**S.A.L.T. – SUKKOT 5778**

**By Rav David Silverberg**

Motzaei Shabbat

The Midrash, in a brief, startling passage (*Tanchuma*, Emor 22), comments that the first day of the holiday of Sukkot is “*rishon le-cheshbon avonot*” – “the first [day] of the account of sins.” What the Midrash appears to be saying is that after we’ve earned atonement for our wrongdoing on Yom Kippur, we begin a new account of sins immediately following that observance, on Sukkot. In the interim days between Yom Kippur on Sukkot, the Midrash writes, the flurry of activity preparing for Sukkot, prevents sin, or at least makes it unlikely, such that the new “account” begins only on Sukkot. The Midrash here appears, at least at first glance, to be presenting a most discouraging, gloomy outlook on the otherwise joyous festival of Sukkot, describing it as the beginning of our new “year of sin,” so-to-speak.

Rav Levi Yitzchak of Berditchev, in *Kedushat Levi* (Haazinu), suggests a creative reading of the Midrash’s comment which effectively turns it around, into a source of encouragement. He draws upon the Gemara’s famous teaching in Masekhet Yoma (86b) that when a sinner repents “out of love,” as opposed to merely out of fear of punishment, his repentance has the effect of retroactively transforming his sins into sources of merit. Whereas the lower level of repentance merely allows the sinner to escape punishment, the higher level, the level of “*teshuva mei-ahava*” (“repentance out of love”), has the remarkable ability to have one’s misdeeds count as *mitzvot*. Rav Levi Yitzchak thus suggested – somewhat amusingly – that with the onset of the festive, joyous holiday of Sukkot, when we transition from the fear of the High Holidays to the higher level of joy and genuine feelings of love for the Almighty, He retrieves the sins that had been removed from our record on Yom Kippur. Now that we rise to the higher level of “*teshuva mei-ahava*,” which enables us to actually receive credit, as it were, for our sins, God graciously goes back to count anew the sins of the previous year which had been erased. And thus the onset of Sukkot marks the beginning of our new account of sins – as the sins of the previous year are brought back into the ledger, so-to-speak, so we can receive credits for them now that they transform into sources of merit.

We might question whether this was the Midrash’s actual intent in making this remark, but nevertheless, Rav Levi Yitzchak’s explanation offers us insight into the nature of the transition which we undergo as we proceed from the *Yamim Nora’im* to Sukkot. During the High Holiday period, we reflect upon our mistakes and shortcomings with feelings of shame, guilt, humiliation and anxiety, recognizing our failures and understanding that God holds us accountable for them. The *Yamim Nora’im* experience is characterized by a degree of tension and angst, by pangs of remorse for the past and concern about the future. After this stage, however, we proceed to the joyous festivity of Sukkot, when, Rav Levi Yitzchak teaches, we look back at our mistakes from a much more positive perspective. We reflect upon how our failures actually served to propel us forward, and appreciate the fact that they, too, are part of the lifelong process of growth. Rather than feel frustrated and anxious about our shortcomings, we view them as “sources of merit,” in the sense that they serve as catalysts of change and growth. The joy of Sukkot stems, at least in part, from this optimistic view of life, the perspective that sees the potential latent deep within every moment of failure and shame, our ability to transform our lowest moments into sources of profound inspiration and promoters of real change.

Rav Levi Yitzchak’s message is that whereas on Rosh Hashanah and Yom Kippur the memory of our misdeeds causes us great anguish and dread, on Sukkot, these memories bring us joy, as we happily reflect upon how we are able to grow from every mistake and use them to propel us to greater heights of achievement.

Sunday

The *Tur*, introducing the laws of *sukka* (O.C. 625), famously writes that when the Torah commands us to reside in a *sukka* on Sukkot to recall the “*sukkot*” in which our ancestors dwelled in the wilderness (Vayikra 23:43), it refers to the *ananei ha-kavod* – the miraculous “clouds of glory” that encircled *Benei Yisrael* during that period. This interpretation follows the view of Rabbi Eliezer, cited by the Gemara in Masekhet Sukka (11b). Rabbi Akiva disagreed with Rabbi Eliezer’s interpretation, and maintained that the Torah refers to the actual makeshift huts which *Benei Yisrael* built for themselves. The *Bach*, in a well-known passage commenting to the *Tur*’s discussion, asserts that this point is mentioned in the *Tur*, a halakhic work, because the commemorative function of the *sukka* is integral to the *mitzva*. Since the Torah commanded us to reside in a *sukka* in order to remember the “*sukkot*” in the wilderness, this command, by definition, includes reminding ourselves of those “*sukkot*.” As such, the debate between Rabbi Eliezer and Rabbi Akiva as to the nature of those “*sukkot*” is a matter of vital halakhic import, as we need to know precisely what we commemorate when we reside in the *sukka* on Sukkot. The *Tur* therefore found it necessary to take a position on this subject, which affects the practical halakhic observance of the *mitzva* of *sukka*, and he sided with the view of Rabbi Eliezer, interpreting the word “*sukkot*” as a reference to the *ananei ha-kavod*.

