

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

Hilchos Mikvaos

Shiur 4

Written by R' Yossi Sirote

This Series is dedicated to the memory of R' Barry Stern

R' Bunim Lemuel ben Avraham Simcha Stern zt'l

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**Rehov Kahanamin 54, Bnei Brak 03-616-6340
570 4th Street, Lakewood NJ 08701 732.370.3344**

Kalim & Holes

Shiur

4

Seifim 6–7, 40

Siman 201 Seif 6

6 It is imperative that the 40 seah of the mikvah not be in a vessel, because there is no immersion in vessels.

Siman 201 Seif 7

7 One who takes a large vessel, such as a large barrel or a large trough, and makes a “purifying hole” in it (*and there are those that say that we are referring to a hole [the size of] a bladder spout, and so one should be stringent*) and affixes it in the ground and makes it into a mikvah, it is kosher. Also, if the hole is filled with lime and building [stones], it does not invalidate it and the water that pools inside it is a kosher mikvah. [But] if one clogs it with lime and plaster, it nevertheless invalidates the mikvah until it is affixed in the ground or building. If it was walked [dragged] along the ground and on lime, and it was smeared by pitch along the sides, it is kosher. *Rama: one may place it on the roof, on the condition that it not be in a vessel or dug out from a stone and in the end it is affixed there, but many attached stones is not called a vessel.*

Siman 201 Seif 40

40 A vessel that has a hole in its bottom, even an infinitesimal amount, is not considered a vessel to invalidate a mikvah; and in any case one should not initially be lenient to make a mikvah by bringing water in a vessel with holes. And if the hole is on its sides, it does not exclude it from the rules of vessels until it has a width of a bladder spout, which is [the size of] the first two fingers excluding the thumb, able to turn around in the airspace of the hole

with room to spare, whether it is square or round, and it must be near the bottom [of the vessel], so that it cannot hold any water from it and below, but if it [the vessel] can hold any water below it [the hole], it is not excluded from the rules of vessels. And if one mixed lime and rocks and plugged the hole with them, it is not considered a plug that reverts it to the rules of vessels. Or if one dragged it on the ground, and even on lime and plaster, it is not considered a plug; but if one mixed lime and plaster and plugged it, it is considered a plug. Therefore if one wants to draw water from the mikvah in order to clean it, and there is a fear that perhaps 3 lugin of water that is in the vessel will fall back into the mikvah, after it is lacking 40 seah, and thus invalidate it, one should make an infinitesimal hole in the bottom, and thus the water that comes will not be considered drawn water; and if the water is flowing, this is not needed because a spring is not invalidated by drawn water. *Rama: In any case the custom is to be strict also with respect to a spring, because there are those that argue with respect to a spring and say that drawn water invalidates it; and therefore one should initially be strict and make a hole in the vessel that the water is being drawn in, even for a spring, but if one did not do this and drew water from a complete vessel and three lugin of drawn water fell there and invalidated the mikvah and one [now] wants to clean it and make it kosher, if one can easily plug the aperture of the flow it is good to be strict and do this; but if it is a great deal of trouble to do this, or if after the fact one did not do this, one may rely on the lenient authorities that hold that drawn water does not invalidate a spring, because that is the main [opinion]; and even in a mikvah that doesn't have a spring, if the vessel is not so large enough such that certainly 3 lugin have fallen in, only that one may suspect that some fell here and there and the like, we may be lenient; that doubt of 3 lugin is a rabbinic doubt, and one need not worry after the fact.*

Immersing in a Vessel

SEIF 6

The **Sifra** (*Torat Cohanim, Vayikra* 11:36) writes: **If** [one may immerse in a] **pit, perhaps** [one may even immerse in a] **pit on a boat and become pure**, [thus] **the Torah writes “a spring”, just like a spring is rooted in the ground, so too a mikvah [must be] rooted in the ground.**

The **Mordechai** brings that the **Ri** explained that the verse says (*Leviticus, Vayikra* 11:34) **“and any drink which is drunk, from any vessel [that had become impure] will be impure”**. A *mikvah* cannot purify and cannot become impure, but a vessel (*kli*) can become impure and pass this impurity on. Thus, a vessel cannot be a *Mikvah*.

