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לעילוי נשמת ר' יצחק מאיר בן אליהו ובריינא בת אברהם ע"ה ור' גדליה בן אברהם מנחם הכהן ומרים בת ישראל ע"ה

## Dwelling in the Sukkah on Shemini Atzeres

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*Must one eat in the sukkah on Shemini Atzeres?*

*Why do many people make kiddush in the sukkah on Shemini Atzeres day and then eat inside?*

One of the more contentious areas of halacha makes its appearance annually on Shemini Atzeres: Does one dwell in the sukkah on Shemini Atzeres or not? This article will explore the sources of this question and the various customs that have developed over the centuries.

**Background:** A bit of background is necessary before delving into this subject: Chazal instituted that an extra day of Yom Tov be observed in the Diaspora<sup>1</sup> because of *sefeika diyoma*. *Sefeika diyoma* (lit., uncertainty of the day) occurred during the times when the month was sanctified by the Sanhedrin based on testimony of witnesses who observed the new moon. Having determined that the new moon had, indeed, made its appearance, messengers were sent to the various Jewish communities in months that had a holiday to inform them exactly which day the new month began, thus allowing them to determine the proper date of the holiday (see Rosh Hashana Ch. 2 Mishna 2).

The problem was that the messengers did not reach many of the Diaspora communities in time for the holiday, which meant that Jews living in these areas were unsure if the previous month was 29 or 30 days long<sup>2</sup> and thus leaving uncertain the proper date for the holiday. The Jews in these communities therefore kept both possible days as the holiday. Even when Hillel the Second established a set Jewish calendar, removing any uncertainty, Chazal enacted that a second day still be kept in the Diaspora (Beitzah 4b; see there for further details).

**Source:** The Gemara (Sukkah 47b-48a) cites a *beraisa* that says that Shemini Atzeres is an independent *regel* (holiday), and lists six things which give it that status. One of those is that it is a “*regel* of its own.” Rashi (ibid. s.v. *regel*) explains that this is because we do not dwell in the sukkah on Shemini Atzeres.

Earlier, however, the Gemara (ibid. 46b-47a) has a discussion as to whether there is an obligation to dwell in the sukkah on the “eighth day which, due to uncertainty, may be the seventh day.” The Gemara’s question is whether one must dwell in the Sukkah on Shemini Atzeres, since, due to *sefeika diyoma*, this day ought to be observed as the seventh day of Sukkos. The Gemara cites several different opinions on the matter, and concludes that the halacha is that one should dwell in the sukkah on Shemini Atzeres but not make a blessing of *leisheiv basukkah*.

The Rif (Sukkah *dapei HaRif* 22b-23a) explains that no blessing is made due to the fact that this day is, in reality, Shemini Atzeres, not Sukkos; we are dwelling in the sukkah due to *sefeika diyoma*. To make a blessing would mean one is declaring that today is still Sukkos, which would contradict one’s declaration during all prayers that today is Shemini Atzeres. The Rosh (Sukkah 4:5) expands on the Rif’s explanation and says that dwelling in the sukkah is not a contradiction to the day being Shemini Atzeres, since people do enjoy sitting in the sukkah even when it is not Sukkos. This, says the Rosh, is why Chazal did not require that the *Dalet Minim* (Four Species) be taken on Shemini Atzeres, for they are *muktzah* on Shemini Atzeres, and so taking them would be a declaration that today is Sukkos, not Shemini Atzeres. The Ran explains the Rif somewhat differently than

the Rosh; he says that at issue is that if one is clearly observing *sefeika diyoma* by making a blessing, one will not treat the holiday of Shemini Atzeres with proper respect (since one is dwelling in the sukkah as if it is still Chol Hamo’ed). The Ran also offers another reason as to why the *Dalet Minim* are not taken on Shemini Atzeres. He explains that taking the *Dalet Minim* are of Rabbinic origin after the first day of Sukkos, while the mitzvah of sukkah is a Scriptural obligation for all seven days; the enactment of *sefeika diyoma* in this case of overlap into Shemini Atzeres was therefore applied only to sukkah<sup>3</sup>.

