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Mikva'os 4 – Filters

Matos [א"י], Pinchas [ח"ו] 5782

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"Zechilah" in a Mikvah

The Pesul of Zechilah

1. A mikvah is a collection of standing water. It must be resting in one place ["אשבורן"], based on the posuk אל מקום אחד (חם) "יקוו המים אל מקום אחד" (סק"ל בשם המדכ"י שבגנות ט"ז י"ד סי' ר"א סק"ב, חז"א). Simply understood, this means that the water needs to be contained within walls (חז"א). Therefore, the mikvah walls must be impermeable so that water does not flow out. Otherwise, the mikvah is posul d'oraisa (שו"ע סי' ר"א ס"ג) because of zechilah (רמ"א סי' ר"א ס"ב).

Zechilah above Forty Sa'ah

2. The Rishonim and poskim argue about the status of a mikvah with zechilah situated above 40 sa'ah. I.e., even if the water flows from a crack or hole, 40 sa'ah of water will remain in the mikvah below the crack or hole.
3. **Mechaber's opinion.** Some say that as long as 40 sa'ah will remain in the mikvah, zechilah above that point does not invalidate a mikvah (רא"ש בשם הר"ש בפי השני, פיה"מ ה"ל מקוואות סי' י"א); this is the Mechaber's opinion (שו"ע שם ס"ג). Some say that even according to him, one must toivel completely below the crack, in a spot with 40 sa'ah (המהרי"ק שורש קנ"ו שרית בית שלמה י"ד ח"ב סי' פ"ו, חז"א י"ד סי' ק"ה אות ד). But most poskim are meikel within this opinion; they hold one may toivel even if he is partially above the crack (לחם ושמלה סק"פ), (ר"ח צמח צדק סי' קס"ד קס"ה שרית דברי מלכיאל ח"ג סי' ס"ד, שו"ת אמרי יוסר ח"א סי' ק"ל, שו"ת חבלים בנעימים ח"ג סי' נ"ח).
4. **Rama's opinion.** Others say that even if there are 40 sa'ah under the crack, one may not use such a mikvah. Since the mikvah water has begun leaving, the person is using a mikvah with zechilah, at least in the upper water (הר"ש ע"פ הרא"ש בשם בפי הראשון). This is the opinion of the Rama, at least l'chatchilah (שם).
5. Here, too, the poskim argue within his opinion. Some say one may duck his head and toivel beneath the crack, in a spot where 40 sa'ah remain (הגר"ש קלוגר בשו"ת קנאת סופרים סי' מ"ה) – or at least that it works b'dieved (שמלה סק"פ פ"ז). However, many do not allow this (שרית צמח צדק סי' קנ"ו י"ד ג, גידולי טהרה גבא ס"ק ס', שו"ת עמק שאלה י"ד סי' נ"ה).

Slight Zechilah ["זחילה שאינה ניכרת"]

6. Not all zechilah invalidates a mikvah. The poskim determined that only noticeable zechilah invalidates a mikvah; slight zechilah does not (רשב"א). This is the Shulchan Aruch's ruling: if a mikvah's water is dripping slowly out of a hole or slowly getting absorbed in the ground, it is still kosher since the zechilah is not noticeable (שו"ע סני"א).
7. **Gra's opinion.** Some Acharonim cite the Gra as being machmir even on slight zechilah (מקוה טהרה ס"ק קכ"ט, שו"ת ערוגת הבשם י"ד סי' ר"ב, מרהשת ח"א סי' ל"ט, מהרש"ם מפתחות לח"ב י"ד סי' נ"ט, הגר"ח הלוי, שו"ת שרית חזון נחום ח"א סי' ע"ב אות ה', אחרונים), at least if 40 sa'ah will not remain in the mikvah after the zechilah (שו"ת חבלים בנעימים ח"א סי' תק"ג). However, others say that the Gra was just asking on the Mechaber, not arguing with him (חז"א). (י"ד סי' ק"ה אות ד' תשובות והנהגות ח"א סי' תק"ג).

