

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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Lecture #13: Reducing the Height of a *Sukka* Higher than Twenty *Amot*

Having disqualified a *sukka* whose height is above twenty *amot* in the first *mishna* of *sukka*, the *gemara* (3b-4a) considers the efficacy of filling in the bottom of the *sukka* with "filler," thereby reducing the height to a permissible level of below twenty *amot*.

The *gemara* cites a *machloket* between Rabbi Yosi and the Rabanan in *massekhet Ohalot* regarding a similar situation. A dead body not only conveys *tuma* through physical contact; it also causes *tuma* to "permeate" any item under the same shared structure (*tumat ohel*). Although the *tuma* permeates the entire sheltered airspace, it does not extend above the roof or below the floor or convey *tuma* to items located on the exterior of the sheltered area. However, if the *tuma* becomes "*retzutza*," contracted – lacking a surrounding envelope of a *tefach* of airspace - it can pass even though solid ceilings and floors and deliver *tuma* to items above or below the exterior of the *ohel*.

The *mishna* in *Ohalot* (15:7) addresses a situation in which an envelope of a *tefach* exists, but the space was filled in with material such as dirt, pebbles or straw. Although there are some differences depending upon the material, the Rabanan generally ignore the presence of the filler, unless one has been "*mevatel*," - actively disowned any interest in further use of the said materials; without *bittul*, we ignore the "filler," the *tefach* envelope remains, and *tuma* does not extend beyond the ceiling or floor. The filler is only considered a significant presence if one has been *mevatel* it. In contrast, Rabbi Yosi believes that as long as the owner has no pending plans to utilize the materials, their presence

reduces the airspace and creates contracted *tuma* capable of spreading even through ceilings and floors.

The *gemara* in *Sukka* assumes that the identical *machloket* would pertain to the scenario of filling the floor of a *sukka* to reduce its height. According to the Rabanan, only by being *mevatel* the materials can the owner effectively reduce the floor by adding filler, whereas Rabbi Yosi would recognize the reduction of space even if the material was placed there without pending designs for removal.

The Meiri raises a seminal question that could drastically affect the way we understand the mechanics of this height reduction. The *gemara* (2a) suggests various reasons that a *sukka* higher than twenty *amot* would be *pasul*. Some ascribe the disqualification to the distance separating the person from the *sekhakh*. Rabba, for example, demands that a person visually see the *sekhakh*, and a distance greater than twenty *amot* precludes this. Rabbi Zeira mandates sitting under the shade of *sekhakh*, and sitting more than twenty *amot* beneath the *sekhakh* makes this impossible. These opinions would clearly endorse height reduction through “fillers;” by reducing the distance separating the man from the *sekhakh*, the *sukka* can be validated. Of course, placing transitory elements to reduce the height would be meaningless, just as attempting to fulfill the *mitzva* by constantly jumping to reduce the height disparity would be absurd. The reduction must be permanent and sturdy; Rabbi Yosi and the Rabanan debate (as they do in *Ohalot*) whether active *bittul* is required to make the filler permanent or whether mere deposit without intent to remove suffices. Either way, the filling must be serious and permanent.

A third suggestion was offered to explain why a *sukka* higher than twenty *amot* is invalid. Rava suggests that a building higher than twenty *amot* is too permanent a structure to serve as a *sukka*, which is meant to be a temporary dwelling, a *dirat ara'i*. In fact, we typically rule in accordance with Rava, and most *Rishonim* are inclined to adopt his position in this instance as well. How can Rava’s position be reconciled with the option of height reduction? If one adds filler to the bottom of a *sukka*, the walls are still too high and the structure is still too permanent. Height reduction can close the gap between a PERSON and the *SEKHAKH*, but can it render structural changes to the *sukka* itself, transforming a twenty *amot* permanent structure into a shorter temporary dwelling? It was

precisely this question that inspired some *Rishonim* to uncharacteristically rule against Rava and attribute the disqualification of a higher than twenty *amot sukka* to non-structural reasons (as Rabba and Rabbi Zeira did). In his comments to the Rif (who rules like Rava), the Ra'avad mentions these opinions.

The Meiri offers a groundbreaking response, explaining how the *machloket* still makes sense according to Rava's approach. By adding these fillers, a person effectively raises the level of the actual ground and lowers the height of the architectural structure. By remapping the landscape, a person can redefine the structural dimensions of the *sukka*. Even if a *sukka* higher than twenty *amot* is structurally invalid, adding material can reduce its actual height. Filling in material does not merely REDUCE the distance between a person and the *sekhakh*; it ADDS to the LAND or ground, and the walls are thereby reduced in height.

The two models of understanding the purpose and effectiveness of fillers may influence several secondary questions. For example, when performing *bittul*, must the person disengage from these materials forever or merely for the seven days during which he plans to sit in this *sukka*? Rashi (3b and 4a) claims that a seven day *bittul* suffices, whereas the Ritva and Rabenu Chananel demand an absolute and everlasting *bittul*. Quite possibly, the term of the *bittul* would reflect the purpose and effect of *bittul*. If *bittul* merely seeks to reduce space, perhaps a seven day *bittul* would be sufficient; as long as the filler is semi-permanent, the space has been reduced. If, however, the *bittul* seeks to add to the ground, raising its level and thereby reducing the height of the walls, perhaps an interminable *bittul* is required; otherwise, the filler cannot be deemed an integral part of the land.

