

Please be advised that this column was intended to provide information on many different *Succos* related topics and was not intended to be used as a final *halachik* ruling should one arise.

### When to Begin Building the Sukkah

The *Rema* (624;5) when talking about the *halachos* of *Motzai Yom Kippur* writes that right after *Yom Kippur* one should begin building the *sukkah*. This *halacha* is simply to say that one should begin then. However, the *Mishnah Berurah* (625; 2) writes that one should try to have the *sukkah* finished the next day when possible. The *Mateh Efraim* (Ibid 14) writes that if it won't be a nice job one should take his time and not do it in one day.

### Building a Sukkah Under a Shlok

The laws of *Sukkah* dictate that a *Sukkah* needs to be built and not created. Meaning one can't dig into a pile of hay to then have a Kosher *Sukkah* formed by default. The *S'chach* must be put on by the person to make the *Sukkah* Kosher. Therefore if someone builds a *Sukkah* under a *shlak* according to the *Bach*, *L'vush Elya Rabbah* and others this is not acceptable since when the *schach* was put on it was not Kosher since it was done indoors and the *Sukkah* will only be created once the *shlok* is removed thus it is considered to be *tasseh v'lo min ha'osoi*. Others disagree with this premise. When possible one should be careful not to get involved with this issue and in the least shake around the *s'chach* once the *shlok* is removed (prior to *Yom Tov*).

### Screwing or Tying Down Mats

Using a spun type string or a screw to hold down the *s'chach* is forbidden to be used since it is not a material which may be used in *schach*. (See *Shulchan Aruch* 629;5 with regard to the status of rope.) However if the *s'chach* is independently secure to stay in place for *Yom Tov* and one is just afraid in the event of there being a strong wind (*ruach sh'eaino metzuyah*) it would not hold up, one would be allowed to tie down such *s'chach* as it would then not be considered to be a *maamid*.

### Is Kavanos Hamitzvah MIAKEV

Every *mitzvah* has the requirement to bear in mind that the *mitzvah* is being performed besides the actual activity of the *mitzvah*. We subscribe to the opinion that he who fails to have this in mind didn't fulfill his *mitzvah* in most cases. However there are those who suggest that the reason the *Mechaber* specifically explained the reason for this *mitzvah* is since if one does not have this in mind then he has not fulfilled the *mitzvah*. The *Pri Megadim* writes that *bidieved* even one who had nothing in mind as he performed the *mitzvah* was also *yotze*. This does not minimize the fact that there is an additional requirement to be mentally aware what he is doing by sitting in the *sukkah*. Thus the reason of why we sit in the *sukkah* is relevant since he is required to keep that in mind as he performs the *mitzvah*.

The *Pri Megadim* adds that it is thus best to keep in mind both reasons when performing the *mitzvah*. According to the aforementioned *Chai Odom* this is also the case (since according to him the Torah is referring to both reasons for sitting in the *sukkah*.)

### **Sleeping in the Sukkah**

Sleeping is required to be in the *sukkah* during the days of *sukkos*. Since the Torah says that one should reside in the *sukkah* just as he resides in his home this includes sleeping as well. As a matter of fact the requirement of sleeping in the *sukkah* is more stringent than the requirement of eating *sukkah*. While one is allowed to eat an *achilas arai* (loosely translated as a snack) out of the *sukkah* he cannot take a "quick nap" (more than 54 seconds) out of the *sukkah*. There are numerous reasons given as to why these distinctions were made.

### **One who is Scared or Uncomfortable Sleeping in the Sukkah**

In *Shulchan Aruch* (640) rules that a *sukkah* that is not suitable for both eating and sleeping (e.g. it is in a bad neighborhood, the structure is not sufficiently sturdy) is *posul*. This would suggest that if one is scared to sleep in the *sukkah* then it isn't a kosher *sukkah* with regards to eating there as well.

