

HL-044 Sukka - Sick and Suffering

By Rav Yisroel Chait¹

תשבו כעין תדורו

The Rif says that a mourner is obligated in dwelling in a sukkah, even though he is in pain:

א"ר אבא בר זבדא אמר רב אבל חייב בסוכה פשיטא מהו דתימא הואיל ואמר רבא מצטער פטור מן הסוכה ס"ד אמינא האי נמי מצטער הוא קמ"ל ה"מ צערא דממילא אבל הכא איהו קא מצער נפשיה דמיבעי ליה לאותוביה דעתיה: Rav Aba the son of Rav Zavda said Rav said that a mourner is obligated in Sukkah. That is obvious! What might one have thought? Since Rava said that someone who is pained is exempt from the sukkah, I would have thought that here too he is pained (and therefore exempt), so this comes to teach us the opposite. These words (regarding someone who is in pain) refer to someone in pain from the sukkah, but here his spirit is in pain because he needs to restore his wits. (Rif Sukkah 11b)

What is the difference between the mourner and someone who is in pain from not liking the white tile flooring of a sukkah floor, as the gemara says:

רבא שרא ליה לרבי אחא בר אדא למגנא בר ממטלתא משום סירחא דגרגישתא Rava permitted Rabbi Aḥa bar Adda to sleep outside the sukka due to the tiled white flooring of the sukka. (Sukkah 26a)

Why don't we say תשבו כעין תדורו, dwell in your sukkah like you live in your house? A mourner would not sit in a shack because it disturbs him. Since it disturbs him, he wouldn't live like that, and it is not תשבו כעין תדורו.

תשבו כעין תדורו is not a הלכה where if you are sitting in a Sukkah in pain that you are not מצוה, there isn't a mitzvah that you have to be happy in the Sukkah. The הלכה is that his מעשה ישיבה, in so far as his essence is concerned, has to be nullified.

The chiluk is the difference between an affection and a quality. The face of a person who gets embarrassed might turn red, but that is only an affection, not a quality. A quality is something that adheres in the object. The facing turning red is a reaction, it is not the essence of גברא. Over here, that mourner is in pain as a reaction, not as a part of the גברא himself. By מצטער, it has to be due to the essence of the גברא.

That is why the gemara says, דמיבעי ליה לאותוביה דעתיה. This means that the person should control himself, he needs to change something. It is a reaction to a situation, an affection, so he needs to bring it under control. In so far as ישיבה בסוכה is concerned, it's true that he is in pain,

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but he is not in pain due to an essential nature, he is in pain only due to an accident. As far as the גברא is concerned, his residing is one that is fine.

איסטניס

What about an איסטניס, a finicky person? The Shulchan Aruch says that the הלכה is that he is פטור from a Sukkah. Can anyone say that he is an איסטניס in regards to something specific or do they need to fall in the category of איסטניס? It is a machloket Rishonim, and the Tur brings in both sides. It is centered around how it affects him as a גברא. Even though he is bothered by the Sukkah, it causes him pain, it doesn't matter because he is not considered an איסטניס. The other says that it is enough that the Sukkah itself bothers him. גברא is either defined categorically or individually.

חולה

The Shulchan Aruch says that a חולה and his משמשים, attendants, are פטור from dwelling in a sukkah.

חולים ומשמשיהן פטורים מן הסוכה ולא חולה שיש בו סכנה אלא אפילו חש בראשו [או] חש בעיניו ויש מי שאומר שאין המשמשים פטורים אלא בשעה שהחולה צריך להם

Sick people and those attending to them are exempt from the (Mitzvah of) Sukkah. And not just a sick person who is endangered; rather, even if he has head pain or eye pain. There is one who says that the attendants are exempt only at the time the sick person needs them.

So the question is, are the attendants פטור during service or always? It seems mashma from the gemara that the attendants are always פטור. The Gemara says that the caretaker slept outside of the sukkah. What service is he providing while sleeping?

חולים ומשמשיהם: תנו רבנן חולה שאמרו לא חולה שיש בו סכנה אלא אפילו חולה שאין בו סכנה אפי' חש בעיניו ואפילו חש בראשו ארשב"ג פעם אחת חשתי בעיני בקיסרי והתיר ר' יוסי בריבי לישן אני ומשמשי חוץ לסוכה
The ill and their caretakers are exempt from the mitzva of sukka. The Sages taught in a baraita: The ill person that they said is exempt from sukka is not only an ill person whose condition is critical, but even an ill person whose condition is not critical, and even one who feels pain in his eyes, and even one who feels pain in his head. Rabban Shimon ben Gamliel said: One time I felt pain in my eyes in Caesarea, and the esteemed Rabbi Yosei ben Halafta permitted me and my attendant to sleep outside the sukka. (Sukkah 26a)

What is the difference between חולה and מצטער? A חולה should be the same הלכה as מצטער; it is a glorified מצטער.

