

## Snow for Tvilat Keilim

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**SUMMARY:** *In this teshuva we look at whether snow may be used for the mitzvah of tvillat keilim. In passing we also address the question of using snow for washing hands before bread.*

*Themes touched upon in this teshuva include:*

- *Instances where halakha goes against the rulings of Shulkhan Arukh and Rema (whether a woman in niddah may immerse in snow that has not melted).*
- *How the weight of obligation – Biblical or rabbinic – can impact which solutions are available for a particular problem.*
- *Something that can be kosher in theory but not in practice as a result of technical problems (having the snow come in contact will all surfaces of the object or person).*

**QUESTION:** I am in Vermont for business. I have rented an apartment and bought myself pots to cook with. There is no convenient *mikveh*, but there is a lot of snow. May I *tovel* the pots in the snow? Would I be able to use them without *tevilah*? Would you also give me some guidelines for snow on Shabbat—is it *muktzeh*? May I shovel it? Is there anything else I should be aware of?

**ANSWER:** In a previous [teshuva](#), I answered the question regarding guidelines for snow on Shabbat. In this *teshuva*, I will address the first question: may one *tovel* pots in the snow?

The requirements for a *mikveh* for *keilim* are the same as those a *mikveh* used for any other purpose, and therefore our point of departure is the *mishna* in Mikvaot (7:1) that states:

אלו מעלין ולא פוסלין השלג והברד... אמר ר' עקיבא היה ר' ישמעאל דן כנגדי לומר השלג אינו מעלה את המקוה והעידו אנשי מידבא משמו שאמר להם צאו והביאו שלג ועשו מקוה בתחלה

The following can complete [the 40 *seah*, the minimum amount of water required for a *mikveh*] and does not invalidate it: snow, hail... Said Rabbi Akiva: Rabbi Yishmael argued with me and said that snow does not complete the [required amount of water for a] *mikveh*. But the people of Meidva testified that he said to them, “Go out and bring snow and make a new *mikveh*.”

The initial ruling in this *mishna* is that if a *mikveh* already has some water in it but not the requisite amount—40 *seah*—one may add snow to the existing water to complete this amount and make it a kosher *mikveh*. Although Rabbi Yishmael questions this, in practice he permitted even the full 40 *seah* to come from snow.

One might conclude from this *mishna* that there is no problem using snow to create a *mikveh* and therefore no problem using snow for *tevilat keilim*. However, in the discussion of the *Rishonim*, the issue is more complex.

The question we need to address first is: how do we measure the snow? Forty *seah* is a volume measurement. In order to obtain a volume measurement of the snow, do we measure it as it falls (including the air pockets) or do we pack it and eliminate the air pockets before measuring it? Ra'avad (Ba'alei HaNefesh, *Shaar Ha'Mayim*, no. 2, on Mikvaot 7:2) and Rosh (Hilkhot Mikvaot, no. 18) both state that the snow must measure 40 *seah* when compressed, and this also seems to be the position of Rambam who states that the snow must first be crushed (Laws of Mikvaot 7:3).

For our purposes the most significant question is whether snow may be used in its current state or whether it must melt to be valid for *tevilah*. The simple understanding of the *mishna* is that snow may be used in its natural state: as snow, and not only once it becomes water. There are those who question this. Mordechai (Shabbat, no. 332) records a case brought before Rabbeinu Shmarya of Speyer (12<sup>th</sup> century Tosafist) in which a husband forced his wife to immerse in the snow (presumably, there was no *mikveh* available). Mordechai does not comment on the man's behavior but does note a *halakhic* debate as to whether this immersion is valid. Rabbeinu Simcha (Speyer, 12<sup>th</sup> century Tosafist) rules that the immersion was valid based on the *mishna*, while Rabbi Eliezer states that the *mishna* referred specifically to a case where the snow had melted and only in such a case would the *mikveh* be kosher. Mordechai concludes by stating that in the end Rabbeinu Simcha reversed his position and agreed that a woman could not immerse in snow if the snow were not melted.

