

Tevilah Issues

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The laws of *Tevilah*, ritual immersion in a mikvah, are highly complex and at the same time urgent in their practical application. A large proportion of the questions and queries posed by women to *Poskim* and other rabbis deal with problems related to the permissibility of immersion when the woman attending the mikvah is undergoing medical treatment. Simply stated, the halacha demands total submersion for the immersion to be valid, and any *Chatzitza* – substance intervening between the woman's skin or body and the water – renders the *Tevilah* invalid. How, then, can one immerse when wearing a cast, splint, or dressing for a wound? Do dentures, temporary fillings, bridges, or braces create a problem? What about a glass eye or artificial limbs? It is the intention herein to clarify many of these questions and in the process to define the underlying principles that guide *Poskim* in their analysis of these problems.

The mitzvah of *Tevilah* as purification is introduced in the Torah and elucidated in rabbinic literature:

נפש כי תגע בו וטמא עד הערב וגו', כי אם רחץ בשרו במים
(ויקרא כ"ב ו') ובא השמש וטהר וגו' (ו')

Any person who touches any such [impure] thing shall be unclean until the evening, . . . until he immerses himself. And when the sun shall go down he will be purified . . . (Leviticus 22:6-7).

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יכול יהא מרחץ אבר אבר ת"ל ובא השמש וטהר, מה ביאת שמשו כולו כאחת אף ביאתו במים כולו כאחת.

Can he immerse each limb separately? No, the Torah juxtaposes the immersion with the setting of the sun. Just as the sun sets as one, so must the immersion be set as one! (*Sifra*, *ibid.*)

ורחץ במים את כל בשרו וטמא עד הערב (טו:טו)

... And he shall immerse all of his flesh and remain unclean until the evening. (*Leviticus 15:16*)

שלא יהא דבר חוצץ בין בשרו למים (עירובין פ. ע"ו).

Nothing should intervene between his flesh and the water. (*Eruvin 4B*).

The principles of *chatzitza*, intervening substances whose presence interferes with a proper immersion, are clearly defined in the Gemara.¹

אמר ר' יצחק, דבר תורה רובו ומקפיד חוצץ ורובו ואינו מקפיד אינו חוצץ. וגזרו על רובו שאינו מקפיד משום רובו ומקפיד. וגזרו על מעוטו ומקפיד אטו רובו ומקפיד.

R. Yitzchak said, "According to the Torah a substance that covers most of the body and that one objects to, intervenes [is a *chatzitza*]." Should the substance cover most of the body, but is not objected to, it doesn't intervene. The Rabbis decreed against this latter case for fear of its confusion with the former. The Rabbis also extended their decree to a substance that covers a small part of the body, that is objected to.

וגזרו נמי על מעוטו שאינו מקפיד? היא גופא גזירה, ואנן נקום וגזרו גזירה לגזירה?

Why wasn't the decree extended to a case of minimal body coverage and no objection? Since the absence of either condition is itself only forbidden by rabbinic decree, the absence of both conditions, if still forbidden, would constitute one rabbinic decree enacted to protect another rabbinic decree.

In other words, according to the Torah the efficacy of immersion in a mikvah is disrupted when there is a *chatzitza* which covers most of the person's body, if this intervening substance is something that the person would rather not have on the body. Although if the substance *doesn't* bother him (or her) it isn't really a *chatzitza*, the rabbis decided to forbid it anyway, since a person could readily become confused between an intervening substance which does invalidate the immersion and one which does not invalidate. For this reason, they also declared unacceptable an intervening substance which a person would want removed, even if it covers only a small part of his body. Consequently, most cases of *chatzitza* which normally are the subject of inquiry by women attending mikvah are actually forbidden *mi-derabbanan*, by rabbinic authority. It should be noted that according to this passage in the Talmud, the rabbis specifically did *not* declare as *chatzitza* something which intrudes upon only a small part of the body and to which a person doesn't object.

Hakpada — Objection

The definition of *hakpada* — objection to the presence of the intervening substance — is a subject of dispute among the *Rishonim*.

The Rambam² defines "objection" as the prerogative of the individual. If the person immersing doesn't object to the presence of the substance, even if others might, this is called *she'eino makpid* — non-objectionable. If the substance covers a minimal part of the body (*miyut*), the immersion is valid even without removing the *chatzitza*.³

2. מובא בב"י רש"י סימן קצ"ח ב"ה ומ"ש

3. נקום שיש הטור בנטילת ידים א"ח סימן קס"א

1. עירובין ר ע"ב

However, according to the Rashba and *Tur*, the objection of most people in these circumstances defines *hakkpada*, objectionability, and the individual's own preferences are nullified by the majority opinion. The *Poskim* have accepted the stringencies of both the opinions mentioned above: for a *chatzitza* to be ignored in immersion, it must be of the type that most people would not object to and the individual himself must have no objection to this. This approach of the *Poskim* is bolstered by the opinion of the *Bach*⁴ that the Rashba introduced the majority concept only in the case of an individual's not objecting to a *chatzitza* which most others would certainly mind.

