

Insights into Halacha: The Colored Water Caper **Rabbi Yehuda Spitz**

Red Alert

Several months ago, pleasure seekers at Australia's famous Bondi (pronounced Bond-eye) Beach, located in the Sydney suburb of Bondi, were left high and dry when a Crimson Tide rolled in, effectively transforming its normally tranquil waters into the 'Red Sea'. This rare natural phenomenon, known as an algal bloom, occurs when there is a rapid increase or accumulation in the production of microscopic algae (dinoflagellates, usually toxic phytoplankton) in an aquatic system. This results in a visible coloration of the water, typically taking on a reddish hue. Apparently all was not "fair dinkum" for the Aussies. Not that it's any consolation for those robbed of a pleasure swim, nonetheless, at least this gives us an inkling of what Makkas Dam might have seemed like, as well as helping us understand an interesting halacha.

Colored Water?

The Shulchan Aruch[1] rules, as did the Tur before him, and based on a Mishna in Maseches Yadayim, that regarding Netilas Yadayim for eating bread[2], if the water's appearance has changed, whether by itself or due to something else falling inside it or due to its location, that water is pasul, disqualified for being used for washing purposes[3]. This would mean that it would be prohibited to use water during "red tide" to wash for Hamotzi.

Yet, many authorities argue on part of the Shulchan Aruch's statement. They point out that the Mishna does not actually mention the water color being changed "by itself" with no outside stimulus as making the water assur. The Mishna only mentions the other criteria, namely different types of inks and dyes falling in, for prohibiting colored water!

Additionally, regarding such 'dyed water' for use as a mikva, only when the color has changed due to something else falling in would such a mikva be invalidated, and not when the color has changed by itself[4]. It stands to reason that the rules of Netilas Yadayim, which are a Takanas Chachamim, cannot be any stricter than those regarding the Biblical mikva!

A further proof cited is that the Rambam[5], when codifying this halacha, omitted any mention of water whose color has been changed by itself being prohibited. Therefore, many halachic decisors, including the Taz, Magen Avraham, Gr"a, Pri Megadim, Shulchan Aruch HaRav, Kitzur Shulchan Aruch, and Mishna Berura[6] rule that water whose color has been changed by itself is perfectly permissible to be used for Netilas Yadayim. Accordingly, this would mean that 'red tide' water due to an algal bloom would in fact be permitted for Netilas Yadayim, as no one added anything and it is a natural phenomenon that actually occurs on a microscopic level.

Color Coded

However, other authorities disagree, concurring with the Tur and Shulchan Aruch's stringent ruling. They explain that there truly is no such thing as water changing color "by itself". It actually occurs when the water is sitting exposed to the elements, that it gets contaminated, possibly by (microscopic) organisms in the air, which change its color. It is only referred to as changing by itself because nothing was purposely added to the water that might change its color. Proof is that if someone would place water in an airtight sealed clear container, its appearance would remain unchanged.

These authorities argue that the Rema, who does not comment on the Shulchan Aruch's ruling, and perhaps even the Rambam, would actually agree to this. Although the Rambam did not mention water whose appearance changed "by itself", he nonetheless added that water whose color was changed "by the ground" is passul for use for Netilas Yadayim. These decisors opine that it is possible that this was his intent, referring to water sitting exposed on the ground whose appearance was changed naturally. Additionally, they point out that Chazal, and later the Shulchan Aruch, use extremely strong terms for the punishments awaiting those negligent with washing Netilas Yadayim properly[7]. Therefore, they maintain that one may not compare it to a mikva, which would not become invalidated with this type of water. In fact, many halachic authorities, including the Prisha, Chida, Ma'amar Mordechai, Shulchan HaTahor, Ben Ish Chai, Aruch Hashulchan, Kaf Hachaim, and Chazon Ish[8] rule that water whose color has been changed by itself is prohibited to be used for Netilas Yadayim. This would also seemingly include our 'Crimson Tide'.

Breaking Out the Bubbly?