Beit Yosef (YD 201) quotes these rulings and argues strongly against them. He states ומשמע לי דפשטא דמתניתין "ודברי הפוסקים לא מוכחי כלל כדברי ה"ר אליעזר דודאי בלא הופשרו מיירי *mishna* and of the *poskim* do not support the position of Rabbi Eliezer, for they are certainly referring to a case where the snow has not melted." Despite this strong statement, Beit Yosef says: ומכל מקום אין להקל לעשות מעשה "באיסורא דאורייתא נגד ה"ר אליעזר ורבינו שמחה, "Nevertheless, we should not be lenient and act against the ruling of Rabbi Eliezer and Rabbeinu Simcha in a matter of a Biblical prohibition." He concludes that one may use snow for washing hands before eating bread as this is a rabbinic, not a Biblical, matter.

Despite these reservations recorded in Beit Yosef, Rabbi Yosef Caro rules in Shulkhan Arukh that a woman in *niddah* may immerse in a *mikveh* filled with snow without qualifying this in any way (YD 201:30). Rema adds that there are those who are strict and require that the snow melt before it is used for *tevilah*. He concludes טוב להחמיר לכתחילה, "optimally, it is best to be stringent *lichatchila*." Rema thus agrees to Shulkhan Arukh that in principle immersion may be done in snow that is not melted.

Shakh (no. 71) argues strongly against these positions. He states that the snow must be melted to be used for *tevilah*. He requires this absolutely and not just as a *lichatchila* concern.

Indeed, Shakh asserts that almost all *poskim* rule that in order for a *mikveh* to be entirely filled from snow, the snow must first be melted [it should be noted that when snow is being added to existing water, it need not be melted first]. For Shakh, Rambam's ruling that snow must be crushed is stating exactly this: the snow must be crushed and turned into water, and only then may it be used.

Shakh is emphatic that a woman in *niddah* may not use a *mikveh* filled with snow, even if there are no other choices, unless the snow has already become water. Most Ashkenazi *poskim* rule this way as well (see Be'er Heiteiv, no. 49; Pitchei Teshuva, no. 21).

This position has its dissenters (see Gra, no. 65; Taz OH 159:20; Or Yitzchak vol. 2, YD 17, section 12). Notably, Hazon Ish challenges Shakh's assertion that most *poskim* require the snow to be melted, and in conclusion he writes: ומ' סאה שלג המונח בבקעה... הוי ספיקא דדינא ויש להחמיר בדאורייתא ולהקל בדרבנן והמיקל כדעת מרן "Regarding 40 *seah* of snow which falls into a valley... there is a question as to how we rule, and one should be strict with Biblical matters and lenient with rabbinic matters. A person who is lenient and follows the position of Shulchan Arukh and Rema, who decided the matter in favor of the lenient opinion, has upon what to rely."

As a rule, we should certainly follow the strict opinion for Biblical matters. Thus, as a rule, a woman in *niddah* should not immerse in snow. Obviously, it would only be in extreme circumstances that such a possibility would arise; in such a case, a *posek* should be consulted.

When dealing with a matter of rabbinic law, however, there is room for leniency. Thus, in the case of *nitilat yadayim*, washing hands before bread, which is a rabbinic *mitzvah*, Taz (OH 159, no 20) rules that one may wash one's hands by putting them in snow even *lichatchila*. Magen Avraham (160, no. 16) rules likewise (although he does reference Shakh's position in the end). Similarly, Be'er Heiteiv (160, no. 13) allows travelers who do not have water available to stick their hands into the fallen snow as a way of doing *nitilat yadayim*. Mishne Brurah (160: 58) echoes this ruling, and in *Shaar ha'Tziyun* (no. 61) he argues that even Shakh would permit using snow for this rabbinic *mitzvah* when no other options are available. The consensus of all these *poskim* is that one can be lenient in rabbinic matters and rely on those who permit snow to be used for *tevilah*.