There are many *Achronim* who discuss that if there is a fear of thieves at night which prevent him from sleeping in the *Sukkah* then he may not eat there either. The reason given by many is since this would not constitute a *Sukkah* which is *taishvu k'ain taduru* since a person would not live where he is scared to sleep. The *Aruch Hashulchan* (640;9) explains that there is a difference whether or not there are other places where the *sukkah* can be safely built. Since even a house would be built in a non ideal spot where there was no other option. Therefore someone who lives in a dangerous neighborhood would be able to eat in his *Sukkah* where there is no other option.

The *Mishnah Berurah* (20) adds that according to other *Achronim* one *bidieved* would have fulfilled the *mitzvah* of *achilah b'sukkah* since he is not a *mitztaer* with regards to eating there.

Rav Dovid Feinstein *shlit"a* (*Sefer V'dibarta Bom* 172) writes the *B'kurai Yaakov* (640; 10) who writes that in the extreme cold one can still be *yotze* the *mitzvah* of *sukkah*. He explains that the people could put on blankets to stay warm. From this we see that even the person is not able to sleep due to frigid weather, since he could resolve it with an outside intervention he is allowed to use the *sukkah*. Rav Dovid proves from this that the *sukkah* can be Kosher even if it itself has problems, so long as they can be resolved. Therefore he says that one can also theoretically hire a guard to watch the *sukkah*. Thus, the *sukkah* can be safe for sleep via an outside intervention. Therefore even if there is no guard it would be allowed to be used.

As to why there are many people who don't sleep in the *sukkah* in today day there are numerous reasons given. Some say this is due to extreme cold weather conditions or due to safety reasons or for a married man since many times he cannot sleep there with his wife (therefore it isn't *kain toduru*). However where these reasons do not apply; as is many times the case during the daytime hours then one would have to sleep in the *sukkah* according to all opinions. (Unless it is noisy in the *sukkah* or outside or there is another reason as to why he is a *mitztaer* with regards to sleeping in the *sukkah*.)

### **Keeping the Table in the Sukkah Even When Sleeping**

The *Chofetz Chaim* has a famous opinion brought in the *Mishnah Berurah* that there is a requirement to have a table in the *sukkah* even during sleeping. While this seems to be a big *chidush* Rav Moshge Shternbuch (Moadim Zmanim) brings a proof for this from the *Gemara* that states that the he who sits in a *sukkah* which is not large enough for him and his table was NEVER *yotze mitzvas Sukkah* which sounds like even for sleeping he was not *yotze*? He asks why would he not be *yotze* the *mitzvas sukkah* of sleeping in the *sukkah*? Thus he explains that this is proof that one needs to have a table in the *sukkah* for sleeping as well. This is a minority opinion with many dissenting opinions.

### **Eating in the Sukkah When it is Cold**

It is well known that one does not need to eat in the *sukkah* if it is very cold outside. The barometer given to discern when it has reached this point is when it is so cold that fatty foods are hardening. The *Shaarei Tzion* (639; 60) writes that according to the *Bikurei Yakkov* if one is first eating a *kebaiah* of bread then he must do so in the *sukkah* since the aforementioned is not a factor.

### **Those Taking Care of the Sick and Elderly/ Visitors in the Hospital**

The *Gemara* in *Sukah* states that a *choleh* and those who caring for them are exempt from the *mitzvah* of *sukkah*, as such rules the *Shulchan Aruch* (640;3). The *Lvush* (Ibid) and the *Shulchan Aruch Harav* (7) both explain that the reason the assistant helping the *choleh* is exempt from the *mitzvah* of *sukkah* is due to the fact that we say that one who is occupied with a *mitzvah* is exempt from another *mitzvah*. The *Aruch Hashulchan* therefore explains that someone who is caring for a *miztaer* (an elderly person who his healthy but it is just cumbersome to go to the *sukkah*) for pay is not exempt from the *mitzvah* of *sukkah*. The *Shulchan Aruch* brings that one is only exempt from *sukkah* while he is actually preoccupied with the *mitzvah* and this dispensation is not extended to when he is not actively involved in the *mitzvah*. (Despite this being a *yesh omrim* many *poskim* rule as such.)

