

# BULLETIN OF THE VAAD HARABANIM OF GREATER WASHINGTON

VOLUME 1.2

## *Inquiries into Selected Halachos of Tishrei*



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The Rabbinical Council of Greater Washington is pleased to present another issue of its *halachic* bulletin which will be published, *im yirtzeh Hashem*, semi-annually, before *Pesach* and before the *Yamim Noraim*.

The articles herein are *halachic* in nature and address contemporary issues and questions revolving around *Yom Tov* observance. Their purpose is not only to increase general knowledge about the topics at hand but also to provide a portal for in-depth *Torah* study and analysis. As such, references to original sources are provided and readers are strongly encouraged to explore them on their own. The reader will note that final *halachic* positions – *psakim* – on particular issues are based on the author’s analysis of the topic. The bulletin does not seek to present itself as the final *halachic* authority on any question. For that please consult with the author or with your local Rav.

Questions, comments, and suggestions are most welcome and may be sent to  
[vaadbulletin@gmail.com](mailto:vaadbulletin@gmail.com).

Wishing you all a *ksiva v’chasima tova*,  
**Rabbi Moshe Walter**

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August 27, 2013

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# Dip the Apple in the Honey

## *The Origin and Scope of Eating Simanim on Rosh Hashana*

Rabbi Moshe Walter

Woodside Synagogue Ahavas Torah

Each Jewish holiday includes an elaborate menu and unique dish to enhance the joy and spirit of the day.<sup>1</sup> As the holiday nears, one begins to relish in the smell and taste of *kreplach*, *humentashen*, *kneidalach*, stuffed cabbage, and *sufganayot*. Many of these dishes are a family favorite, family tradition, or carry an even deeper significance of the particular *chag*. A tour of the *Ramo*'s gloss to the holiday section of *Shulchan Aruch, Orach Chaim* reveals that there are particular foods that *Ashkenazic* tradition has placed a stress on eating, dependent on the *chag*.<sup>2</sup>

On Rosh Hashanah, the *Ramo* mentions, “some have the custom to eat an apple dipped in honey and say it should be a sweet year, and such is the custom. Some eat a pomegranate and say that our merits should be multiplied like [the seeds of] the pomegranate. There is a custom to eat fatty meat and all forms of sweets”.<sup>3</sup> The *Ramo* further comments that “there are those who are meticulous not to eat *egozim* (nuts) because the numerical value of the word *egoz* equals the value for the word *chet* (sin) and eating them causes an increase in saliva which will disturb ones prayers.”<sup>4</sup> Not only does the *Ramo* articulate a more expansive diet on Rosh Hashanah than the other holidays, but the *Shulchan Aruch*, upon whom the *Ramo* is commenting, lists five different types of produce that should be eaten on Rosh Hashanah. Clearly there is a special emphasis to eat particular foods on Rosh Hashanah.

An analysis of the Talmudic sources, the works of the *Rishonim* and those of the *Achronim* relating to the foods suggested to be eaten on Rosh Hashanah yields an understanding of the *Ashkenazic* custom to eat an apple dipped in honey.

The custom to eat a variety of fruits and vegetables on Rosh Hashanah, referred to as the *simanim*, can be traced to a statement of *Abaye* in *Meseches Horayos* and *Kereisos*. In *Kereisos*, “*Abaye* said now that you have said that an omen is a significant thing, a person should be accustomed to eat at the beginning of the year

<sup>1</sup> See *Maseches Pesachim* 109A that eating meat and drinking wine is included in the biblical mitzvah of *Simchas Yom Tov* (*Devarim*, chapter 16, *pasuk* 14) *Rambam, Hilchos Yom Tov* chapter 6, *halacha* 18 understands that one must specifically eat meat to fulfill the biblical commandment. *Beis Yosef, Orach Chaim siman* 529 objects that only during the temple period was there an obligation to eat meat from the sacrifices. As a result of this point, in *Shulchan Aruch ibid seif* 2 *Rabbi Karo* does not include the requirement to eat meat specifically. See *Biur Halachah ibid D”H keitzad*. See responsa *Shaagas Aryeh siman* 65 and response *Rav Akiva Eiger siman* 1 who disagree with regard to women's obligation in the mitzvah of *simchas Yom Tov* as it is a time bound *mitzvah*, and women are exempt from time bound *mitzvos*.

<sup>2</sup> On Pesach, besides the *matzah* and *maror* which are mandated to be eaten biblically and rabbinically, the *Ramo* adds “there is a custom in some places to eat eggs during the meal (*Shulchan Orech*) which are reminiscent of mourning.” The *Ramo* suggests two reasons for this custom. One, *Tisha B’Av* eve falls out on the same evening of the week as the first *seder* night. Two, the egg is reminiscent of the destruction of the temple when the *Korban Pesach* was brought. (*Ramo, Orach Chaim siman* 476 #2) Regarding *Shavuot* the *Ramo* writes, “There is a custom in some places to eat milk products on the first day of *Shavuot*.” (*Ramo, Orach Chaim siman* 494 #2). There are a variety of reasons for this practice. The *Ramo* provides his own reason as do other commentaries) In the opening siman to *Hilchos Chanukah* the *Ramo* writes, “there are those who say that one should eat cheese on Chanukah because the miracle took place with the cheese that Yehudis fed the enemy”. (*Ramo, Orach Chaim siman* 670 #2) Toward the end of his gloss to the laws of Purim, the *Ramo* writes, “There are those who say that particular seeds should be eaten on Purim as a reminder of the seeds that Daniel and his friends are in *Bavel*”. (*Ramo, Orach chaim siman* 695 #2.)

<sup>3</sup> *Ramo, Orach Chaim siman* 583 #1.

<sup>4</sup> *Ramo ibid* #2.

(Rosh Hashanah) a gourd, fenugreek, leek, beets, and dates.”<sup>5</sup> In *Horayos*, “*Abaye* said now that you have said that an omen is a significant thing, a person should be accustomed to see at the beginning of the year (Rosh Hashanah) a gourd, fenugreek, leek, beets, and dates.”<sup>6</sup>

Two questions immediately arise from *Abaye*’s two statements. First, why does *Abaye* say in *Horayos* that one should “eat” the foods, (*simanim*) while in *Kereisos* he says to “see” the foods (*simanim*)? Second, is *Abaye*’s food selection of the *simanim* exclusive, or can one take other foods that have a good omen? The following four explanations shed light on *Abaye*’s rationale and will be the key to answering the two questions just raised.