It is also clear from these *poskim* that when snow is being used for immersion, it need not be placed in a *mikveh*. Any contiguous patch of snow that contains 40 *seah* can be used in its natural state where it has fallen on the ground (see, for example, Magen Avraham OH 160:16 and Be'er Heiteiv 160:13).

To return to our question—may one use snow for *tvilat kelim*?—the answer should depend on whether this *mitzvah* is of a Biblical or rabbinic nature. If it is a Biblical *mitzvah*, we would not allow snow to be used; if it were rabbinic, we would, especially when no other options are available.

Whether *tvilat kelim* is a Biblical or rabbinic *mitzvah* is debated by the *Rishonim* (see Tosafot Yoma (88a), *s.v. mi'Kan*; Ramban, Bamidbar 31:23; Rambam Laws of Forbidden Foods 17:3-5, and Kesef Mishne on 17:5; Ra'ah Bedek HaBayit 4:1, *s.v. vi'Tam ki'Ikkar*). The material composition of the vessel is also a relevant factor. The consensus of *poskim* is that even if *tvilat kelim* is a Biblical *mitzvah*, this would apply only to metal vessels. The requirement to immerse glass vessels is certainly rabbinic in nature.

Thus, following the approach we presented above, one should not immerse metal vessels in the snow, as this might be a Biblical *mitzvah*. Glass vessels are of a rabbinic nature, and may be immersed in the snow if necessary. This ruling is found in Chakhmat Adam (73:19, quoted in Pitchei Teshuva YD 120, no. 4) who states that in a *sha'at ha'dechak* (exigent circumstance) situation, glass vessels may be immersed in the snow. If a *mikveh* is not readily available, this would constitute a *sha'at ha'dechak*—as it does in the case of hand washing—and a person could be *tovel* her glass dishes in the snow.

*Poskim* debate whether vessels made from certain other materials—such as aluminum (a metal not mentioned in the Torah), Teflon, enamel, as well as glazed vessels—require immersion or not. In all such cases, one may use snow for *tevilah* if a *mikveh* is not readily available.

Even when it comes to metal vessels, one could argue that since *Rishonim* debate whether *tevilat keilim* is a Biblical or rabbinic *mitzvah*, we should permit immersion in snow when no other options exist based on a *sfek sfeika*, or the principle that we are not concerned when something is doubly uncertain. In this case, it is a *sfek sfeika* because (1) it is uncertain that *tevilat keilim* is Biblical commandment, and if it is indeed rabbinic, snow can be used, and (2) Even if it is a Biblical *mitzvah*, there are *poskim* that allow immersion in snow for Biblical obligations. However, a number of *poskim* are adamant that *tevilat keilim* is Biblical according to all *Rishonim* (see, for example, Arukh HaShulkhan, 120:4), and according to them, there is no *sfek sfeika* in the case of metal vessels. In the end, when dealing with metal vessels it is best to wait until you have access to a kosher *mikveh*.

If no other cooking implements are available and you need to use these metal pots, I would advise you to do the following: immerse the metal vessels in the snow without a *brakha*, use them as needed, and when you have access to a *mikveh*, immerse them again without a *brakha*.

The reasoning is as follows: while there is a debate whether *tevilat keilim* is a Biblical requirement, it is widely agreed that the restriction against using vessels that have not been immersed is rabbinic (Yeshuot Yakov, YD 120:1; Minchat Yitzchak 1:42; R. Shlomo Zalman Aurbach, M'adanei Eretz 16:1.10; Yabia Omer, YD 2:9.2; and Mishne Brurah OH 323:7, *Beur Halakha*, s.v. *Mutar li'Hatbil*; see however Or Zarua AZ 293 and Ra'ah, *ibid.*). Thus, immersing them in snow is sufficient to avoid the rabbinic restriction and you would be permitted to use the vessel<sup>1</sup>. However, since you may not have fulfilled this Biblical *mitzvah*, you should immerse them again in a conventional *mikveh*. You do not make a *brakha* either time—the first time because the immersion in snow may not be an acceptable fulfillment of the *mitzvah*, and the second time because you may have already fulfilled the *mitzvah* with the first immersion in the snow.

