YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**TALMUDIC METHODOLOGY**

**By Rav Moshe Taragin**

This shiur is dedicated to the refua sheleima of our alumnus

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**Shiur #19: *Teishvu Ke-Ein Taduru –* Fashioning a *Sukka* like a Residence**

One of the interesting guidelines which governs the mitzva of *sukka* is the rule of *teishvu ke-ein taduru –* the *sukka* experience should resemble normal home residence. Although the architectural structure of the *sukka* must be DIFFERENT from that of a house and is temporary than a house, the actual EXPERIENCE must resemble residential living. This *shiur* will examine the parameters of this clause.

The *gemara* in *Sukka* (28b) describes the desirability of furbishing the *sukka* with the finest furniture and tableware to achieve a home-like and regal ambience. The *gemara* cites the verse “*be-sukkot teishvu*” and interprets it as a mandate of *teishvu ke-ein taduru*, to simulate a residential environment. This *gemara* presents *teishvu ke-ein taduru* as an embellishment; ideally the *sukka* should be enhanced to recreate a comfortable residential experience. It makes no mention a DISQUALIFICATION of a *sukka* that meets the halakhic architectural standards but does not provide this level of comfort.

Many *Rishonim* suggest that *teishvu ke-ein taduru* is the basis of a halakha known as *mitzta’er*. Several *gemarot* discuss the exemption for someone who “suffers” by sitting in the *sukka* and exposing himself to the outdoor elements, including cold, heat, wind, smell, and insects. The Ritva (28b) and many other *Rishonim* trace this exemption to the *teishvu ke-ein taduru* requirement*.* The discomfort experienced renders the *sukka* substandard and inferior to residential experience.

This is clearly an expansion of the *gemara*’s original application of *teishvu ke-ein taduru*, as it doesn’t simply present the principle as an IDEAL enhancement. of the *Sukka* environment. Instead, these *Rishonim* assume that the principle establishes a minimum baseline of comfort beneath which the *sukka* is disqualified and cannot facilitate the *mitzva*. However, the disqualification is still based upon a structural limitation of the *sukka*; its inability to sufficiently shield a person from the elements renders it inferior to a home. Even if the insufficiency is a result of the unique needs of an ill person, it still reflects a structural discrepancy between a home and *sukka*; the former is capable of shielding an ill person, while a *sukka* cannot.

A different application of *mitz’taer* may represent a new model of *teishvu ke-ein taduru*. The *gemara* in *Sukka* (25b) discusses the situation of a *chatan* who is exempt from *Sukka*. The Ra’avad (in his comments to the Rif) claims that a *chatan* is exempt because the *mitzva* of *sukka* would prevent him from experiencing *simcha*, which is best realized in a *chupa* and not a *sukka*. This is an interesting application of *mitzta’er*. The *chatan* has special needs of *simcha* that a *sukka* cannot accommodate, but in this case, the *sukka*’s lacking is not a flaw in its ability to shield from natural elements. A person simply cannot be in two places at once; he can’t be both in the *sukka* and a *chupa* at the same time. The *chatan*’s suffering at being deprived of an alternate experience incompatible with a *sukka* is acknowledged as suffering sufficient to exempt him from *sukka*.

If the Ra’avad associates this form of *mitzt’aer* with *teishvu ke-ein taduru*, a new model of this *halakha* emerges. Not only must the *sukka*’sambience be home-like and its protective capacity as comprehensive as a home, but the *sukka* must also facilitate the personal “accredited” needs of the resident. Self-imposed needs may certainly be dismissed as not essential enough to disqualify the *sukka*. For example, the *gemara* does not excuse an *avel* from *sukka* because he is deprived of his full mourning in the public *sukka*. As the *gemara* explains, *aveilut* is personal and self-imposed; it cannot be factored in as a required service of the *sukka*. Similarly, an interesting Ohr Zarua addresses a position which wanted to exempt someone who was suffering from the lingering effects of bloodletting from the mitzva of *Sukka*. One of the Ohr Zarua’s objections is that this need is self-imposed; its absence in a *sukka* does not constitute a flaw in *teishvu ke-ein taduru*.

Based on this paradigm, the Magen Avraham (*siman* 639) justifies the *minhag* in many Jewish communities not to sleep in a *sukka*. Many authorities attempted to justify this practice based on cold weather or dangerous conditions. The Magen Avraham, in contrast, speaks about the “suffering” of one who must spend an evening in a *sukka* without his wife (due to space constraints or privacy issues). His suffering renders him *mitzta’er*, which in turn represents a lack of *teishvu ke-ein taduru* (although the Magen Avraham doesn’t mention *teishvu* as the source of this form of *mitzta’er*). Once again, the *sukka* is considered deficient not because it lacks protective capacity, but because it does not service all the legitimate needs of the resident.