1. *Rashi* explains that *Abaye* chose these foods as they grow speedily and are sweet.<sup>7</sup> *Rabbi Shmuel Eideles* in his commentary on the *Gemara, Mahershah* explains that *Rashi* is suggesting that the omen is that one’s fortune should grow as quickly and reap the same sweet returns as these foods do.<sup>8</sup>
2. *Tur* cites *Rashi*’s understanding to explain why a gourd is eaten, but suggests an alternate explanation for *Abaye*’s other four choices, namely that these others were selected because their names sound similar to wishes we have for the new year. *Rubia*, fenugreek, hints that our merit should be increased - *yirbu zachuyaseneu*. *Karti*, leek, suggests that our adversaries be cut off - *Yikartu soneinu*. *Silka*, beets, portends that our enemies be removed - *Yistalka oyvevenu*. *Tamri*, date, suggests that our enemies be dismissed - *Yitamu soneinu*.<sup>9</sup>
3. Rav Mordechai Ashkenazi, in his commentary to the Talmud, *Mordechai*, and Rav Yitzchak ben Moshe of Vienna, in his *Sefer Ohr Zarua*, both pillars of *Ashkenazic* tradition, find a source to this practice in the *Navi Nechemia*. When the Jewish people requested of Ezra to teach them the Torah, Ezra happily acceded, and on the first day of *Tishrei*, Rosh Hashanah, Ezra read them the Torah. As Ezra concluded the explanation of G-d’s word, the people began to weep as a result of the heavy words of Torah they heard. Ezra and Nechemia then responded, “today (Rosh Hashanah) is sacred to *Hashem* your G-d, do not mourn and do not weep...go, eat rich foods and drink sweet beverages.”<sup>10</sup> *Mordechai* and *Ohr Zarua* understand that while *Abaye* originated the institution to eat five specific foods, the eating of sweet foods in general on Rosh Hashanah was something that the *Navi Nechemia* had already suggested.
4. Rabbi Avraham Danzig, in his *Sefer Chaye Adam*, draws on the *Ramban*’s commentary on the Torah to explain *Abaye*’s institution. The *Ramban* explains that the reason why the Torah goes to great length to detail the journeys of our forefathers and the actions taken by the prophets to initiate a prophecy is “whenever a prophecy is clothed in a symbolic act, the decree becomes permanent and unalterable.” Rabbi Danzig understood that the reason why *Abaye* suggested that one play a proactive role with the foods mentioned was to create an experiential and tangible way to concretize a positive decree for the coming year.<sup>11</sup>

<sup>5</sup> *Meseches Kereisos* 6A.

<sup>6</sup> *Meseches Kereisos* 12A.

<sup>7</sup> *Rashi* to *meseches Kereisos* ibid and *Horayos* ibid.

<sup>8</sup> *Maharshah* to *meseches Horayos* ibid.

<sup>9</sup> *Tur, Orach Chaim siman* 583. This explanation can already be found in *sefer Ohr Zarua Hilchos Rosh Hashanah siman* 257.

<sup>10</sup> *Mordechai, Maseches Yoma* chapter 1 *siman* 723 and *Ohr Zarua* ibid based on *Sefer Nechemia* chapter 8 verse 10.

<sup>11</sup> *Chaye Adam Klal* 139 #6 based upon *Ramban*’s commentary to *Sefer Bereishis*, chapter 12 verse 6. See *Sefer Derashos HaRan Derush 2 of Rabbeinu Nissim*(page 74, *Mosad Rav Kook edition*) who explains, addresses and elaborates upon the position of the *Ramban* at greater length.

Clearly, the feature among these four reasons is that the *simanim*(foods mentioned) portend a successful year; however, the significant difference between the answers allows answering the two questions raised earlier. Are the *simanim* that *Abaye* suggested an exclusive list, or can the list be expanded? According to *Rashi*, *Abaye* specifically selected *simanim* based upon produce that “grow speedily and are sweet.” As such, the list is exhaustive because if there were other, similarly desirable fruits or vegetables, *Abaye* would have mentioned them. While certainly there are fruits and vegetables available today that *Abaye* was not aware of, there would be no reason to partake of those products, since enjoying the five listed would be sufficient to fulfill *Rashi*’s understanding of *Abaye*. According to the *Tur*’s understanding of *Abaye*, however, a different resolution to the question emerges. If the basis for *Abaye*’s choice was the name of the particular food, there are indeed a plethora of other foods that portend a positive and successful new year.

*Sefer Hagudah* by Rabbi Alexander HaKohen of 14th century fame makes this point explicitly.<sup>12</sup> He questions that if indeed the food’s name is the determining factor in *Abaye*’s selection, then cannot other foods be taken as well? If the food has a good connotation, then it should be used to benefit the Jewish people. If not, the food should be focused toward the enemies of the Jews. As a result of this question and lack of resolution, *Sefer Hagudah* therefore concludes that *Rashi*’s understanding of *Abaye* is more accurate. By contrast, the *Tur*, who posits that the food’s name is the determining factor for the *simanim* used on Rosh Hashanah, writes, “as a result [of his understanding of *Abaye*’s choice selections], many varying customs have developed, each place according to its custom [as to which foods are appropriate *simanim*] like in Ashkenaz where the custom developed to take an apple dipped in honey and in Provance the custom is to bring all new fruits to the table.”<sup>13</sup> Clearly *Rashi*’s and *Tur*’s understandings of *Abaye* yield varying practical applications.<sup>14</sup>

Let us turn our attention to the second question raised. Why does *Abaye* articulate his suggestion differently, stating that one should “eat” the *simanim* and that one should “see” the *simanim*? The reasons for *Abaye*’s suggestion will shed light on the matter. According to the first three reasons there would not seem to be a particular reason to eat the actual *simanim*. According to the *Ramban*, however, one could suggest that one must eat the *siman* in order to guarantee that “a symbolic act becomes permanent and unalterable” by making it “clothed with a symbolic [or physical] act.” As such, *Abaya* hinted to this distinction by mentioning both to “eat” and “see” the *simanim*.

Having examined *Abaye*’s statements and related implications, we now consider the *Ashkenasi minhag* to eat an apple dipped in honey, a food not mentioned by *Abaye*. This *minhag* dates back to as early as to the period of the *Gaonim*.<sup>15</sup> What is the reason and basis that this fruit was chosen by the *Gaonim* and *Rishonim*, and still remains a popular food for Ashkenazim to use contemporarily as a *siman* on Rosh Hashanah?

The *Tur*, mentioned previously, understood that the practice to eat an apple dipped in honey developed according to his view that a food’s name was *Abaye*’s criterion for selecting the five he mentioned. The difficulty is that the Hebrew word for apple, *tapuach*, does not suggest a blessing for the new year. A careful

<sup>12</sup> *Sefer Hagudah*, Rosh Hashanah, *Perek Yom Tov siman 22*. *Taz Orach Chaim siman 583 #1* cites the *Agudah*.

<sup>13</sup> *Tur Orach Chaim siman 583*.

<sup>14</sup> This author has seen an increase and more expansive *simanim* spread over the last decade. Of note and interest is the custom to take lettuce, raisins, and celery so that one can claim “let us have a raise in salary.” This approach follows the *Tur*’s understanding of *Abaye*. See *Magen Avraham Orach Chaim siman 583 #1* with explanation of *Machtzis Hashekel* and *Aruch Hashulchan siman 583* who both follow the approach of the *Tur*.

<sup>15</sup> Approximately 589-1038 of the Common Era. See *sefer Hagudah*, Rosh Hashanah – *Perek Yom Tov siman 22*. *Rishonim* who prominently cite this practice include the *Ravyah* (*siman 547*), *Avudraham*- Rosh Hashanah, cited by *Ramo* (*siman 583*), *Tur* (*siman 583*) and *Maharil Hilchos Rosh Hashanah* (*siman 6*).

reading of the *Tur* yields a resolution. The *Tur* writes, “In *Ashkenaz* the custom is to eat a sweet apple dipped in honey to say it should be a sweet new year.” The point of the *Tur* in this passage is that the apple is sweet, and that the sweetness of the apple should secure a sweet new year. As such, the *Tur* is indeed consistent in asserting that the words for naming or describing a food are the fundamental criteria in choosing the *simanim* for Rosh HaShanah.

