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HEMDAT YAMIM

Parashat HaShavua

Haazinu, 13 Tishrei 5777

Sukkot – Commemorating What?

Harav Yosef Carmel

“They shall live in the *sukkot* for seven days; every citizen in Israel shall live in the *sukkot*. So that your generations will know that in the *sukkot* I had Bnei Yisrael live when I took them out of the Land of Egypt; I am Hashem, your G-d” (Vayikra 23:42-43).

In the *midrash* (Sifra, Emor 12) we find three explanations for this *mitzva*. There is an opinion that the *sukka* is to be made from the four species which are waved on Sukkot, which implies that it is essentially part of one unit with the *mitzva* of the four species. It is difficult, though, to divorce the *mitzva* from the historical context to which the *p'sukim* refer explicitly.

Rabbi Eliezer says that it commemorates the actual booths in which Bnei Yisrael lived in the desert after leaving Egypt. We relive the experience by going into similar booths. One difficulty with this is that the holiday should, then, ostensibly have been in Nisan, when Bnei Yisrael started to occupy such *sukkot*. (Many answers have been given for this question.)

Rabbi Akiva says that the *sukkot* in which Bnei Yisrael lived after leaving Egypt were divine clouds. These clouds also began upon leaving Egypt (see Shemot 13:20-23), and so the same question of why they are commemorated in Tishrei is pertinent. We will suggest an explanation within the opinion of Rabbi Akiva, which will also answer this question.

After the sin of the Golden Calf and the resulting great spiritual fall, the question of the relationship between Hashem and Bnei Yisrael came to the fore. Was the “proposal of marriage” and “joint life under one roof” still intact, as it had been before the sin? The answer to this question was given 80 days after the sin. After Moshe's third stint of 40 days on Sinai, he was able to inform Bnei Yisrael that Hashem had forgiven them. Then Hashem invited Moshe to stand on a rock, while Hashem covered him with “His hand” until He passed (Shemot 33:21-22). The word for covering is “*sakkoti*,” which is etymologically closely related to “*sukka*.” Similarly, David spoke about being hidden in Hashem's *sukka* on a bad day and being uplifted at a rock (Tehillim 27:5). When Moshe entered that *sukka* of sorts, it symbolized forgiveness and a return to His graces and the reappearance of the divine clouds.

All of this happened on Yom Kippur. Therefore, it is appropriate that we celebrate the return to the special historical *sukka* at the time of year that they returned, right after Yom Kippur. This is one more way in which Sukkot is a continuation of the days of mercy and forgiveness of Yom Kippur.

Let us pray that we will merit hearing the tiding “I have forgiven” and return to find a safe place in the shade of the Divine Presence. This is the deep significance of the cloud that the *sukka* represents according to Rabbi Akiva.

Refuah Sheleymah to Elchanan ben Adina & Orit bat Miriam

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Ask the Rabbi

by Rav Daniel Mann

Moving Fallen Decorations on Sukkot

Question: I know that there is a halacha about *sukka* decorations being *muktzeh* throughout Sukkot because they are set aside for a *mitzva*. Does that mean I should leave them where they fell and, if so, do the *halachot* apply to both Shabbat/*Yom Tov* and *Chol Hamoed*?

Answer: There are different levels of *muktzeh l'mitzvato*. The *gemara* (Sukka 9a) derives from shared terminology between a *sukka* and *korban chagiga* that just as the latter is off limits for people due to its holy status, so too the "wood of *sukka*" becomes forbidden. This is a Torah-level law (Tosafot, Beitza 30b). There is a *machloket* whether it applies only to the *s'chach* (Rosh, Sukka 1:13) or even to the walls (Rambam, Sukka 6:15). There is also discussion about if it applies only to the minimum size of the *sukka* and whether it applies after it has fallen down (see Tosafot, *ibid.*; Beit Yosef, Orach Chayim 638).

However, there are Rabbinic extensions of this basic concept. The *gemara* (Shabbat 45a) discusses the Rabbinic prohibition of *muktzeh* in regard to leftover oil from Chanuka candles and *sukka* decorations (*noyei sukka*), due to the fact these are set aside for *mitzva* use. A *gemara* earlier in Shabbat (22a) implies that the reason it is forbidden to use *noyei sukka* for other things is *bizuy* (degrading a *mitzva*). Tosafot (*ad loc.*) says that both reasons are needed, as *muktzeh* does not apply on *Chol Hamoed* and *bizuy* does not apply after they fall. The Ran (Beitza 17a in the Rif's pages, citing the Ramban) distinguishes between the categories as follows: the wood of the *sukka* is forbidden based on Torah law, use of the objects during the *chag* is because of *bizuy mitzva*, and *muktzeh* explains why the prohibition continues throughout the eighth day.