In accepting Rabbi Eliezer’s interpretation, the *Tur* follows the view of Rashi, who in his Torah commentary interprets “*sukkot*” as a reference to the *ananei ha-kavod*. Even earlier, Onkelos, in his Aramaic translation of the Torah, deviates from his usual policy of accepting the plain, simple meaning of the text and translates “*sukkot*” to mean “clouds of glory.” Rashi follows Rabbi Eliezer’s view also in his commentary to the Talmud (Sukka 2b, *s.v. ha-hu*).

The *Tur*’s view is codified by the *Shulchan Arukh* (625:1).

Numerous later writers raised the question of why the *Tur* would embrace the view of Rabbi Eliezer over that of Rabbi Akiva. As a general rule, *Halakha* does not follow Rabbi Eliezer’s halakhic rulings in his disputes against the other Sages, and *Halakha* normally follows Rabbi Akiva’s rulings when he argues against another *Tanna*. Why, then, does *Halakha* suddenly adopt Rabbi Eliezer’s position in his dispute against Rabbi Akiva concerning the “*sukkot*” in the wilderness?

One simple answer emerges from *Torat Kohanim*, which records this debate in the converse. According to *Torat Kohanim*’s version of this debate, it is Rabbi Akiva who interprets “*sukkot*” as a reference to the miraculous clouds, whereas Rabbi Eliezer follows the simple reading, explaining the term as a reference to actual huts. Rav Yehuda Tzadka, writing in *Kovetz Ha-moadim* (p. 299), noted that *Torat Kohanim*’s version would appear to be more accurate, as in other exegetical debates between Rabbi Eliezer and Rabbi Akiva, Rabbi Eliezer generally adopts the straightforward interpretation, whereas Rabbi Akiva tends to prefer more creative readings. In this instance, therefore, we would expect Rabbi Eliezer to interpret “*sukkot*” to mean actual huts, and Rabbi Akiva to adopt the less intuitive reading, whereby the term refers to miraculous protective clouds. Hence, we have reason to prefer *Torat Kohanim*’s account of the debate over the version that appears in the Talmud Bavli. Rav Tzadka relates that he mentioned this theory to his rabbi, Chacham Ezra Attiya, who added that this explains the *Tur*’s ruling, as the *Tur* in fact follows Rabbi Akiva’s view, in accordance with familiar halakhic principles.

The Vilna Gaon, in his commentary to the *Shulchan Arukh*, assumes the version of the debate which appears in the Talmud Bavli, and offers a different theory to explain why the *Tur* accepted Rabbi Eliezer’s position. Although *Halakha* generally follows Rabbi Akiva’s rulings against those of Rabbi Eliezer, nevertheless, in this instance, other sources in *Chazal* appear to embrace Rabbi Eliezer’s view. The Gaon draws our attention to the discussion in the Talmud Yerushalmi (Sukka 1:5) regarding the source of the *halakha* requiring using for *sekhakh* specifically material that grew from the ground. Reish Lakish claimed that this rule is rooted in the fact that the *sekhakh* commemorates the miraculous clouds, and clouds originate from mist that rises from the earth, as stated in Sefer Bereishit (“*ve-eid ya’aleh min ha-aretz*” – 2:6). Since the clouds we commemorate through the *sekhakh* originated from the earth, we must use materials from the ground for our *sekhakh*. Rabbi Yochanan, the Yerushalmi tells, did not accept this source, because he felt that the miraculous clouds of the wilderness originated from the heavens, and not from the earth, and so he cited a different source for the requirements of *sekhakh*. The clear underlying assumption made by both *Amora’im* is that the *sukka* commemorates the *ananei ha-kavod*.