Definition of Slight Zechilah

8. Much has been said on the precise definition of "slight zechilah," which the poskim allow. Some say it depends on whether there is movement on the surface of the water that shows it is draining (שו"ת עין יצחק י"ד סי' כ"ב, שו"ת שואל ומשיב מהדורת ח"ד סי' קנ"ה, חז"א י"ד סי' ק"מ). Others define a situation of noticeable zechilah as one where the sinking water level indicates that the water is flowing

out, not just dripping (שו"ת בית שלמה י"ד ח"ב סי' פ"ב, שו"ת אמרי יוסר ח"א). Yet others are machmir that even a rapid dripping is considered noticeable zechilah (גידולי טהרה סי' ח', מקוה טהרה ס"ק ק"ל, שו"ת דברי חיים י"ד ח"ב סי' צ"ט).

9. Since it is very hard to give an exact definition of slight zechilah and this is a serious matter with potential for issurei d'oraisa, we are very careful not to have any zechilah in a mikvah. When a shailah about the kashrus of a mikvah comes up, the rav in charge must pasken on the status of people who used the mikvah in the past, and he must certainly fix the issue for the future so that everything is kosher in the best way and l'chatchilah.

Inspecting a Mikvah for Zechilah

10. A mikvah generally retains its kashrus due to the rules of chazakah. Nevertheless, if there is reason to suspect zechilah, the mikvah must be checked to ensure it is still kosher, but mikva'os are periodically checked for zechilah. It is usually hard to do an inspection since when a mikvah is in use, the water level decreases from people coming in and out and from hot water vapors escaping. Therefore, some take advantage of the days when mikva'os are closed, e.g., Tishah b'Av and Yom Kippur, to check the mikvah. They turn off the heating system and check the cold water.

Halachos of Various Filters

Introduction

11. **Halachic advantage.** We wrote previously (Issue 269, par. 6, 7) that there is a halachic advantage in first filling a mikvah with 21 or 40 sa'ah of rainwater to maintain the highest kashrus. However, this can only be done if there is a large reservoir of rainwater that can be used to fill a mikvah even when it is not raining. Therefore, to maintain this advantage and minimize the potential of nasan sa'ah v'natal sa'ah (ibid., 11), some mikva'os prefer not to regularly change the water in the tevilah mikvah.
12. **Clean water.** Simultaneously, it must be ensured that the water is clean and sanitary so that it does not breed bacteria often found in standing water that can cause harm and disease. Also, in hilchos mikva'os, there is a benefit of clean water that people will not refrain from going to the mikvah, ח"ו minimizing kedushah and taharah in Klal Yisroel.
13. This is a challenge that every mikvah worker, mikvah rav, and city beis din encounters. They must use sound judgment to find the best approach according to the location of the mikvah and the character and level of observance of the mikvah's users. Maintaining clean water sometimes requires the aid of various methods, e.g., filters, though most types involve compromising on a meticulous halachic standard, as will be explained.
14. **Decision making.** Thus, it is clear that decisions about the standards and guidelines of the methods used to maintain clean water in a public mikvah are under the sole authority of local and community rabbanim and G-d-fearing batei din. Only they know and see the whole picture with the perspective of responsibility toward the spectrum of the individuals they serve and their needs. It is certainly not in the control of people off the street, fools, or even talmidei chachamim who learned the sugyos and came away with a certain approach but have not trained under rabbanim and poskim (פתח"ת י"ד סי' צ"ט סק"ה). For the most part, they lack the

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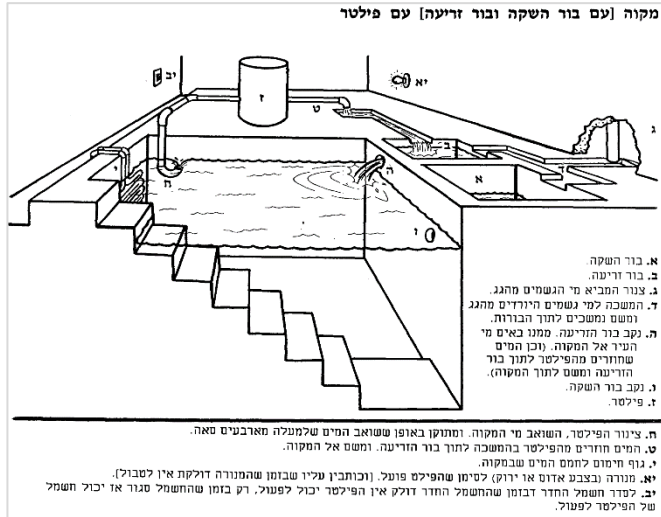
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wisdom, knowledge, and experience gained from training under rabbanim and poskim, and most importantly, the sense of responsibility for the tzibbur to ensure that everyone is fulfilling Hashem's mitzvos in the most effective way that is realistic.