In the *Sefer Mikdash Yisroel* (167) he discusses what the *halacha* is with regard to someone who for instance went to the hospital with his wife. He explains that even when he is not actively involved with caring for his wife (i.e. he is simply waiting there for *Yom Tov* to end so he can get a ride home) he still has the status of a traveler which is exempt from *sukkah* as well as the fact that someone who is traveling to and from a *mitzvah* is also exempted from the *mitzvah*.

Obviously it is still best that he find a *sukkah* to eat in, when he has the luxury of time despite his caring for a *choleh*.

### **Going to Sleep in the Sukkah on a Cloudy Night**

The *Shevet Hakehasi* has a discussion if one needs to go to sleep in the *sukkah* if it is already cloudy outside as if it is about to rain. A similar question is with regards to what the *halacha* is if the weather report calls for rain in its forecast, may one then sleep inside his home. He proves based on the aforementioned *Bikurei Yakkov* that one would need to sleep in the *sukkah* so long as it isn't raining. Rav Shmuel Felder *shlit"l* asked this *Hagaon HaRav Elyashiv zt"l* as well who responded that may not sleep in his house as opposed to the *sukkah* strictly based on a weather report.

### **How Much Does One Need to Eat the First Night**

The *Mechaber* rules (639; 3) that one who ate a *kezayis* in the *sukkah* the first night has fulfilled his obligation. The *Mishnah Berurah* (22) adds that while this is the *halacha* one should still try to eat a *kebaiah* which is the amount which would require one to eat in the *sukkah* the whole *Yom Tov*. He adds that it should be eaten *bichdei achilas p'ras* as well. (According to the *Mishnaj Berurah* (486; 1) he should actually eat two *k'baiem* since our sizes have diminished we are stringent with regards to *deOraisos*.)

### **Shehechianu on Sukkah and lulav and Esrog**

Someone who forgot to make a *shehechianu* on his *daled minim* on the first day of *Yom Tov* can make it any of the other days of *Sukkos*. (See *Sharai Tzion* that the nights create a *hefsek*. If one remembered (on the same day) before *Hallel* then one can still do so on the first day before

*Hallel* since the *nanuim* is a *mitzvah*. There are other opinions that one can even do so prior to *hoshanos* since that too is a *minhag* (*Piskai T'shuvos*). (See *Kaf Hachaim* with regards to one who did not make a *b'racha* on *Shofar* that if he heard thirty *kolos* he can no longer make a *b'racha* since it has been completed and all additional *kolos* is a *minhag*. This opinion may have bearing on the aforementioned discussion with regards to making a *b'racha* on *lulav* and *esrog* prior to *hashanos* since there to the whole *mitzvah* has been done.)

If someone ate inside a home on the first night of *Sukkos* (i.e. it was raining) in the morning he would still make a *shehechianu* when eating in the *sukkah*.

It is important to note that when someone was *zoche* to eat in the *Sukkah* the first night of *sukkos* on the second night of *Sukkos* the *shehechianu* recited is on the *yom* and not on the *Sukkah*. Therefore there are those that say that one should make the *shehechianu* following *Kiddush* and not following the *laishev basukkah*. Logic would dictate that since the two days of *sukkos* are *sofek Yom Tov* then on the second day of *sukkos* one should also make a *shehechianu* on the *lulav* and *esrog* since yesterdays *mitzvah* may not have been the *chiyuv* on *Sukkos*. However, this is not the case for a variety of reasons and one only recites a *shehechianu* on the first night.

### **Muktzah Status of Discarded Lulavim**

Many vendors will discard the surplus of *lulavim* before *Sukkos*. The question posed is that if one is 100% certain that they were discarded and therefore are *hefker* would it be *muktza* like any other refuse which is considered *muktza*? Rabbi Belsky (*Shulchan Halevi* page 68) writes that this would not be considered *muktza* since there is a use for it on *Yom Tov* it has the *halacha* of a *kaili* that even though it is thrown out it does not attain the *muktzah* status.