The Rama (638:2) points out that on Shabbat and *Yom Tov*, the decorations' *muktzeh* status precludes moving them, like other forms of *muktzeh*. The Gra (*ad loc.*) explains that anything from which one may not get personal benefit is *muktzeh* (apparently, unless its *mitzva* use includes movement (e.g., an *etrog*)). Paradoxically, if the decoration fell, one should not move it on Shabbat/*Yom Tov* even if one could have thereby returned it to use as a *noy sukka*. Similarly, one cannot move them to protect from the rain, thus enabling future use. The Biur Halacha (*ad loc.*) discusses the case of decorations falling on the table and disrupting the *Yom Tov* meal – whether they can be moved directly or indirectly to facilitate the continuation of the meal.

Regarding the Torah-level or Rabbinic-level prohibition against use of objects connected to *mitzvot*, there is no issue with moving the object *per se* except on Shabbat and *Yom Tov*. Thus, one may move decorations on *Chol Hamoed* or leftover Chanuka oil other than on Shabbat. (There is a *machloket* among contemporary *Acharonim* whether decorations may be removed from the *sukka* on *Chol Hamoed* when one is not going to use them for something else – see Dirshu, *ftnt.* 638:19. Presumably, it should be fine to remove them in order to protect and later return them – see *ibid.* and Piskei Teshuvot 638:7).

There is a way to be able to remove and even use *noyei sukka* (not the *sukka* itself) for other things. The *gemara* (Beitza 30b) says that one can make an oral condition to "not separate himself from use of the objects when the days of Sukkot begin." When one does so, the decorations never develop the connection to the *mitzva* of *sukka*, and it is permitted to remove them from the *sukka* or use them for other things, even if they did not first fall (Shulchan Aruch, OC 638:2; Mishna Berura 638:19). Consequently, on Shabbat/*Yom Tov*, as well, they are not *muktzeh*. (That being said, many decorations are attached to the *sukka* in a way that forbids them from being taken from where they are attached due to *melacha* considerations. This applies on Shabbat and *Yom Tov* and, in some cases, even on *Chol Hamoed*.) There are requirements for how to make such a condition, and for that reason the Rama (638:2; see dissenting view in Mishna Berura 638:23) prefers that people not rely upon it.



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Protesting the Worthless

(condensed from Ein Ayah, Shabbat 2:261)

Gemara: Rabbi Yehuda opened up and said: “How pleasant are the actions of this nation [the Romans]. They set up marketplaces, set up bridges, and set up bathhouses.” Rabbi Yossi was silent. Rabbi Shimon said: “All that they did, they did for their own sake. They made marketplaces, to put brothels, bathhouses to indulge themselves, bridges to collect tolls.”

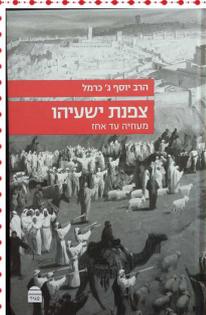
Ein Ayah: Rabbi Shimon protested against the actions of the powers of evil even when it stretched out its hooves and cloaked itself in the clothes of goodness and kindness (Rome is compared to a pig, which is not kosher despite the split hooves it “likes to display.”) Rabbi Shimon penetrated into the depth of the ostensibly good actions themselves to demonstrate the degree of bad that comes out of the actions of evil people. It is not just that there are negative consequences that accompany a basically good idea. If that were the case, there would be room for a thinker to treat the matter as a narrow pathway that can be traversed carefully, without straying to the right or to the left. Rather, the actions in and of themselves are far from any positive purpose, even an ostensibly clear purpose.

This is because a basis of evil turns everything into a pitfall, as it is done for the evil entity’s own purposes and is bad for human society as a whole. The Romans’ actions added an element of pain to the existing pressure from their heavy hand and the burden of their haughty government. They had no outlook of justice, and no spirit of divinely inspired kindness had an impact on the soul of this evil nation. Therefore, there are no elements in which they chose a good course of action due to love of mankind. Rather, there was only self-love in their hearts, with the goal of subjugating the whole world under their dominion. That, in turn, enabled them to fulfill their lowly animalistic desires. Thus, the actions did not fulfill even the direct benefit for which they were ostensibly designed.

