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Immersion on Erev Rosh Hashana & Erev Yom Kippur

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What is the source for immersing in a mikvah on Erev Rosh Hashana and Erev Yom Kippur?

May a swimming pool be used for these immersions?

There is a widespread *minhag* (custom) to immerse oneself in a *mikvah* before Rosh Hashana and Yom Kippur. Due to COVID, many people will be unable to access a *mikvah* this year. This article will explore the origins of this custom and some possible options to replace immersing in a *mikvah*. Because the main source of this custom is found in the laws of Yom Kippur, the discussion will begin with that and then move on to Rosh Hashana.

The source for Erev Yom Kippur immersion: The Rosh (Yuma 8:24) cites the opinion of Rav Sa'adia Ga'on that one should make a blessing before the *tevila* (immersion) of Erev Yom Kippur. The Rosh argues and says that since there is no obligation to immerse, as it is merely a *minhag*, a blessing is not made. This custom, explains the Rosh, is based on a passage in Pirkei DiRebbi Eliezer (46) that the Jewish People are like angels on Yom Kippur, and just as angels are *naki* (cleansed), so are the Jews *naki* on Yom Kippur. The Levush (606:3) says that "*naki*" includes *tahara* (ritual purity), and so a man must purify himself from *tumas ker*i (impurity due to a seminal emission) before Yom Kippur. The Vilna Ga'on (Glosses to Shulchan Aruch Orach Chaim 606:4) understands that while *naki* refers to being clean from sin, the angelic state also warrants the aforementioned state of *tahara*, and so immersion for *tumas ker*i is necessary.

The Maharil (Hilchos Erev Yom Kippur) provides a different reason for the immersion of Erev Yom Kippur, explaining that it is part of the *teshuva* (repentance) process.

Practical application: The Shulchan Aruch (Orach Chaim 606:4) rules that one may immerse anytime¹ on Erev Yom Kippur, indicating that one should immerse on Erev Yom Kippur. The Darkei Moshe (Orach Chaim 606:3) cites both of the reasons discussed above, and gives several practical differences between the two reasons.

If the purpose is to purify from *tumas ker*i, immersing once suffices. If it is for *teshuva*, three immersions² are necessary, paralleling three verses in Tanach that express Hashem as a *mikvah* that purifies the Jewish People³. The Shela (Yuma 16) cites the Sefer Chassidim that three times correspond to the three categories of sin - *chait*, *avon*, and *pesha*.

A second difference is based upon the Gemara (Bava Kamma 82a-b) which states that Ezra the Scribe enacted that a man who experienced a *ker*i emission may not study Torah before immersing in a *mikvah*; this immersion is thus known *tevilas Ezra*, Ezra's immersion. The Gemara (Brachos 22a) concludes that the Sages annulled this enactment, and one may indeed study Torah in a state of *tumas ker*i⁴. However, the Gemara there has a lengthy discussion regarding other options besides actual immersion in a kosher *mikvah* that would suffice for *tevilas Ezra*. From the Gemara it emerges that while it is preferable to immerse in a kosher *mikvah* containing forty *se'ah*⁵, one may also have nine *kav*⁶ of regular water poured upon himself⁷. A number of *poskim* (Shevet Halevi 1:24;

¹ See Mishna Berura 606:18 that some say the ideal time to immerse is before reciting *mincha*, when one recites the first *vidui* (confession), while others say one should immerse before the *se'uda hamafsekes*, the final meal before Yom Kippur.

² One needn't fully emerge from the water; it is sufficient to emerge partially and then fully submerge again.

³ Yirmiyahu 14:8, 17:13, 50:7

⁴ See, however, Mishna Berura 88:4 that there are people who are careful to immerse for *tumas ker*i, or, at the very least, to have nine *kav* poured on themselves. Immersion in the morning for men before prayers is, indeed, a standard custom in most Chassidic communities.

⁵ There are many opinions regarding how these 40 *se'ah* are calculated. Opinions range from as few as 303 liters (approx. 80 gallons) and upwards to as much as 964 liters (approx. 255 gallons). A full discussion is well beyond the scope of this article.

⁶ This ranges between 12.5 liters (3.4 gallons) and 21.6 liters (5.7 gallons).