The *Vilna Gaon*, in his commentary to *Shulchan Aruch*, suggests an alternate reason to explain the *Ramo*’s citation of the *Ashkenazic* custom to eat an apple dipped in honey.<sup>16</sup> The *Gra* is equally troubled by the lack of significance suggested by the word *tapuach*. He further questions why a sweet apple should be any more significant than any other sweet fruit. He directly cites the question of the *Agudah* mentioned previously, and concurs with the *Agudah*’s resolution that *Rashi*’s understanding that “The fruit grows quickly and is sweet” is the accurate explanation for *Abaye*. The *Gra* therefore, concludes that because the apple is sweet it follows *Rashi*’s definition and qualification to be considered for a *siman* on Rosh Hashanah.<sup>17</sup>

The *Gra* then explains that an apple has priority over another sweet fruit. The *Gra* explains that when Yitzchak came to receive the blessing of Yaakov in Esau’s place, Yaakov uttered, “see the fragrance of my son is like the fragrance of a field which *Hashem* blessed.” The *Gemara* understands that this field was an apple orchard, and the *Zohar* adds that this blessing took place on Rosh Hashanah.<sup>18</sup>

The *Sefer Maharil, Minhagim* (early fourteenth century), cites the *Ashkenaz* custom to dip an apple in honey, and adds that the “custom is to eat the apple dipped in honey after Kiddush on the eve of Rosh Hashanah. *Mahari Segal* would make a *boreh pri haetz* on the apple because the apple is the main item vis a vis the honey”.<sup>19</sup> The *Tur*, and *Shulchan Aruch*, do not remark regarding when or how often the apple or other *simanim* should be eaten; the *Ramo*, whose commentary on the *Shulchan Aruch* is heavily based on the *Maharil*, is similarly silent regarding this point. The *Tur* and *Shulchan Aruch* simply quote verbatim *Abaye*’s statement that one should be accustomed to eat particular foods on Rosh Hashanah.<sup>20</sup> As a result of the silence amongst the *halachic* commentaries regarding when and how often to eat the symbolic foods, diverging customs have developed amongst different Jewish communities. Both the *Magen Avraham* and *Taz* do codify the *Maharil*’s ruling to only make a *boreh pri haetz* on the apple, but do not codify the *Maharil*’s ruling to do so after Kiddush.<sup>21</sup> *Mishnah Berurah* writes that the apple dipped in honey, followed by the other *simanim*, should be taken after the *beracha* of *hamotzi* on the *challah*.<sup>22</sup> Additionally, both the *Shulchan Aruch* and *Ramo* mention that the food’s name, description as the root for the *siman* should be mentioned verbally, proceeded by “may it be *Hashem*’s will...” that the blessings come to fruition.<sup>23</sup> Later

<sup>16</sup> *Biur HaGra Shulchan Aruch Orach Chaim siman 583 #4*. See also *Sefer Damesek Eliezer* on *Biur HaGra* ibid for further elaboration on intent of *Gra*.

<sup>17</sup> Two further insights emerge from the *Gra*. One, the *Gra* understands that even according to *Rashi*, *Abaye*’s list of five foods can be expanded. This is unlike the logical deduction suggested earlier in the text of this article. Also, the *Gra* understands that *Rashi* does not require the food to both grow quickly and to have a sweet taste, since an apple is indeed sweet, but does not grow quickly. See *Rashi* in *Kereisos*, who explains that the reason for the five foods *Abaye* lists is that “some grow fast and some are sweet” which supports the *Gra*’s explanation.

<sup>18</sup> *Biur HaGra* to *Shulchan Aruch* ibid #8 based upon *Bereishis* chapter 27 verse 27, *meseches Taanis* 29B, and *Zohar Raya Mehemna, Emor* 99/2. A similar explanation can be found in the *Maharil* - Rosh Hashana #7 citing the *Mahari Segal*. *Mahari Segal* does not mention that the event took place on Rosh Hashanah, but instead refers to the “apple orchard known to the *Kabbalists*.”

<sup>19</sup> *Sefer Maharil – Minhagim*, Rosh Hashanah #6.

<sup>20</sup> *Tur* and *Shulchan Aruch Orach Chaim siman 583*.

<sup>21</sup> *Magen Avraham* ibid #1. *Taz* ibid #2.

<sup>22</sup> *Mishnah Berurah* ibid #3.

<sup>23</sup> *Tur* and *Shulchan Aruch* ibid based upon commentary of *Ran* to *Maseches Rosh Hashanah* 12B *D”H Garsinan* citing this as the practice of *Rav Hai Gaon*.

*Ashkenazic halachic* authorities mention an additional custom to dip *challah* in honey as well.<sup>24</sup>

As both dates and apples are included in the list of *simanim*, and both require the blessing of *boreh pri haetz*, *halachic* authorities have debated upon which fruit to make the blessing of *boreh pri haretz*. It would seem a priori that as dates are from the seven species, the rule follows that the seven species have precedence, and the blessing should be made on the dates, and the apple would be covered with that *berachah*.<sup>25</sup> Many, however, have the custom to recite the *boreh pri haetz* on the apple first, and do not recite a *berachah* on the date. Support for this practice can be found in the *Maharil*, cited earlier, who writes one should make a *berachah* on the apple. However, to glean proof from the *Maharil* is difficult, as one could suggest that the reason the *Maharil* writes to make a *beracha* on the apple is because that item was more readily available in 14th century Germany.

There are two ways to explain the practice of those who do make the blessing on the apple but not on the date. Rabbi Yaakov Sofer, suggests that many have the practice to have the apple on the table during Kiddush, but not the other symbolic foods, and to later bring the other *simanim*, including the date, to the table. As such, clearly the *beracha* is made on the apple with the intent to cover any other fruits that later come to the table.<sup>26</sup> A second argument to be made as to why the apple is deserving of the *beracha* is because if one of the fruits is more desired (*chaviv*), one recites the *beracha* on the *chaviv* first, even if the other food is a member of the seven species.<sup>27</sup>

The power and importance of any new beginning is awesome. *Halacha* recognized this phenomenon and stressed that even the foods we eat on Rosh Hashanah be laden with significant meaning.<sup>28</sup> May *Hashem* bless us with a sweet new year and give us the strength to properly take advantage of the gift of Rosh Hashanah.

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<sup>24</sup> *Sefer Levush siman* 583 #2, *Sefer Mateh Ephrayim siman* 583 #2 and *Mishna Berurah siman* 583 #3.

<sup>25</sup> *Shulchan Aruch Orach Chaim siman* 211 #4.

<sup>26</sup> *Kaf HaChaim Orach Chaim siman* 583 #13.

<sup>27</sup> See *Shaar HaTzion* to *Mishna Berurah siman* 211 #12 and *Biur Halacha* ibid d”h *Kodem*.

<sup>28</sup> There are other practices that *halachic* authorities have stressed on Rosh Hashanah in an effort to recognize and take advantage of the importance of a new beginning. *Ramo*, in his closing remark to *siman* 583 mentions that the custom (based on the Jerusalem Talmud) not to sleep on Rosh Hashanah is a good practice so that one “not sleep the year away”. See *Mishna Berurah* ibid #9 who discusses some important exceptions to this *minhag*. *Mishnah Berurah siman* 583 #5 writes that one should be extremely careful not to get angry on Rosh Hashanah to guarantee a *siman tov* for happiness throughout the year.