תשובו כעין תדורו There are 2 halachos in

1. מעשה דירה
2. חיוב קביעות המקום

מעשה דירה, the way you live in your home, so a מצטער is פטור. A person wouldn't remain at home in pain. He is like an אנוס. However, a חולה who has a headache, why would it matter if he is in a sukkah? Would his head feel any different if he wasn't in the sukkah? The other הלכה is in the חיוב of the Mitzvah. Just like when one is a חולה, he wouldn't change his established home, so too here he is not חייב here to change his קביעות.

Therefore there is a מתיר on him to stay in the house, even though he could do the same מעשה דירה in the sukkah. The מתיר is on the חיוב, and since sukkah is a הלכה in terms of קביעות, as we see halachot regarding kelim (we must have them in there, and the הלכה asks when is it permitted to clear out the sukkah, not just leave). The הלכה is establishing a קביעות in the Sukkah. Since קביעות includes משמשים, they are exempt from the sukkah as well as they come under his קביעות. The entire household is מופגה from the קביעות. A מצטער has no מתיר to break his קביעות.

מצטער is like אנוס רחמני כפטרי, a modified אנוס. Like Rav Chaim said, an אנוס is חייב in Teshuvah, a חולה has no mitzvah of sukkah on him. The only חיוב is to make a sukkah. For example there is no halachah to cover the sukkah when it rains so it is dry immediately after. If he has bugs in his sukkah, he is not חייב to look around the world for a kosher sukkah. He didn't break his קביעות though. If a comparable Sukkah would be in front of his house, he would be חייב to go into it. מצטער is merely a situation. A מצטער doesn't have an intrinsic exemption from קביעות in the sukkah, he just can't do it. A חולה is not חייב in it.

The question is what if a חולה wants to eat in a sukkah, can they make a bracha? Since his מעשה דירה is a regular מעשה דירה, can he make a bracha?

This is different than if women can make a bracha because this הלכה is specifically structured in a way that the הלכה doesn't apply to them. In a normal case of an אינו מחויב בדבר, they can always make a bracha. That is the הלכה because the command is not related to them, so they are not obligated in it. But where the nature of the mitzvah is such that it structures out such a person, then there is not even a קיום.

Like עליה לרגל, someone who is too far away from the Beit Hamikdash is not exempt from bringing a Korban, it just doesn't apply to them. Therefore, if they were to offer a korban,

there wouldn't even be a פוטר because they were specifically structured out of the mitzvah. Women were just not included, not specifically excluded.

The חולה has a פוטר from the חיוב of the mitzvah, women weren't exempt from the mitzvah, they were just not commanded to do it. The Mitzvah of Sukkah is a חיוב עשה, not a איסור עשה. He has a פוטר on his חיוב hamitzvah, and his פוטר includes him and all those who are in his קביעות.

מי שכבו לו הנרות בסוכה בשבת ויש לו נר בביתו מותר לצאת מן הסוכה כדי לאכול במקום נר וא"צ לילך לסוכת חבירו שיש שם נר אם יש טורח גדול בדבר

He whose candles in the Sukkah were extinguished, on the Sabbath, and has a candle in his house, it is permitted for him to leave the Sukkah to eat where the candle is, and he does not need to go to his friend's Sukkah which has a candle, if there is great effort involved

Taf reish mem (Ramah Orach Chayim 640:4)

The Ramah says that if your light goes out in your sukkah, you are not חייב to go to your friend's sukkah, "if there is a great pain". Why should that matter? The מצטער of הלכה is in the Sukkah, not to get to it. Apparently you see by טורח תשבו, there is a different level of אנוס. Like we said you don't have to cover the schach, and other things like that.

When I asked the shailah of the Rav for my daughter, because she was sick, and first he asked what I do for her. I said that I feed her and give her medicine, and he said definitely that is meshamesh. Then he asked me how far away the Sukkah was from the house, and I told him that it was on the premises. He told me that I was פטור anyways. Apparently, the fact that he asked about how far away it is has to do with the other הלכה of אנוס. A different level of אנוס here.

Learning in and out of the Sukkah

כָּל שִׁבְעַת הַיָּמִים קוֹרֵא בְּתוֹךְ הַסֻּכָּה. וְכִשְׁמַבִּין וּמְדַקְדָּק בָּמָה שִׁיקְרָא יָבִין חוּץ לַסֻּכָּה כְּדֵי שְׂתַהַיְגָה דַּעְתּוֹ מִיִּשְׁבַּת עָלָיו.
הַמְתַּפְּלֵל רָצָה מְתַפְּלֵל בְּסֻכָּה אוֹ חוּץ לַסֻּכָּה

One reads inside the sukkah all seven [days]. But when he [seeks to] comprehend and be exacting [upon the text], outside the sukkah so that his mind will be settled. One who prays [does whatever] he wants — he prays in the sukkah or outside of the sukkah. (Mishneh Torah Laws of Shofar, Sukkah, and Lulav Chapter 6 Halachah 9)

The Rambam says that you leave the Sukkah for learning, sometimes. What kind of הלכה is "so that his mind will be settled?" It's not מצטער. So it is a מתיר because Talmud Torah is דוחה

Sukkah? Talmud Torah exempts you from yeshivat sukkah? Is this someone who is involved in a mitzvah is exempt from another mitzvah?