The Mordechai (Sukkah 772; also cited in the Hagahus Ashri to aforementioned Rosh), quoting the Ra’avya, provides another approach to the Gemara’s ruling not to make a blessing, explaining that it appears as if one is adding on to the mitzvos by dwelling in the Sukkah for an additional day; adding to the mitzvos is forbidden under the prohibition known as *ba’al tosef*. By not making a blessing, one creates a *heker* (lit, recognition) that one is not trying to add to the mitzvah. However, says the Mordechai, one would not be permitted to sleep in the sukkah on Shemini Atzeres, since this does appear as if one is adding an additional day to the mitzvah (since one does not ever make a blessing before sleeping in the sukkah).

The Darchei Moshe (Orach Chaim 668:2) points out that according to the Rosh’s approach that eating in the sukkah is not a contradiction to Shemini Atzeres since people enjoy eating in a sukkah even when it is not Sukkos, sleeping in the sukkah on Shemini Atzeres should also be forbidden, since people do not usually sleep in the sukkah except to fulfill the mitzvah.

The Bais Yosef (Orach Chaim 668) cites the Mordechai but notes that the other *poskim* do not distinguish between eating and sleeping in the sukkah on Shemini Atzeres. The Darchei Moshe (ibid.:3), however, says that the custom (in the Ashkenazic communities) is in accordance with the Ra’avya, and adds that the Maharil (Hilchos Chag Hasukkos 3) says the same.

**The halacha:** The Shulchan Aruch (ibid.:1) rules that in the Diaspora, one must eat in the sukkah on Shemini Atzeres both by night and by day, but the blessing of *leisheiv basukkah* is not recited. The Shulchan Aruch makes no mention regarding whether one should sleep in the sukkah or not. The Mishna Berura (ibid.:6) says that there are opinions on both sides of the matter (see Sha’ar Hatziyun ibid.:4-5)<sup>4</sup>, and concludes that the general custom is to be lenient and not require sleeping in the sukkah.

The Sha’ar Hatziyun adds an interesting practical difference between the reasoning of the Rosh and that of the Ra’avya cited in the Mordechai. If one takes the line of reasoning of the Ra’avya that if one sleeps in the sukkah, there is no *heker* to show that he isn’t adding an extra day to the mitzvah of sukkah, one would not be allowed to do anything in the sukkah that does not normally require a *bracha*, such as eating foods that are not considered an established meal and do

<sup>3</sup> See also Ritva (Sukkah 47a s.v. *ika di’amri*) who expands on this approach.

<sup>4</sup> The Mordechai adds that this would only have the appearance of *bal tosef*, but would not actually transgress it, since one cannot transgress *bal tosef* outside the time allotted for the mitzvah unless one intends to actually perform a new addition. This is not the case here, where one is dwelling in the sukkah due to *sefeika diyoma*.

<sup>5</sup> Notably, the Vilna Ga’on is of the opinion that one should sleep in the sukkah on Shemini Atzeres, as is the Rashba (Rosh Hashana 16a s.v. *lama tok’in*).

<sup>1</sup> This does not include Rosh Hashana, which is observed for two days in Eretz Yisrael, as well. See Beitzah 5b.

<sup>2</sup> A lunar month is approximately 29 ½ days long, and so sometimes a month would be 29 days, sometimes 30.

not require a *bracha*. Indeed, this is the ruling of the Derech Hachaim (cited in the Mishna Berura *ibid.*). However, says the Sha'ar Hatziyun, if one follows the reasoning of the Rosh that it is normal to eat in the sukkah even if it's not Sukkos, then any sort of activity that people would do in the sukkah on a regular, non-Sukkos would be permitted. Therefore, eating any type of food in the sukkah would be permitted<sup>6</sup>.