# Yom HaKippurim as a Precedent for Extending the Limits of Holiness

Rabbi Yaakov Bieler

Kemp Mill Synagogue

Shulchan Aruch codifies the Halachic requirement to expand the fast associated with Yom HaKippurim beyond the parameters of the 10th of Tishrei, the date explicitly mentioned in the Tora as the occasion of the observance of the Day of Atonement.<sup>1</sup>

Shulchan Aruch, Orech Chayim 608:1

Eating and its cessation<sup>2</sup> occur *prior* to “Bein HaShemashot,”<sup>3</sup> because it is necessary to add from the non-holy [the 9th of Tishrei, which has no intrinsic holiness in and of itself]<sup>4</sup> to the holy [the 10th of Tishrei]. This added holiness is not defined as spanning a specific amount of time, as long as it begins *prior* to “Bein HaShemashot”... One is required to add from the non-holy to the holy, either a small amount or a large amount [of time].

Ibid. 624:2

It is required to add from the non-holy to the holy also when it [Yom HaKippurim] “leaves,” i.e., that one waits a small amount of time after the stars come out [an indication of true night] [before one declares the Day of Atonement over<sup>5</sup> on the 11th of Tishrei].

The primary sources for adding from the non-holy to the holy are found in the Midrash Halacha and Talmud, which juxtapose VaYikra 23:27 (which identifies the 10th of Tishrei as Yom HaKippurim) with Ibid. 32 which discusses the 9th of Tishrei:

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<sup>1</sup> VaYikra 23:27

Howbeit on the *tenth* day of this seventh month is the day of atonement; there shall be a holy convocation unto you, and ye shall afflict your souls; and ye shall bring an offering made by fire unto the LORD.

<sup>2</sup> Eating is one of the five categories of Tora- prohibited activities unique to the Day of Atonement:

Yoma 8:1

On Yom HaKippurim the following are prohibited: 1) eating and drinking, 2) washing, 3) anointing, 4) wearing leather shoes, and 5) marital intimacy...

<sup>3</sup> Literally, “Between the suns,” a term for the twilight period which takes place between the daylight associated with the previous day on the Jewish calendar, and the night which marks the following day. “Bein HaShemashot” is usually treated as “Safek Yom, Safek Layla,” a time which contains elements of both the previous and subsequent days. Consequently, when a Tora Mitzva is in question, like the observance of Yom HaKippurim, one takes a stringent view and treats this time as actually part of the holy day. The need to initiate the observance of Yom HaKippurim earlier than even “Bein HaShemashot” is the “Chidush,” i.e., the innovative aspect of the Halacha of *Tosefet* (an addition to/extension of) Yom HaKippurim.

<sup>4</sup> Naturally if 9 Tishrei is Shabbat, the day would possess intrinsic holiness, but nevertheless different in nature from the holiness of Yom HaKippurim. However, with the advent of the perpetual calendar, attributed to Hillel ben Yehuda, it became impossible for Yom HaKippurim to ever follow Shabbat or be followed by Shabbat, removing the practical challenges of such a situation.

<sup>5</sup> Mishna Berura #3 notes that if one prays the Ma’ariv prayer after three average stars can be seen, the recitation of the Havdala insertion in the blessing “Ata Chonen LeAdam Da’at” will now allow that Melacha be performed, but until Havdala is recited over a cup of wine, eating and drinking continue to be prohibited.

Siphre, Parashat Emor #11 (see also Yoma 81b)

[VaYikra 23:32] “And ye shall afflict your souls on the *ninth* day [of Tishrei].”<sup>6</sup> One might think that you begin to afflict yourselves on the 9th [i.e., one must also observe Yom HaKippurim on the previous day as well, resulting in the Tora mandating a forty-eight hour fast on the 9th and 10th of the month!]? The text teaches us “at evening.”<sup>7</sup> If “At evening,” perhaps [the fast is to begin] after dark?<sup>8</sup> The text teaches us “And ye shall afflict your souls; in the *ninth day* of the month.”<sup>9</sup> How [can both of these texts be satisfied]? One begins and fasts while it is still day [on the 9th] for in this way we add from the non-holy to the holy. This only teaches that we add *before* [the 10th]; from where do we know that we also add *after* [the 10th]? The text teaches “From evening unto evening.”<sup>10</sup> I only have a source for *Yom HaKippurim*. From where do I know [that one adds from the non-holy to the holy] on *Shabbat Beraishit*?<sup>11</sup> The text teaches “Shall ye rest.” From where do I know that it applies to *Festivals*? The text teaches, “On your Sabbaths.” Consequently every “resting” that you “rest,”<sup>12</sup> you add to the date both *before* it begins and *after* it concludes...

Whereas the Midrash Halacha (cited verbatim in Yoma 81b) presents the idea of Tosefet Shabbat VeYom Tov (adding to days where the Tora mandates refraining from Melacha) as a universally agreed-upon concept derived from a combination of two verses in the Tora dealing with Yom HaKippurim, the Talmud indicates that this particular derivation is to be attributed to only one of two Tannaim, with the dissenter possessing decisive gravitas in this instance:

Rosh HaShana 9a

And how do we know [from the Scripture] that we add from the profane to the holy [with regard to the Sabbatical Year]?<sup>13</sup>

— As it has been taught: [Shemot 34:21] “In plowing time and in harvest time thou shalt rest.”<sup>14</sup> R. Akiva, [commenting on this,] said: There was no need [for Scripture] to specify

<sup>6</sup> VaYikra 23:32

It shall be *unto you a Sabbath* of solemn rest, and ye shall afflict your souls; in the *ninth day* of the month *at evening, from evening unto evening, shall ye rest* on your Sabbaths.

<sup>7</sup> When this verse is compared with the earlier mention in the Tora of Yom HaKippurim in v. 27 (see fn. 1), it is readily apparent that the phrases: “unto you a Sabbath,” “at evening,” “from evening unto evening,” “shall ye rest” all do not appear, rendering these words in v. 32 superfluous and susceptible to Rabbinic interpretation. In the case at hand, the Talmud suggests the following reading: “At evening” of the *end* of the 9th of Tishrei is when Yom HaKippurim is to begin.

<sup>8</sup> When three average stars have already come out marking the true beginning of the 10th of Tishrei.

<sup>9</sup> Implying that at least part of the time associated with the 9th of Tishrei, and not only the 10th, must be included in the Yom Kippur observances.

<sup>10</sup> As “In the evening,” the absence of “From evening to evening” in v. 27 subjects these additional words to Rabbinic interpretation.

<sup>11</sup> In Rabbinic literature, “Shabbat Beraishit” connotes the weekly commemoration of the Creation of the universe as opposed to the specific Shabbat during which Parashat Beraishit is read).

<sup>12</sup> I.e., any time there is a requirement for a person to abstain from Melacha according to the Tora.

<sup>13</sup> The prohibitions against engaging in agricultural activities in the land of Israel apply not only to the seventh year itself, but also to a portion of the years immediately preceding and following it.

<sup>14</sup> When the entire verse is considered, “Six days thou shalt work, but on the seventh day thou shalt rest; in plowing time and in harvest time thou shalt rest,” it would appear at first glance that the proscription is for the weekly Shabbat rather than the Sabbatical year. However, earlier in the same chapter of Shemot, Shevi’it and Shabbat were discussed side by side, since the assumption underlying each of these Mitzvot is the same, i.e., that man is supposed to periodically withdraw his hand from personal creative activity and devote a complete time period, either a day or an entire year, to spiritual pursuits:

Shemot 23:10-12

But the seventh year thou shalt let it rest and lie fallow, that the poor of thy people may eat; and what they leave the beast of the field shall eat. In like manner thou shalt deal with thy vineyard, and with thy olive yard Six days thou shalt do thy work, but on the seventh day thou shalt rest; that thine ox and thine ass may have rest, and the son of thy handmaid, and the stranger, may be refreshed.

