

HALOCHOSCOPE

Congregation Shaaray Tefillah, Pittsburgh, PA

Any new metal or glass kitchen utensil purchased from a gentile requires *Tevillah* - immersion in a *Mikvah* - a body of water. Not every pond or pool qualifies as a kosher *Mikvah*; in fact there are a lot of very specific guidelines that a kosher *Mikvah* must comply with. In every Jewish community there should be a kosher *Mikvah*.

The question:

Someone finds himself in a remote area, far from a kosher *Mikvah*. He has bought new utensils and does not have time to travel to the closest *Mikvah* and get back before Shabbos. At the back of the house where he is spending Shabbos there is a man-made lake. May he use the lake as a *Mikvah* to immerse his new utensils?

What are the issues?

- (A) What kinds of bodies of water can be a *Mikvah*?
- (B) Is there a way to make an unsuitable body of water into a kosher *Mikvah*?
- (C) Does a kosher *Mikvah* ever become unsuitable?

(A) The Types of *Mikvah*:

The laws governing *Mikvah* are complex. Here we will give a brief introduction and explore a few details.

There are primarily two categories of *Mikvah*: *Maayan* and *Mikvah*.

1. *Maayan* - The word *Maayan* means a spring. The water comes forth from the ground by itself; it is not necessary to collect it. Anything with its own underground water source is considered a *Maayan*. This includes wells, springs, streams, rivers and lakes, since they are all connected to the original underground source. The minimum quantity of water for a *Mikvah* or *Maayan* with regard to immersion of utensils purchased from a gentile is forty *Se'ah*, the volume contained in an area of twenty-four cubic feet. [See Shulchan Aruch Yoreh De'ah 120,1; Taz 2, 2, GRO 4; Rosh Hilchos Mikvaos end of Chapter 1, Shulchan Aruch Yoreh De'ah 201; Taz 1; GRO 6.] Provided that the water is still connected to its source, a *Maayan* is kosher both when the water is still and when it is flowing. [See Shulchan Aruch Yoreh De'ah 201; 1,2,13, and commentaries.]

2. *Mikvah* - *Mikvah* means a collection of water. Here the water was gathered in this place from somewhere else. This could be rainwater that collected in a pool or water brought to this spot from a river and is now disconnected from its source. [See Shulchan Aruch Yoreh De'ah 201,10, Shach 30, Simlah 38.] A *Mikvah* is only kosher for *Tevillah* if the water is still. In fact, any water that did not

originate underground but fell as rain or is disconnected from an original underground source must be still to be kosher. This means that if a rainwater Mikvah has a noticable leak, it is unkosher.

A dry riverbed that only fills up and flows when it rains or when the snow melts is considered a Mikvah, not a Maayan, because it does not have an underground source. [See Mishnah Parah 8,9; Nedarim 40b, Ran, Shulchan Aruch Yoreh De'ah 201,2; Rema and commentaries.]

There are primarily three types of unkosher Mikvah:

1. She'uvim - "Drawn water". Any water that was collected in a receptacle and then poured into a hole in the ground is not a kosher Mikvah. This means that, when rainwater is collected for a Mikvah, it must not pass through a cup or anything that can hold water. This disqualifies any Mikvah coming from a supply tank. Therefore, one cannot make a Mikvah using water from the city pipeline. [See Rosh beginning Hilchos Mikvaos, Shulchan Aruch Yoreh De'ah 201,3 and commentaries, especially Simlah 16.]

2. Havaya Shelo Al Y'dei Tahara - If a pipe is used to guide the rainwater into the Mikvah, it must be made in a way, or of a material, that it would not be possible to become *Tamei* - unclean. Plastic cannot become *Tamei*; neither can wood if it is not shaped into a receptacle that can hold something. Most metal pipes, even if they are straight and cannot contain water, can become *Tamei*. Attaching it to the ground, in some cases, can stop a metal pipe from becoming *Tamei*. This, again, disqualifies a Mikvah made by filling a pool with "tap-water". [See Mishnah Parah 6,4; Zevachim 25b Rosh Hilchos Mikvaos 12; Shulchan Aruch Yoreh De'ah 201,35, and commentaries.]

3. Tovel Bakli - If a bathtub, made of plastic or earthenware, which does not become *Tamei*, is connected to the ground, meaning that the water inside is not considered *She'uvim*, it is still unfit for *Tevillah*. This is because, although water is only considered *She'uvim* if it is "drawn" in a receptacle that is not part of the ground, attaching it to the ground does not remove it from the category of *Kli* - a receptacle. There is a Scriptural exclusion of Tovel Bakli - one cannot do *Tevillah* in a receptacle. Therefore a bath, even if it is filled with rainwater, is unfit for *Tevillah*. A Mikvah must be literally dug into the ground or built onto the ground. [See Shulchan Aruch Yoreh De'ah 201,7, Pischei Teshuva, there.] If the bathtub has a hole in the bottom before it is attached, and the hole is plugged with cement after it is attached, there are various opinions as to its suitability as a Mikvah. [See as above.] If a Mikvah has a drainage hole, it must not be lined or plugged with a *Kli*, for example, a metal grate. This complicates the arrangements for draining a Mikvah. [See Mishnah Mikvaos 6,10.]

(B) Making an Unsuitable Mikvah Kosher

One can connect two bodies of water, both of which are less than required volume but adding up together to forty *Se'ah*, by digging a ditch or hole of a certain size, thus making them both kosher. This is because it is then considered one larger body of water. Likewise, to make a tap-water Mikvah kosher one may connect it to a rainwater Mikvah. This is called *Chibur*. [See Mishnah Mikvaos 6,1-7.]

