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Halachos compiled by HaRav Chaim Bleier – Translated from the Hebrew edition by R' Zerachya Shicker

Please do not read during davening or Krias HaTorah

Halachos of Mikva'os – 3

Pinchas [י"א], Balak [י"ו] 5782

270

1. In last week's issue (269), we cited several halachic principles about mikva'os, including the advantage of making a mikvah with both a bor hashakah and zeriah and the halachos of hamshacha. When water is brought to a mikvah through hamshacha and there is also zeriah and hashakah, there is a major benefit of avoiding issues of "nasan sa'ah v'natal sa'ah." However, some still advise making a mikvah in a manner called "bor al gabei bor" to stay even further away from concerns of נ"ס ונ"ס. We will now go through the pros and cons of this according to completely opposing opinions and we will discuss accepted practice today בעוהשי"ת.

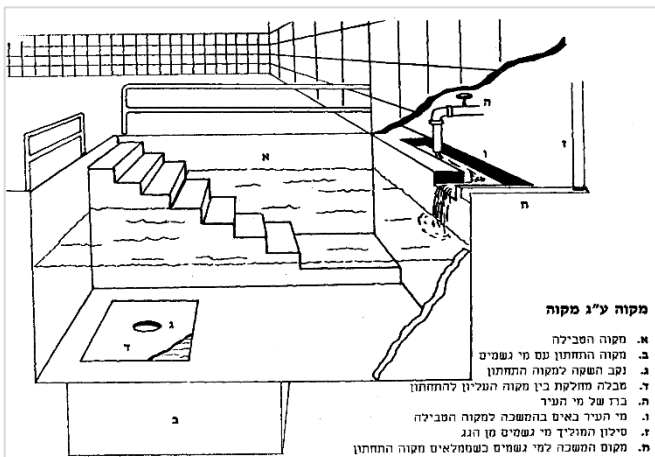
בור ע"ג בור

Concerns with Bor Hashakah and Bor Zeriah

- Bor hashakah.** We previously discussed some possible issues with kashering mikvah water with hashakah. To review the main issues: a) Perhaps the hashakah hole will not always be open (Issue 268, par. 26); b) Perhaps the mikvah worker will not make sure that the water in the mikvah is higher than the hashakah hole (ibid.); c) Perhaps over time, the drawn water in the tevilah mikvah will mix with the rainwater in the bor hashakah, bordering on a problem of "nasan sa'ah v'natal sa'ah" (Issue 269, par. 19); and there are others.
- Bor zeriah.** a) In a bor zeriah, where all the rainwater is replaced with drawn water poured into it, the issue of נ"ס ונ"ס is apparent (ibid., par. 21); b) Perhaps when the mikvah is emptied, it is not dried well enough, and three log of drawn water remain (Issue 268, par. 28).
- Bor hashakah and zeriah.** We also mentioned the solution of making both a bor hashakah and a bor zeriah. This avoids many concerns, but some give a different suggestion. We will now explain its structure and the opinions of the poskim.

Solution of Bor al gabei Bor

5. Some suggest making a mikvah with hashakah, but with the bor hashakah under the tevilah mikvah instead of next to it and the הנוד sized hashakah hole [or bigger] on the mikvah floor instead of the mikvah wall – a bor on top of a bor. The idea for this solution is cited from the Rashab of Lubavitch based on the Baal HaTanya, and many later poskim. This is how it looks [taken with permission from the wonderful sefer "מקוה מים"]:



הגליון נתרם ע"י ידידנו הרב אריה רעמטער שליט"א מחשובי כולל מאנסי לאות שבת והוראה להשי"ת על הניסים הגלויים שזכה להם בעת ואהרי לידת בנו מרדכי יהודה לפני שנתיים י"ג תמוז