Those who would like to rely on the *sfek sfeika* I presented above, would be able to immerse metal vessels in snow and make a *brakha* as well with no need to re-immerses them in a standard *mikveh* (regarding making a *brakha* in the case of a *sfek sfeika*, see MB 489:38).

When one is using snow for immersing vessels, two requirements need to be attended to:

(1) There must be 40 *seah* of snow present. This will almost always be the case. All the snow that is contiguous is counted towards the 40 *seah*. A problem would arise only if the snow is patchy or melting, and the snow being used was not contiguous with other snow on the ground.

(2) All the surfaces of the vessel must touch the snow, with no air pockets between the vessel and the snow. This concern emerges from the Mordechai quoted above. After citing the positions of Rabbeinu Simcha and Rabbi Eliezer, Mordechai concludes his discussion and states that Rabbeinu Simcha ultimately required that the snow be melted for immersion out of a concern that the woman's body would not come in contact with the full measure of snow. Beit Yosef finds this statement puzzling; one who immerses is never in contact with the entire 40 *seah* of water! Hazon Ish (YD 133, no. 3) offers a brilliant explanation: Rabbeinu Simcha was concerned about air pockets between the woman's body and

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<sup>1</sup> Rav Shlomo Zalman Aurbach is quoted in the book *Tvillat Kelim*, p. 102, as stating that when a person uses a vessel that has not been immersed, if she now has the ability to immerse it and does not, she would be actively violating a *mitzvat asef*. According to this, it would be necessary to immerse the pot in a standard *mikveh* immediately when the opportunity presented itself. I think that in this case, since the pot has already been immersed in snow, one can rely on the general consensus of the *poskim* that using a vessel that has not been immersed is never a Biblical concern. A person can thus wait until the time is convenient to do this second immersion.

the snow. He was not saying that she had to touch all the snow, but that the snow had to touch all of her.<sup>2</sup> This problem is particularly acute in the case of a immersing one's full body, as Hazon Ish makes clear, since there is a great deal of surface area and many air pockets will exist. This problem is avoidable when immersing something small, such as a vessel or one's hands. If one is to use snow, she must ensure that the snow is loosely packed and that all surfaces of the vessel come in contact with the snow.

#### IN CONCLUSION:

- Snow may be used for washing hands before bread when water is not readily available.
- In terms of using snow for immersing vessels when a standard *mikveh* is not available:
  - Glass vessels may be immersed in snow with a *brakha*.
  - Metal vessels should be immersed in a regular *mikveh* and not in snow.
  - When one needs the metal vessels immediately, they may be immersed in snow without a *brakha* and used for cooking and eating. They should be immersed again in a kosher *mikveh* without a *brakha* when the opportunity presents itself.
- The snow being used must be 40 *seah* that is all connected. One must be particularly careful that the snow be loosely packed so that the entire surface of one's hands or of the vessel come in contact with the snow.

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<sup>2</sup> Hazon Ish also addresses the other curious statement of Rabbeinu Simcha that Beit Yosef could not understand. Rabbenu Simcha references a *braitta* in Hullin (31b) which states that one cannot immerse inside the dome of an arched stream of water, because the water in that section of the stream is not directly connected to the ground. Rabbenu Simcha states that for the same reason one cannot immerse in snow. Beit Yosef is unable to understand the comparison. Hazon Ish explains it as follows: the water in the dome of an arched stream may not be used because it is considered to be suspended in air. Similarly, the snow on top of her head is considered to be suspended in air, as it will retain its shape even after the immersion is done, and thus may not be used as well.