deriving benefit until the Torah specifies otherwise. And there is not one verse prohibiting eating and another prohibiting benefit. Rather, they are one united issue called the prohibition of meat and milk...

4. פסחים כא:

אמר חזקיה: מנין לחמץ בפסח שאסור בהנאה? שנאמר "לא יאכל חמץ" — לא יהא בו היתר אכילה: טעמא דכתב רחמנא "לא יאכל חמץ", הא לא כתב "לא יאכל", הוה אמינא: איסור אכילה — משמע, איסור הנאה — לא משמע. Hizkiya said: From where is it derived in the mishna that it is prohibited to derive benefit from leavened bread on Passover? As it is stated: "Leavened bread shall not be eaten" (Exodus 13:3). Since the verse uses the passive, it should be understood as follows: There shall be no permitted consumption of it at all, even deriving benefit, as benefit could be exchanged for money, which could be used to buy food. The Gemara reads precisely: The reason deriving benefit is prohibited is that the Merciful One writes in the Torah: "Leavened bread shall not be eaten." Had the Torah not written: "Shall not be eaten," and instead used the active form: You shall not eat, I would have said that the prohibition of eating is implied but that the prohibition of deriving benefit is not implied.

ופליגא דרבי אבהו. דאמר רבי אבהו: קל מקום שנאמר "לא יאכל", "לא תאכל", "לא תאכלו" — אחד איסור אכילה ואחד איסור הנאה (משמע), עד שיפרט לך הכתוב כדרך שפרט לך בגבילה.

The Gemara comments: And this conclusion disagrees with the opinion of Rabbi Abbahu, as Rabbi Abbahu said that wherever it is stated: "It shall not be eaten," "You, singular, shall not eat," or "You, plural, shall not eat," both a prohibition of eating and a prohibition of deriving benefit are implied, unless the verse specifies that one may benefit, in the manner that it specified with regard to an unslaughtered animal carcass.

5. רש"י פסחים כא: ד"ה לא יאכל

מדקרינא לא יאכל (in passive voice) משמע לא יהא בו היתר המביא לידי שום אכילה, וסתם הנאות לידי אכילה הם באות שלוקח בדמים דבר מאכל.

Since we read "it shall not be eaten" it sounds like there should not be a permission that would ultimately cause *any* eating, and generally benefit leads to eating because one buys food with the money (derived from selling the forbidden item).

6. רש"י פסחים כא: (R. Shmuel Strashoun, 19th c. Vilna)

גמ' לא יאכל חמץ לא יהא בו היתר אכילה. עיין פירש"י. ולעד"נ דלא יאכל משמע אף לכלבים. ומפרש דהוא מטעם הנאה וה"ה לכל הנאות וכה"ג דריש ר"ש במנחות (קא ב) מכל האוכל אשר יאכל שאתה יכול להאכילו לאחרים וממעט מזה אה"נ...

"Chametz shall not be eaten" - it shall have no permissibility of eating. See Rashi's explanation. And in my humble opinion, "it shall not be eaten" sounds like even by dogs. And it explains that

it is because of benefit. And this is the case for all types of benefit. And in this manner, R. Shimon expounded in Menachot (101b) (in explaining why a stoned ox and the like should not conduct ritual impurity as food) from “all found that is eaten” - meaning food that you may feed to others, which leaves out those items that are prohibited from benefit...

7. ירושלמי פסחים ב:א, יא:

רבנן דקיסרין רבי אבהו בשם רבי יוחנן. כל מקום שנאמר לא תאכל לא תאכלו אין את תופש איסור הנבייה כאיסור אכילה. לא תאכל לא יאכל את תופש איסור הנבייה כאיסור אכילה. בניין אב שבכולם. וכל חטאת אשר יובא מדמה אל אוהל מועד לכפר בקודש לא תאכל באש תשרף...

The rabbis of Caesarea, Rabbi Abbahu in the name of Rabbi Johanan: Nowhere do you understand a prohibition of usufruct included in the prohibition of eating if it is written *do not eat, do not eat. It may not be eaten (f.). it may not be eaten (m.)*, you understand a prohibition of usufruct included in the prohibition of eating. The paradigm for all cases is *Lev. 6:23.: *Any purification offering of whose blood was brought into the Tent of Meeting to purify the sanctuary shall not be eaten, in fire it shall be burned...*

8. פסחים כג:כד.

יתיב הווא מרבנן קמיה דרבי שמואל בר נחמני, ויתיב וקאמר משמיה דרבי יהושע בן לוי: מנין לכל איסורין שבתורה דכי היכי דאסורין באכילה הכי נמי אסורין בהנאה? ומאי ניהו — חמץ בפסח ושור הנסקל...

The Gemara relates: One of the Sages sat before Rabbi Shmuel bar Nahmani, and he sat and said in the name of Rabbi Yehoshua ben Levi: From where is it derived with regard to all the prohibitions in the Torah that just as it is prohibited to eat them, so too, it is prohibited to benefit from them? And what are the prohibited objects to which this statement refers? They are leavened bread on Passover and an ox that is stoned...