⁷ One must position himself in a way that the water will fall on his entire body; see

She'arim Hametzuyanim Bahalacha 131:11) rule that one can stand under a shower long enough for nine *kav* to fall on him to fulfill this approach. The Minchas Yitzchak (1:24) adds that the water should fall continuously upon the person without interruption, and that one should stand under the showerhead and then turn on the water⁸. There are other *poskim* who disagree for various reasons and rule that a shower would not work (Rabbi Moshe Shternbuch in Teshuvos Vehanhagos 1:123; Rabbi Chaim Kanievsky in Menuchas Hameis 24:10, in the name of the Chazon Ish).

However, this leniency of nine *kav* suffices only for *tevilas Ezra*, not for other immersion purposes⁹. From the aforementioned Maharil it is clear that the process of purifying before Yom Kippur from *tumas ker*i follows the guidelines of *tevilas Ezra*, and so nine *kav* would work for Erev Yom Kippur. However, if the immersion is part of the *teshuva* process, nine *kav* would not help.

A third difference is concerning a custom some had to recite *vidui* (confession of one's sins) while immersing. If the purpose is *teshuva*, *vidui* is appropriate; if merely for *tumas ker*i, there is no reason to recite *vidui*. It should be noted that the Sha'ar Hatziyon (606:22) says it is best not to recite *vidui* regardless as one may inadvertently say Hashem's Name while immersing.

A fourth difference is whether people for whom *tumas ker*i is not relevant¹⁰ should immerse; if the immersion is for *teshuva*, they should do so.

The Rema (Orach Chaim 606:4) rules that the purpose of immersion on Erev Yom Kippur is to purify from *tumas ker*i. However, the Magen Avraham (606:8) and the Mishna Berura (606:21) cite the other opinion that it is for *teshuva*. The Mishna Berura elsewhere (ibid.:17) cites a ruling of the Magen Avraham that even unmarried young men and women should immerse¹¹, which, as discussed above, indicates that the immersion is for the purpose of *teshuva*. The Mishna Berura (ibid.:22), again citing the Magen Avraham, says that even according to the Rema that one may use nine *kav*, this is only if it is difficult to use a regular *mikvah*.

It seems, based on the above, that while the Rema treats the *tevila* of Erev Yom Kippur leniently, one should preferably treat it stringently in accordance with those who rule it is for *teshuva*, which means to make an effort to use an actual *mikvah* and not nine *kav* and to immerse three times.

Erev Rosh Hashana immersion: The Rema (Orach Chaim 581:4) says that some have the custom to immerse on Erev Rosh Hashana¹² due to *tumas ker*i. The Rema's source is the Kol Bo (64), who also says that even though we do not require *tevilas Ezra* today, Mishna Berura 88:4 for details.

⁸ The reason for this is that the nine *kav* must come through pouring, not immersion. Walking into an already present stream of water is akin to immersion.

⁹ It should be noted that this leniency, as well as others discussed later, are not sufficient to purify a person from the actual state of impurity of *tumas ker*i, which would be relevant for other areas of halacha relevant in Temple times such as touching or eating consecrated items or entering the Temple area (Rambam Pirush Hamishnayos Mikvaos 8:1 s.v. *kevar bi'arnu*).

¹⁰ Unmarried women fall into this category (see Mishna Berura 606:17). A married woman could be subject to *tumas ker*i through her husband, but there are other potential issues that arise and are beyond the scope of this article. A man who has previously immersed and has remained pure would also not require immersion; see, however, Magen Avraham ibid.:8 that a man should still immerse on Erev Yom Kippur for *tumas ker*i in such a case.

¹¹ Customs vary regarding women immersing for the purpose of Yom Kippur.

¹² See Mishna Berura 581:26 that one should not immerse earlier than one hour prior to *chatzos* (halachic midday).

greater purity is necessary for Rosh Hashana and Yom Kippur. However, the Maharil (Hilchos Erev Yom Kippur) would immerse three times even on Erev Rosh Hashana, indicating that this immersion, as well, is for *teshuva*. The Mishna Berura rules (581:26) that if one cannot use a *mikvah*, nine *kav* should be used. It seems that for Rosh Hashana, one may rely on the Rema that the *tevila* is for *tumas ker*, as the major commentators don't mention the more stringent opinion of immersing for *teshuva*.

Other Options: Having discussed that nine *kav* should be avoided in favor of an actual *mikvah* for Erev Yom Kippur, and that a *mikvah* is preferable for Rosh Hashana, as well, are there any other options for one who doesn't have access to a *mikvah*?