Advantages of Bor al gabei Bor

- The hole.** A benefit of having the bor hashakah below the mikvah [ג in the picture] is that the hole is always open, so the hashakah is uninterrupted. Also, there is no fear that the mikvah worker will not fill the mikvah until the hole, as the hole is on the bottom.
- Some poskim are concerned about נ"ס ונ"ס with a regular bor hashakah because the water goes from one side to the other (above, 2). But when the bor hashakah is below [ב in the picture], the water in the upper mikvah does not mix with the water below it, as even when the tevilah mikvah is emptied, the rainwater bor below it remains full. When a mikvah that is next to a bor hashakah is emptied, on the other hand, and there is no stopper in the hole, the water in the bor hashakah also goes down and then gets replaced (as mentioned in Issue 269, par. 19).
- Also, by nature, when the lower bor hashakah is completely full and it is covered [apart from the hole], there is no room for the water in the upper mikvah to get in, and it is impossible for the lower water to rise and exchange with the upper water (אמרי ישר). Also, it is known from a scientific standpoint that hot water rises and cold water sinks. Since the mikvah is heated, the upper water remains above and the cold water in the underground bor hashakah remains cold in its place; the waters do not mix.
- Three log.** There is also no concern of three log of water remaining in the tevilah mikvah since the water is kashered through the bor hashakah below it.
- Chabad mikvah.** The Rashab instituted this sort of mikvah – a bor al gabei bor [i.e., a bor hashakah below the tevilah mikvah] along with other particulars, e.g., a tefach-by-tefach hashakah hole. This is known as a "Chabad mikvah" today; Chabad chassidim only use a mikvah with the bor hashakah below the tevilah mikvah.
- Concern that the water still mixes.** Although it is very likely that the upper and lower waters do not mix at all, some are still concerned that perhaps they mix a little. In that case, we are left with a small possibility of נ"ס ונ"ס (סי"ה) ח"ג י"ד סי"ה).

Bor al gabei Bor in the Bor Hashakah

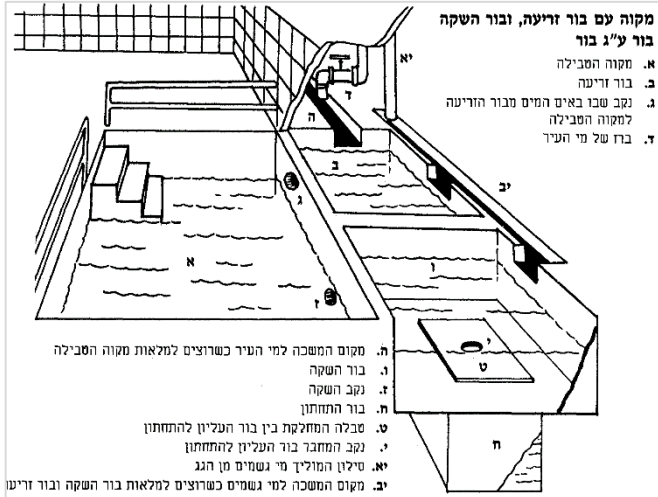
12. To make the concern for נ"ס ונ"ס even more remote, some recommend making a mikvah in the most effective way possible: instead of a bor al gabei bor consisting of a bor hashakah under the tevilah mikvah as in a Chabad mikvah, it is better to make a mikvah with three boros. This is done by making both a bor zeriah and a bor hashakah next to the tevilah mikvah, as we mentioned (Issue 269, par. 22), but also making the bor hashakah into a bor al gabei bor. In other words, the bor hashakah is divided into an upper and lower section with a board or slab of marble with a hole. This way, even if there is a concern that the tevilah mikvah and the bor hashakah will exchange water over time, the bor hashakah itself is kashered by the bor underneath it. Because it is so far from the tevilah mikvah, there is almost no movement of water between them. Thus, the water is still and does not move, and the concern for נ"ס ונ"ס is made extremely remote with all sorts of precautions (ש"ת חלקת יעקב ח"ג סי' י"ז ועוד).