This whole background will help us understand a more common case. Have you ever filled up your cup to wash for Hamotzi and found the water a bit whitish, cloudy or bubbly? Usually, the water settles down and returns to its normal appearance after a few seconds. A quite common question is whether one needs to wait for the water to settle down in order to wash, as it would have the status of water whose appearance changed "by itself", or whether this is not the same issue.

Many contemporary poskim, including Rav Yosef Shalom Elyashiv, Rav Yisrael Yaakov Fischer, Rav Ben Tzion Abba Shaul, Rav Nosson Gestetner, and the Yalkut Yosef[9] rule that there is no reason to wait for the water to settle. They explain that the reason the water looks this way at first is due to air pressure in the pipes. Therefore, they maintain that this is not the same case as 'shinui mareh machmas atzmo' as the water's appearance did not truly change. They bring proof from the Shulchan Aruch himself who rules that if the water's appearance changed due to rocks and dirt getting mixed in, then it is still kosher for Netilas Yadayim[10]. Therefore, a temporary whitish tinge or bubbles in the water cannot be considered any worse for Netilas Yadayim.

Yet, other authorities, including the Minchas Yitzchak, Rav Yaakov Blau zt"l, and the Netei Gavriel[11], still maintain that even though washing with such water would be permissible, it is nevertheless preferable to wait until the water clears before washing l'chatchila.

When one views the world through the lens of halacha, current events, Crimson Tides, and even simple tasks like hand-washing take on a whole other dimension.

Postscript[12]: There is another interesting related topic about whether water with bubbles has the halachic status of water: drinking seltzer during Shalosh Seudos (Seudat Shlishit). There is an obscure custom of not drinking water during Bein Hashmashos on Shabbos. This is loosely based on the Rema's comment in O.C. 291, 2 about the dangers of drinking well water during this time period[13]. The Steipler Gaon, as well as his son Rav Chaim Kanievsky[14], maintain that this includes seltzer (which is intrinsically water with carbon dioxide added in), as the bubbles do not detract from the water's status. However, Rav Moshe Halberstam zt"l, citing many earlier authorities including the Maharsham[15], argues that seltzer is not included in the water category in respect to this minhag. A little fizz goes a long way.

The author wishes to thank his friend and talmid, renowned business consultant and marketing specialist Rabbi Issamar Ginzberg, whose sheilah was the impetus for this author's interest and research in this topic.

[1]Tur / Shulchan Aruch (O.C. 160, 1), Mishnayos Yadayim (Ch.1, 3).

[2]The Mishna Berura (158, 1; see also Shaar HaTzion ad loc. 1 & 2) gives an excellent summary of the sources and reasons why Netilas Yadayim is mandated before eating bread, one of them being that it is alluded to by the pasuk in Parshas Kedoshim (Vayikra Chapter 20, verse 7) "V'hiskadeeshtem, V'heyisem Kedoshim", "And you shall sanctify yourselves, and be holy". The Gemara (Brachos 53b) clarifies that "And you shall sanctify yourselves" refers to washing the hands before the meal, Mayim Rishonim, and "and be holy" refers to washing the hands after the meal, Mayim Acharonim. In other words, by washing our hands before making a bracha (in this case before eating bread), we are properly sanctifying ourselves. See previous article titled "Mayim Acharonim, Chova?". Another reason why we wash is to be akin to the Kohanim eating Terumah, who had to eat their food in purity. One should not make light of this obligation as the Shulchan Aruch writes (O.C. 158, 9) extremely strong ramifications for one who does, based on three separate maamarei Chazal (Mishnayos Ediyus Ch. 5 Mishna 6, Gemara Shabbos 62b, and Gemara Sotah 4b). See also Shmiras HaGuf VeHanefesh (vol. 1, Ch. 55 at length).

[3]This halacha is gleaned from the water in the Kiyor in the Beis HaMikdash, used to wash the Kohanim's hands and feet. Just as if that water's appearance was changed it would be rendered unfit for use, so too our water would - Ra'ah (Brachos 53b s.v. chamei), cited by the Beis Yosef (O.C. 161, 1 s.v. tzarich) and Mishna Berura (ad loc. 1).