One possible option for immersion is a stream or river in which one's entire body can be submerged at once (Shulchan Aruch Yoreh De'ah 201:1). However, these bodies of water present a problem because their water is *zochalin*, flowing water, and the Shulchan Aruch (Yoreh De'ah 201:2) rules that *zochalin* is only valid if the majority of water is spring water, not rain water. Determining if this is the case is not so simple. However, the Rema (ibid.) notes that the *minhag* is to be lenient when a regular *mikvah* is unavailable. Thus, such a body of water is an option if a regular *mikvah* is unavailable, certainly for *tevilas Ezra*, and even for *teshuva* purposes. A lake or pond whose water is not flowing¹³ and contains forty *se'ah* would be valid for immersion of all types (Shulchan Aruch ibid.). The *poskim* discuss whether a swimming pool would be valid for such a *tevila*. Normally, a swimming pool is not an option because it is filled with *mayim she'evin* (lit., drawn water), water which was in a vessel¹⁴. A kosher *mikvah* requires water that was not contained in a vessel. However, a *mikvah* filled with *mayim she'evin* is valid for *tevila* for *tevilas Ezra* (Bais Yosef Orach Chaim 88:1; Magen Avraham 88:1). The Magen Avraham (606:9) says that for the immersion of Erev Yom Kippur a *mikvah* of *mayim she'evin* is valid. The Minchas Yitzchak (3:64:6) says that if the immersion is for the purpose of *teshuva*, *mayim she'evin* would not be valid¹⁵.

Even when *mayim she'evin* are valid, the Magen Avraham (606:8) says this is only so if the water is not in a *kli* (vessel) (see Yoreh De'ah 201:6). For halachic purposes, any receptacle which was a functional *kli* before its attachment to the ground is considered a *kli* even after its attachment to the ground. Therefore, any aboveground structure such as an aboveground swimming pool would not be valid for *tevila* for *tumas ker*.

However, an in-ground swimming pool does offer potential for this type of immersion. There are three types of in-ground pools: concrete, vinyl, and fiberglass. Concrete and vinyl are both essentially holes in the ground lined with either concrete or vinyl, and thus pose no issue of being a *kli*. Fiberglass, however, is a large fiberglass receptacle that is placed into the hole in the ground – and so it is a *kli* before being attached to the ground. The only way a *kli* can be validated is if it has a hole on its bottom large enough for two fingers to easily rotate in the hole, which, according to different opinions, varies between 1 ½ and 2 inches. A hole this size, known as *nikev kishfoferes hanod* (lit., punctured the size of the tube of a barrel) removes the halachic status of *kli* from the vessel (see Yoreh De'ah 201:7,40). Not all pools have a drain on the bottom, and so whether a fiberglass pool would be a good option for *tevilas Ezra* would depend on there being a drain on the bottom.

There is another issue in a pool, the filter. The Shulchan Aruch (Yoreh De'ah 201:2) rules that a *mikvah* whose water is *zochalin* is invalid. There is some discussion if this is an issue for a *mikvah* used for *tevila* for *tevilas Ezra*, but the consensus of the *poskim* is that it does, indeed, pose a problem (see Machaze Avraham 13; Zichron Yehuda 2:61; Minchas Yitzchak ibid.). The issue with a filter is that it sucks water in and then pushes it back in the pool, essentially creating an in and out flow of water akin to *zochalin*. However, Rabbi Moshe Feinstein (Igros Moshe Yoreh De'ah 1:110) says that the water going through the filter is similar to water that splashes out of the *mikvah* and then

¹³ Many lakes have an inlet and outlet and may be considered *zochalin*; this, too, is a complex matter beyond the scope of this article; see Shulchan Aruch ibid.:50.

¹⁴ Tap water is treated as *mayim she'evin*, and water from pipes in general may be *mayim she'evin*, depending on how they are structured; see Mikveh Mayim Ch. 7 pg. 93 with fn. 3.

¹⁵ See Maharil ibid. who compares *tevila* for *teshuva* to that of a person converting to Judaism, which needs a fully kosher *mikvah* of non-*mayim she'evin* (see Shach Yoreh De'ah 268:6).

flows back in, which the Rema (Yoreh De'ah 201:50) says is not an issue of *zochalin* since the water isn't really flowing anywhere. However, others (Teshuvos Vihanaagos 5:272) disagrees and says a filter does indeed create a *zochalin* issue. Nonetheless, there is a solution to the filter question, as Rabbi Feinstein rules (ibid.) that if the filter is not running, there is no problem. Thus, one could immerse *tevilas Ezra* in a concrete or vinyl in-ground pool with the filter off.

