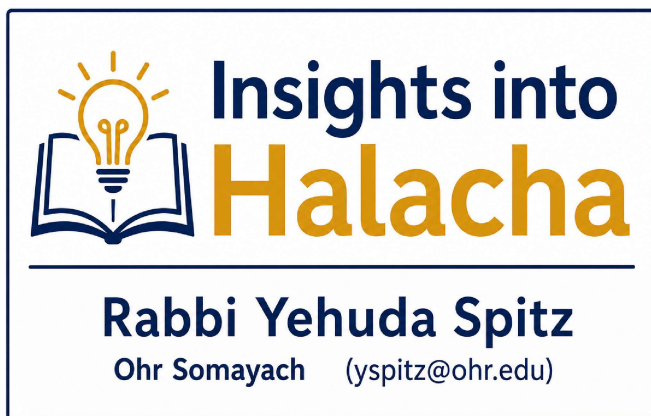




For Chutz LaAretz People

Sukka on Shmini Atzeret?

As the sun sets on Hoshana Rabba, effectively ending the holiday of Sukkot, an annual machloket dawns.

Is it an obligation or recommendation to dwell in the Sukka on Shmini Atzeret? Prohibited or permitted? Why do some go to great lengths to make sure to eat or even sleep in the Sukka on this day, while others will make due with a simple Kiddush or even less? This article sets out to address this annual Sukkot “battle”.

Sukka Source

The Torah states in Parshat Emor that “the Eighth day”, the day following the weeklong holiday of Sukkot, is a holiday as well, and also an ATZERET, generally translated as an ‘Assembly’ or a day of ‘Stopping’ work. Rashi famously elucidates this interesting turn of phrase with the comment, ATZARTI ETCHEM ETZLI, that after a week of festivities, Hashem wishes to remain an extra day together with us, His children;

reminiscent of a king who would do the same before taking leave of his children, to show how difficult it is to part from them.

This also means that this ‘extra’ day, colloquially known as Shmini Atzeret, is technically not part of Sukkot. Accordingly, on this day there is no Biblical obligation to do any of the Mitzvot exclusive to Sukkot: not taking the Lulav nor eating in the Sukka. If so, why would anyone have a minhag to eat in the Sukka on Shmini Atzeret? It is an entirely separate Yom Tov!

Historical Halacha

To properly understand this, some Jewish History is in order, dating back many centuries. As long as the Sanhedrin in Eretz Yisrael established the New Month (Rosh Chodesh) based on eyewitnesses, far away places where Jews resided that did not receive messengers in time to tell them when the Rosh Chodesh was declared, would keep two days of Yom Tov instead of one. This was due to the uncertainty of which day Rosh Chodesh truly was and consequently when the Yomim Tovim actually fell out. This was done in order to ensure that no one should unwittingly transgress any Biblical prohibitions. Later, when much calendar confusion reigned due to the subversive efforts of the Kutim, Chazal decreed that in Chutz La’aretz (the Diaspora), “Yom

Tov Sheini”, or a two-day Yom Tov, instead of the Biblically mandated one day, must be observed.

The Gemara itself (Beitza 4b) actually asks the most common question regarding “Yom Tov Sheini”: 'But now that we have a set calendar and we know in advance when Rosh Chodesh will be, why must we still observe a “two-day Yom Tov”?' The Gemara answers that in the times of Rabbi Elazar ben Pedasa message was sent from the Rabbanim of Eretz Yisrael to the Diaspora: HIZHARU B'MINHAG AVOTEICHEM BIDEICHEM, ‘You should still be vigilant with the custom of your forefathers that has been handed down to you (meaning that they must still keep “Yom Tov Sheini”) because there might be times when the local government will issue a decree and it will cause confusion.”

This is not the only time that such a communique was sent from Eretz Yisrael to Chutz La'aretz mandating them to keep ‘Yom Tov Sheini’. In fact, the Yerushalmi records a similar occurrence, that after Chazal found out about a specific incident in Alexandria, Rabbi Yosi (bar Zavda) sent out a message that even though there was a set calendar, “Do not deviate an iota from the custom set by your forefathers”, and observe ‘Yom Tov Sheini’.

Chazal were extremely strict with this

Takana and even put someone in Cherem (excommunication) for violating this decree (see Gemara Pesachim 52a).