R. Akiva presumes that a similar parallelism applies to v. 32, and that at least the second portion of the verse could be understood as

the plowing and harvest of the Sabbatical year, since this has already<sup>15</sup> been mentioned [VaYikra 25:4], “[In] thy field thou shalt not sow etc.”<sup>16</sup> What must be meant therefore is the plowing of the year *before* the seventh, i.e., the sixth, which is passing into the seventh, and the harvest of the seventh year which is continuing into the period *after* the seventh year, i.e., the eighth.<sup>17</sup>

R. Yishmael<sup>18</sup> [who disagrees with R. Akiva’s derivation] said: Just as plowing is optional [on Shabbat],<sup>19</sup> so the harvest [here referred to] is an optional one [on Shabbat], excluding the harvesting of the ‘Omer, which is a religious duty<sup>20</sup> [and therefore permitted on Shabbat, should the day of the sacrifice coincide with Shabbat].<sup>21</sup>

Whence then does R. Yishmael derive the rule that an addition is to be made from the profane to the holy [in the case of the Sabbatical year]?<sup>22</sup> — [VaYikra 23:32] “And ye shall afflict your souls on the *ninth* day [of Tishrei].” I might think [literally] on the ninth day. It therefore says, “At evening.” If “In the evening,” I might think, after dark? It therefore says, “The ninth day.” What then am I to understand? That we begin fasting while it is yet day; which shows that we add from the profane to the holy. I know this [so far] only in regard to the *inception* [of the holy day]; how do I know it in regard to its *termination*? Because it [v. 32] says, “From evening to evening.” So far I have brought only the *Day of*

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describing the Sabbatical year, despite the appearance of the word “day” in the verse’s opening section.

<sup>15</sup> Although “already” typically implies that something has been stated “earlier,” if we assume that at least the laws, as opposed to the historical events, recorded in the Tora were all presented to Moshe on Sinai, then whether verses appear “earlier” or “later,” we do not have to assume that the order of the verses is chronological.

<sup>16</sup> Although in the verse that R. Akiva cites, there is no explicit reference to plowing and harvesting:

VaYikra 25:4

But in the seventh year shall be a Sabbath of solemn rest for the land, a Sabbath unto the LORD; thou shalt neither sow thy field, nor *prune* thy vineyard.

he apparently assumes that from “sowing” and “pruning” can be extrapolated all other agricultural activities, including plowing and harvesting.

<sup>17</sup> R. Akiva, the master of Derash, assumes that there is a specific purpose for every word, letter, and even dot in the Tora see (Menachot 29b), and if the topic of agricultural activities *during* the Sabbatical year is covered elsewhere, the verse in Shemot 34:21 must be addressing periods of time *beyond*, i.e., before and after, the actual Sabbatical year.

<sup>18</sup> R. Yishmael champions the principle “Dibra Tora KiLashon Bnai Adam” (the Tora speaks in the language of ordinary people), i.e., there is a limit to how much ought to be “read into” the words of the Tora. Consequently, he views Shemot 34:21 as exclusively discussing Shabbat and not at all expanding the Sabbatical year. Nevertheless, it must be admitted that when he offers his own derivation for adding the non-holy to the holy, he too engages in identifying superfluities and interpreting them to prove his points: “Shall ye rest”—includes Shabbatot; “Unto you a Sabbath”—includes Festivals. Perhaps in order to distinguish between R.’s Akiva and Yishmael, one recognizes that their debate is more a matter of degree than kind, with R. Yishmael not rejecting the need to interpret certain instances of redundant words, but simply choosing to do so less frequently.

<sup>19</sup> Plowing is optional in all instances. There is no Tora Mitzva that Commands Jews to engage in plowing per se.

<sup>20</sup> When the second day of Pesach would occur on Shabbat, the barley for the sacrifice would be reaped the previous evening as the fulfillment of a Mitzva obligation, an action that ordinarily would be prohibited on Shabbat because reaping is one of the thirty-nine prohibited Melachot:

Menachot 65a

Mishna. What was the procedure? The messengers of the Beit Din used to go out on the day before the festival and tie the unreaped barley in bunches to make it easier to reap. All the inhabitants of the towns nearby assembled there so that it might be reaped with much display. As soon as it became dark, he called out, “Has the sun set?” And they answered, “Yes.” “With this sickle?” And they answered, “Yes.” “Into this basket?” And they answered, “Yes.” *On the Shabbat, he called out further, “On this Shabbat?” And they answered, “Yes.” “Shall I reap?” And they answered, “Reap.” “Shall I reap?”* And they answered, “Reap.” He repeated every matter three times, and they answered, “Yes.” “Yes.” “Yes.” And why was all this? Because of the Baitusim, who maintained that the reaping of the Omer was not to take place at the conclusion of the first day of the festival.

<sup>21</sup> The fact that both R. Yishmael and R. Akiva not only have to provide specific sources for this Halacha, but also have to explain why the other’s source is unsatisfactory to him, is a reflection of the assumption that one particular verse cannot serve as the source for multiple, unrelated Halachot. I facetiously call this “The Law of Conservation of Pesukim.”)

<sup>22</sup> Since R. Yishmael understands Shemot 34:21 as stating what can be done on Shabbat under special circumstances, i.e., the reaping of the Omer, rather than the Mitzva of adding from the non-holy to the holy, he will have to rely on a different source.

*Atonement* under the rule; how do I know that it applies to *Sabbaths* also? Because it says, [Ibid.] “Shall ye rest.” How do I know that it applies to *Festivals*? Because it says, [Ibid.] “Unto you a Sabbath.” How am I to understand this? That wherever there is an obligation to rest [i.e., on Shabbat, Yom Tov, Yom HaKippurim and Sabbatical years], we add from the profane on to the holy.

What then does R. Akiva [who disagrees with R. Yishmael, and utilizes Shemot 34:21 as his source] make of this, “And ye shall afflict your souls on the ninth day”? — He requires it for the lesson learnt by R. Chiyya b. Rav from Difti. For R. Chiyya b. Rav from Difti learnt: “And ye shall afflict your souls on the ninth day.” Do we then fast on the ninth day? Is it not on the tenth day that we fast? [We do]; but [the use of this word] indicates that if a man *eats and drinks* on the ninth day, the Scripture accounts it to him *as if he fasted* on both the ninth and the tenth days.

This implies that since R. Akiva does not learn Tosefet Yom HaKippurim from VaYikra 23:32, he would only learn an extension for the Sabbatical year from Shemot 34:21, but not necessarily for any other day such as Shabbat, Yom Tov or Yom HaKippurim.

Although the citation from Shulchan Aruch concerning Yom HaKippurim, explicitly mentions only the issue of *eating* with respect to adding from the non-holy to the holy,<sup>23</sup> leading one to think that since there are no comparable Mitzvot to afflict oneself on Shabbat and Yom Tov, the Mitzva of Tosefet might not apply outside the context of the Day of Atonement, we nevertheless find that at least when discussing Shabbat, the Mitzva of Tosefet is mentioned by Shulchan Aruch:<sup>24</sup>

Shulchan Aruch, Orech Chayim 261:2

*There are those who say* that it is necessary to add [to Shabbat] from the non-holy to the holy... [However much the individual wishes to add] as long as he adds some time that is certainly day<sup>25</sup> from the non-holy to the holy...

Ibid. 293:1

The prayer for Ma’ariv [at the end of Shabbat] is delayed in order that the non-holy can be added to the holy.