### **Muktza Status of Decorations Which are not Affixed to the Sukkah**

As we all know the decorations which we hang in the *sukkah* is called *noi sukkah* and it is *muktza* all of *Yom Tov*. Rav Shlomo Zalman *zt"l* writes that he is unsure what the *halacha* is with regards to decorations which are not affixed to the walls or *schach* rather they are just in the *Sukkah*. These items could include a potted plant on a stand or a model *sukkah* etc.

### **Sleeping in Someone Else's Sukkah**

Rav Shlomo Zalman *zt"l* (Halichos Shlomo *Moadim* 9; 20) writes that if someone went out of town and he is embarrassed to ask someone to sleep in his *Sukkah* he does not have to do so. This he explains would be considered *mitztaer*. However with regard to *Yeshivah bochurim* who go to a *Simchas Bais Hashaeiva* he writes that the Yeshivah should be sure to arrange a *Sukkah* for them to sleep in.

### **Taking Trips Where there will not be any Sukkah**

The *Gemara* states that people who are traveling on the roads need not eat and sleep in the *sukkah*. Rav Moshe Feinstein *zt"l* writes that this only applies to those traveling for an important matter (i.e. business etc.). However someone who is simply going on a trip is not exempt from the *mitzvas sukkah*. He adds that being lenient with regard to a *chiyuv aseh b'idna d'rischa* can have dire repercussions. Rav Shlomo Zalman *zt"l* (Ibid) also writes that going on a trip is not a reason to place one's self in a situation where he will not fulfill the *mitzvah* of *Sukah*.

Although a noted Rov once asked Rav Moshe *zt"l* if he would be allowed to go away on *chol hamoed* with his wife on a trip during he first year of marriage if it meant not having a *sukkah*. He responded that this would be considered an important matter and thus allowed for him to go.

### **S'chach Which Fell Down on Yom Tov**

A strong wind came and blew down the *s'chach* on *Yom Tov*. Even if there was just three *t'fachim* exposed where one would not be able to eat underneath there, one may not replace that *s'chach* himself, because of fixing and *muktzah*. One is allowed to ask a *goy* to replace his *s'chach* (See *Mishnah Berurah* 637 and the *Be'er Yitzchok O.C.*). There are numerous explanations for this. Firstly the *Baal Hamoer* is of the opinion that a *sukkah* is a temporary dwelling and therefore building and destroying it is only a Rabbinical transgression, thus asking a *goy* to fix it would be a *shvus d'shvus b'makom mitzvah*. The *Pri Megadim* states that since one

can't eat without a *sukkah* it is considered a *davar ochel nefesh*. The *Maharam Shick* (O.C. 261) adds that one should have a *derabonon* done in order to fulfill a *chiyuv min haTorah*. (Whether or not a new *b'racha* of *laishev baSukkah* would need to be recited once the *schach* is replaced may be dependent on how we view the status of replacing *s'chach*. From the fact that a *goy* can do so it seems to suggest that the original status of the *sukkah* was not completely lost and therefore a new *b'racha* would not need to be recited.)

On *Chol Hamoed* a Jew can fix this also.