They made marketplaces, which ostensibly are to increase commerce and thereby make society more affluent. However, their perverse approach was that the marketplaces serve as a place for brothels. This, besides the spiritual destructiveness, also impoverished those who frequented the marketplace more than the commerce enriched them (see Mishlei 6:26 & 29:3, which bemoan how frequently such “institutions” rob one of his money). Therefore, the population gained nothing in the greater picture from the marketplace, certainly not spiritually, but not even materially.

The marketplaces, in terms of their ostensible purpose, had more to do with bathhouses than with bridges, but this too is in a negative way. The Roman bathhouse were not instituted in order to clean people from their inclination toward animalistic lowliness but to pursue lowly pleasures, not health. Such places weakened and pampered the bathers, distancing them from a willingness to work or making them physically heartier. It goes without question that it did not provide them with any success of real value.

The bridges they built, which could have helped unite people, were done in order to take tolls. These taxes impoverished the many people who rushed to use the bridges, so that the flow of people did not bring “revenues” to the users. It provided a rouse of benefit, while actually causing a reduction in real commerce which outweighed benefit. Therefore, [reasoned Rabbi Shimon], there was no room to remain silent [as Rabbi Yossi did] because there are not considerations for both gratefulness and complaint, but just for protest against the overarching evil of the regime. The Romans projected much positive pomp to others, which caused the view of many to be distorted, but Rabbi Shimon removed the veil that protected the image of Rome.



Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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Inefficient Use of Storage Space

(based on ruling 73021 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=p) rented out storage space to the defendant for restaurant furniture. Def hired porters who were recommended by p/ to deliver and stack his items. In the moving van, they fit into approximately 80 cubic meter of space, but p/ charged def for their taking up 168 meters. When he went to check the furniture after six months, he saw that it was not nearly as densely packed as he felt it should be. He decided not to have it repacked because of the expense of labor, but after having paid for 6 months of rental, def withheld the final two months with the claim that he was overcharged. Def claims that he relied upon the porters p/ recommended, and that when he called to inquire about the high projected price, p/ told him that the space was well used. P/ says that def hired the porters, that the space was not so poorly utilized considering that most furniture pieces cannot be stacked high in a warehouse, and that he had invited def to come see for himself if he was happy with the way it was done. Def said that he spoke to p/'s partner, who is a friend of his, and the latter told him not to worry because he would be charged only for the size of his objects, not for the amount of floor space they took.

Ruling: Both based on analyzing the numbers and by looking at pictures, it is clear that space was not utilized well enough. Although it is unlikely that all the furniture could have been fit into 80 cubic meters in a warehouse as def claims (it is easier to maximize space in a [lower], closed off truck than in an open, [high-roofed] warehouse). On the other hand, p/ is not responsible for the porters' inefficiency, even if p/ recommended them.

P/ did have a responsibility to report to def that he was losing money due to poor stacking based on the *mitzva* of *hashavat aveida*, even though p/ loses rental money when the wasteful situation is rectified. On the other hand, p/ was not required to restack the materials, and we also believe that there are customers who don't do a better job than the one def's porters did. In any case, when def was unhappy with the amount of space his items took up and asked for specifics about it, p/ certainly had to be accurate so that def could weigh his priorities and decide whether to have it repacked. It does not help p/ that they told def to come check for himself because that does not counteract the fact they told him that the situation was okay.

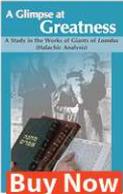
Although p/'s partner should have received permission from the managing partner, if he indeed made a commitment regarding how to measure def's items, it would have bound p/. However, the partner denied telling def he would not be charged according to the inefficient stacking.

We also consider that even if def had seen the situation, he might not have paid to have it redone, just as he did not do so even after he saw the problem himself (albeit, at that time he knew that he was removing his objects from storage relatively soon). We should also factor in the savings of money for not paying to repack.

Considering all the factors, *beit din* reduces the rental fee for all 8 months by 12.5%, approximately one quarter of the price difference between what p/ charged and the price that likely would have existed had the stacking been efficient.

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