The Gaon also notes the comment of the Midrash (*Bereishit Rabba* 48:10) that God rewarded Avraham for his hospitality towards the angels who visited him by protecting his descendants with clouds in the wilderness, and then later in *Eretz Yisrael*, in the form of the *sukka*. The clear assumption is that the *sukka* is to be viewed as a different form of the *ananei ha-kavod* which protected our ancestors in the wilderness. Therefore, the Gaon explains, as *Chazal* generally seem to work off the assumption that the *sukka* commemorates the “clouds of glory,” the *Tur* felt that this is the accepted position.

Monday

Yesterday, we noted the well-known comment of the *Tur*, cited later by the *Shulchan Arukh* (O.C. 625), that the *sukka* commemorates the *ananei ha-kavod* (“clouds of glory”) that encircled *Benei Yisrael* as they traveled in the wilderness. The Torah commands residing in a *sukka* to commemorate the “*sukkot*” in which *Benei Yisrael* resided in the wilderness, and the *Tur* and *Shulchan Arukh* follow the view of Rabbi Eliezer (Sukka 11b), that this refers to the *ananei ha-kavod*. As we saw, many writers raised the question of why *Halakha* in this instance accepts Rabbi Eliezer’s view, which is disputed by Rabbi Akiva, who maintains that the *sukka* commemorates the actual makeshift homes constructed by *Benei Yisrael*. *Halakha* normally does not follow Rabbi Eliezer’s rulings that are disputed by his peers, and yet in this instance, the *Tur* and *Shulchan Arukh* indeed accept his opinion.

One of the theories proposed to explain the *Tur* and *Shulchan Arukh*’s position is offered by Rav Moshe Greenwald, in his *Arugat Ha-bosem* (O.C. 1:188), where he references the famous story told about Rabbi Eliezer by the Gemara in Masekhet Bava Metzia (59b). Rabbi Eliezer and his colleagues were embroiled in a dispute concerning the halakhic status of a certain type of oven vis-à-vis susceptibility to *tum’a*, and Rabbi Eliezer invoked a number of supernatural “signs” to prove that his position was correct. These signs all seemed to support his ruling, and in fact a heavenly voice even announced that Rabbi Eliezer’s rulings cannot be disputed, because they are always correct. Nevertheless, his position was rejected, as Rabbi Yehoshua stood in the academy and reasserted the fundamental halakhic principle of “*lo va-shamayim hi*” (“It is not in the heavens” – Devarim 30:12), that halakhic matters are decided by the scholars through the process of reasoning, debate and deliberation, and not through prophetic or quasi-prophetic revelations. Matters of *Halakha* are ruled upon here in this world, based on the knowledge and tools that we’ve received by tradition, and are not determined based on explicit heavenly guidance.

Rav Greenwald boldly asserts that this rule of “*lo va-shamayim hi*” refers only to matters of practical halakhic observance, but not to issues that do not pertain to practical *Halakha*. When it comes to questions involving Biblical interpretation or philosophy, we indeed follow the “heavenly” directive to accept Rabbi Eliezer’s position. It is only with regard to matters of practical *Halakha* that we disregard this directive and utilize the familiar principles of halakhic jurisprudence.

Accordingly, Rav Greenwald explains, we might suggest that when it comes to the question surrounding the commemorative function of the *sukka*, which does not involve practical halakhic observance, we indeed follow Rabbi Eliezer’s position against Rabbi Akiva. For this reason, perhaps, the *Tur* and *Shulchan Arukh* wrote that the *sukka* commemorate the miraculous “clouds of glory,” in accordance with Rabbi Eliezer’s view.

However, Rav Greenwald immediately dismisses this possibility, noting the well-known comments of the *Bach*, which we cited yesterday, claiming that this issue does, in fact, affect our practical observance of this *mitzva*. The *Bach* explains that the *Tur* and *Shulchan Arukh* made a point of mentioning this point – that the *sukka* commemorates the *ananei ha-kavod* – because the *sukka*’s commemorative function is integral to the *mitzva*. The Torah explicitly stated that we must reside in a *sukka* in order to remember our ancestors’ “*sukkot*,” implying that this must be our intention as we reside in the *sukka*. Accordingly, the dispute between Rabbi Eliezer and Rabbi Akiva has crucial practical implications, as we need to know what precisely we commemorate when we reside in the *sukka*, and for this reason, the *Tur* and *Shulchan Arukh* took a position on this issue. If so, Rav Greenwald writes, then we should, seemingly, apply the principle of “*lo va-shamayim hi*” to this debate, and accept Rabbi Akiva’s view over that of Rabbi Eliezer, as we always do when matters of practical halakhic observance are concerned. (Rav Greenwald therefore proceeds to suggest that the *Tur* and *Shulchan Arukh* followed the version of the debate that appears in *Torat Kohanim*, where the positions are reversed, as we discussed yesterday.)

