

HALOCHOSCOPE

This week's (and next week's) question:

Some one attends a college run by a religious denomination. Some poskim consider this group *avoda zara*, *halachically* pagan. The college offered to build a *sukah* for their Jewish students. Is this acceptable?

The issues:

Last issue:

A) Ownership of a *sukah*

B) *Sukah* of non-Jews; *sechach*, walls, ground

This issue:

C) Using *avoda zara* items for the *mitzvah*

D) *Neheneh* and *mehaneh*, benefit from, or giving benefit to *avoda zara* and its order

E) Concern for *bizayon*, desecrating the sanctity of the *sukah*

C) Using *avoda zara* items for a *mitzvah*

The next issue that arises is whether the religious affiliation of the non-Jews has any bearing on this *sukah*. If the materials come from the school itself, the question is whether this qualifies as something connected to *avoda zara*, and what that connection means. If they purchase materials from a commercial source, the question is whether the money that belongs to this institution is connected to *avoda zara* in some way.

The materials used could be the wood or stones for the walls and the materials used for *sechach*. This *sechach* could be cut from trees on the grounds of the religious school. These might be planted to beautify the premises. There is a remote possibility that they were attributed with some religious significance. This might be superstitious or ritualistic. Would it be permissible to use a holiday tree as *sechach*? Would this depend on whether the tree will still be used as a holiday later? What if it was discarded? What about the branches of a live tree that is usually decorated in the holiday season? What is this tree? Is it worshiped? Is it being used in the ritual service? Is it attributed with some superstitious powers? Another type of tree is planted for decorative purposes, to adorn the entrances of churches or around a statue or cross and the like. Trees could also be planted for benefit, such as fruit trees or flowering trees, planted for their produce. If the produce is known to be intended for use on the holidays, the tree is forbidden. If it is used for everyday benefit, it is not forbidden.

Avoda zara is forbidden to use. *Avoda zara* owned by a Jew must be destroyed. A type of *avoda zara* is *ashera* tree. There are three types of *ashera*: If the tree is planted specifically to be used as an *ashera*, the entire thing is forbidden to benefit from. If it was planted for other purposes, and then pruned or otherwise altered to be used as an *avoda zara*, the tree can become permissible if the additions are removed. If an idol was placed under a regular tree and worshiped, the tree is forbidden while the idol is present.

Other *avoda zara* prohibitions apply to items used in worship. *Tashmishin* are 'utensils' used in the actual service. For example, the pan used to burn incense or the cup used to pour wine for the idol, or the staff placed in its hand are all *tashmishin*.

Tikrovess refers to gifts to the *avoda zara*. Anything that could be offered on the altar in the true holy temple, that was used in the same way for the idol, is *tikrovess*. This includes any type of food left before the idol. In addition, if this particular idol has its own manner of service, items used for this are forbidden. For example, if a stick is ritually broken before the idol in service, the broken stick is forbidden. The same manner of service is not forbidden when done to a different idol.

Noy refers to items used to adorn the idol, or to decorate its vicinity. For example, one might roll out rugs or light nice lamps in the temple and before the images. Even if they are used once, and then taken away, they attain the status of *noy*.

A Jew's *avoda zara* is forbidden only after it is worshiped. A gentile's *avoda zara* is forbidden as soon as it is made for the purpose of worship. A Jew's *avoda zara* is forbidden forever. The *avoda zara* of a gentile, its *tashmishin* and its *noy* can be desecrated, known as *bitul*. *Tikrovess* has no *bitul*.

An *ashera* is an actual *avoda zara*. A tree planted as an adornment is *noy avoda zara*. The poskim debate whether *ashera* trees or other such trees whose benefit is forbidden may be used for the walls or *sechach* of a *sukah*. The first issue is whether the tree may be used at all. Furthermore, the act of using this *ashera* is also an *avaiah*. If, to fulfill the *mitzvah* of *sukah* one must violate the *avaiah*, it is *mitzvah habaah baavairah*. A specific prohibition of *ashera* is using its shade. A *sukah* is essentially for shade. Secondly, there is a *mitzvah* to burn the wood. Therefore, though currently it is intact, it is considered as though it has been broken down into crumbs. Any *mitzvah* item requiring a *shiur*, minimum dimension, must be intact. There is a minimum dimension of both the walls and the *sechach*. Thirdly, even items that are permissible in terms of the *avoda zara* prohibitions, should not be used for *mitzvah* purposes.