Tosefos (Pesachim 17b) explains that according to all authorities, immersing in a vessel is not allowed on a biblical level, even according to those that say that *shevin* is only rabbinical, and even if the water therein is rainwater and not *shevin*.

Kavu v'Isuf Chak'ku – Fixed then Hollowed

The *Mishna* in *Mikvaos* (4:5) writes:

A cavity chiseled out of rock ... [water from it] does not disqualify the mikvah [because of shevin]. If it was a vessel and one attached it [to the ground] with mortar, ..., [water from it] does disqualify the mikvah.

The *Mishna* brings other cases besides shevin that seem to imply that a rock that was in (or buried or fixed in) the ground and then carved out is considered like the ground for all purposes – even those that are *d'orisa*.

The *Gemora* in *Bava Basra* 65a brings down a *Beraisa* that says

“A PIPE THAT WAS HOLLOWED OUT AND THEN FIXED TO [OR BURIED IN] THE GROUND INVALIDATES A MIKVAH, IF IT WAS FIXED [OR BURIED] AND THEN HOLLOWED OUT, IT DOES NOT INVALIDATE THE MIKVAH.”

The terms used are “*chak'ku v'Isuf kavu*, חקקו ולבסוף קבעו” (first hollowed then fixed) and “*kavu v'Isuf chak'ku*, קבעו ולבסוף חקקו” (first fixed then hollowed).

The *Gemora* concludes on *Daf* 66a that

“[The *Beraisa*] **is according to the Rabbis** [and hence, if it was attached and then hollowed it is a vessel], **and shevin is different because it is [only *asser*] d'rabbanan** [hence we are lenient]. **If so, even if it was hollowed and then fixed it should also be [lenient]. Here it is different because it had the rules of a vessel [already] on it when it was detached.** [And hence even for a *d'rabbanan* one may not be lenient].”

The *Gemora* seems to conclude as follows:

- A vessel that was hollowed out and then attached to the ground is considered like a vessel for everything.
- A rock that was attached and then hollowed out:
 - is not permitted for *d'orisas*.
 - is permitted for *d'rabbans* (As the *Gemora* says, “*shevin* is different [from *d'orisas*] because it is [only] *d'rabbanan*”);

The **Rash** and **Rosh** follow the ruling of the *Mishna*,

If a rock is first buried and then carved out, it is permitted for everything (even *d'orisas*). The **Shach** (21) *paskens* this way as well. The **Chasam Sofer** agrees to this and tries to explain the *Gemora* to be consistent with this understanding.

However the **Pischei Teshuva** (7) brings the **Noda B'Yehuda** (*Shut* YD 142) and **Rabbi Akiva Eiger** who disagree.

The **Noda B'Yehuda** says that,

“SOMETHING WRITTEN SPECIFICALLY IN THE *GEMORA* CANNOT BE REMOVED FROM THE *HALACHA* EVEN BY ALL OF THE WINDS ON EARTH.”

The **Noda B'Yehuda** explains,

That the **Rash** and **Rosh** only meant that a rock is first buried and then carved out it is permitted for *d'rabbans* and not *d'orisas*. Thus according to them, only items that require immersion on a rabbinic level (for example glass purchased from a non-Jew) may be immersed in a rock that was first fixed and then carved out.

However,

They have difficulty explaining the cases in the *Mishna* that suggest that it is permitted even for *d'orisas*.

Holes in Vessels

SEIF 7 & 40

The *Mishna* (Mikvaot 4:5) continues – [A vessel that has] **a hole in the bottom or side and cannot hold any water is valid. And how large must the hole be? The size of a bladder spout.**

When the *Mishna* writes that a vessel with a hole in it “is valid” it means two things:

- (1) if such a vessel is attached to the ground, one may use it as a valid *mikvah*.
- (2) water that comes from such vessels are not considered *shevin*.

Seif 7 addresses the first and **Seif 40** addresses this second

Shfoferet Hanod

A “bladder spout” is the size of the opening (spout) of a canteen made out of leather or the stomachs of animals, used to hold water (also known in English as a “bladder”). The *Mishna* and **Shulchan Aruch** refer to this as a “*shfoferet hanod*” and it is a very important size in *Hilchos Mikvaos*.

As the **Shulchan Aruch** explains in *Seif 40*, it is

“[The size of] the first two fingers excluding the thumb, able to turn around in the airspace of the hole with room to spare, whether it is square or round”.