[4]Mishnayos Mikvaos (Ch.7, Mishna 3), Rambam (Hilchos Mikvaos Ch.7, 12), Beis Yosef and Shulchan Aruch (Y"D 201, 25 - 27).

[5]Rambam (Hilchos Brachos Ch.6, 7).

[6]O.C. 160 ad loc. - Taz (1), Magen Avraham (2), Gr"a (1), Pri Megadim (M.Z. end 1), Shulchan Aruch HaRav (1), Kitzur Shulchan Aruch (40, 8), and Mishna Berura (160, 2).

[7]See end footnote 2.

[8]O.C. 160 ad loc. - Prisha (2), Chida (Birkei Yosef 2), Ma'amar Mordechai (1), Shulchan HaTahor (1), Ben Ish Chai (Year 1, Parshas Kedoshim 1), Aruch Hashulchan (3, who writes that the appearance change is due to maggots and flies), Kaf Hachaim (5), Chazon Ish (O.C. 22, 7 & 13). Additionally, the Bach (end 1) who argues on this rule, nevertheless concludes that if at all possible it is preferable to be stringent. Similarly, the Machatzis Hashekel (end 2) who likewise refutes this rule still concludes that if after washing with the colored water one finds water whose appearance has not changed, it would be prudent to wash again without a bracha.

[9]Rav Elyashiv's opinion is cited in Shu"t Rivevos Efraim (vol. 6, 410), Rav Yisrael Yaakov Fischer (Shu"t Even Yisrael vol. 7, 11), Rav Ben Tzion Abba Shaul (Shu"t Ohr L'Tzion vol. 2, Ch. 11, 7), Rav Nosson Gestetner (Shu"t L'Horos Nosson vol. 4, O.C. 8), and the Yalkut Yosef (Kitzur Shulchan Aruch O.C. 160, 2). The Chazon Ish (O.C. 22, 9 s.v. sham) implies this way as well, regarding permitting water that got 'dirty' due to something small falling in that does not intrinsically change the water's actual color.

[10]Shulchan Aruch (O.C. 160, 9). It still must be water that a dog would drink. Although there are two different explanations why the Shulchan Aruch's ruling holds true, it is possible that both would apply here. [The Pri Megadim (ad loc. M.Z. 1) explains that since in the end the water itself remains truly clear as the dirt and mud do not actually change the color of the water itself, it is not deemed a problem. The Shulchan Aruch HaRav (ibid.) maintains that since it is the derech of the 'gidul' of water to have dirt and mud mixed in, it won't affect the water's status. See also Mishna Berura (ad loc., 3).]

[11]Shu"t Minchas Yitzchak (vol. 9, 13), Netei Gavriel (Ch.66, 7, pg. 441). This author personally heard this psak of Rav Blau's zt"l, to be choshesh l'chatchila for the Minchas Yitzchak's position, approximately a week before he was niftar. The Minchas Yitzchak held that the hetter of rocks and dirt mixing into the water was not a comparable case according to several opinions and therefore it would be preferable to wait until the water settled down.

[12]Thanks are due to Rabbi Yaakov Nissan for pointing out this related interesting machlokes.

[13]See Shmiras HaGuf VeHanefesh (vol. 2, 130) and Shu"t Divrei Moshe (O.C. 13) at length, explaining how this custom can be sourced in the Rema's enigmatic and seemingly unrelated ruling.

[14]The Steipler's minhag is found in Orchos Rabbeinu (vol. 1, 109). Rav Chaim Kanievsky's short responsa on topic, defending his father's shitta, is printed in Shu"t Divrei Moshe (O.C. end 14). He concludes that it is "kasha lehakel b'makom sakana".

[15]Shu"t Divrei Moshe (O.C. 14) at length; Maharsham (Shu"t vol. 3, 375; Daas Torah O.C. 158 & Y"D 339, 5).

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.