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Halachos of Mikva'os – 2

Balak [א"י], Chukas [ח"ל] 5782

269

- In last week's issue (268), we cited several halachic principles about mikva'os, including the differences between a spring and a mikvah; how to kasher drawn water through hashakah (19) or zeriah (24); and the pros and cons of each (26 and on). בעזרהש"ת, we will now explain how mikva'os are made with both zeriah and hashakah in an effective manner (below, 22). We will introduce this with the halachos of "hamshacha" and an explanation of the well-known pesul referred to as "nasan sa'ah v'natal sa'ah" (below, 8).
- 40 sa'ah mikvah.** Some first let 40 sa'ah of rainwater into the tevilah mikvah so that no water added can invalidate it (see below, 8), especially if drawn water is added through hamshacha (above, 4) (עי' רש"י שבת דף ט"ו ע"א ד"ה פוסלין והג' רש"י שם). If there is not enough rainwater, some put in 40 sa'ah according to Rav Chaim Naeh's calculation, which is more than 21 Chazon Ish sa'ah, so that there is no issue of drawn water whatsoever.

Problem of Nasan Sa'ah v'Natal Sa'ah

"המשכה"

Hamshacha Removes the Status of Drawn Water

- The pesul of drawn water occurs when drawn water is poured directly from a utensil into a mikvah. If three log of this water goes in a mikvah before there are 40 sa'ah of rainwater, the mikvah is posul. However, once there are 40 sa'ah of rainwater in a mikvah, drawn water that is added does not make it posul (below, 8).
- Hamshacha.** But there is something called hamshacha. If, instead of pouring drawn water directly from a utensil into a mikvah, one pours it on the ground (ש"י י"ד סי' ר"א סמ"ו) in a spot where it could be absorbed (ש"י סמ"ה) and it runs for three tefachim (רמ"א שם) it loses the status of drawn water and can contribute to the minimum amount of water in a mikvah.
- Majority, hamshacha.** A precondition for hamshacha is that there must first be a majority of rainwater, i.e., twenty sa'ah plus a bit (ב"י, בדעת רש"י) or 21 sa'ah according to some poskim (ש"י סמ"ד) (נזיר דף ל"ח). After that, if drawn water is added through hamshacha, it can contribute to the minimum of 40 sa'ah and the hamshacha kashers the water. However, if most or all of the water was added through hamshacha and there was not a majority of rainwater present first, the hamshacha does not kasher the water (ש"י סמ"ד).
- Only adding water through hamshacha.** Because of this, it is standard in all mikva'os that when adding water from a tap or pipe, the water first goes over the ground or absorbent cement (ש"י סמ"ה) for three tefachim and then runs into the mikvah. This way, it is not considered drawn, and as long as 21 sa'ah of kosher water was there first, a kosher mikvah can be completed with this drawn water through hamshacha. Even when there are other ways of kashering the water, e.g., a bor hashakah and zeriah (below, 22), we look for every way to avoid any questions. Thus, it is customary to also do hamshacha [see ת in illustration below].
- "21 sa'ah mikvah."** Based on all this, in some high-level mikva'os, when they refill the mikvah after a cleaning, they first let 21 sa'ah of rainwater into the tevilah mikvah directly from the rainwater reservoir or the roof, without human involvement; then tap water, which is considered drawn, is added through hamshacha [ת and ת in the illustration]; then the water goes through the bor zeriah [ב]. In this way, once there is a majority of rainwater in the mikvah, all the water that is added through hamshacha is not considered drawn. People refer to this as a "21 sa'ah mikvah."

