

# CAN EMOTIONAL PAIN EVER EXEMPT A PERSON FROM SITTING IN A SUKKAH?

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How sensitive is Jewish Law to emotional pain and suffering? Can preventing embarrassment or shame ever exempt a person from fulfilling a *mitzvah*? In this piece we will take a very brief look at this question using an interesting law related to sitting in the *sukkah* as an illustration.

The *Shulchan Aruch* (Code of Jewish Law) rules that “someone who would suffer (*mitztaer*) in the *sukkah* is exempt from dwelling in the *sukkah*.”<sup>1</sup> The classic commentaries give two primary reasons for this ruling. Most *Rishonim* (medieval rabbinic authorities) explain that on *Sukkot* one is obligated to dwell in the *sukkah* the way they would reside in their house all year (*teishvu k’ein taduru*), and one would not normally reside in a place that causes them to suffer.<sup>2</sup> The other reason given for this exemption from dwelling in a *sukkah* is that in order to fulfill the verse in the Torah (Leviticus 23:43) - that the *sukkah* is to remind us that God took the people of Israel out of Egypt and sheltered us in the wilderness - one must be able to remain focused on why they are in the *sukkah*. Since a person who is in pain can’t have such peace of mind, they are exempt from the *mitzvah*.<sup>3</sup>

The classic examples of pain that are given which might cause a person to suffer enough to be exempt from dwelling in a *sukkah* are all physical, such as rain,<sup>4</sup> wind, flies, flees, bad smell,<sup>5</sup> heat, cold, and mosquitoes.<sup>6</sup> Indeed, in response to a radical claim that this exemption from a *sukkah* could somehow be applied to exempt individuals from the performance of any *mitzvah* that causes them psychological or emotional suffering, Rav Soloveitchik explained that only physical pain (*tzaar haguf*), such as lack of space, is included in this category.<sup>7</sup> Similarly, Rav Shlomo Zalman Auerbach ruled that if one is uncomfortable entering a *sukkah* because people will make fun of him and the concept of a *sukkah*, one must nevertheless dwell in the *sukkah*.<sup>8</sup>

While there is not space here to analyze this concept fully,<sup>9</sup> Rav Betzael Stern (a preeminent Torah scholar and leader, born in 1911 in Hungary, died in Israel in 1989) wrote a fascinating responsum detailing a situation in which emotional distress should be taken into account.<sup>10</sup> His questioner had a disorder in his mouth that caused him to eat in such an awkward and embarrassing manner that he avoided ever eating in public, but he lived in an area where the only *sukkah* was located in the synagogue’s courtyard, for public use. As it was open for meals only at certain hours, everyone would eat together. He wanted to know if he could be exempt from eating in the *sukkah* because the embarrassment it would cause him to eat in front of others could be classified as suffering (*mitztaer*).

Rav Stern quotes a number of sources which show that humiliation and disgrace are actually considered physical pain. For example, the Talmud says that a man may scrape crusts of filth or a wound off of his flesh because of physical discomfort (*tzaar*), but not just to beautify himself.<sup>11</sup> Rav Stern cites *Tosafot*, in their commentary on this ruling, that even if the person is not experiencing actual pain, but is simply embarrassed to be amongst other people because of his appearance, it would be permitted since there is no worse pain than that (*ain lecha tzaar gadol mizeh*).<sup>12</sup> Indeed, Rav Stern quotes Rabbeinu Chananel that shame (*bizayon*) is considered a physical pain (*tzaara degufa*)<sup>13</sup> and Rabbeinu Yona’s statement that “the pain of humiliation is more bitter than death.”<sup>14</sup>

Rav Stern goes on to quote numerous sources which demonstrate that causing emotional suffering has practical ramifications in Jewish law. He thus concludes that one who is ashamed to eat in the presence of others in a *sukkah* is exempt from doing so if he has nowhere else to go. Rav Stern does point out that not all forms of embarrassment and disgrace are of the same degree, and sometimes it may not be severe enough to exempt one from dwelling in a *sukkah*. Nevertheless, he argues that most forms of embarrassment are certainly more painful than the relatively light rain threshold needed to exempt a person from dwelling in a *sukkah*<sup>15</sup> (though on the first night of the holiday one should strive to eat at least a little bit in the *sukkah* if possible<sup>16</sup>).