There is a machloket about which type of learning exempts you from dwelling in the Sukkah.² Others say קריאה you could learn outside the Sukkah because it is like nothing and עיון has to בדווקא be in the sukkah. The Ran says that if you are not מיטריד then you must do it in the sukkah, because מיטריד is מצטער. When the Rambam says, “כְּדֵי שְׂתִהְיֶה דַעְתּוֹ מִיִּשְׁבֵּת עָלָיו”, it is not מצטער, it is a separate פטור.

ישיבה בסוכה includes a sum total of performances. Eating, drinking, sleeping, relaxing, קריאה, and then a question of עיון. Everyone breaks off קריאה from עיון. The Rambam holds that קריאה is חייב בסוכה, it is like relaxing, which is a component of דירה. The others hold that קריאה does not comprise of an element of דירה. What about עיון?

עיון works on different levels. Those who argue on the Rambam hold that עיון is also a מעשה דירה. The Rambam holds that עיון is broken down quantitatively, two levels. There is a person who reads just to understand and one who reads to understand and be מדקדק. That level of עיון is פטור from Sukkah because he can't do that מעשה in the sukkah. The sukkah doesn't lend itself to עיון.

The others disagree and say you can't break off. They say you can't say if I am עיון a little bit, then I am חייב בסוכה, and more than that, I am pattur from sukkah. It is one type of מעשה and since it is an activity that is done in the house, you are מחוייב to do it in the sukkah.

תפילה

Rambam says about davening, either in or outside. It doesn't say it depends on his will, he says that either way is good. Why didn't he just say that you do not need to be מתפלל in the sukkah?

תפילה is not a מעשה דירה, it is a completely different activity altogether. So actually, it is not included in the Mitzvah of residing in the Sukkah. It is not a מעשה בסוכה, not included in the Mitzvah of residing in the Sukkah. It is not a מעשה דירה per se. So why does he have to say anything at all?

Since it is not a מעשה דירה, you might think that you are being קובע the sukkah for something that is not מעשה דירה, and that would be אסור. The Rambam says it is not an issue

² כל שבעת הימים קורא בתוך הסוכה. שם (דף כ"ח) בגמ' הא במגרס הא בעיוני. ופירש רבינו כרש"י והרי"ף ואית דאמרי איפכא דעיוני היינו קבע ובעי סוכה וכתב הר"ן ולחומרא עביד כתרומיהו כל היכא דלא מיטרד אבל אי מיטרד ה"ל מצטער ופטור מן הסוכה (כסף משנה)

because it is not נדפס at all; it is not related to sukkah at all. During תפילה you wouldn't have a קיום in ישיבה בסוכה, because ישיבה בסוכה is like relaxing. תפילה is different altogether, there is no שייכות to sukkah.

Eating outside the Sukkah

אוכלין ושותין וישנים בסוכה כל שבועה בין ביום ובין בלילה. ואסור לאכל סעודה חוץ לסוכה כל שבועה אלא אם אכל אכילת עראי כביצה או פחות או יותר מעט. ואין ישנים חוץ לסוכה אפלו שנת עראי. ומתיר לשתות מים ולאכל פרות חוץ לסוכה. ומי שיחמיר על עצמו ולא ישתה חוץ לסוכה אפלו מים הרי זה משבח

We eat, drink and sleep in a sukkah all seven [days] — whether during the day or during the night. And it forbidden to eat a meal outside the sukkah all seven [days], unless it is a casual meal — a *kabeitsah* or less or a bit more (of bread). One may not sleep outside the sukkah, even [for] a brief nap. But it is permissible to drink water and to eat fruits outside the sukkah. However one who is stringent upon himself and does not drink even water outside the sukkah is surely praiseworthy. (Mishneh Torah Laws of Shofar, Sukkah, and Lulav Chapter 6 Halachah 6)

How much can you eat outside the sukkah? The Rambam says like a כביצה or a little more or a little less. What does that mean? If it is כביצה, less is good and more isn't good. If it is less, then more and a כביצה aren't good. What is the shiur?