In theory, a bathtub or hot tub could also be used for *tevilas Ezra*, as well. Although the tub is a full vessel before it is attached to the ground, it has a drainage hole. However, the standard diameter of the drain hole for a bathtub, after the drain flange (the metal piece inserted in the tub's drainage hole) is inserted, is 1 3/8 inches. The minimum size of *kishfoferes hanod* which would render the hole large enough to remove the *kli* status is 1 ½ inches¹⁶. In addition, the tub must have 40 *se'ah* of water. There are numerous opinions as to the volume of 40 *se'ah*, the smallest being around 303 liters (see footnote 3); for *tevilas Ezra*, one may rely on the lenient opinion (She'arim Mitzuyananim Bihalacha 72:33) for the required volume. Most bathtubs do not have such a capacity, though many hot tubs do. It is not enough for the tub to have a capacity of forty *se'ah*; there must actually be forty *se'ah* of water in the tub. Additionally, one must submerge the entire body in the water at one time. Thus, if one has access to a tub with a drain on the bottom of the tub whose opening is at least 1 ½ inches in diameter and has 303 liters of water, one could use it for *tevilas Ezra*.

One last issue is whether one may wear a bathing suit while immersing. *Chatzitza* (something interposing itself between the body and the water) invalidates an immersion (Yoreh De'ah 198:1). Scripturally, *chatzitza* is only an issue if most of the body is covered, while Rabbinically, any part of the body that has a *chatzitza* invalidates the *tevila* (Eruvin 4b). Whether *chatzitza* is a problem for *tevilas Ezra* is debatable (see Sha'arei Teshuva Orach Chaim 88:1); the Bi'ur Halacha (88 s.v. *vichein pashut*) concludes that so long as only a minority of the body is covered, it is not a problem. In addition, the Shulchan Aruch (Yoreh De'ah 198:46), as understood by the Shach (ibid. 56), rules that if the article of clothing is worn loosely so that water can easily enter under it and come into contact with the body, one may be lenient *bidieved* (after the fact). While this leniency is not relied upon *lechatchila* (initially) for normal immersions, it is certainly a viable leniency for *tevilas Ezra*, and can be relied upon for an immersion for the purpose of *teshuva* in extenuating circumstances¹⁷.

Many of these leniencies are, as discussed, relevant for *tevilas Ezra*. If one assumes that the immersion of Erev Yom Kippur is for *teshuva*, many of these leniencies are less viable or not relevant at all. In addition, Rabbi Shmuel Felder (Shiurei Halacha Hilchos Rosh Hashana-Yom Hakippurim 2011 ed. pg. 46-47) concludes that even if the immersion of Erev Yom Kippur is for *tumas ker*, it is treated more stringently regarding *chatzitza* issues than a regular *tevilas Ezra*; this indicates that this immersion is altogether more stringent than a regular *tevilas Ezra*. One should therefore be more stringent for Erev Yom Kippur and try to immerse in a fully kosher *mikvah* (which includes a natural standing body of water such as a pond or lake of forty *se'ah* with no inlet and outlet). If this is not available, a river or stream would work, under the conditions discussed above. If none of these are available, a pool/tub is a good option for *tevilas Ezra*, which is the purpose of the immersion according to the Rema. If this, too, is not an option, then nine *kav* may be poured upon the person (which, as discussed earlier, can take the form of a shower). The immersion of Erev Rosh Hashana is more lenient, as the mainstream opinion is that it is for *tumas ker*, not *teshuva*. Thus, while a *mikvah* is ideal, and a flowing natural body of water such as a river would also work, a valid pool or tub may be used. If these are unavailable, nine *kav* may be used.

In conclusion, let us not lose sight that our ultimate goal during these Days of Awe is to return to Hashem in purity. Immersing properly will help us along the process of achieving this task.

¹⁶ Interestingly, the drainage hole itself is 1 ½ inches in diameter. However, the flange is attached before the tub is installed on the ground, thus leaving the hole too small before its attachment to the ground.

¹⁷ This leniency should NOT be relied upon for other immersions such as for *taharas hamishpacha* (family purity) without competent Rabbinic guidance.

Points to Ponder:

Should one cut one's nails and check for chatzitzos before immersing on Erev Yom Kippur?

May one immerse on Rosh Hashana itself?

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