**Other customs:** The Tur (*ibid.*:1) says that some have the custom to eat indoors on the night of Shemini Atzeres and in the sukkah during the daytime, but says that this is not a valid custom. The reasoning behind this custom, says the Bais Yosef (*ibid.*), seems to be that one cannot recite the *shehecheyanu* blessing during the nighttime kiddush upon the new holiday of Shemini Atzeres while in the sukkah!

The Bach (*ibid.*:666) offers his own understanding of the custom to eat in the sukkah only by day; he says that by not eating in the sukkah at night, one creates a *heker* to avoid the appearance of *bal tosef*, since by eating indoors at night, one shows that he is no longer eating in the sukkah.

The Magen Avraham (*ibid.* 668:2), after noting that in his time (17<sup>th</sup>-century Poland), some people observed a custom handed down from their ancestors to eat indoors on Shemini Atzeres night, offers the same approach as the Bach, but says that nonetheless, the halacha is that one should eat in the sukkah both by night and by day. However, the Magen Avraham cites the Maharil and the Levush that one should depart from the sukkah immediately after completing the daytime meal so as to create a *heker* that one is not adding an additional day of the mitzvah of sukkah<sup>7</sup>.

The Bach notes two other customs that limit eating in the sukkah on Shemini Atzeres. Some have the custom to eat in the sukkah on the night of Shemini Atzeres but not by day, while others eat only part of the daytime meal in the sukkah and the rest of the meal inside the house. The Bach says that these two customs are based upon a Medrash Tanchuma (Parshas Pinchas) that says that one should depart from the sukkah on Shemini Atzeres in order that the prayer for rain (recited on Shemini Atzeres) be recited wholeheartedly (for if one needs to still dwell in the sukkah, one doesn't want it to rain just yet). However, says the Bach, this custom is contrary to the halachic conclusion of the Gemara that one must dwell in the sukkah on Shemini Atzeres. The Medrash Tanchuma, says the Bach, could mean that once one has finished the obligatory meals, one should not remain in the sukkah.

Truth be told, the custom to limit eating in the sukkah on Shemini Atzeres goes back much farther than even the Tur (who lived in the 13<sup>th</sup> century). The Sefer Hapardes (Laws of Sukkos), a halachic work attributed to Rashi (who lived during the 11<sup>th</sup> century), as well as the Machzor Vitri (384) (authored by Rabbeinu Simcha, a student of Rashi), mention several different customs regarding eating (or not eating) in the sukkah on Shemini Atzeres.

The problem faced by those with this custom is simple: it is contrary to the Gemara's conclusion and the ruling of the Shulchan Aruch.

The Sfas Emes (Sukkah 46b s.v. *meisav*) offers an alternative approach to understanding the Gemara that would conclude that one is permitted to dwell in the sukkah on Shemini Atzeres, but there is no obligation to do so. However, this does not resolve the fact that the Shulchan Aruch and virtually all of the early Acharonim rule that one must eat in the sukkah both by night and by day on Shemini Atzeres. The Sfas Emes himself concludes, "I wrote this explanation to resolve the words of the Gemara with the custom of those who are lenient

<sup>6</sup> Once one says that it is permitted, it would seem that food that must be eaten in a sukkah on Sukkos but does not require a *bracha* would actually have to be eaten in the sukkah on Shemini Atzeres.

<sup>7</sup> Nonetheless, on Shabbos, the required Third Meal should be eaten in the sukkah (Magen Avraham *ibid.*).

regarding dwelling in the sukkah on the eighth day."

The Aruch Hashulchan (Orach Chaim 668:2-3) cites the various customs discussed earlier and the reasoning offered for these customs, but notes that many great people have cried out against these practices since they are contrary to the Gemara, which does not make distinctions<sup>8</sup>.