Despite the novelty of these applications of, *teishvu ke-ein taduru* they all still represent a flaw in the *sukka* itself and its inability to provide full residential-like utilities and experiences. A *gemara* (26a) that discusses watchmen may extend the *teishvu ke-ein* *taduru* principle even more radically – beyond the definition of the *sukka* itself. The *gemara* excuses watchmen from the *mitzva* of *sukka*. Sentinels for the population typically served night and day shifts in rotation; hence, they are obligated to dwell in the *sukka* during their “off” shift. Orchard and field watchmen, in contrast, would attend to the field full time, and they are therefore entirely excused from the *mitzva*. The *gemara* questions this exemption, and Abaye states ambiguously that these watchmen cannot achieve *teishvu ke-ein taduru* levels of the *mitzva*.

Rashi and the Meiri attribute this deficiency to the watchman’s inability to furnish the *sukka* with residential furnishings. As such, his *sukka* does not fulfill the baseline obligation to create a *sukka* that provides protection, comfort, and utility. The Ritva disagrees and claims that since the watchman doesn’t live continuously in his home, he does not enjoy permanent residence and cannot replicate that in a *sukka*. Theoretically, he may build a “top of the line” *sukka* which provides full protection. However, since he has no permanent residential living space, his ACTION is flawed. This is a case of lack of *teishvu ke-ein taduru* not in the structure of the *sukka*, but in the *ma’aseh* *mitzva* of the person. Similarly, the Shibolei Haleket (347) cites several Geonic opinions which disqualified performing the mitzva in a *Sukka* built “in” a *Beit Knesset*. As no one typically resides in this area the *Sukka* – though built comfortably – cannot serve in parallel to a home. Said otherwise, *teishvu ke-ein taduru* does not represent a definitional requirement of the *sukka*, but rather qualifies the type of *ma’aseh* *yeshiva* (living, or literally, sitting) which is necessary to fulfill the *mitzva*.

An interesting comment of Rashi may reinforce a more extreme paradigm of *teishvu ke-ein* *taduru*. The *gemara* (26a) excuses travelers from *sukka* performance. Presumably, people are allowed to travel on Sukkot. Since a *sukka* is not available during travel, the travelers are considered *ones* and are excused from the *mitzva*. Rashi, evidently, maintains that these travelers are not halakhically allowed to insert themselves into a compromising situation and claim that they are *ones*. Instead, Rashi justifies their ability to travel (and compromise their *sukka* abilities) based upon the principle of *teishvu ke-ein taduru*. People who live in residences are typically not trapped within those homes, but rather travel regularly. Inability to travel would ruin the parity between *sukka* and a home, and thus invalidate the *sukka*!

Once again, this flaw is not INTERNAL to the *sukka*, but rather based on the behavioral patterns of the resident. His inability to behave “as he would in a house” demands that he be allowed to travel. Once compelled to travel, he is excused from the *mitzva*, since he does not have access to a *sukka*. More over *teishvu ke-ein taduru* doesn’t just impose standards on the experience. It can also RELAX the requirements of the *mitzva* Just as year round residence doesn’t deny travel similarly *Sukka* experience must allow travel – even if it compromises the ability to enter a *Sukka*.

As we have seen, *teishvu ke-ein taduru* may merely provide a gauge for the quality of the *sukka*, or it may measure the execution of the actual *mitzva*. This question may underlie an interesting discussion in *Arachin* (3b) about a *Kohen* and the *mitzva* of *sukka*. The *gemara* raises the possibility that a *Kohen* is excused from the *mitzva* of *sukka* because his wife cannot accompany him to the *sukka*. Since he must be “on call” for *Mikdash* ceremonies, he cannot engage in marital activities. This limitation reflects an experience that is inferior to typical residential life and may therefore be a flaw in *teishvu ke-ein taduru*. This possibility clearly considers *teishvu ke-ein taduru* to be a general yardstick of the performance of the *mitzva* and not a gauge of the comfort level of the actual *sukka*. His inability to live with his wife is unrelated to the actual *sukka*.

The *gemara* ultimately concludes that a *Kohen* – despite this limitation – is indeed obligated to dwell in a *sukka*, but it is unclear why. Perhaps the *gemara* rejectsthe fundamental premise and rules that since this actual *sukka* approximates residential comfort, there is no exemption as a result of *teishvu ke-ein taduru* and the *Kohen* is obligated. Alternatively, the *gemara* may maintainthe assumption that *teishvu ke-ein taduru* also gauges the overall experience of the *mitzva*. It may simply conclude that when the *Kohen* is not involved in a *Mikdash* ceremony, he may enjoy marital interaction and fulfill even the broader opportunities of *teishvu ke-ein taduru*. The *gemara*’s language is unclear and supports either perspective. Fundamentally though, *teishvu ke-ein taduru* may still demand the presence of typical residential family members. In fact, the Rema (Orach Chaim 639) famously ‘apologized’ for those who didn’t sleep in a Sukka by claiming that the inability of a wife to sleep in public areas compromised the ‘residential’ environment of a Sukka.

Relatedly the mishna (28a) records Shammai who retrofitted the nursery of his baby grandchild into a Sukka. Though the infant didn’t personally require a Sukka his presence in his parents’ Sukka was necessary for the quality of THEIR mitzva. The ‘residential’ environment necessary for the mitzva of the parents required the presence of their baby infant!