According to the Rambam there is no specific shiur. The קובע in קבע is according to the observation of an individual. The observer is the קובע. He means that as long as what he eats, and it is considered to be in the area of a כביצה, then it is not considered to be an אכילת קבע. There is a similar idea of a ראוי being a קובע by הדלקת הנרות of being fit to be ראוי להדליקה, you also have it be טשע נראה כעשרה by תפילה, and רובה דמנקה. Anyway, it is not the same exact thing, but it is a similar idea.

Then you have someone who doesn't eat or drink anything outside of the sukkah, it is praiseworthy to be stringent for this. Why? Really אכילה in a sukkah is establishing קביעות, and the הלכה of קביעות is established through seudah. But the הלכה is that anything else he drinks, even water, is מצורף to the קביעות. There is no חיוב, no איסור to eat outside of the sukkah, but there is a קיום.

In regards to eating outside the sukkah, the Maharam MiRotenberg held that eating פירות outside is אסור. The Rosh says only if they are קובע outside. Others hold meat and cheese, things that accompany bread; it is part of the קביעות of the bread. Rosh holds that it is only something that establishes a קביעות, which is the חמשת המינים or bread.

The question is, what is קביעות? The Rosh holds that it is like a regular קביעות in terms of ברכת המזון, seudah, and others hold that it is in terms of קביעות דירה. The machloket revolves around subjective or objective המזון or the person is קובע himself as a סעודה, then it is a חיוב in the sukkah. Accompanying the bread means that it has to partake of the קביעות of bread. פירות means that the individual is קובע an אכילה.

With regard to פירות, there is only one דעה. In regards to meat and fish you have already Tosfot (Sukkah 27a במיני תרגימא).

This would justify the position of the Magen avraham, who holds you can have a כביצה for מזונות to establish yourself in the sukkah, even though normally you need 3-4 כביצים. The כביצה in bread shows you the Shiur קביעות of מעשה אכילה and applies it to מזונות. Others apply this shiur to fruit.

Four שטות of when you make the ברכה.

1. Gaonim - anytime you walk in, any time there is a kiyum of the mitzvah
2. Rabbeinu tam - the ברכה is נתקן only on the עיקר קביעות, which is אכילה, and it is פוטר everything else.
 - a. Mishnah Berurah learns it is פוטר only if everything else comes with it. So according to the Mishnah Berurah, it is very difficult to learn pshat in the Tur, because it will come out that the only machloket between Rabbeinu Tam and the Gaonim would be if a person came into the Sukkah to sit down, and then later he had a meal. According to the Gaonim he would have to make a ברכה right away. According to Rabbeinu Tam, he wouldn't make a ברכה until he ate. But it is mashma from the Tur that Rabbeinu Tam argues on more than just that one case. Rabbeinu Tam holds that in general you only make the ברכה on the קביעות האכילה. It is not the pshat that the specific מעשה is פוטר the specific מעשה that is related to the Sukkah, but the pshat is, it would be difficult to understand how the פוטר later would work now. I make the ברכה much later but i am sitting in the sukkah now. In general, the mitzvah of sukkah is קביעות בסוכה, and קביעות בסוכה is generally established by the מעשה קביעות of the אכילה. The ברכה was only נתקן for the עיקר קביעות and everything else is considered secondary, מצורף to that קביעות. It

doesn't need to be in the same sitting. Whenever you do it, it is מצורף. The אכילה is only פוטר everything else when אכילה comes with it.

3. Rambam holds ישיבה - when the גברא sits down, when the גברא is קובע himself for ישיבה.
4. איסור חוץ לסוכה - only those things that involve an איסור חוץ לסוכה hold אכילה and שינה - only those things that involve an איסור חוץ לסוכה.

According to the Mishnah Berurah, if you walk in and go to sleep, wake up and eat, you won't make the ברכה at the beginning? Later it will פטור? You should make the ברכה on the sleeping, right now you have a חיוב of a ברכה. But what we are saying is that everything is נגרר after the actual קובע, which is the eating.

There is a דעה in the gemara that you only make the ברכה once at the very beginning of Sukkot, when you break the קביעות of the bayis. We don't hold that way.

Let's say he comes into the sukkah to go to sleep, after having a הפסק between the אכילה and the sleep, according to 3 of the 4, you should make a ברכה.

According to the Gaonim, you should definitely make a ברכה. According to the Rambam, you also make a ברכה. And according to the shitah HaTosfot, you should also make a ברכה, on the sleeping. So it would be mistaber that in that case you should make a ברכה.

Otherwise, if you just walked in and out, it would only be according to the Gaonim to make a ברכה. If you sat down, that would require a ברכה according to the Rambam. They say that the Gra holds like the Gaonim.

Rabbeinu Tam says you make a ברכה on אכילה, even though sleeping is more chamor because you see that even a nap is חייב in sukkah, but a snack is not. Just because a thing requires less to be חייב, does not mean that it is more in terms of the quality of the ישיבה than something that requires more, because that thing that requires more, when you have that more, it has a certain quality that the other thing doesn't have.