An approach to understanding the concept inherent in Shulchan Aruch’s position can be based upon the following Midrash:

Mechilta D’Rabbi Yishmael, Yitro, Parasha 7

<sup>23</sup> Shulchan Aruch, Orech Chayim 608:1  
“*Eating and its cessation* occur prior to ‘Bein HaShemashot’ ...”

<sup>24</sup> Although there is no specific mention in Shulchan Aruch of Tosefet with respect to Yom Tov, by virtue of the Tora’s referring to Yom Tov as Shabbat, as in:

VaYikra 23:15  
And ye shall count unto you from the morrow after the *Shabbat*, from the day that ye brought the sheaf of the waving; seven weeks shall there be complete [Interpreted as the day after the first day of the Festival of Pesach].

Ibid. 39  
Howbeit on the fifteenth day of the seventh month, when ye have gathered in the fruits of the land, ye shall keep the feast of the LORD seven days; on the first day shall be *Shabbaton*, and on the eighth day shall be *Shabbaton* [referring to the Festival of Sukkot].

it could be concluded that just as Tosefet applies to Shabbat, it applies to Yom Tov as well.

<sup>25</sup> In contrast to “Bein HaShemashot” about which there is doubt as to its status of day or night.

“Zachor<sup>26</sup> VeShamor”<sup>27</sup>—“Zachor” before its [Shabbat’s] advent, and “Shamor” afterwards. From here they said that we add from the non-holy to the holy. A parable to a wolf [!] that preys on that which is before him and behind him.

According to the apparent underlying conception of this Midrash, holiness of time is “rapacious” and “voracious,” “bursting at the seams,” straining to overcome its constraints, looking to overwhelm and absorb that which is not holy.<sup>28</sup> Such an understanding would posit that the holiness of Yom HaKippurim which manifests itself not only with regard to personal afflictions, but also restrictions on performing Melacha, is essentially the same, at least in kind if not in degree, as other days of holiness, and therefore the same Mitzva of Tosefet applies throughout.

There are those who say” (VeYeish Omrim) is a clear indication that the extension of the principle from Yom HaKippurim to Shabbat and Yom Tov is not universally accepted. RaMBaM appears to be the most notable opinion to associate the Mitzva of Tosefet exclusively with Yom HaKippurim.<sup>29</sup>

RaMBaM, Mishneh Tora, Hilchot Shevitat HeAsar 1:6

Halacha 6

...It is obligatory to add [time] from the non-holy to the holy at both the advent and conclusion of the holiday [Yom HaKippurim], as [implied by VaYikra. 23:32]: “And you shall *afflict your souls* on the ninth of the month in the evening.” [Since the date of the fast is the tenth,] the intent is [obviously] that one begin *fasting and afflicting oneself* in the afternoon of the ninth, which directly precedes the tenth.

Similarly, at the departure [of the holiday], one should prolong the *affliction* slightly, [entering] the night of the eleventh, which follows the tenth, as [implied by Ibid.]: “From evening to evening, shall you rest on your Shabbats.”

The assumption that RaMBaM applies the concept of Tosefet only to afflictions on Yom HaKippurim is supported by the fact that nowhere else in Mishneh Tora does RaMBaM explicitly mention that there is a similar Mitzva with regard to Shabbat and Yom Tov. Such an approach would appear to put RaMBaM at odds with the conclusions of both Siphre and Rosh HaShana 9a, which clearly include Shabbat and Yom Tov in the Mitzva of Tosefet. A number of commentators explain away the Gemora from RaMBaM’s point of view, as for example, Aruch HaShulchan:

Aruch HaShulchan, Orech Chayim 608:2

...And although in the same Baraita [in Rosh HaShana 9a] that derives Tosefet regarding afflictions, also derives Tosefet of the prohibition of Melacha for Shabbat and Yom Tov...

RaMBaM takes the position, that with regard to this aspect of the derivation, the Halacha

<sup>26</sup> Shemot 20:7.

<sup>27</sup> Devarim 5:12.

<sup>28</sup> Or in RAVH Kook’s felicitous language, “the holy and the not-yet holy.” See e.g., [http://books.google.com/books?id=zCRXzeloo5YC&pg=PA32&lpg=PA32&dq=Kook+not+yet+holy&source=bl&ots=ve6SNbB5ff&sig=tZoJwSJel99erwd9OvJlOKyaSQ&hl=en&sa=X&ei=jwzMUcW6FYWo4AP7\\_4CYBA&ved=0CDwQ6AEwAw#v=onepage&q=Kook%20not%20yet%20holy&f=false](http://books.google.com/books?id=zCRXzeloo5YC&pg=PA32&lpg=PA32&dq=Kook+not+yet+holy&source=bl&ots=ve6SNbB5ff&sig=tZoJwSJel99erwd9OvJlOKyaSQ&hl=en&sa=X&ei=jwzMUcW6FYWo4AP7_4CYBA&ved=0CDwQ6AEwAw#v=onepage&q=Kook%20not%20yet%20holy&f=false)

<sup>29</sup> Some commentators, such as Maggid Mishna on Hilchot Shevitat HeAsar 1:6 and Beiur Halacha on Orech Chayim 261 assert that despite what he says and what he doesn’t say in Mishneh Tora, RaMBaM in fact extends Tosefet to Issur Melacha on Yom HaKippurim as well as to Shabbat and Yom Tov. It seems to me that the rule “Ikar Chaser Min HaSefer” (the essence is missing from the book) would apply in the sense that it is hard to understand why RaMBaM would not mention these applications if he in fact entertained such a viewpoint.

does not follow the Baraita's conclusion, because in Rosh HaShana 9a it is clear that this derivation is associated with R. Yishmael, as opposed to R. Akiva, and in disputes between these two Tannaim, the Halacha follows R. Akiva, as is well-known...<sup>30</sup>

In addition to positing that the Siphre (in light of the discussion in Rosh HaShana 9a, with respect to Shabbat and Yom Tov) is only R. Yishmael's view, and that R. Akiva (according to whom the Halacha is decided when he debates with R. Yishmael) would oppose the application of Tosefet to other holy days, Aruch HaShulchan alerts us to another passage in the Talmud that trumps both the Midrash and the source from Rosh HaShana, and therefore may serve as an additional basis of RaMBaM's opinion:

#### Moed Katan 4a

But R. Yochanan said that Rabban Gamaliel and his Beth din abrogated those [restrictions due to Tosefet] on Biblical authority [i.e., based upon an interpretation of verses in the Tora]. What was the reason? He deduced it by equating the term [invoking a Gezeira Shava]<sup>31</sup> 'Sabbath' common to both the Sabbatical-year and the Sabbath of Creation<sup>32</sup> [thus]: *Just as in the case of the Sabbath Day [work is forbidden] on the day itself, but on the day before and on the day after it is allowed*, so in the Sabbath Year [tillage is forbidden] during the year itself, but in the year before and in the year after it is allowed.

While RaMBaM may reject applying Tosefet not only to Shabbat and Yom Tov, but even to the prohibition against performing Melacha on Yom HaKippurim, he apparently cannot escape the implications of VaYikra 23:32 that explicitly states that afflictions are to be practiced even on the 9th of Tishrei, and by extension, from some of the superfluous language in the verse, to the 11th as well. It would appear that RaMBaM understood the role of afflictions on Yom HaKippurim as distinct from the Isur Melacha, even as he saw Tosefet on Yom HaKippurim as irrelevant to any consideration of Tosefet on Shabbat and Yom Tov, the view expressed by the majority of Halachic decisors. How might this be understood?

