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ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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Shiur #07: A Continued Discussion of the Mitzta'er Exemption from Sukka

The previous *shiur* discussed two different models of understanding the atypical exemption from the mitzva of *sukka* known as “*mitzta'er*.” Unlike conventional *mitzvot*, the mitzva of *sukka* can be skipped if uncomfortable conditions are involved in its performance. Is the exemption based upon the *teishvu k'ein taduru* principle, thus implying that if the home is significantly superior to the *sukka*, the latter is disqualified? Or is the actual discomfort a hindrance to the mental focus of the person that is so vital for proper mitzva performance in this case?

In addition to the issues raised in the previous *shiur*, there may be additional *halakhot* affected by this question. One fascinating question involves discomfort that results from the *SUKKA ITSELF*. The *gemara* (26a) cites Rava, who applied the *mitzta'er* rule to a *sukka* whose floor contained foul smelling substances (*gargishta*). Without question, the home offered a more aromatic and comfortable experience and the smell compromised the *teishvu k'ein taduru* quality of the *sukka*. However, the smell did not DISTRACT focus from the *sukka*; in fact, the foul smell ironically magnified *sukka* awareness! If the Taz's logic of *mitzta'er* is correct and unfavorable weather conditions lead to the *mitzta'er* exemption because they prevent proper mental engagement with the *sukka*, perhaps the instance of a foul odor should not qualify as *mitzta'er*. Might Rava have disagreed with the Taz and instead assumed that *mitzta'er* exempts based on the inability for a *sukka* to approximate a home. The Sukka emits a foul odor but the home doesn't; hence the Sukka is no longer considered *teishvu k'ein taduru*.

If Rava's position is to be reconciled with the Taz perhaps we can argue that the *sukka* focus must be POSITIVE and celebratory, rather than negative attention, in which case even the Taz's version of *mitzta'er* would apply.

The nature of *mitzta'er* may have been the basis of an interesting "debate" between Abaye and his teacher, Rav Yosef. The *mishna* (*Sukka* 28b) establishes the point at which inclement weather entails *mitzta'er* – when the conditions ruin the food. The *gemara* recounts that Rav Yosef left his *sukka* when the wind started blowing twigs; although his food wasn't ruined, the twigs were irritating him. Abaye questioned his teacher's departure from the *sukka*; Rav Yosef could not be considered *mitzta'er* because the food wasn't spoiling. Rav Yosef responded that since he was hyper-sensitive (*istenis*), this slight discomfort entailed halakhic *mitzta'er* and excused him from the *sukka*. Effectively, Abaye and Rav Yosef were debating whether *mitzta'er* should have one objective standard (Abaye) or if it should be dependent upon each person's "discomfort tolerance level" (Rav Yosef).

On first glance, Rav Yosef's position seems more intuitive. Why shouldn't *mitzta'er* be measured on a case-by-case basis? Why should the standard be universal, as Abaye initially asserted? (It is unclear whether Abaye ultimately accepted his rebbe's response. The Shulchan Arukh does indeed adopt Rav Yosef's view.)

Perhaps Abaye and Rav Yosef were debating the nature of the *mitzta'er* exemption. Rav Yosef may have agreed with the Taz's logic that discomfort hinders the actual performance of the mitzva and should be measured on a case by case basis. MOST people are distracted when their food is ruined and can no longer execute the mitzva. Rav Yosef was extremely sensitive and HIS concentration was ruined as soon as winds "slightly" increased.

By contrast, Abaye may have considered the *mitzta'er* exemption as based upon the *teishvu k'ein taduru* rule - that a *sukka* must resemble a home environment. Since the halakha addresses the viability of the structure and not the texture of the mitzva performance, we MAY be able to objectify which structures are "home-like" and which aren't on a universal basis. The *gemara* had

already issued the ruining of food as the yardstick dictating a non-home-like structure. Rav Yosef's unique sensitivities could not, in Abaye's perspective, alter the OVERALL definition of the *sukka* structure. The debate about establishing a universal standard for *mitzta'er* may have revolved around the nature of the *mitzta'er* exemption.

There may be an additional question surrounding the objectification of the *mitzta'er* issue. What would happen if the *sukka* were built in a way that would generally cause discomfort, but the PERSON did not experience discomfort himself? The Mordekhai rules that a *sukka* ceases to entail a viable *sukka* under *mitzta'er* circumstances; thus, the mitzva cannot be executed even if IN ACTUALITY no discomfort exists, for example, if typical difficult weather conditions in the area have not developed. The Rema rules this way in *siman* 640, where he discusses a *sukka* built in a hostile environment that won't allow for relaxed dining. Under these circumstances, even sitting in a *Sukka* for a SHORT time is invalid, even though the threat of hostility does not disrupt or distract a short term experience. If the *sukka* is generally vulnerable to *tza'ar*, IT CANNOT BE used.

It is unclear whether the Shulchan Arukh agrees with this understanding, but the position of the Rema remains striking. Logically, the Rema may have viewed the exemption of *mitzta'er* as a structural flaw in the *sukka*. Since it cannot be rendered as a house, the actual *sukka* is invalid. Once the structure has been disqualified, no mitzva can be achieved even under tranquil conditions. If we claim that *mitzta'er* is based purely on the inability of THE PERSON to mentally focus on the mitzva, we would probably gauge this distraction not just on a case by case personal basis, but also on a moment to moment assessment. Just because the *SUKKA* does not allow longer term experience without distraction does not mean that it can't service short spurts of *sukka* dwelling under "focused" conditions.

This question as to whether conditions of *mitzta'er* ruin the actual *sukka* or merely handicap the PERFORMANCE of the mitzva may underlie an interesting position of the Rema. In *siman* 640, he rules that although *mitzta'er* exempts a person from the mitzva, on the first night, if the weather does not clear, a minimum meal (*kezayit* of bread) should be consumed regardless of the distractions. The source of this surprising exception is an association between

the first night of Pesach and the first night of Sukkot. Since they both occur on the 15th of the month, a gemara raises the possibility of extending *halakhot* from one to the other. The Rema claims that this "*gezeira shava*" demands eating a *kezayit* of bread on the first night of Sukkot, just as a *kezayit* of *matza* is consumed on the first night of Pesach "at all costs!"

Setting aside the source of this intriguing *halakha*, this position should clearly view *mitzta'er* as a non-structural flaw. If *mitzta'er* compromises the VERY IDENTITY of the *sukka*, there would be absolutely NO MEANING to sitting in a *sukka* under conditions of *mitzta'er*. Evidently, this position claims that *mitzta'er* affects the IDEAL PERFORMANCE of the mitzva. Typically, the mitzva requires a mental focus that *mitzta'er* precludes. However, on the first night, there is a very different mitzvah, which does not require any mental focus. Since *mitzta'er* does not affect the status of the *sukka* itself, performance of the mitzva is possible even in a state of *mitzta'er*.