- The idea of using a filter.** The idea of using some sort of filter to clean the standing water – enabling the kosher water to remain in the tevilah mikvah for an extended time without compromising on the water's cleanliness – was already conceived many years ago.
- But this of course gave rise to many halachic and hashkafic shailos about the use of various filters. We will mention some of them.

External Filter

- An external filter is an apparatus used to filter water through stones, sand, and the like. The machine is placed outside the mikvah and connected to a pump's pipe whose end is in the mikvah, usually near the floor. Water is drawn from the mikvah into the machine, where it is filtered through the stones or other materials, and then exits through a pipe that returns water into the mikvah from the other end, clean and pure.
- This filter has several issues, only some of which have solutions, as will be explained.
- Pesul of zechilah.** There is a discussion whether the pesul of zechilah applies when using a mikvah while the filter is running. Perhaps zechilah is only when there is an issue with the actual walls of the mikvah, e.g., a crack or hole, but when the walls are sound and it is only a procedure done to the water that removes some from the mikvah, perhaps this is not a problematic zechilah (ס' ישיעות מלכו י"ד ס' ל"ה, ויחי יוסף דף ט"ז).
- However, almost all poskim hold that since water is removed from the mikvah, albeit via electricity or a vacuum, this too is a pesul of zechilah (ש"ת מהר"י שטייף ס' י"ד, ש"ת בצל החכמה ח"ד ס' צ"ח, ש"ת מנחת ז' יצחק ח"ו ס' פ"ח, מו"ר בשו"ת קנה בושם ח"ב ס' פ"ה אות ב').
- It should be noted that this pesul only applies when using the mikvah while the filter is running. This particular issue does not apply when the filter is off.
- Nasan sa'ah v'natal sa'ah.** Another potential pesul with an external filter is nasan sa'ah v'natal sa'ah (see Issue 269, par. 11). Water exits the mikvah into an apparatus, making it into drawn water, and then goes back into the rainwater mikvah. Over time, the drawn water becomes the majority, which is a pesul according to the Rambam and Raavad (ibid.) (ש"ת אב"מ י"ד ח"א ס' ק"י).
- Some are also concerned that even if most of the water is kosher, since the drawn water goes back into the mikvah while water is exiting through a pipe leading to the filter, it is possible that the drawn water is not kashered by flowing water (ש"ת הר צבי י"ד קע"ז).
- It should be noted that this pesul applies even when using the mikvah while the filter is off, as the water becomes posul due to the potential issue of ג"ס וני"ס before the tevilah.



- Possible solution to minimize issues.** If there is a great need for this filter in the judgment of the rav in charge – or for tevilos that are not d'oraisa – some suggest a partial solution. Instead of having the water that exits the filter [ז in the picture] go directly back into the tevilah mikvah, it can be redirected over an absorbent spot to create hamshacha for three tefachim [ט] (Issue 269, par. 5); then it goes into the bor zeriah [ב] so that it is kashered through zeriah (Issue 268, par. 24); and only afterward does it reenter the tevilah mikvah [ה]. This way, the water avoids issues of zechilah or drawn water, and it is removed when the mikvah is in use.
- The only discussion is whether it somewhat resembles a filter which can lead to use of a different filter [the head of it does, in fact, somewhat resemble the May Galim filter]. On the other hand, since it does not resemble a regular filter, as it is not attached to the mikvah – it floats and is removed when the mikvah is in use – perhaps it is not part of the blanket issue with filters and is not a problem of making changes in a mikvah. This is the point of contention.
- One who uses this type of mikvah certainly fulfilled his chiyuv and has no reason to toivel again. It is only up to the rav or beis din in charge to determine, based on the challenges they face, whether or not it is worthwhile to use this l'chatchilah (above, 14).
- In practice.** The Eidah Chareidis's beis din allows its use. Still, most high-level mikva'os refrain from using it as a protective measure.