As opposed to thinking about Tosefet as a function of the holiness of time, RaMBaM perhaps sees adding from the non-holy to the holy as uniquely connected to Inui Nefesh—the five afflictions—a Halacha that is specific to Yom HaKippurim. Rather than focusing upon the Kedusha of the *day*, as Shulchan Aruch might have, RaMBaM, by positing that Tosefet is a specific function of the *afflictions* that the Tora wishes for man to undergo on Yom HaKippurim, places the emphasis inherent in this Halacha upon man's personal striving for holiness, where he attempts to draw out his personal spirituality by downplaying his corporeality. The fact that the Mitzva of Inui Nefesh comes into play on only one day per year, as opposed to potentially sixty-five,<sup>33</sup> suggests both that this is an extremely difficult challenge for even the most pious human being to

<sup>30</sup> Eiruvin 46b

R. Yaakov and R. Zerika said: *The halachah is always in agreement with R. Akiva when he differs from a colleague of his; with R. Yose even when he differs from several of his colleagues, and with Rabbi when he differs from a colleague of his.*

<sup>31</sup> ..."Gezera Shava" – a similarity of words or phrases occurring in different Torah verses from which we infer that what is expressed in the one, also applies to the other... The "Gezera Shava" is one of the thirteen methods of Torah interpretation cited by Rabbi Ishmael... <http://www.jewishagency.org/JewishAgency/English/Jewish+Education/Compelling+Content/Jewish+Time/Jewish+Sources/Insights/33.+Emor.htm>

<sup>32</sup> Shemot 20:7

Remember the *Sabbath* day, to keep it holy.

VaYikra 25:2

Speak unto the children of Israel, and say unto them: When ye come into the land which I give you, then shall the land keep a *Sabbath* unto the LORD.

<sup>33</sup> In a typical year in Chutz LaAretz, when there is no overlap of Shabbat and Yom Tov, there would be the following instances of Tosefet according to Shulchan Aruch: 52 Shabbatot + 4 days of Pesach + 2 days of Shavuot + 2 days of Rosh HaShana + 1 day of Yom HaKippurim + 2 days of Sukkot + 2 days of Shmini Atzeret = 65 days.

successfully navigate, and that a life marked by excessive asceticism is not being encouraged by the Tora.<sup>34</sup> Yet when presented with the opportunity on that one day each year to aspire to an angel-like existence,<sup>35</sup> it should not be limited to the absolute minimum, but at least symbolically, if not all that substantively, expanded beyond the clear-cut limits of the 10th of Tishrei. R. Aharon Lichtenstein, during the course of discussing the concept of “Lifnim MiShurat HaDin” [going beyond the letter of the law], writes,<sup>37</sup> “...A Jew is... commanded to aspire... Halacha itself mandates that we go beyond its legal corpus.”

Yom HaKippurim, for RaMBaM, may be just such an instance of aspiration for 25+ hours, even as we remain grounded and return to normality for the other 364 days of the year.

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<sup>34</sup> The ambivalence reflected in the Gemora’s analysis of the Nazir, an individual who voluntarily takes on ascetic practices including not drinking grape products, allowing his hair to grow and avoiding contamination through contact with the dead, supports the contention that ongoing personal affliction is treated as problematic, at least by some Rabbinic authorities:

Ta'anit 21a-b

*Samuel* said: Whosoever *fasts* [for the sake of self-affliction] is termed a *sinner*. He is of the same opinion as the following Tanna. For it has been taught: *Eleazar ha-Kappar BeRabbi* Says: What is Scripture referring to when it says [of the Nazirite] , [BaMidbar 6:11] “And make atonement for him, for that he sinned by reason of the soul.” Against which soul did he sin? [It must refer to the fact that] he denied himself *wine*. We can now make this inference from minor to major: If this man [Nazirite] who denied himself wine only, is termed, “Sinner,” how much more so he who denies himself the enjoyment of ever *so many things*.

*R. Eleazar* says: He is termed, *Holy*, as it is said, [Ibid. v. 5] “He shall be holy, he shall let the locks of the hair of his head grow long.” If this man [Nazirite] who denied himself *wine* only is termed, *Holy*, how much more so he who denies himself the enjoyment of ever *so many things* —

How will then *Samuel* explain the verse wherein he is termed, *Holy*? [see fn. 21] — That refers to the locks growing long. And how will *R. Eleazar* explain the statement that he is termed, *Sinner*?-That is because he defiled himself [by contact with the dead].

But did *R. Eleazar* say so? Did he not say: Let a man always consider himself as if the Holy One dwells within him, [suggesting that he should strive to live an ascetic life] as it is said, [Hoshea 11:9] “The Holy One in the midst of thee, and I will not come in fury”? — This is no contradiction. The one speaks of him, who is able to bear self-affliction and the other of one who is not able.

*Resh Lakish* says: He is termed, *Pious*, as it is said, [Mishlei 11:17] “The Pious man weans his own soul but he that is cruel etc.” *R. Shesheth*, said: The young scholar who would afflict himself by fasting, let a dog devour his meal.

<sup>35</sup> Pirkei D’Rabbi Eliezer, Chapt. 45

...He said before Him: Master of the Universe! You have one nation that resembles the [Ministering Angels in Heaven. Just as the Ministering Angels do not eat and drink, so too the Jewish people on Yom HaKippurim do not eat and drink. Just as the Ministering Angels do not wear shoes, so too the Jewish people on Yom HaKippurim. Just as the Ministering Angels never sit, so too the Jewish people on Yom HaKippurim. Just as there is peace among the Ministering Angels, so too the Jewish people on Yom HaKippurim. Just as the Ministering Angels are free of sin, so too the Jewish people on Yom HaKippurim...]

<sup>36</sup> While striving to be like angels is relegated to one day per year, a standard explanation for one aspect of our body language during the Silent Devotion suggests that at least three times each day—sometimes four (Shabbat, Yom Tov, Rosh Chodesh) and even five (Yom HaKippurim), for short intervals, we emulate Angels:

Shulchan Aruch, Orech Chayim 95:1

One should place his feet together, one next to the other lined up, as if he has only a single foot, in order to emulate the angels, about whom it is written, [Yechezkel 1:7] “And their *feet* were *straight feet*; and the sole of their feet was like the sole of a calf’s foot; and they sparkled like the color of burnished brass,” i.e., their feet appeared to be a single foot...

<sup>37</sup> “Does Jewish Tradition Recognize an Ethic Independent of Halacha?” in *Contemporary Jewish Ethics*, ed. Menachem Kellner, Sanhedrin Jewish Studies, New York, 1978, p. 110.

# Beautification or Barrier?

## Hanging Decorations in the *Sukkah*

Rabbi Dovid Rosenbaum

Young Israel Shomrai Emunah

We are accustomed to sitting in our *sukkah*, looking up, and seeing the beautiful decorations above us. But isn't there a problem with this picture? When we look up, shouldn't we see the *sechach* and nothing else? That, after all, is the basic reason why the *sukkah* may not be positioned under a tree<sup>1</sup>. In addressing this question, we must first analyze a *mishnah*<sup>2</sup>. The *mishnah* states that a sheet spread throughout the *sukkah* underneath the *sechach* to protect one from the sun or falling leaves renders the *sukkah* invalid. According to *Rashi*, this is because the individual is no longer considered to be sitting within the *sukkah*—defined by the presence of the *sechach*—but rather beneath the sheet. In the *gemorah* which follows, *Rav Chisdah* qualifies the *mishnah*, explaining that if the purpose of the sheet was to beautify the *sukkah*, instead of provide protection, its presence does not invalidate the *sukkah*. His reasoning, according to *Rashi*, is that since the sheet is there as a decoration and not as a covering, it is considered part of the *sechach*. If an entire decorative sheet does not invalidate the *sechach* it would seem there should be no concern in hanging other decorations from the *sechach*.