Making a Mikvah Kosher According to All Opinions

13. Since Klal Yisroel's taharah and kedushah depend on the kashrus of a mikvah – especially with d'oraisa tevilah – and due to the severity of the matter, it is standard for poskim to be very machmir with mikva'os to satisfy even a lone opinion (תשב"ץ ח"א סי' י"ז הובא) and to take into account even a remote concern (בש"ך י"ד ר"א סי"ק סי"ג, ב"י דף ק"ו). Thus, it is customary for mikva'os today, especially ones built by meticulous people with yiras Shomayim, to be constructed in the most effective way possible, without any concerns (ש"ת חלקת יעקב שם, ש"ת מנחת יצחק ח"ב סי' כ"ג).

Mikva'os Today

- Bor zeriah, plus bor hashakah as a bor al gabei bor.** Today, many mikva'os are made in the manner described above – with a bor zeriah, plus a bor hashakah that is a bor al gabei bor.
- Hamshacha, zeriah.** In addition, all the water that enters the mikvah comes through hamshacha for three tefachim and a bor zeriah, as we described earlier (Issue 269, par. 5).
- 21 sa'ah or 40 sa'ah.** When a tevilah mikvah is first filled with 21 sa'ah of rainwater – and certainly 40 sa'ah – directly from a rainwater reservoir before drawn water is added through hamshacha and zeriah, the water is certainly of the highest level kashrus, as explained earlier (Issue 269, par. 6 and 7).



- Many methods.** The result is that a mikvah is kashered in many ways: 1) With drawn water through hamshacha [ד in the picture]; 2) Drawn water goes through hamshacha into the bor zeriah [ב]; 3) The zeriah water that goes into the tevilah mikvah [א] is also kashered through contact [ז] with the bor hashakah [ג]; 4) The water in the bor hashakah itself is kashered through contact with the bor underneath it, i.e., a bor al gabei bor [ה]; 5) Mikva'os of the highest quality that have the room to collect rainwater in a reservoir add another advantage: the tevilah mikvah first receives 21 or 40 sa'ah of rainwater and only then is filled with more water through hamshacha and zeriah, as mentioned above.

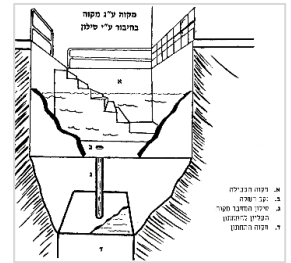
Opinion of the Divrei Chaim

קטפרס אינו חיבור

- There is a rule in mikva'os that "katafres [a slope] is not a connection." The Shulchan Aruch gives a case of three pits along the slope of a ravine, the upper and lower ones containing 20 sa'ah each and the middle one 40 sa'ah, connected by a stream of rainwater running through the pits. Although the stream enters and exits the pits, one can only toivel in the middle one since running water does not make the pits into one big mikvah (שיע סי' ר"א ס"ס). In other words, a katafres is when water goes from a higher point to a lower point, as the water is flowing down a slope. To kasher the lower pit, it must be connected to the one above it, but since the water is flowing down a slope, it doesn't connect the pits.
- Katafres with flowing water.** Simply understood, the rule of חיבור only means that the stream of water cannot connect mikva'os while it is flowing downward. If, however, the water is standing in one place, there is nothing wrong with hashakah from above to below or along a slope. This is the understanding of most poskim (זמח צדק חי' על' מאירי חגיגה י"ט ע"ב, זמח צדק חי' על' מקואות פ"ג מ"ב אות ד', אור"ש פ"ח מקואות ה"ח, ועוד).
- Katafres even with standing water.** However, the Divrei Chaim holds that there is still a pesul of katafres even if the water is standing still. Any attempt to connect two bodies of water from above to below or on an incline – i.e., not completely horizontal – is a pesul of katafres (שול"ת דברי חיים י"ד ח"ב סי' צ"ג, י"ד ח"א סי' מ"ג, ח"ב סי' פ"ח).