We thus see that Jewish law can show profound sensitivity to the very real pain of humiliation and indignity. The points mentioned by Rabbis Soloveitchik and Auerbach remind us that we must show caution in how far this concept can be taken, as applying it is complex and requires careful and competent rabbinic guidance. While we should never be embarrassed by performing *mitzvot* (observing Jewish Law), Rav Stern (and others<sup>17</sup>) demonstrate with the example of a *sukkah*, as well as the other sources Rav Stern quotes, that the Torah recognizes the difficulty of emotional anguish, and in certain specific cases may even exempt a person from fulfilling a *mitzvah* in the face of an individual's pain and suffering.

\*\*Howevr, see R Zilberstein Shiuri Torah Lerofim 3, pg. 221.

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<sup>1</sup> *Shulchan Aruch OH* 640:4

<sup>2</sup> *Ibid.*, 640:13. According to this reasoning, the suffering must result from sitting in the *sukkah* itself, and not from something external that would cause one to suffer whether they sat inside or outside of the *sukkah* (*Teshuvot Tzitz Eliezer* 4:27).

<sup>3</sup> *Taz* 640:7. According to this line of thinking, it doesn't matter if the pain results from the *sukkah* itself or from something external, since one cannot focus any amount of pain could exempt them (*Teshuvot Tzitz Eliezer* 4:27).

<sup>4</sup> *Shulchan Aruch OH* 639:5

<sup>5</sup> *Ibid.*, 640:4

<sup>6</sup> *Mishnah Berurah* 639:31

<sup>7</sup> Rav Hershel Schachter, *Divrei HaRav*, pg. 160. This is stated as part of a broader argument against one who would claim that they are exempt from daily prayers when they are embarrassed to leave a meeting in order to recite their prayers.

<sup>8</sup> *Halichot Shlomo*, pg. 171 fn. 127. The reason he gives is because this pain results from fulfilling a *mitzvah*, not from the act of dwelling in the *sukkah*, and in general we do not permit one to violate Jewish law (or even well established customs) because one finds a particular Jewish observance embarrassing. See *Tur OH* 1 for a directive never to allow embarrassment in fulfilling any *mitzvah* to discourage one from doing so, and *Iggrot Moshe YD*2:77 for an application in *hilchot nidda*.

<sup>9</sup> Rav Ovadia Yosef details the various places the concept of suffering (*mitztaer*) exempts a person from performing a *mitzvah* and analyzes the circumstances in which this would and would not apply in *Chazon Ovadia, Sukkot*, pg. 153. See also Rav Shternbuch's discussion of the issue in *Teshuvot V'Hanhagot* vol. 5, OH:141 and Rav Asher Weiss's related analysis in *Minchat Asher Al HaMoadim*, 176-181.

<sup>10</sup> *Teshuvot BeTzel HaChochma* 5:9.

<sup>11</sup> *Talmud Bavli, Shabbat* 50b. *Rashi* s.v. "mishum leyafot" explains that this is because a man may not groom himself as does a woman, based on the verse, "a man shall not wear a feminine garment" (Deuteronomy 22:5).

<sup>12</sup> *Tosafot, Shabbat* 50b, s.v. "bishvil"

<sup>13</sup> *Talmud Bavli, Yoma* 23a

<sup>14</sup> *Shaarei Teshuvah*, 3:111. Along similar lines he quotes the statement of the *Sefer Hachinuch* (240) that it is forbidden to embarrass someone because "embarrassment is the greatest form of pain."

<sup>15</sup> The *Shulchan Aruch* (639:5) rules that "The stage when it is permitted to vacate the *sukkah* is when rain drops have fallen inside of a size which would ruin a cooked dish, if they would fall into it, even if it is a cooked dish of broad beans."

<sup>16</sup> At least a *k'zayit* (size of an olive) or preferably a *k'beitzah* (size of an egg). This is because dwelling in the *sukkah* on the first night of the holiday is a Torah obligation derived from a different verse, and not dependent on concept of dwelling in the *sukkah* the way one would reside in their house all year (*teishvu k'ein taduru*), as the rest of the days are (*Aruch Hashulchan, OH* 639:17).

<sup>17</sup> For example, *Teshuvot Shaarei Deah* 2:17 discusses extending this exemption to one who finds it painful to enter a *sukkah* that is occupied by his enemies or debtors.