The outcome of this has long since become a famous dichotomy: in Eretz Yisrael where there never was a safek yom - “day in doubt”, since messengers would always be able to reach every community throughout Eretz Yisrael in time for Yom Tov, only one day of Yom Tov is celebrated, exactly as it is written in the Torah, while in Chutz La'aretz each day of Yom Tov has long since become a “two-day Yom Tov”.

However, it is important to note that this din of ‘Yom Tov Sheini’ only applies to the Shalosh Regalim: Pesach, Shavuot, and Sukkot.

Chazal established a Yom Tov Sheini for Shavuot, in order not to make a distinction between the Yomim Tovim, even though the messengers of Tishrei and Nissan would certainly have reached even far flung places by then.

Other Yomim Tovim do not share this distinction due to various reasons. In fact, and although debated by the Rishonim, nowadays everyone must observe two days of Rosh Hashana, even in Yerushalayim, while all other holidays including Yom Kippur, Purim, and Chanuka, are observed world-wide as just one day.

Separate But Equal

With this background in mind, let us return to our humble Sukka. In Eretz Yisrael there are no aspects of Sukkot manifested on the separate and distinct holiday of Shmini Atzeret. In fact, it is simply celebrated as Simchat Torah.

Yet, this also compounds our original dilemma for everyone in Chutz La'aretz. Since Yomim Tovim are celebrated as two days, what should be done on Shmini Atzeret in Chutz La'aretz? Is it treated as part and parcel of the preceding holiday of Sukkot, or does it maintain its exclusive status as a separate holiday? The upshot of this question would be whether one must still perform the Mitzvot of Sukkot on Shmini Atzeret or not.

Not a recent issue, the Gemara in Masechet Sukka (46b-47a) actually deals with this very subject: How Shmini Atzeret is viewed in halacha. After extensive debate the Gemara famously concludes l'halacha that on Shmini Atzeret **MAYSIV YASVINAN, BROCHI LO MEVORCHINAN**. In other words, we must eat in the Sukka, but we don't make the regularly mandated bracha, **LEISHEIV BASUKKA**. The Rosh explains that since Sukkot and Shmini Atzeret are separate and different holidays and have different sets of Mitzvot, we cannot perform all

of their Mitzvot, as it would be an outright contradiction. Rather, we only do what we can **L'CHUMRA**, meaning eating in the Sukka, but not making the blessing.

Another interesting result of this ruling is that we also do not wave the Arba Minim on Shmini Atzeret. The reason being that if Shmini Atzeret truly was a separate holiday, then waving the Arba Minim would not only be deemed unnecessary, they would be considered **muktza**. Therefore, Chazal would not rule that we be required to do something that would potentially be a **safek mitzva / safek aveira**, and especially not to make a bracha on it! Tosafos adds that since a Lulav would be **muktza** on Shmini Atzeret since it is a separate Yom Tov, waving it would clearly demonstrate that one is treating Shmini Atzeret like **Chol HaMoed**, whereas, in regard to eating in a Sukka, the act is not so noticeable because many people enjoy eating in a Sukka. Therefore, although waving the Arba Minim is out of the question on Shmini Atzeret, on the other hand, eating in the Sukka would not be considered **TARTI D'SATRI**, and thus is mandated.

This dual ruling is duly codified as halacha by the Rambam, Sefer HaChinuch, Tur Shulchan Aruch and Levush, and as the Mishna Berura notes, followed by virtually all later

Acharonim, that although we do not make the bracha of LEISHEIV BASUKKA, nevertheless, we are still required to eat in the Sukka on Shmini Atzeret.

Minhag Mysteries

Yet, something seems to be lacking in the application of this halacha. For if this the proper conclusion, why are there divergent customs? And there most definitely are divergent customs here! There are those who sleep in the Sukka on Shmini Atzeret; those who don't even step foot in the Sukka; those who only make Kiddush in the Sukka but eat the majority of their meals inside, and those who only eat in the Sukka but don't sleep there. Which is correct?

To Sleep or Not to Sleep?

It is well known that the Vilna Gaon was very makpid not only to eat but also to sleep in the Sukka on Shmini Atzeret. The Chayei Adam relates that the GR"A once made the whole yeshiva sleep in the Sukka on a freezing Shmini Atzeret night, just to show the rest of the city the importance of following this halacha. Several authorities rule like the GR"A, saying that one must sleep in the Sukka on Shmini Atzeret, maintaining that there should not be a halachic difference between eating and sleeping in the Sukka.