Bor al gabei Bor Connected with a Pipe

- Based on this, the poskim argue about two separate boros, one on top of the other, connected with a pipe – is the upper one kashered through its connection to the lower one via the pipe?
- Some say it is posul because a katafres is not a connection. They hold that even when the water is still, not flowing, the pesul of katafres applies. In addition, if the water is in a pipe, it does not naturally sit on the water below it without the aid of the pipe. If the pipe were removed, the water would fall downward, so it is like it is standing in midair, and it is not a valid connection (שול"ת דברי חיים שם, שול"ת עמק שאילה י"ד סי' נ"ט).
- However, most poskim hold that this scenario is not a problem of katafres since the water is standing still, not moving (בעל נפש חיה) בס' גלות עליות ס' ד' ה' ו', שול"ת שירי טהרה סי' ר"א תשובה א', שול"ת אבני נזר י"ד (סי' רע"ט אות ה', שואל ומשיב מהדו"ג ח"ב סי' כ"ז).
- Nevertheless, since the Divrei Chaim ruled that mikva'os should not be connected with a vertical pipe, the minhag is to be machmir.

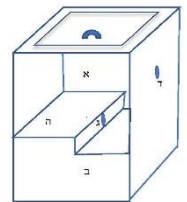


One Big Bor with a Divider in the Middle

- Now we will discuss the abovementioned suggestion of the poskim to make a bor al gabei bor (above, 5 and 12). It is not two separate cisterns, but rather one big cistern with a wooden, marble, or plastic divider in the middle containing a hashakah hole, leaving 40 sa'ah in each section. According to the Divrei Chaim, does this also involve the pesul of katafres, which is a connection from above to below, just like a pipe (22), or not?
- Some say that the Divrei Chaim would say even this case is posul since it involves a connection from above to below (שול"ת דברי יציב) (י"ד סי' ק"ז). Therefore, in Kiryat Sanz and their communities, they do not use any sort of bor al gabei bor. They use other methods to avoid any issue of ונ"ס. [The mikvah we are in charge of contains only rainwater in the bor tevilah. Not just 21 or 40 sa'ah (above, 16) – the bor tevilah consists entirely of rainwater.]
- However, most Acharonim hold that even the Divrei Chaim would agree this is kosher, as it is really just one mikvah divided in the middle with a board. The upper water naturally rests on the lower water without anything holding it in place, and the waters are connected with a hole. It is not like the water is in midair; everything stands in place like a single mikvah. Unlike in the Divrei Chaim's case, where there were two separate mikva'os with a gap between them connected by a pipe, the rim around the hole in this case is part of the mikvah (אמרי יוסר ח"א) שול"ת אלף לך שלמה י"ד סי' ר"מ, אמרי יוסר ח"א) שול"ת ק"א וסי' קנ"א, שול"ת דברי יואל י"ד סי' פ', שול"ת חלקת יעקב ח"ג סי' נ"ד אות ו', (שול"ת אג"מ י"ד ח"ג סי' ס"ה, שול"ת מנחת יצחק ח"ב סי' צ"ב).
- In practice.** The minhag in most of the world is to use a bor al gabei bor. In some mikva'os it is under the bor tevilah – this is the Chabad minhag (above, 5) – and in others, the bor hashakah is divided in half to create a bor al gabei bor (above, 12).

A Way to Satisfy All Opinions

- Bor al gabei bor is subject to two polar opposite opinions – what most consider an excellent mikvah is viewed as the pesul of katafres in the Sanz community. Therefore, some suggest a way to make a mikvah kosher according to all opinions.
- The suggestion is to make one big bor hashakah next to the tevilah mikvah with 80 sa'ah of rainwater. The bor is divided in the middle with a board [ה], but instead of one flat board with a horizontal hole in the middle, a plastic board should be made with a sort of small step in the middle with a vertical hashakah hole in the middle section of the step [ג]. This way, the water comes into contact with water next to it rather than from above to below. Only the water next to the step will mix from side to side, not the water from the whole bor. Thus, this structure still has the advantage of a bor al gabei bor. The benefit of this is that it is kosher and mehudar lechatchilah even according to those who are machmir on a bor al gabei bor (ענין זה מוזכר כבר בס' מקוה מים ח"א עמ' צ"ו) (בהערה). וכך תיקנו במקוה חדשה בעיה"ק ירושלים according to all opinions – "the upper [water] will rejoice and the lower [water] will exult..."



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