Some Rules about Hilchos Mikva'os

- Drawn water can be added to a kosher mikvah.** There is a halacha that once there is a kosher mikvah with 40 sa'ah of rainwater, all the drawn water in the world [which is posul] can be added even if it is much more than the 40 sa'ah of rainwater. Once there is a kosher mikvah, drawn water does not invalidate it (ש"י סמ"ו).
- Nasan sa'ah v'natal sa'ah with mei peiros.** If a sa'ah of fruit juice ["מי פירות"], which is posul for a mikvah, falls into a kosher mikvah of 40 sa'ah of rainwater, and then a sa'ah of the entire mixture is removed, the mikvah is still kosher. Even though some of the rainwater is now missing, we say that the posul liquid first became part of the kosher water.
- However, this heter only applies up to 19 sa'ah, which leaves a majority of kosher water in the 40 sa'ah. If more than 19 sa'ah of posul liquid was added and then that same amount was removed from the mixture, we assume there is not a majority of kosher water in the mikvah, so the mikvah is posul. This is the Shulchan Aruch's ruling (סי' ר"א סכ"ד).

Nasan Sa'ah v'Natal Sa'ah with Drawn Water

- The poskim discuss the application of nasan sa'ah v'natal sa'ah with drawn water. Meaning, if a sa'ah of drawn water was added to a kosher mikvah containing 40 sa'ah of rainwater and then a sa'ah of water was removed from the mixture [so it is likely that there is less than 40 sa'ah of rainwater], is the mikvah posul once there is no longer a majority of kosher water as is the case with mei peiros, or do we say the mikvah is kosher in this case?
- Raavad's opinion.** The Raavad holds (סי' בעלי הנפש שער מים סי' ד') that for nasan sa'ah v'natal sa'ah with drawn water too, there must always be 21 sa'ah of kosher water. If נ"ס ונ"ס was done more than 19 times, there is not a majority of kosher water, and the mikvah is posul. Most Acharonim understand the Raavad to mean that it is posul d'oraisa, but there are those who understood him to mean that the pesul is only derabanan (ש"י דברי חיים חו"מ סי' ל"ז, ש"י) (מהרש"ם ח"א סי' מ"ד, ש"י בית יצחק יו"ד ח"ב סי' כ"ז).
- Rambam's opinion.** The Rambam also holds that נ"ס ונ"ס is only kosher if it is not the majority (פי"ד מקואות ה"ז). However, he says that on a d'oraisa level it is kosher; just Chazal made a gezeirah when a person actively adds and removes water because of mar'is ayin – otherwise, people will think drawn water is kosher for a mikvah (רמב"ן ב"ב דף ס"ה ע"ב סוף ד"ה צנור, ב"י סכ"ד).



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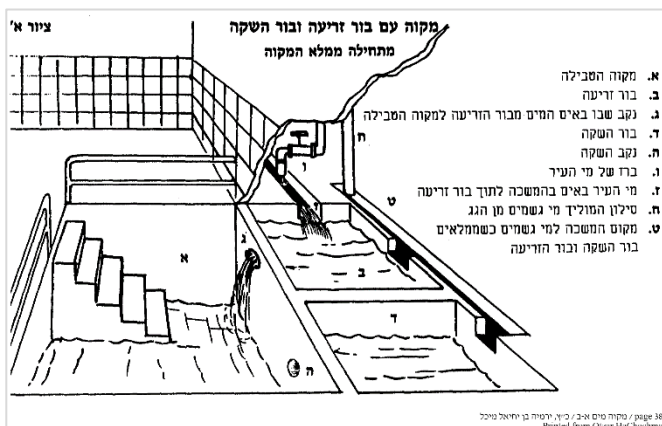