We might, however, suggest upholding this theory, by distinguishing between disputes that directly relate to matters of practical *Halakha*, and those which affect practical *Halakha* indirectly and tangentially. Rav Greenwald himself, in establishing his distinction between disputes involving practical *Halakha* and others, cites the Gemara’s discussion in Masekhet Rosh Hashanah (27a) regarding the debate as to whether the world was created in Tishrei or Nissan. In our Rosh Hashanah liturgy, we refer to the day of Rosh Hashanah as “*techilat ma’asekha*” – the time when the world was created, and the Gemara states that this liturgical text follows the view of Rabbi Eliezer, that the world was created in Tishrei. This is in contrast to Rabbi Yehoshua’s position, that the world was created in Nissan. Although *Halakha* generally does not follow Rabbi Eliezer’s view in his disputes with his colleagues, in our liturgy we clearly accept Rabbi Eliezer’s position that Rosh Hashanah – the first of Tishrei – marks the anniversary of the world’s creation. This would seem to prove that *Halakha* accepts Rabbi Eliezer’s views in his non-halakhic disputes, even when it comes to issues that indirectly affect halakhic practice. The question of whether the world began in Tishrei or Nissan is, fundamentally, not a halakhic issue, and so we follow Rabbi Eliezer’s view even with respect to its practical halakhic application. We might therefore suggest that with regard to *sukka*, too, we accept Rabbi Eliezer’s view concerning the interpretation of the verse which explains the *sukka*’s commemorative function – a fundamentally non-halakhic position – and we therefore follow this view even as it affects halakhic practice.

Tuesday

As we’ve discussed in our last two editions of S.A.L.T., the Gemara in Masekhet Sukka (11b) famously cites a debate among the *Tanna’im* as to what precisely the *mitzva* of *sukka* serves to commemorate. The Torah (Vayikra 23:43) commands residing in a *sukka* during Sukkot to commemorate the “*sukkot*” in which our ancestors dwelled in the wilderness, and according to one view, this refers to the crude, makeshift homes which *Benei Yisrael* needed to construct while traversing the uninhabitable desert. The other view, however, maintains that the term “*sukkot*” here refers to the miraculous *ananei ha-kavod* (“clouds of glory”) that encircled and protected *Benei Yisrael* in the wilderness.

Rav Moshe Greenwald, in a fascinating responsum exploring several aspects of the *sukka* obligation (*Arugat Ha-bosem*, O.C. 1:188), creatively suggests that these two views do not actually disagree with one another. In truth, Rav Greenwald asserts, the *sukka* commemorates both *Benei Yisrael*’s physical accommodations as they traveled, as well as the special “clouds” which offered them miraculous protection. To explain this theory, Rav Greenwald cites the Gemara’s famous comments cited by Rashi (Bamidbar 24:5) that when Bilam saw the Israelite camp, he was moved by the sight of the arrangement of *Benei Yisrael*’s tents. The tents were positioned such that the entrances did not face one another, thereby ensuring one another’s privacy and respect, and this sight is what led Bilam to exclaim, “How good are your tents, O Israel!” Perhaps, Rav Greenwald writes, *Benei Yisrael* earned the great miracle of the *ananei ha-kavod* in this merit – their treating one another with respect, guaranteeing each other’s privacy and living peacefully without prying into each other’s affairs. Tradition famously associates the *ananei ha-kavod* with the merit of Aharon, and Rav Greenwald suggests that this refers to Aharon’s quality of being an “*oheiv shalom ve-rodeif shalom*” (“lover of peace and pursuer of peace” – Avot 1:12). It was through the nation’s ability to live together in peace and harmony, a quality reflected by the arrangement of their tents, their “*sukkot*,” that they were deemed worthy of the special protection of the *ananei ha-kavod*.

Accordingly, Rav Greenwald posits, these two views regarding the commemorative function of the *sukka* complement one another. On Sukkot we commemorate the peace and harmony that prevailed among the nation during (at least most of) their periods of traveling through the wilderness, in the merit of which God offered them His miraculous protection.