The *gemorah*<sup>3</sup> poses a new issue; what if someone hung a decorative sheet four or more *tefachim*<sup>4</sup> below the *sechach*? *Rav Nachman* is of the opinion that the *sukkah* is valid—presumably for the very same reason *Rav Chisdah* originally validated a decorative sheet when analyzing the *mishnah*. *Rav Chisdah* himself, however, along with *Rabah bar Rav Hunah*, is of the opinion that such a decoration would render the *sukkah* invalid! Why is *Rav Chisdah*'s ruling here different than the one he issued earlier? *Rashi* explains that the sheet in this case is deemed to be an independent covering. Presumably its four *tefach* distance from the *sechach* changes its status from being a decoration secondary to the covering to a covering in its own right. The *Shulchan Aruch*<sup>5</sup> sides with the more stringent opinion: a decorative sheet hanging four or more *tefachim* below the *sechach* invalidates the *sechach* in the area in which it hangs.

The *Rema*<sup>6</sup>, quoting the *Maharil*, rules that one should be careful to position all decorations within four *tefachim* of the *sechach*. This is a striking comment. If someone were to put invalid *sechach* on the *sukkah* it would only be a problem<sup>7</sup> if the invalid material covered a length and width of four *tefachim*<sup>8</sup>. The *gemorah* discusses a decorative sheet. One would assume this sheet encompasses a length and width of at least four *tefachim*. Why does the *Maharil* imply that low-hanging decorations are automatically a problem, no matter the size? Indeed, the *Magen Avraham*<sup>9</sup> states explicitly that the concern of positioning the decoration too

<sup>1</sup> See *Sukkah*, 9b, and *Shulchan Aruch, Orach Chaim*, 626.

<sup>2</sup> *Sukkah*, 10a

<sup>3</sup> *Ibid*, 10b

<sup>4</sup> A total of 13-16 inches

<sup>5</sup> *Orach Chaim*, 627, 4

<sup>6</sup> *Ibid*, 4, citing *Mahail Hilchos Sukkah*, 13

<sup>7</sup> Assuming the minimum size requirements for the *sukkah* were fulfilled. See *Sukkah*, 3a, and *Shulchan Aruch, Orach Chaim*, 634, 1.

<sup>8</sup> *Sukkah*, 17b, and *Shulchan Aruch, Orach Chaim*, 632, 1.

<sup>9</sup> *Orach Chaim*, 627, 4

far from the *sechach* applies even if the decoration is less than four *tefachim* wide. Interestingly, the *Levushei Serad*<sup>10</sup>, commenting on the *Magen Avraham*, cites the *Eliyah Rabbah*, who applies the *Magen Avraham's* statement to the scenario mentioned in the *Shulchan Aruch* of a decoration that is within four *tefachim* of the *sechach* and not problematic. According to this application of the *Magen Avraham*, his opinion would be that even a decoration with a length and width of four *tefachim* would be acceptable if it was hanging within four *tefachim* of the *sechach*. The *Taz*<sup>11</sup> refers to the *Maharil* as promoting a stringency which many do not observe; the basic *halachah* is that one must only be concerned about hanging a decoration more than four *tefachim* from the *sechach* if the length and width are both four *tefachim*.

Practically speaking, if one were to follow the *Maharil's* approach, one would make sure to not let any decoration hang more than four *tefachim* from the *sechach*, regardless of length and width. Though the *Magen Avraham* seems to support this practice, the *Taz* sees it as a stringency that need not be observed. Later *acharonim* have a difference of opinion regarding the *Maharil's* position. The *Aruch Hashulchan*<sup>12</sup> cites the *Maharil*, but also states that many do not observe this stringency. Both the *Mishnah Berurah*<sup>13</sup> and the *Chayei Adam*<sup>14</sup> support the practice of the *Maharil*.

It is worth noting that even if one follows the position of the *Maharil*, there is another potential factor for leniency. A major issue that arises in the discussion of *sechach* is whether the area covered has more sun or shade<sup>15</sup>. The *Ran*<sup>16</sup> cites a difference of opinion regarding a decorative sheet hanging more than four *tefachim* from the *sechach* when the sheet is too thin to block the sun's rays. According to some opinions, the presence of the sheet, no matter how thin it is, compromises the *sechach*. Others are of the opinion that the sheet will not affect the status of the *sechach* being that the sheet doesn't provide ample shade in its own right. Though the *Chayei Adam* supports the *Maharil's* stringency, he writes that a decoration may be hung more than four *tefachim* from the *sechach* if it does not have length and width of four *tefachim* and does not provide as much shade as it allows sunlight beating down over its area.

One more area of leniency would be for the sake of safety. The *Mishnah Berurah*<sup>17</sup> comments that one does not have to be stringent about posting a candelabra within four *tefachim* of the *sechach*. It would seem that he assumes the candelabra does not have a width and length of four *tefachim*. That being the case, the only concern would be based on the stringency of the *Maharil*. Obviously, keeping the candles so close to the *sechach* would pose a potential danger. In such a circumstance, the *Mishnah Berurah* posits that the *Maharil's* stringency need not be followed. The *Shaar Hatziyon*<sup>18</sup> adds that one could be lenient if the candelabra would not provide sufficient shade to counteract the sun in the area<sup>19</sup>.

In conclusion, if someone were to hang a protective sheet under the *sechach* to keep out leaves, rain, or the like, it would be problematic no matter how close it was to the *sechach*. It would be acceptable, however, to hang a decorative sheet within four *tefachim* of the *sechach*. If one were to hang a decoration of at least

<sup>10</sup> Ibid, commenting on the *Magen Avraham*

<sup>11</sup> Ibid, 5

<sup>12</sup> Ibid, 7

<sup>13</sup> Ibid, 15

<sup>14</sup> 146, 36

<sup>15</sup> *Sukkah*, 22a, and *Shulchan Aruch, Orach Chaim*, 631

<sup>16</sup> *Sukkah*, 5b (*dapei haRif*)

<sup>17</sup> 627, 15

<sup>18</sup> *Orach Chaim*, 627, 21

<sup>19</sup> He also points out that most times the candelabra will not be positioned directly over people's heads, rather over the table. This also lessens the concern of the *sechach* being compromised.

four *tefachim* length and width more than four *tefachim* from the *sechach*, it would be problematic, and one may not sit under that decoration<sup>20</sup>. However, if the very same decoration was smaller than four *tefachim* in length and width we come to the stringency of the *Maharil*. Some authorities have historically been stringent, while others have taken a more lenient approach. Many of those who are stringent are lenient if the decoration was of a nature that it did not provide as much shade as sun in its area, particularly if no one was sitting directly under it.

So, this *Sukkos*, as we look up and see the decorations above us, we can rest assured—as long as we took a few measurements before *yom tov*!

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<sup>20</sup> It is worth noting the point made by the *Mishnah Berurah* (627, 12) that problematic decorations could render the entire *sukkah* invalid, depending on their position within and the total dimensions of the *sukkah*. This problem could occur whether or not anyone is sitting underneath the decoration.





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