- Since this does not help the issue of zechilah when one uses the mikvah while the filter is on (above, 21) – and there is a chance people will use the mikvah while it is on – the filter can be configured to go off automatically when the light in the tevilah room is on [יב]. This way, it is certain that the filter is not on when the tevilah room is in use. It is even better if the pipe that draws water is at the top of the mikvah [ז] so that even if the filter is mistakenly running while the mikvah is in use, it is zechilah above 40 sa'ah (above, 2) (מקוה מים ח"ב עמ' ע"ו והלאה).

- In practice.** Since there are many conditions needed for a kosher mikvah with an external filter, use of such a filter is avoided in mikva'os used for d'oraisa tevilos, as there are many potential issues that can result (ש"ת מנחת ז' יצחק ח"ו ס' ע"ח ע"ט).

Internal Filter [May Galim Company]

- About twenty years ago, the May Galim company, with the guidance of Rav Meir Posen, invented a filter that goes inside the tevilah mikvah. It is a 16-cm-wide pipe with a filter, e.g., a fiberglass accordion filter, that traps dirt. The water enters from the top, passes through the filter, and then exits below through the pipe. The water is connected to the mikvah water both above and below through a specially-sized hole (אור מאיר ח"ב תשו"ס א').
- Machmirim.** Nearly all poskim ruled that such a filter should not be used in a mikvah for d'oraisa tevilos. Some say it is posul due to various halachic issues, mainly because the water in the filter might be viewed as being in a separate place since one does not want the dirty water to be mixed with the mikvah water. If so, the water is flowing [zechilah] from the mikvah to a spot that is not considered part of the mikvah (הגר"מ שטרנבוך תשובות ז' והנהגות ח"ה ס' ע"ר, ס' קנין דיעה).
- Many poskim forbade its use for a d'oraisa tevilah as a protective measure to prevent any innovations that involve even a remote shailah in a mikvah, which the kedushah and taharah of Klal Yisroel depends on. Also, using such a filter can easily lead to people in the future drawing conclusions and inventing a similar device that is posul. There are already multiple imitations with minor changes that make the water posul (כ"ק מרן ז' הגריש"א, כ"ק מרן ז' הגריש"א).
- Many poskim allow its use for tevilos that are for extra kedushah, e.g., on Erev Shabbos or for Tevilas Ezra (ש"ת הלוי ועוד).



"Mikva Rein" Devices

- Advanced oxidation.** Several years ago, the Mikva Rein company came up with an innovative solution to clean mikvah water. It consists of two parts, and each one must be evaluated separately. The first one is advanced oxidation, which works by injecting a type of oxygen gas into the water to create a chemical change in the water and clean it from dirt and bacteria. It has nothing to do with a filter – it is a small pipe, about one cm in diameter, with a porous stone at the end from where bubbles are released into the water. The change in the water is not visible at all – it is microscopic.
- The poskim discuss whether this fundamentally changes the water, as it is temporarily not H₂O. However, in halachah, we do not relate to the scientific change in makeup. All poskim have concluded that there is no change in the water, and there is no halachic problem with this process. Also, it is not called and does not resemble a filter which can lead to people eventually allowing other filters [heaters and chlorine in water are also innovations...].
- ReshetZaf/Skimmer/MikvaClean.** After advanced oxidation, lots of dirt collects on the water's surface, and a simple way of removing the dirt was researched. Instead of an employee next to the mikvah using a net to remove dirt, they invented a net that floats on top of the water. It has a motor that brings water through a completely hollow pipe [with no holding chamber] into a filtering net. Here, too, there are no potential halachic issues of zechilah or drawn water, and it is removed when the mikvah is in use.
- The only discussion is whether it somewhat resembles a filter which can lead to use of a different filter [the head of it does, in fact, somewhat resemble the May Galim filter]. On the other hand, since it does not resemble a regular filter, as it is not attached to the mikvah – it floats and is removed when the mikvah is in use – perhaps it is not part of the blanket issue with filters and is not a problem of making changes in a mikvah. This is the point of contention.
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