Some poskim permit using a *sukah* made from a gentile's *ashera* wood. If the Jew does not take possession of the *ashera*, it remains the property of the gentile. The Jew may borrow it, in accordance with the view that one may use a *sukah* borrowed from a gentile. A gentile's *ashera* can be desecrated, under certain conditions.

The issue of benefit is debated at length in relation to the concept of *mitzvos lav laihanos nitnu*, literally, the *mitzvos* were not given as a benefit. This means that the pleasure gained while performing a *mitzvah* is not considered personal pleasure. Therefore, *sechach* made of material that is *asur behanaah*, forbidden to benefit from, is possibly permitted. However, the poskim debate the meaning of this. In one view, any personal benefit is not counted while performing the *mitzvah*. The other view maintains that the benefit of being able to perform the *mitzvah* is not considered a forbidden type of benefit. Physical side benefit is still forbidden. In the case of *lulav*, there would be no side benefits. In the case of *sukah*, there is benefit from the shade, that should be forbidden.

Some poskim even permit the *ashera* of a Jew. The issue of *shiur* for walls and *sechach* does not mean that the wood itself must meet a minimum size requirement. It may be made up of crumbs as well. Some distinguish between the walls, that may be

made of dirt particles or ashes, as long as they are high enough, and *sechach*, that must be made of unburned branches. Others contend that even the *sechach* may be made from small bits of *sechach* material. The problem is holding it up in place. Since the wood is currently in one piece, this is no problem. A third opinion maintains that the meaning of the Talmudic dictum that the item will not meet *shiur* requirements is that it is as though it has been destroyed. It does not exist, in *halachic* terms. Some actually pose the following question: empty space invalidates *sechach* if three *tefachim* (hand-breadths) are left uncovered. Invalid *sechach* does not invalidate the *sukah* if it is less than four *tefachim*. What about three *tefachim* of *ashera* wood? If it is treated as invalid *sechach*, it does not invalidate the *sukah*. If it is as though it does not exist, it invalidates it.

Finally, many poskim object to the use of this wood, even of a gentile, and even after *bitul*, on the grounds of it being *ma'us*, disgusting. It was once used in connection with *avoda zara*. One should not use it for a *mitzvah*. The Talmud assumes the validity of a *mitzvah* already performed, *bide'eved*, with an item that is *ma'us*. The Talmud questions its propriety before usage, *lechatchilah*. Using a *sukah* will always be considered *lechatchilah*. In our case, the materials might be bought with money belonging to this religious group. May one use such items for a *mitzvah*? The poskim do not seem to distinguish between using such monies for mundane or *mitzvah* usage. There is some discussion on money or materials donated to the building of a *shul*. An ordinary gentile's donation is acceptable. A religious gentile might have intent for his deity. The school in our case is not donating the *sukah*, but building it on their own. This is also not a *shul*. Nonetheless, one would want to ensure that there is no intent for their *avoda zara*. [See Sukah 29b 31b 35a Avoda Zara 47a 48a-49b etc., Poskim. Tur Sh Ar OC 586:3-4 649:3-4 YD 139 142 145, commentaries. Shaar Hamelech, Lulav 7. Bais Moed Bais Hashoaiva, Dinei Defanos 5-9. Oneg Yomtov OC 50. Teshuva Meiahavah II OC:280 281. Noda Biyehuda II OC:133 134. Dinei Chag Hasukos 5:2:2. Kol Kol Yaakov, Sukah 30b. Korban Chagigah p.43. Yad Aharon (Alfandri), Tur 629.]