Likewise, a stationary Mikvah that is connected to a Maayan becomes a

Maayan and is kosher even if it starts flowing. If it is then disconnected, it becomes a Mikvah again.

However, a rainwater Mikvah that is flowing, and has not yet become stationary, which at present is unkosher will not become kosher by connecting it to a kosher, flowing, Maayan. [See Mishnah Mikvaos 5,1; Shul. Aruch Y.D. 201,10, Shach 30.]

Another way to make *She'uvim* kosher is to let it flow across porous ground for a distance of one foot before falling into the Mikvah. This only works for Mikvah that already had more than twenty *Se'ah* of non-*She'uvim* water. This is called *Hamshacha*. [See Shul. Aruch Y.D. 201,44.]

(C) Does a Kosher Mikvah ever Become Unkosher?

A Mikvah of rainwater, or a tap-water Mikvah that had *Chibur* to a rainwater Mikvah, that has forty *Se'ah* of water, remains kosher forever, even if much more tapwater was added to it, unless it begins to leak, or enough water is removed that it is below the minimum volume. The same is true of a Maayan that has *She'uvim* added to it. [See Mishnah Mikvaos 7,2. Rambam Hilchos Mikvaos 4,6; Rosh Hilchos Mikvaos 1; Shul. Aruch Y.D. 201,15.]

However, a Maayan that has rainwater added to it to the point where the rainwater is more than the groundwater becomes a Mikvah. This makes no difference in the case of a well, because it is not flowing and is kosher as a Mikvah. A river, however, which rises to twice its depth in the rainy season or when the snow melts, poses a major problem: it has become a Mikvah, but is not still water. Consequently, only the areas which can be fenced off in some way into a watertight Mikvah are fit for *Tevillah*. [See Shabbos 65b Tosafos, Nedarim 40b, Ran.]

There is, however, an opinion that a Maayan never becomes a Mikvah because even though it might appear to have swelled only due to the influx of rainwater, we can be sure that there is an even greater influx of groundwater. "Every drop that falls as rain has two drops of groundwater coming to meet it." We rely on this view in case of absolute necessity. [See Shulchan Aruch Yoreh De'ah 201,2; Rema and commentaries.]

A Mikvah that has a leak at a point above the minimum water level, meaning that there is always a minimum volume of water that is not flowing below the leak, is kosher according to some authorities. Others say it is not kosher. A third opinion says that it is kosher below the leak, so that one would need to immerse below the leak. [See Shul. Aruch Y.D. 201,49; Simlah 87.]

In our case, the man-made lake was made by damming a brook. This brook originated up on a mountainside. The first thing to look for is how full the brook is when there is no rain. If it is always flowing, one can assume that it is a Maayan. Thus, even though the lake is not still since there is always a trickle leaving the lake at the other end, it is fit for *Tevillah*. If the brook is usually dry and fills up when it rains, it is a Mikvah and is kosher only when it is still, which poses a problem with using the lake. According to two of the above-opinions the lake still kosher below the point on the dam that it is flowing from, since it has at least forty *Se'ah* of still water below that point. Moreover, if it can be determined that there is really an underground source for the brook, which needs to be "stimulated" by the rain, it may still be considered a regular Maayan. [See Shul. Aruch Y.D. 201,47, Taz 57.] However, this would mean that the lake is made up of a majority of rainwater and a

small amount of Maayan. Furthermore, on a day that the brook is dry, it is questionable if the lake is to be considered a Maayan since it is disconnected from its source. It is, therefore, safest to use the part of the lake below the point of exit on the dam. Usually, when the stream is dry and no water is flowing into the lake, no water can flow out either, so the lake is a stationary Mikvah.

One more complication arose in our case: The brook was being guided from a neighboring property into the lake through a pipe, presumably to allow the building of a bridge over it. If the pipe is plastic, and it is not warped, it is fine. Even a metal pipe of the type used in these situations is purposely manufactured to be used underground and does not have the status of a Kli. Furthermore, the water does run over one foot of porous ground.

Although we found a way to allow the use of this lake, one should not draw a parallel from here to any other case. This is because even in some cases that are strictly speaking perfectly kosher, we sometimes forbid their use because of Mar'is Ayin- the appearance of something forbidden. [See Lechem 201,26. For an explanation of Mar'is Ayin, see HalochoScope Vol I No 1.]

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ANNOUNCEMENTS

SCHEDULE:

SHABBOS MINCHA	5:45 PM
SHACHARIS SUNDAY	8:00 AM
SHACHARIS MONDAY-FRIDAY	7:00 AM
MINCHA SUNDAY-WEDNESDAY	6:00 PM

THURSDAY - TA'ANIS ESTER:

TA'ANIS BEGINS (72 MINS)	5:37 AM
MINCHA	5:50 PM
TA'ANIS ENDS (8.5 DEGREES)	6:55 PM

CANDLE-LIGHTING SHABBOS TZAVEH (ZACHOR)

	5:58 PM
MINCHA EREV SHABBOS	6:05 PM

SHIURIM:-

GEMORO MAKOS	SUN 7:15 AM
HALACHA B'IYUN	MON 9:00 PM
BUSINESSMEN'S LUNCHTIME CLASS,	
DOWNTOWN SHUL MEGILAS ESTER	TUES 12:00 PM
HILCHOS SHABBOS	SHABBOS 8:15 AM

A halacha Shuir on the laws of Pesach is being planned. Please let us know if and when you are interested. We want to hear from both men and women.

This issue of HALOCHOSCOPE was sponsored by Mr. Dovid Fax in memory of Reb Yechezkel ben Yaakov z"l.