The Gemara in Masekhet Sukka (27b) establishes that, according to the majority opinions, one fulfills the *mitzva* of *sukka* even by eating or sleeping in somebody else’s *sukka*, citing as its source the verse, “all citizens of Israel shall reside in *sukkot*” (Vayikra 23:42). This verse, the Gemara explains, implies that “all Israel are capable of residing in a single *sukka*” (“*kol Yisrael re’uyim lei-shev be-sukka achat*”). One of the themes of Sukkot is our ability to all live together peacefully in a single *sukka*, under the same roof, sharing the same limited space and resources. The *sukka* commemorates not only our ancestors’ meager rations and crude living conditions in the wilderness, but also their living all together in peace and friendship, showing each other sensitivity and consideration rather than competing and struggling with one another. Our fulfillment of this *mitzva*, then, must be geared towards enhancing our ability to live peacefully and joyously together with one another, without strife and conflict, just as our ancestors did as they traveled through the desert.

Wednesday

The *Shulchan Arukh* (O.C. 629:6) addresses the question of whether a mat made from attached reeds or pieces of straw made be used as *sekhakh* to cover one’s *sukka*. Although these materials originate from the ground, and are thus inherently valid as use for *sekhakh*, a mat could, potentially, be invalid for use as *sekhakh* because something used for resting or sleeping is considered a functional “utensil.” One of the requirements of *sekhakh* is that it must not have the status of a functional utensil which is susceptible to *tum’a*, and a mat used for lying has this status. In light of this, the *Shulchan Arukh* rules that a small-sized mat, which can be presumed to have been earmarked for sleeping, is disqualified for use as *sekhakh*. A larger mat, however, can be presumed to have been made for shade, and is thus valid as *sekhakh*.

In discussing the status of a small mat, the *Shulchan Arukh* mentions that if a mat was made to serve as a covering, for shade, and not for lying, then it is valid for use as *sekhakh*. A large mat is disqualified only because it must be presumed to have been made for sleeping; therefore, if one made a mat specifically for the purpose of providing shade, then it may be used as *sekhakh*. However, the Rama, citing the Rosh, clarifies that this leniency applies only in a place where this kind of mat is used by many people as a covering. In a place where such mats are generally used for sleeping, then they may not be used as *sekhakh* – even if one made a mat with the specific intention of using it for shade. The Rosh feared that people who see such a mat used as *sekhakh* will naturally conclude that all such mats are valid as *sekhakh*, even those made for lying, and thus mats made for shade may be used as *sekhakh* only in places where they are not commonly used for lying.

The *Magen Avraham* noted that in his day, all mats were to be presumed made for the purpose of lying, regardless of their size. Therefore, in light of the Rama’s ruling, it would be forbidden – in that time and place – to use mats made from attached pieces of vegetation for *sekhakh*. Citing the *Magen Avraham*’s comments, Rav Yaakov Ettlinger, in his *Bikkurei Yaakov* (cited by the Chafetz Chayim in *Bi’ur Halakha*), condemns the practice that had become common his day to use mats made of willow for *sekhakh*. Although these mats were made specifically for use as *sekhakh*, they are nevertheless invalid according to the position of the Rosh codified by the Rama. Rav Ettlinger further notes that many willow mats were made as cushions for wagons, and such mats, which were made for this purpose, are susceptible to *tum’a* and hence invalid as *sekhakh* on the level of Torah law.

Nowadays, of course, it has become very common to use as *sekhakh* wooden mats made of small, narrow pieces of wood tied together. The obvious benefit of these “*sekhakh* mats” is that they can be easily placed over the *sukka* without having to spread an array of different pieces of vegetation, and, moreover, they can be stored and used every year, thus obviating the need to cut branches each year. The general consensus among the halakhic authorities is that since in modern society nobody uses such mats for sleeping, the Rosh’s ruling does not apply, and they made be used as *sekhakh*. (However, some halakhic authorities raised concerns about “*sekhakh* mats” for other reasons, as we will discuss *iy”H* tomorrow.)