...דכתיב: “כל חטאת אשר יובא מדמה וגו’”.

...As it is written: “And no sin-offering, of which any of the blood is brought into the Tent of Meeting to make atonement in the sacred place, shall be eaten; it shall be burnt with fire” (Leviticus 6:23).

שאין תלמוד לומר “באש תשרף”, ומה תלמוד לומר “באש תשרף”? אם אינו ענין לגופו, דכתיב “והנה שרף”, תנהו ענין לכל איסורין שבתורה.

As there is no need for the verse to state: “It shall be burnt with fire”; And for what purpose then does the verse state: “It shall be burnt with fire”? If it does not apply to the subject matter itself in its context, as it is already written: “And Moshe diligently inquired about the goat of the sin-offering, and, behold, it was burnt” (Leviticus 10:16), apply it to the matter of all the prohibitions in the Torah.

ואם אינו ענין לאכילה, תנהו ענין לאיסור הנאה.

And if it does not apply to the matter of the prohibition against eating, as the prohibition against eating these items has already been mentioned, apply it to the matter of the prohibition of deriving benefit.

9. אור שמח משנה תורה הל' חמץ ומצה א:ב (R. Meir Simcha Hacoen of Dvinsk, 19th-20th) (c.)

... בכל האיסורים כמו שור הנסקל שלא שמרו בעליו עד דחייב מיתה בידי שמים וחמץ שלא השביתו מן העולם דנעבד בהן עבירה וכתוב לא יאכל אז אסורים בהנאה אבל שקצים ורמשים וערלה אינם בגדר זה שלא נעבדה בהן עבירה מותרים בהנאה ונכון. כיון שכן נתגלה טעמו דר' ירמיה דסבר בירושלמי דחמצו של גוי מותר תוך הפסח בהניי' משום שאין אדם מצווה לבערו והוי ככל האיסורים דרק באכילה ולא נוכל למילף מהנך קראי זמן רב אחר כתבי זאת מצאתי להראב"ד בפ"ד לתו"כ ושמתתי שהעיר קצת בזה.

..Regarding all prohibitions like the stoned ox - that the owners did not guard, to the extent that they are liable to death in the hands of Heaven; and chametz that they did not remove from the world - where a transgression was done with them, and it is written "it shall not be eaten" (in passive voice), then it is prohibited for benefit. But when it comes to creepy crawlers and fruit of a tree in its first three years, they are not in this category, as no transgression has been done with them - they should be permissible for benefit. And this is right.

Since this is so, the reasoning of R. Yirmiya in the Yerushalmi who said that the chametz of a non-Jews is permissible for benefit during Pesach is understood: because a Jew is not commanded to destroy it, and then it is like all other prohibitions, which are only barred from eating, and we cannot learn from these other verses. Long after I wrote this, I found it written in the Ra'avad in his commentary to the Sifra (also known as Torat Kohanim), and I was happy that he wrote about this a bit.

10. הגהות מיימוניות הל' חמץ ומצה ג:יא

...ריב"ק (ר' יהודה בן קולנימוס שפירא c 12th). היה אוסר להשליך חמץ במקום הפקר דחזינן בתמורה (בבלי תמורה ל"ג:) כל איסור הנאה מצריך להו קבורה, ומביא ראיה מירושלמי ([ירושלמי פסחים ב:א'](#)) לא יאכיל חמץ אפילו לכלבים במה אנן קיימין אם לכלבו היינו הנאה אלא אפילו לכלבים אחרים ...R. Yehuda ben Kolonymus prohibited throwing chametz into an ownerless place, for we see in Temura that every item prohibited for benefit requires burial. And he brings proof from the Yerushalmi - [once one may no longer eat chametz] one may not feed chametz - even to dogs. What does this refer to? If it's for one's own dog, this is already outlawed as benefit. It must even refer to other dogs (where the issue is not benefit; rather the item itself must be destroyed. The Yerushalmi then concludes that one may not even feed the chametz to an ownerless dog).

11. תמורה לג:

ואלו הן הנשרפין: חמץ בפסח — ישרף, ותרומה טמאה, והערלה, וכלאי הכרם, את שדרכן לשרוף — ישרף, ואת שדרכן להקבר — יקבר, ומדליקין בפת ובשמן של תרומה. כל הקדשים שנשחטו חוץ לזמנן וחוץ למקומן — הרי אלו ישרפו.

And these are the items that are burned: Leavened bread on Passover shall be burned. And the same *halakha* applies to ritually impure *teruma*. And with regard to the fruit that grows on a tree during the three years after it was planted [*orla*], and diverse kinds of food crops sown in a vineyard, those items whose appropriate manner of destruction is to be burned, e.g., foods, shall be burned; and those items whose appropriate manner of destruction is to be buried, e.g., liquids, shall be buried. And one may ignite a fire with bread and with oil of impure *teruma*, even though the priest derives benefit from that fire. And with regard to all sacrificial animals that

were slaughtered with the intent to sacrifice or consume them beyond their designated time or outside their designated place, those animals shall be burned.