D) Neheneh and Mehaneh

If a temple has an attached garden or bath-house, one may use it free of charge, unless he will feel indebted to the priests. If the benefit goes to the worshipers, one may pay for its use. If the profits go to the religious functionaries, some say that it is always forbidden. Others say that if the facility is not in the same courtyard as the *avoda zara*, one may pay for its use. The presence of images on the grounds is also discussed. The grounds are not made to house the images, but rather it is the other way around, the images are made to adorn the grounds. Therefore, the grounds do not become forbidden to benefit from due to their presence. In our case, assuming that one is permitted to attend the school, one may use the premises as well.

This institution, while religious, is not a direct beneficiary of *avoda zara*. It is affiliated to it. The benefit does not go directly to the priests, but to the faculty and administration of the school, under the direction of the religious order. There might be priests who teach, and a religious department. This, however, is in the framework of a school. Therefore, the issue of benefit is mitigated. The only question is the propriety of a *sukah* in such surroundings. Effort should be made to keep the *sukah* away from openly religious

symbols. [See Avoda Zara 51b, Poskim. Tur sh Ar YD 143:3, commentaries.]

E) Bizayon

One may not do menial activities in the *sukah*. Some say this is a specific issue for *sukah*. The *mitzvah* is to dwell in the *sukah* in the same way that one lives in his living room. Another view includes it in general *bizuy mitzvah*. A *mitzvah* and the item used for it must be respected. If one did menial activities in the *sukah*, the *sukah* might become demeaned for him. Gentiles view a *sukah* as an outdoors shed, and treat it likewise.

If a gentile builds his own *sukah*, a Jew may just use it, and leave it to the gentile to do with it as he sees fit. If, however, the gentile builds it for a Jew, even if he retains ownership, the Jew is indirectly responsible for the respect. Thus, in our case, it must be determined whether the Jew agreeing to having the *sukah* built by the gentile is indirectly allowing him to demean it. According to the view mentioned earlier that a gentile's *sukah* has no sanctity, there might be less of an issue here. Nonetheless, the *sukah* will be used for a *mitzvah*, and its entire reason for being is for the *mitzvah*. Therefore, it would appear that the arrangement should be such that *bizuy mitzvah* is minimized. [See Shabbos 22a Sukah 29a, Poskim. Tur Sh Ar OC 639:1, commentaries.]

In conclusion, the school may build the *sukah*. It should be made very clear that it is meant for shade. Preferably, materials should be purchased from a source outside the religious grounds. Arrangements to minimize *bizuy mitzvah* should be made.

On the Parsha ... Hashem came from Sinai, shone from Seir, appeared from Mt. Paran ... [33:2] hashem offered the Torah to Edom (Seir) and Yishmael (Paran) and all the nations, but they rejected it, until He offered it to Israel and they accepted it. The nations will complain “G-d, You did not compel us the way You compelled Israel, by cupping the mountain over them and offering an ultimatum.” Hashem responds: “ You didn't even observe the seven mitzvos that I gave you!” The nations plead: “Give us a second chance. Let us start over.” Hashem says “Fine! I will give you an easy, inexpensive mitzvah of Sukah!” They immediately go up to their rooftops and make sukos. Hashem brings out the heat of the sun, and they leave in discomfort. Though this is halachically correct, they also kick the sukah! [Avoda Zara 2b-3b] Why does Hashem give them a *mitzvah* that applies to Israel specifically? It commemorates the *sukos* that Hashem made for Israel in the *Midbar*! Indeed, this is the intent one must have when seated in his *sukah*! Why does Hashem make it so difficult for them? Perhaps, the *mitzvah* is for the gentiles to make a *sukah* exactly this way. They should first appreciate the hardships that Israel endured in the *Midbar*. Then they should appreciate what Hashem did to alleviate the hardships. They should even appreciate the insufficiency that our *sukos* sometimes have. When this happens to a Jew, he feels that his *mitzvah* has not appeased Hashem, and is saddened. He feels that his *sukah* does not match up to the *sukos* made by Hashem to protect Israel. He does not show *bizuy mitzvah*, but the exact opposite. A gentile who shows such disrespect to his *sukah* that he kicks it demonstrates that he never appreciated the *sukah's* true meaning. To him, it is just a 'cheap' shed. Indeed, a 'light' *mitzvah* – to be taken lightly.

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