14. **Most poskim.** However, most poskim hold that once there are 40 sa'ah of rainwater, one can add a sa'ah of drawn water and remove a sa'ah even a thousand times. It is not comparable to נ"ס with other liquids, which is only okay if there is a majority of kosher water (above, 10) ר"ש, רא"ש הל' מקוואות סי' א' ו"ה, תוס' יבמות דף (פ"ב ע"ב ד"ה נתן סאה שר"ע סכ"ד). This is the ruling of the Mechaber.
15. **In practice.** Although strictly speaking נ"ס with drawn water is kosher, in accordance with the Mechaber's ruling, many poskim took the opinions of the Raavad and Rambam into consideration, especially for d'oraisa mikva'os. Wherever possible, this opinion should be satisfied and everything possible should be done to prevent these issues (תשב"ץ ח"א סי' י"ז, ש"ך סי"ק ס"ג). Many poskim take this approach (ח"א סי' י"ז, ש"ך סי"ק ס"ג). שו"ת דברי חיים הל' מקוואות אות כ', אג"מ י"ד ח"א ק"ט, שו"ת דברי יצחק ח"ב סי' כ"ג, יציב ח"ד סי' ק"ג, שו"ת מנחת יצחק ח"ב סי' כ"ג).
16. **Keilim mikvah.** It should be noted that this is impossible to do in a keilim mikvah where everyone toivels their utensils. Although one should lechatchilah remove a utensil from the water with the opening facing down toward the water, the reality is that many people remove their utensils full of water and then pour it back into the mikvah. This makes it very easy to get into questions of נ"ס in a short time. In practice, though, people have never been particular about this concern for a keilim mikvah even though tevillas keilim for metal utensils is d'oraisa. This is the common minhag, and this is the tradition I received from my rebbi the K'nei Bosem (See Issue 94, par. 36; ע"י היכל הוראה ח"ד הוראה ק"ב).

Issues of Nasan Sa'ah v' Natal Sa'ah

17. In view of our practice to be machmir about נ"ס, there are those who found issues with the bor hashakah or bor zeriah that we use to kasher drawn water in a tevilah mikvah (described at length in Issue 268). We will explain.
18. **Bor hashakah.** A bor hashakah is a cistern with rainwater built next to a tevilah mikvah containing drawn water. In the תפופרת הנוד ש-זפופרת הנוד between the two, the waters come into contact with each other and the rainwater kashers the drawn water.
19. But since most hashakah holes are always open (see Issue 268, par. 22), when a person goes into the mikvah, the water moves and mingles with the rainwater. Also, when the tevilah mikvah is drained without a stopper in the hashakah hole, the level of rainwater goes below the hole. When the tevilah mikvah is refilled with drawn water, the drawn water goes into the bor hashakah and mingles with the rainwater. Over time, enough rainwater is replaced with drawn water that there is not a majority of rainwater in the bor hashakah – the resulting situation is one of נ"ס, which many poskim are machmir on, as mentioned above (חזו"א י"ד ק"ג אות ד').
20. **Bor zeriah.** We wrote that a bor zeriah is a cistern of rainwater adjacent to a tevilah mikvah. When the mikvah has no water in it, drawn water is poured into the rainwater cistern until it rises and spills through the hole into the empty tevilah mikvah, filling it until it has the desired amount of water. All the water that comes into it is kosher after being "sowed" in the bor zeriah.
21. The pesul of נ"ס is prominent in a bor zeriah. Lots of drawn water is poured into the 40 sa'ah to fill up the entire tevilah mikvah. After one or two times of filling a mikvah through a bor zeriah, there are not 40 sa'ah of rainwater. This is clearly a potential pesul of נ"ס, at least according to the Raavad (שו"ת דברי מלכאל ח"ב סי' ס"ו, שו"ת דברי יואל י"ד סי' ע"ט).

Ways to Fix נ"ס and Other Issues

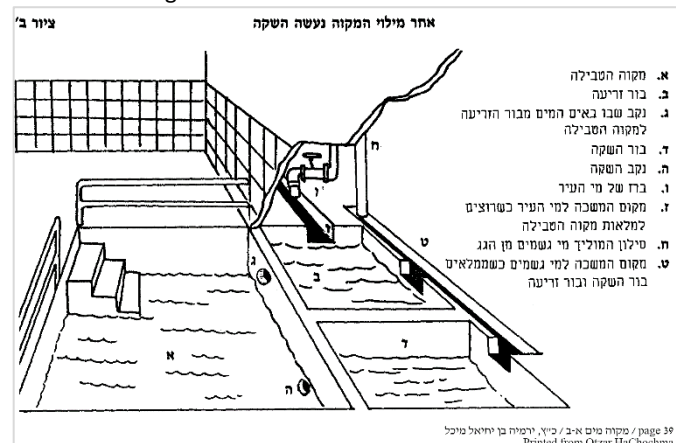


Bor Hashakah with a Bor Zeriah

22. We mentioned previously (Issue 268) that there are issues when kashering a mikvah with either hashakah or zeriah alone. Here, we