Thursday

Yesterday, we noted the practice observed by many to cover the *sukka* with “*sekhakh* mats,” which consist of thin pieces of wood tied together, which is far more convenient than cutting branches each year for *sekhakh*. As we saw, there is considerable discussion among the halakhic authorities of earlier generations surrounding the suitability of such mats for *sekhakh*, as years ago it was common to use them for sleeping and as cushions in wagons. A mat used for these purposes is disqualified for use as *sekhakh* on the level of Torah law, as materials used for *sekhakh* may not have the status of a functional utensil. Moreover, the Rama (O.C. 629:6) ruled that in places where such mats are used for sleeping or as upholstery, they should not be used as *sekhakh* even if they were made specifically for shade, in order not to mislead people. Nowadays, of course, such mats are not used for any functional purpose, and thus they should, seemingly, be perfectly valid for use as *sekhakh*.

Nevertheless, some halakhic authorities questioned the validity of “*sekhakh* mats” in light of the *halakha* known as “*gezeirat tikra*.” The *Shulchan Arukh* (O.C. 629:18), based on the Mishna and Gemara in Masekhet Sukka (14a), ruled that it is forbidden to use as *sekhakh* wooden planks that are four *tefachim* (approximately 12 inches) wide, since such planks are commonly used as rooftops in permanent homes. Although such wooden planks meet the basic criteria for *sekhakh*, as they are made from vegetation and are not susceptible to *tum’a*, *Chazal* disqualified them as *sekhakh* given the concern that people might remain in their homes rather than move into *sukkot*. The *Shulchan Arukh* then writes, based on the *Semak* (cited by the *Tur*), that it is customary not to use even planks that are narrower than four *tefachim*. The *Semak* forbade narrow planks out of the concern that people might cover their *sukkot* with planks in a manner which prevents rain from entering the *sukka*, which *Halakha* does not allow. The *Mishna Berura* (629:49) cites those who maintain that nowadays, narrow planks are forbidden not merely by force of custom, but even on the level of strict *Halakha*, because people use narrow planks as rooftops for their homes.

Clearly, the narrow wooden poles in modern-day “*sekhakh* mats” are themselves permissible, as they allow rain to penetrate, and are not used as ordinary roofs. However, some halakhic authorities noted that once the poles are attached, they become invalid in light of the position of the Rashba, in one of his responsa (cited by the *Beit Yosef*, 629; and *Magen Avraham*, 626:6 and 632:1), that narrow planks attached to one another may not be used for *sekhakh* due to the rule of “*gezeirat tikra*.” Even though each plank is less than four *tefachim*, nevertheless, if several planks are attached and have a combined width of four *tefachim* or more, we must treat the group of planks as a four-*tefach* plank, which may not be used as *sekhakh* by force of the Sages’ decree. This was the position of Rav Yosef Shalom Elyashiv in a letter printed in Rav Binyamin Zilber’s *Az Nidberu* (2:66). (Interestingly, [Rav Eliezer Melamed](http://ph.yhb.org.il/plus/13-02-04-07/) cites a source claiming that Rav Elyashiv approved of “*sekhakh* mats.”)

The consensus among halakhic authorities, however, permits the use of these mats for *sekhakh*. Already Rav Avraham Borenstein, in *Avnei Neizer* (473), writes that the Rashba’s stringency does not apply to mats, in which the pieces of vegetation are not tightly attached, such that rain can easily penetrate. Likewise, Rav Shmuel Wosner, in a responsum in *Sheivet Ha-levi* (6:74), writes that as “*sekhakh* mats” can be folded and rolled, they bear absolutely no resemblance whatsoever to planks used in rooftops, and thus do not fall under the rule of “*gezeirat tikra*.”

It appears that as all views concede that these mats are valid on the level of Torah law, and the question surrounds the application of the rabbinic enactment of “*gezeirat tikra*,” the accepted practice has become to rely on the lenient position and permit the use of these mats.

Friday

The *Minchat Chinukh* (325) advances a surprising theory regarding the definition of the *sukka* obligation on Sukkot, viewing this *mitzva* as fundamentally a prohibition against eating or sleeping outside the *sukka*. According to the accepted *Halakha*, one is not actually obligated to eat or sleep in the *sukka*; rather, one who wishes to eat or sleep during Sukkot is required to do so in a *sukka* (except on the first night of Sukkot, when one must eat a *ke-zayit* of bread in a *sukka*). In light of this, the *Minchat Chinukh* adopted a drastic formulation, casting the *mitzva* of *sukka* as more of a prohibition than an obligation: we are not obligated to eat and sleep in the *sukka*, but merely forbidden from eating or sleeping outside the *sukka*.