Modern *poskim* argue about the exact size of a *shfoferet hanod*.

Rav Chaim Naeh (*Shiurei Mikvah*) writes,

The size is 1½ inches (3.8 cm) and **Rav Moshe Feinstein** (*Igros Moshe* YD 2:89) puts the size at 3 inches (7.6 cm). For *halacha l'maaseh*, not surprisingly, we are *machmir* for the largest opinion.

The *Mishna* (*Mikvaot* 4:5) continues:

Rabbi Yehuda ben Beseira said, there was a story about Yehu's Trough [vessel] that was in Jerusalem and had a hole the size of a bladder spout, and all of the pure [foods] in Jerusalem were made [from utensils immersed] in it. And Beis Shammai sent [people] and broke it, because Beis Shammai held that [it is not valid] until the majority is broken.

The simple reading of the *Mishna* is,

That Yehu's Trough was first carved out and then a hole was made in it (to disqualify it as a vessel), and then it was attached to the ground, and hence it is a valid *mikvah* – the same as the previous case in the *Mishna*. And that is how some in fact understand the *Mishna*.

However, the *Gemora* in *Yevamos* 15a explains,

Yehu's Trough was connected to a valid *mikvah* via the hole, and the lesson of Yehu's Trough, is with respect to the size of the hole needed to connect *mikvaos*, and not the size of a hole needed to remove the “*kli*” status of a vessel.

The **Tosefta** in *Mikvaos* 4:4 writes:

A water tank [vessel] which distributed water to cities, if it has a hole the size of a shfoferet hanod (bladder spout) it does not invalidate the mikvah [which it fed], and if not, it does invalidate the mikvah. Bnei Asia brought this halacha on three occasions to Yavneh [where the Sanhedrin was], and on the third occasion, they [the Sanhedrin] validated even a hole the size of a pin. Rabbi Elazar the son of Rabbi Yossi said, this halacha I instructed in Rome to purify, and when I came to my colleagues they said to me, you instructed well. In what case is this referring to? [A hole] in the side does not invalidate the mikvah, but if it could hold any water below the hole it does invalidate the mikvah. [If the hole] is filled with lime and building [stones], it does not invalidate the mikvah, [if it is filled] with lime and plaster, it is invalidates the mikvah, [if it was dragged] along the ground and on lime and plaster or [if it] was smeared by pitch along the sides, it is does not invalidate the mikvah.

The *Rishonim* disagree how to reconcile the *Mishna*, *Gemora*, and *Tosefta*, and hence differ on the size of a hole need to use an ex-vessel as a *mikvah* if buried (*Seif* 7), and the size needed so that water that falls from an ex-vessel is not Sheuvin (*Seif* 40).

Rosh The **Rosh** (*Piskav, Mikvaot* 8) explains that when the *mishna* says that the hole must be the size of *shfoferet hanod*, it is talking about making a hole on the side of the vessel, and as the *Tosefta* explained, a hole on the side must be towards the bottom so that the vessel will not be able to hold water. Yehu's Trough is dealing with connecting *mikvahs* and not our topic. Lastly, we hold like **Tosefta** that indicated that the size of a hole needed on the bottom of the *keli* is any size (the size of a pin hole). The **Rash** also holds like this.

Tur The **Tur** explains that his father, the **Rosh**, based upon a *teshuva* that he wrote, held that, despite what he wrote above, we should be *machmir* for the size of a *Shfoferet Hanod*.

Ramban & Ritva The **Ramban** and **Ritva** also *paskeen* that one needs a hole the size of *Shfoferet Hanod* according to the simple reading of the *Mishna*.

Rambam The **Rambam** (6:4) explains that when Rabbi Elazar the son of Rabbi Yossi wrote "this halacha I instructed in Rome *to purify*" it means that the hole must be the size of "*nekev hamitaber, נקב המטהר*", i.e. the size that makes *kalim* not be able to be *m'kabel Tumah*. This size varies depending on the type and purpose of the vessel, for example:

- For earthenware vessels used for food, this size is a *k'zayit* (olive). (**Rambam** *Hilchos Kelim* 19:1, *Mishna Kelim* 3:1). This size is smaller than a *shfoferet ba'nod*.
- For earthenware vessels used only for liquids, the size is large enough for liquids to flow through (*ככונס משקה*). (ibid)
- For wooden *kalim*, it is the size of a *rimon* (pomegranate). (*Mishna Kelim* 17:1)