However, says the Aruch Hashulchan, these customs can be understood as being in line with the Gemara. He invokes the idea that one must not make it look as if it is still Chol Hamo'ed Sukkos, lest one not treat the Yom Tov of Shemini Atzeres with proper respect, and this is why the *Dalet Minim* are not taken. It is clear, says the Aruch Hashulchan, that eating in the sukkah is only permissible so long as it does not appear one is doing so for the purpose of the mitzvah.

That being the case, he continues, eating in the sukkah on Shemini Atzeres is fine in warmer climates, but in Eastern Europe, it is usually quite cold on Sukkos. Indeed, many could exempt themselves from the mitzvah of sukkah altogether due to the cold temperatures, but then nobody would fulfill the mitzvah at all, so people eat (and some sleep) in the sukkah despite the cold. On Shemini Atzeres, however, if one eats in the sukkah, it is clear he is doing so for the mitzvah, as one would not eat in the sukkah in such cold! Therefore, a *heker* must be made to show that people are not eating in the sukkah for mitzvah purposes, and thus the various customs limiting the eating in the sukkah on Shemini Atzeres developed. Nonetheless, concludes the Aruch Hashulchan, the preferred method would be to leave the sukkah immediately following the daytime meal (since this creates a *heker* without impinging on the basic obligation to eat the meals in the sukkah).

The approach of the Aruch Hashulchan is already raised in the Korban Nesanel, a commentary on the Rosh. Commenting on the Rosh's approach that people eat in the sukkah even when it is not Sukkos, the Korban Nesanel (Sukkah 4:7) says, "But if the day is cold or windy, or some other change in the air [which would make eating in the sukkah unpleasant], it is improper to eat in the sukkah on the eighth day which, due to uncertainty, may be the seventh day." It is clear from the Korban Nesanel that if eating in the sukkah is unpleasant due to the weather, one should not eat in the sukkah at all. Indeed, the Minchas Elazar (4:31) cites the words of the Korban Nesanel and concludes that since the areas where Jews live (in Central and Eastern Europe) are cold, people do not eat in the sukkah.

While the approach of the Korban Nesanel and Aruch Hashulchan explains the various customs, it also emerges that if the weather is pleasant, there is little justification to eat any part of the Yom Tov meals indoors. Nonetheless, a significant portion of the Jewish People, especially among those from a Chassidic background, eat indoors on Shemini Atzeres. The predominant custom is to make kiddush and eat some cake or the like in the sukkah on Shemini Atzeres day, then say the special prayer for departing from the sukkah and head back inside. Chassidic Torah scholars have sought to explain the custom of limiting eating in the sukkah on Shemini Atzeres. Indeed, the famed Chassidic thinker Rabbi Tzadok Hakohein of Lublin wrote an entire work, *Meishiv Tzedek*, devoted to this subject! Many Chassidic sources explain that kabbalistically, it is harmful to dwell in the sukkah on Shemini Atzeres; some cite the Ba'al Shem Tov that the spiritual power of Shemini Atzeres is impeded by the sukkah. While these approaches are still at odds with the halachic conclusion of the Gemara and the halachic authorities, the custom is alive and well today, and it often leads to heated debate between those in favor of and against eating indoors on Shemini Atzeres.

In conclusion, there is much to be discussed and debated regarding the question of dwelling in the sukkah on Shemini Atzeres. For practical halachic rulings in a particular situation, one should seek the counsel of a competent halachic authority.

<sup>8</sup> The Aruch Hashulchan notes that those who protest say that one must even sleep in the sukkah, as one must during the rest of Sukkos, since the Gemara makes no distinction, save for not making a *bracha*.

### **Points to Ponder:**

***May one who is careful to eat in the sukkah on Shemini Atzeres be a guest at the home of someone who eats indoors?***

***May a child insist that he eat in the sukkah on Shemini Atzeres in his parents' home if their custom is to eat indoors?***

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