Another question regarding *bittul* is whether it must be verbally articulated or if it is sufficient for the person to internally commit to *bittul*. Again, Rashi and the Ritva debate this issue, with the former demanding verbal articulation while the latter allows internal decision. The Ritva questions why *bittul* should require spoken words; *bittul* is a personal act that can be executed internally. Perhaps the proponents of verbal *bittul* see its role as redefining the ground and raising its level. A landfill can only be created if the filler has been objectively designated; it

must be declared as such, and the public announcement conveys the new status to this material.

In summary, the questions of the term and method of *bittul* may revolve around the issue introduced by the Me'iri. If *bittul* is intended to merely reduce space in a semi-permanent manner, it may be sufficient to cognitively delegate the filler for the necessary period (seven days in the case of a *Sukka*). If, however, the land is being redesigned, perhaps verbal articulation is necessary and the filler must be designated forever.

Although this assertion of the associated logic of the two questions is appealing, it seems as though Rashi and the Ritva did not accept the linkage between these questions. Rashi demands verbal *bittul* but only for seven days, whereas the Ritva allows mental *bittul* but requires an interminable one. Perhaps they did not believe that both questions were determined by the same logic. Alternatively, they each may have viewed *bittul* as REMAPPING the land, but each believed that one, AND ONLY ONE, factor was necessary and sufficient to confer this status. According to Rashi, if the *bittul* is articulated, the land can be redefined even if the *bittul* is term-limited. According to the Ritva, the more important and decisive factor is whether the *bittul* is endless. If so, the land can be redefined even if the *bittul* has not been verbalized.

Having discerned these two models for *bittul* in the debates between Rashi and the Ritva, we may be able to better understand the primary *machloket* between Rabbi Yosi and the Rabanan. Perhaps the *tana'im* debate this very issue and reach different conclusions about the necessity of *bittul*. Rabbi Yosi only demands SPACE REDUCTION; in the situations of reducing the envelope of *tuma* as well as lowering the height of *sekhakh*, merely eliminating space in a semi-permanent manner is sufficient. As such, no formal *bittul* is required; as long as the material is placed without intent to remove or otherwise utilize, the space has been eliminated. The person is now more proximate to the *sekhakh* and the *tuma* does not enjoy the *tefach* envelope. The Rabanan, however, believe that merely eliminating space is insufficient. The actual ground of the *sukka* must be RAISED and the architecture of the house must be ALTERED. To achieve these structural changes, actual *bittul* must occur and not mere placement of materials without intent to remove.

Of course, if we view the *machloket* in this manner and assert that the Rabanan - by requiring *bittul* - demand structural re-engineering, it would be logical to expect them to require verbal *bittul* and/or interminable *bittul*. This would coincide with their view of *bittul* as raising the land mass or reshaping the home. Those *Rishonim* who do not require both conditions, and certainly those who don't require either, would probably interpret the debate between Rabbi Yosi and the Rabanan in a different manner. They might not want to suggest that the Rabanan believe that *bittul* must alter the land mass; if that were the case, a more potent form of *bittul* would be necessary.

Viewing the Rabanan this way and interpreting the stringencies of *bittul* (verbalization and interminability) as stemming from *bittul's* role in changing the actual STRUCTURE of ground and buildings may help explain the ABSENCE of such stringencies in a third scenario of space reduction through material filling. The *mishna* in *Eirubin* (78b) describes the *mitzva* of *eiruv chatzerot*, which demands unifying all the tributary homes that feed a courtyard to allow carrying from home to *chatzer* or from *chatzer* to home on *Shabbat*. Typically, distinct *chatzerot* cannot be unified within one *eiruv*, but rather must be allocated independent *eirubin*. The *mishna* speaks of two *chatzerot* separated by a deep furrow as being separate courtyards. However, if the furrow is filled with material and passage between the two *chatzerot* is enabled, they can join in a common *eiruv*. The ensuing *gemara* validates dirt and stones as a filler, since they are *muktzeh* and won't be removed for the duration of *Shabbat*. This *gemara* suggests that *bittul* can be TEMPORARY, since the prohibition of *muktzeh* will expire after 24 hours, effectively terminating the *bittul*, leading many to rule that only temporary *bittul* is necessary, as in the aforementioned comments of Rashi. The Rambam, however (at least according to the *Maggid Mishna's* view in *Hilkhot Sukka* 4:13), requires permanent *bittul* in the case of putting filling in a *sukka*, but in his comments in *Hilkhot Shabbat* 3:12 endorses the filling of the furrow with dirt because it would not be removed for the duration of *Shabbat*. How could the Rambam allow temporary *bittul* for *Shabbat* if he requires permanent *bittul* for *sukka*?

Perhaps the Rambam distinguishes between filling a *sukka* and filling a channel that divides two *chatzerot*. In the former instance, the land has to be

raised and the landscape structurally altered; only interminable *bittul* can accomplish this. However, to connect two *chatzerot* and allow a common *eiruv*, merely enabling ACCESS is sufficient. As long as PASSAGE between the two courtyards is possible, the two can share a common *eiruv*. To accomplish this goal, temporary *bittul*, for the duration of *Shabbat*, suffices. The stringency of permanent *bittul* was only stated in the cases of *sukka* and *tuma*, where actual structural changes were necessary. Instances of mere space filling or reduction do not require such intense forms of *bittul*. See Even Ha'azel in his comments to the Rambam who draws this very distinction.