However, most authorities do not agree with this reasoning and maintain that although one must eat in the Sukka on Shmini Atzeret, nevertheless, one does not (and some say nor should not) sleep in the Sukka. The Chatam Sofer famously did not sleep in the Sukka on Shmini Atzeret. This is also the conclusion of the Mishna Berura, who states that the "Minhag HaOlam" is not to sleep in the Sukka on Shmini Atzeret. However, the Kitzur Shulchan Aruch, who also acknowledges that the Minhag HaOlam is not to sleep in the Sukka, nevertheless concludes that it is still proper to do so anyway.

Surprisingly, and although not the common practice, it is known that the Gadol HaDor Rav Moshe Feinstein zt"l, was extremely makpid on sleeping in the Sukka, even when it was freezing outside and even on Shmini Atzeret. He explained that his father, Rav Dovid zt"l, was particularly vigilant with sleeping in the Sukka and in what was to be the last year of his life, caught pneumonia from doing so one freezing Shmini Atzeret, and passed away six days later. Rav Moshe related that he learned from this tragedy the lengths of Mesirat Nefesh required of himself to sleep in a Sukka, and even on Shmini Atzeret.

Not to Eat ?

However, on the opposite end of the halachic spectrum, there were many great authorities who ardently defended those who follow a minhag of not even eating in the Sukka on Shmini Atzeret. These include the Baal Shem Tov, Sfas Emes, Aruch HaShulchan, Kozeglover Gaon, and the Minchas Elazar. Moreover, there is record, even among the Rishonim, of certain Rabbanim and specific well-known families who ate indoors on Shmini Atzeret. Rav Tzadok HaKohen of Lublin wrote an over-60 page halachic sefer titled MEISHIV TZEDEK defending the practice of not eating in the Sukka on Shmini Atzeret. Even the Chayei Adam and the Maharsham (although not ruling this way), cite minhagim to eat only partially in the Sukka, such as simply making Kiddush in the Sukka, but having the bulk of the Seuda inside.

Many of these authorities base their heter on the Korban Nesanel, who writes that since eating in the Sukka on Shmini Atzeret is only mandated due to a safek, therefore, in places where it is cold and windy, one is not required to do so. Others understand that the Gemara's conclusion of MAYSIV YASVINAN, BRUCHI LO MEVORCHINAN meant that one may eat in the Sukka on Shmini Atzeret without the bracha of LEISHEIV BASUKKA, but not that one is

actually obligated to. There is even a recently published manuscript of a Rishon, Rav Yehuda ben Klonimos, the Rebbi of the Rokeach, who maintains that the Gemara's conclusion was actually added in later to the Gemara and is not authoritative.

Interestingly, many centuries prior, the Midrash Tanchuma, implied that one does not have to eat in the Sukka on Shmini Atzeret, but for a very different reason: "in order so that one should be able to (properly) daven for rain with a LEIV SHALEIM." Since Tefilat Geshem is recited on Shmini Atzeret, if one's tefilot would be answered right away, he would be rained out of his Sukka! Additionally, the Yerushalmi as well as Targum Yonason / Yerushalmi, state that one should eat indoors on Shmini Atzeret (although it must be noted that this may not be a strong proof, as it has been argued that that is likely that these passages may simply be referring to Bnei Eretz Yisrael).

Either way, different minhagim of not exclusively eating in the Sukka on Shmini Atzeret have earned staunch following, even though they run contrary to the normative halacha.

Israel Issues

This author realizes that at this point readers in Israel are probably saying that this is all very nice, but this

doesn't affect them; they only keep one day, Simchat Torah! No safek yom here! But actually it just might concern them. For what is a "Chutznik" or two-day Yom Tov keeper who happens to be in Israel for Sukkot (quite commonly yeshiva bochurim) to do?

Although the famed Chacham Tzvi, and later the Shulchan Aruch HaRav, ruled that even one merely visiting Eretz Yisrael over Yom Tov should keep only one day of Yom Tov like the natives, (to paraphrase: "when in Israel do as the Israelis"), nevertheless, the vast majority of halachic authorities, including the author of the Shulchan Aruch himself and even the Chacham Tzvi's own son, Rav Yaakov Emden, maintained that visitors' status is dependant on whether or not their intention is to stay and live in Eretz Yisrael, known as IM DA'ATAM LACHZOR. This dictum is based on Gemara Pesachim (51a-b) regarding Rabba Bar Bar Chana, Rav Ashi, and Rav Safra. As elucidated by Rav Yosef Karo zt"l, author of the Shulchan Aruch, in his responsa (Shu"t Avkat Rachel 26), anyone who has Da'at Lachzor, intention to return, maintains his original status as if he were still in the place from 'whence he came'.