mentioned that they both have concerns of נ"ס (above, 18). In light of this, the poskim suggest ways to fix all issues and make mikva'os in the most effective way. Some suggested making two cisterns next to a tevilah mikvah: a bor hashakah and a bor zeriah. This way, each one compensates for the other's shortcomings.

23. Rainwater collects in a bor hashakah and remains there constantly [א]. The tevilah mikvah [ב] is only filled by adding tap water [ג] through the bor zeriah [ב]. When the water in the bor zeriah rises, it spills through a hole [ג] into the tevilah mikvah, which started off completely empty. When the water in the mikvah rises above the hole [ה] leading to the bor hashakah [ד], the water is again kashered through hashakah.



24. **Two holes.** This is why two holes can be seen in a mikvah. One is the hashakah hole [ה], which must be below the water's surface for there to be hashakah with the rainwater. The second one [ג] is usually above the water level; water from the bor zeriah comes into the tevilah mikvah through this hole.
25. **Three log first.** This solves many of the issues we mentioned (Issue 268, par. 26 and on). For example, we mentioned that when there is only a bor zeriah, there is a possibility that there were originally three log of drawn water in the mikvah, which invalidates any water added. The bor hashakah solves this because even if there were three log of water first, the water is kashered through contact with the rainwater cistern (שו"ת מנחת יצחק ח"ה סי' צ').
26. **נ"ס.** Also with the obvious concern of all the rainwater in a bor zeriah being replaced after a few fills, when the water in the mikvah is connected to a bor hashakah, the water is kashered that way. Although some are concerned for the pesul of נ"ס even when there is both a bor zeriah and hashakah (חזו"א הנ"ל), most poskim hold that a bor hashakah solves the problem. First of all, the hole can be sealed with a stopper before draining the water from the tevilah mikvah and reopened only after there is water above the hole so that the water does not mix quickly (דף י"א). Even if the water in the tevilah mikvah mixes with rainwater, the water in the mikvah came through a bor zeriah; it is not regular drawn water. Accordingly, some hold that even the Raavad would not be concerned for נ"ס when the water comes through zeriah (שו"ת דברי יצחק ח"ב סי' כ"ז, שו"ת חלקת יעקב ח"ג סי' נ"ד, שו"ת אג"מ י"ד ח"א סי' ק"ב).
27. It was already the minhag in Yerushalayim over 100 years ago, and it is the minhag in most of the Jewish world today to build both a bor hashakah and a bor zeriah (הגר"א נאה). [In the next issue, we will describe another solution how to avoid the issue of נ"ס in mikva'os, called "bor al gabei bor." We will cite the different opinions.]

Water Comes through Hamshacha

28. Some hold that when drawn water enters a mikvah through hamshacha [ו and ז in the illustration], there is no concern of נ"ס. If we say that נ"ס is derabanan, because of mar'is ayin (as per the Rambam, above, 13), this may very well be the case (שו"ת מהרש"ג ח"א סי' ס"ב, שו"ת מהרש"ם ח"א סי' קמ"ה, גידולי טהרה בנחל סקל"ה). Even if we say it is a fundamental issue (above, 12), some hold there is still no issue of נ"ס (שו"ת אג"מ י"ד ח"א סי' ק"ט), at least when there were 40 sa'ah to begin with (מ"ר בשו"ת קנה בושם ח"א סי' ק"ב). Thus, another benefit of being careful have all water added to a mikvah through hamshacha is that the concern of נ"ס is removed according to some opinions even for a bor zeriah, where the concern is more obvious.

R' Akiva said: Just as a mikvah purifies the impure, so too Hashem purifies Yisroel (וימא פ"ה ע"ב)