The **Kesef Mishnah** and **Beis Yosef** (both are of course **Rav Yosef Karo**, the **Mechaber**) deal with the **Rambam** at length. He explained that the **Rambam** held that a *nekev hamitaber* is the size that causes a vessel to lose its definition of 'vessel' for purposes of *tumah* and *tabara*, and the same size causes a vessel to lose its definition of 'vessel' for purposes of a *mikvah*. Most *Rishonim* disagree with the **Rambam**; they argue that the definitions of "*keli*" is different for *Hilchos Mikvaos* than for *tumah* and *tabara*. Their proof is that stoneware is not *m'kabel tumah*, but is still a *keli* for shevin.

The **Rambam** agrees that Yehu's Trough is dealing with connecting *mikvahs* and not our topic.

The **Rambam** (6:3) also *paskens* like the *Mishna* that for **stoneware** the size is that of a *shfoferet hanod*. Three possible reasons are given for this:

- The case is one in which the vessel was attached before the hole was made in it. In this case a *shfoferet hanod* is needed.
- Stoneware is not *mekabel tumah* and hence there is no “*nekev hamitaber*” for stoneware. Instead the rabbis instituted that the hole should be *shfoferet hanod*.
- A rock that was first attached and then carved out is *kosher* for a *mikvah*. Hence the rabbis were afraid that people would first carve out a stone and then attach it, hence they instituted that it must have the hole the size of a *shfoferet hanod*.

Mechaber & Rama The **Mechaber in Seif 7** follows the **Rambam** that the size is a “*nekev hamitaber*” (purifying hole), and the **Rama** follows the **Tur’s** explanation of the **Rosh** (and **Ramban & Ritva**) that the size is *shfoferet hanod*. The **Mechaber in Seif 40** *paskens* like the **Rosh** that the size is a pinhole on the bottom or a *shfoferet hanod* on the sides.

The **Shach** (23) asks on the **Mechaber**, why in *Seif 7* (hole to make vessel permitted for immersion) does the **Mechaber** *pasken* like the **Rambam** that the size is “*nekev hamitaber*”, but in *Seif 40* (hole needed so that water is not shevin) he *paskens* like the **Rosh** that a pinhole is enough on the bottom, and on the side the size is *shfofert ha’nod*?

The **Shach** answers,

Perhaps in *Seif 40* the **Mechaber** was relying on what he wrote there, namely “and in any case one should not initially be lenient to make a mikvah by bringing water in a vessel with holes”, and that is why he allowed himself to bring the more *meikil* opinion. The **Shach** concludes that his answer is forced.

The **Pischei Teshuva** (26) brings **Rabbi Akiva Eiger** (Teshuvos 45) who answers the **Shach's** question as follows.

- *Seif* 7, which deals with immersing in a *mikvah* itself, which is an *issur d'orisa*, the **Mechaber** brings the stricter opinion of the **Rambam** (size of *nekev hamitaber*) as opposed to the more lenient ruling of the **Rosh** (a pinhole on the bottom).
- However *Seif* 40 deals with sheuvin which is only *d'rabbanan* according to many authorities, thus the **Mechaber** followed the more lenient ruling of the **Rosh** and Rash that any size hole will do.

Cleaning a Mikvah

The above discussion may appear quite academic – how big does a hole need to be in a vessel so that it does not have the *din* of a *keli*. However, this was actually used extensively.

There was a classic problem of how do you clean out a *mikvah*.

The obvious answer is to take a bucket and empty it out. However, this can potentially invalidate the *mikvah* – if, after the level falls below 40 *seah*, 3 *lugin* of the water falls back from the bucket into the *mikvah*, it will invalidate the *mikvah*. There was always a problem that it was (and still is) very difficult to get all of the water out of the *mikvah* and if three *lugin* are left it would invalidate the *mikvah*, no matter how much *kosher* water is added afterward (see Shiur 9). Recall that according to **Rabbenu Tam** this would *posel* the *mikvah d'orisa* and according to virtually everyone else it would *posel* the *mikvah d'rabbanan*.

Hence the solution of emptying the *mikvah* using a bucket with a hole in it, and the need to know exactly how small the hole could be.