The *Minchat Chinukh* seeks to answer on this basis the question raised by *Tosafot* (Sukka 9a) as to why the Gemara cites a textual source for the disqualification of a stolen *sukka*. Seemingly, the general principle of *mitzva ha-ba’a ba-aveira*, which disqualifies a *mitzva* performed by way of a sin, should suffice to invalidate such a *sukka* for the *mitzva*. And yet, the Gemara found it necessary to infer this rule from the Torah’s formulation of the *sukka* obligation (“*…ta’aseh* ***lekha***” – Devarim 16:13). Apparently, the Gemara worked off the assumption that the rule of *mitzva ha-ba’a ba-aveira* would not disqualify a stolen *sukka*. The reason, the *Minchat Chinukh* suggested, is that this rule serves to disqualify a religious act performed via a transgression. It establishes that an act of service of God is invalid if it involved forbidden activity. In the case of *sukka*, however, one does not, technically speaking, perform an act of service of God by eating or sleeping in the *sukka*. He merely avoids the prohibition against eating or sleeping outside a *sukka*. Therefore, if the Torah had not specifically indicated that a stolen *sukka* is invalid for use, one might have assumed that it sufficed to avoid violating this prohibition. Since one who ate in a stolen *sukka* did, after all, make a point of eating in a *sukka*, we might have thought that he has avoided the prohibition of eating outside a *sukka*. The textual inference teaches that this is incorrect, as a stolen *sukka* is inherently invalid, and one who eats in such a *sukka* is thus no different from one who eats in his house.

A possible earlier expression of the *Minchat Chinukh*’s controversial theory is the discussion of the *Ba’al Ha-ma’or*, in the end of Masekhet Pesachim. The *Ba’a Ha-ma’or* raises the question of why we recite a *berakha* each time we eat in the *sukka* during Sukkot, but do not recite a *berakha* each time we eat *matza* on Pesach. Both *mitzvot* are not obligatory, except on the first night of the holiday. After the first night of Pesach, there is no obligation to eat *matza*, unless one wishes to eat bread, in which case he must eat unleavened *matza*;and after the first night of Sukkot, there is no obligation to eat in the *sukka*, unless one wishes to eat a meal, in which case he must eat it in the *sukka*. Hence, after the first nights of these festivals, the *mitzvot* of *sukka* and *matza* appear identical. Why, then, do we recite a *berakha* when eating in the *sukka* on Sukkot, but not when eating *matza* on Pesach? The *Ba’al Ha-ma’or* answers that the distinction lies in the fact that sleeping is forbidden outside the *sukka*, and it is physically impossible for a person to avoid sleeping for seven days. The practical necessity of sleep has the effect of making the *sukka* obligation unavoidable, and this elevates this *mitzva* to a level of significance warranting the recitation of a *berakha*.

The *Ba’al Ha-ma’or*’s comparison between *sukka* and *matza* is revealing, in that it reflects a perspective similar to that of the *Minchat Chinukh*, viewing the *sukka* requirement as more of a prohibition than a ritual obligation. Just as *matza* is the means by which one partakes of grain products on Pesach without violating the *chametz* prohibition, similarly, the *sukka* is the means by which one sleeps and eats meals during Sukkot without violating the prohibition of sleeping or eating outside the *sukka*. The difference between these two *mitzvot* lies purely in the practical reality that one cannot avoid the *sukka* on Sukkot due to the physical necessity of sleep, whereas one can avoid *matza* on Pesach if he chooses not to eat grain products.

In any event, many later writers took strong issue with the *Minchat Chinukh*’s formulation, and insisted that eating in the *sukka* constitutes a *mitzva*, and not merely a means of avoiding a prohibition. One such writer is Rav Yosef Engel, who discusses the *Minchat Chinukh*’s theory in his work *Atvun De-orayta* (Sukka 25a). Rav Engel asserts that the *mitzva* of *sukka* is defined, fundamentally, as a requirement to treat the *sukka* as one’s home. Practically speaking, this means that whenever one wishes to eat a meal or sleep, he must do so in the *sukka*. As such, eating and sleeping in the *sukka* are the practical fulfillment of the *mitzva*, not merely a means of avoiding a violation. When we eat or sleep in the *sukka*, we do not merely avoid a prohibition, but rather perform a bona fide *mitzva* act, as this is how we reside in the *sukka* as the Torah commands.

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