Practically, this means that if one is planning on living in Eretz Yisrael he would keep only one day of Yom Tov.

Correspondingly, if planning on returning to Chutz La'aretz, one must still observe a two day Yom Tov, even while currently staying in Eretz Yisrael.

Back to our bochurim, since these striving students are generally only based in Eretz Yisrael temporarily, according to the majority halachic consensus they must still keep the second day of Yom Tov in Israel as well. However, this leads us to another issue; one not mentioned in halachic literature until modern times: Must these visitors, who are keeping 'Yom Tov Sheini' in Eretz Yisrael still sit in a Sukka on Shmini Atzeret, or may they do as the Romans...err, Israelis do?

Remarkably, contemporary halachic decisors are divided as to the proper halacha, with no clear cut ruling. Rav Yechiel Michel Tukachinsky, Rav Shlomo Zalman Auerbach, the Minchas Yitzchak, the Shemirat Shabbat K'hilchata, and Netei Gavriel rule that a "Chutznik" should not eat in a Sukka in Israel on Shmini Atzeret. They explain that one should not be stringent on a safek yom that does not apply where they currently are, especially as the whole rule of keeping two days in Eretz Yisrael is a matter of dispute. Additionally, sitting in a Sukka publicly when the locals do not, might be of halachic concern.

On the other hand, other contemporary authorities, including Rav Moshe Feinstein, Rav Yosef Shalom Elyashiv, Rav Chaim Pinchas Scheinberg, Rav Shmuel Halevi Wosner, and the Debreciner Rav, rule that someone who always keeps 'Yom Tov Sheini' must continue to keep it to its full extent - even in Eretz Yisrael. This includes sitting in the Sukka on Shmini Atzeret, even though the locals do not.

A third opinion, a middle ground approach, is that of Rav Ben Tzion Abba Shaul, the B'tzeil Hachochma, and Rav Ovadia Yosef. They agree that a Chutznik should preferably eat in a Sukka on Shmini Atzeret in Eretz Yisrael. However, these authorities make an exception for a 'visitor' who is dependant on locals for his meals, as they aver that a guest is not obligated to cause undue hardship for his hosts. Following this ruling would mean that an American bochur eating with Yerushalmi relatives who are having their Yom Tov seuda inside, may indeed eat with them in their home, and is not obligated to trek out to find a Sukka. As with any other halachic question, one should ask his own Rabbinic authority which opinion he should personally follow.

An interesting and important outcome of this three way Israeli machloket is that it sheds some light on how many contemporary halachic

decisors ruled regarding several other issues mentioned previously in this article. For, although they disagree on what an American bochur should do while in Eretz Yisrael for Shmini Atzeret, nevertheless, their disparate positions clearly show that all of the aforementioned contemporary authorities agree that in Chutz La'aretz one must eat in the Sukka on Shmini Atzeret, and that visitors to Eretz Yisrael are dependant on whether DA'ATAM LACHZOR or not, and if one meets that requirement he must keep 'Yom Tov Sheini' there.

In Parshat R'ei, Moshe Rabbeinu tells us that BANIM ATTEM LASHEM ELOKEICHEM, Hashem considers us His children. Which Yom Tov can possibly lay claim to exemplify this notion more than Shmini Atzeret, a day that Hashem - so to speak - personally requests to stay with us? Whatever one's minhag is on this 'extra' day, we should all merit feeling the embrace and protection of HaKadosh Baruch Hu all Yom Tov long!

[See website for all the footnotes and sources.](#)

Rabbi Spitz's footnotes are very extensive. The ones I decide to include are few among the many and often abridged. If you want more than this PhiloTorah column provides, click on the website, find the topic and do some more reading.

For any questions, comments or for the full Mareh Mekomot / sources, please email the author: yspitz@ohr.edu

Rabbi Yehuda Spitz serves as the Sho'el U'Meishiv and Rosh Chavura of the Ohr Lagolah Halacha Kollel at Yeshivas Ohr Somayach in Yerushalayim. He also currently writes a contemporary halacha column for the Ohr Somayach website titled "Insights Into Halacha".

ohr.edu/this_week/insights_into_halacha/

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

Rabbi Yehuda Spitz's English halacha sefer, "Food: A Halachic Analysis" (Mosaica/ Feldheim) containing over 500 pages featuring over 30 comprehensive chapters discussing the myriad halachic issues pertaining to food, is now available online and in bookstores everywhere.