### **Shmini Atzeres- Eating/Sleeping in the Sukkah**

*The Gemara in Sukkah* brings that in *chutz laretz* on *Shmini Atzeres* one should eat in the *Sukah* but not make a *b'racha laishev b'sukkah*. The issue is the fact that it might be *chol hamoed* so therefore we need to eat in the *sukkah* but at the same time since it might be *Shmini Atzeres* he can't just act as if it is not *Yom Tov* of *Sukkos* and disregard the requirement of *sukkah*, but he since it might be *Shmini Atzeres* we don't make it obvious by making a *birchas laishev*. The question is with regard to sleeping in *sukkah*. The *Mordechai* maintains that eating in the *sukkah* is not a problem since people tend to do eat in a hut thus it is not a sign that he is not keeping *Shmini Atzeres* since when eating in the *sukkah* as a *mitzvah* he firsts make a *b'racha*. Sleeping in the *sukkah* however is a clear indication that he is acting as if it is *Chol Hamoed*. The *Mishnah Berurah* and *Chayai Odom* bring from the *Gr"a* that he slept in the *sukkah* on *Shmini Atzeres*. The *Aruch L'ner* states that Rav Nosson Adler had the custom to sleep in the *sukkah* as well. It is well worth noting though, that the *K'sav Sofer* quotes that his father like his Rebbe did **not** sleep in the *sukkah* on *Shmini Atzeres*.

Rav Moshe Sternbuch (*Moadim V'zmanim*) writes that the fact that the *Gr"a* slept in the *sukkah* on *Shmini Atzeres* may not be such a proof as to how we should practice. He bases this on the fact that the *Gr"a* was of the opinion that one always made a *b'racha* prior to sleeping in the *sukkah* thus on *Shmini Atzeres* when he didn't make a *bracha* prior to sleeping in the *sukkah* that was a sufficient *heker* that this is not the fulfillment of *mitzvas sukkah*. However, us who son't

have the custom to make a *b'racha* the whole *Yom Tov* prior to sleeping in the *sukkah* are required to show a *heker* by not sleeping in the *sukkah* at all.

There are some *Chassidim* don't eat in *sukkah* on *Shmini Atzeres*. According to some this was based on *Tosfos* who seems to suggest that the only reason they ate in the *sukkah* was because the weather was nice, which suggests that if not one would not eat in the *sukkah* as it would be apparent that he is doing so to fulfill *mitzvas sukkah* which is contradictory to the fact that the *kiddush* is for *shini atzeres*. (See what Rav Shternbuch asks that where the *Rishonim* lived in Russia, France, it was not very good weather either yet they didn't seem to right this as a reason not to eat in the *sukkah* on *Shmini Atzeres*, as well as some other questions.)

### **Holding the Sefer Torah by Hoshanos**

Rav Dovid Feinstein *shlit"á* (Ibid) rules that since we are not *makpid* on covering the *Sefer Torah* on the *bimah* with a *tallis* and leaving it we can simply place the *Sefer Torah* down during *hoshanos* and the people will circle it that way.

### **Standing During Hakafos**

Needless to say many people find standing during all the *hakafos* on *Simchas Torah* extremely difficult. The reason one would suppose that this is required is due to the fact that there is a *halacha* that one is required to stand when a *Sefer Torah* is in transit. However, many *Poskim* conclude that this *halacha* does not apply to standing during *hakafos* for a variety of reasons. See *Aruch Hashulchan* (Y.D. 282;5) who explains that while one theoretically should be required to stand the whole time this is not the case especially in light of the huge *tircha* which can exist when *hakafos* last for many hours at a time. He states that the requirement to stand is when the *Sefer Torah* is in transit and is not its proper place, however, when it is settled there is no requirement to stand. He therefore states that so long as people are dancing with the *Sefer Torah* there is no requirement to stand since it is considered as if the Torah is in its place. He does state that one should stand while the *Sifrei Torah* are circling the *bimah*.

Others opine that the people dancing with the *sifrei Torah* work as a *mechitza* between the *sefer Torah* and the people sitting (*T'shuvos V'hanhagos* Vol. 2 319).

Rav Shlomo Zalman *zt"l* states that one should stand during the first *hakafa* which is a *chiyuv* and the rest of the *hakafos* are *minhagim* (*Halichos Shlomo Teffilah* 12;13).

It is important to note that during the recital of the *mizmorim* in between the *hakafos* one certainly is not required to stand.

There are some authorities who maintain that one should stand the entire *hakafos* especially if he is not too weak to do so (See *Avnei Yushpai* 3; 68; 4).