As we have noted, the normative definition of *chatzitza* is the one propounded by the Rashba — but is this definition based on Torah standards (*d'oraita*) or does it deal with the additional rabbinic strictures we have noted? The *Bach*⁵ clearly considers these definitions to be derived from the Torah. But *Chelkat Yaakov*⁶ argues that we are dealing only with rabbinic regulations concerning *chatzitza*. He notes:

כל שרצונה שתייה החציצה דבוקה על גופה בשעת טבילה,
איננה חציצה.

Whenever she wants the substance on her [as is the case for many medical treatments] it does not constitute an intervening substance.

Such an opinion assumes that her acceptance of and others' objection to a particular *chatzitza* is normally only forbidden rabbinically.

But if, as the *Bach* argues, the objection of the majority defines a *chatzitza*, then her desire to have a particular substance on her skin is of no consequence, and that substance remains forbidden.

The practical ramifications of this dispute are critically important. According to the opinion of the *Chelkat Yaakov*, in a

situation where for medical reasons a substance covering most of the body such as a cast, salve, brace, etc., could not be removed, her desire to have it remain would render the intervention only rabbinically forbidden and possibly permissible because of its therapeutic value. Immersion with a tight-fitting cast or brace is a case in point. The core problem here is that although most women immersing are not satisfied with the presence of a cast or brace, it is impractical, painful, and in some instances dangerous to remove it. The woman immersing, therefore, wants this cast or brace to remain in place and its therapeutic value might allow us to permit it.

The *Beit Yosef*⁷ quotes the opinions of the *S'mag* and *S'mak* as well as the *Mordechai* in *Nidah*, that a scab on a wound that is difficult and painful to remove is called "not objected to" and need not be removed, although they mention that customarily women do remove them. But in the case of a cast or similar device, it could be argued, the removal is so impractical that even this stringency does not apply.

The question raised concerning these opinions is that, as stated above, the definition of "objectionable" is what most women object to. Clearly the woman immersing does not object to the presence of the cast, but most other, healthy women do. Furthermore, the *Tur* and *Shulchan Aruch* state that "a dressing on a wound is an intervening substance (*chatzitza*)."⁸ Many *Poskim* do differentiate, therefore, between a scab that the body itself generates and can more easily be considered part of the body, and a dressing which is applied externally.

The *Panim Me'rot*⁹ establishes an important principle in addressing this issue. In the *Shulchan Aruch*⁹ we find that for someone whose profession it is to dye cloth, the dye splattered on his or her hands is "מיעוט שאינו מקפיד" — an insignificant, unobjectionable thing. Likewise the blood on the hands of a butcher is not a *chatzitza*, for most members of these professions do not

4. עין אות פ.

5. שם.

6. מובא בס' נשמת אברהם יוד ק"ש סי' קצ"ח.

7. ר"ה שאינו מקפיד עליו.

8. סימן קמ"ז. מובא בשו"ת יביע אומר חלק ג' סימן יב'.

9. עט"ו י"ז ובהגה.

object to the presence of these substances. Thus, we see that we do consider a group of people to be judged by its own standards and criteria, independent of the standards of others. Here, too, argues the *Panim Me'irov*, any individual suffering from the same malady would not object to the presence of a cast. For the category of "people who are ill" a therapeutic device is מיעוט שאינו מקפיד non-objectable. The case of a dressing on a wound is considered *chatzitza* not because the dressing, per se, is a *chatzitza*, but rather because it is constantly being removed in order to change the dressing or to check the progress of the healing.¹⁰

Sakanah – Danger in Removal

An additional factor to be considered in the analysis of the status of a cast or a brace as *chatzitza* is the possible danger inherent in its removal.

The Ramo (ס' קצ"ח סעי' ו') speaks about knots of hair that are a danger to remove as "דלא חייצי" not constituting a *chatzitza*. (Most authorities consider the hair as an entity by itself, not as a minor part of the body). The Mordechai speaks of a situation where such knots are in most of the woman's hair and explains that although she doesn't want these knots, the danger of their removal puts them in the category of "essential to growth" (ריביתיה) and thus they do not constitute a *chatzitza*. (The halacha of *ribitiya* is taught in the Gemara¹¹ in connection with an immersion for conversion. The immersion of a pregnant woman suffices for the fetus, although the fetus is entirely enveloped by the mother, because such a *chatzitza* is essential to the fetus' growth.) Both the *Sidrei Tahara*¹² and R. Akiva Eiger¹³ argue that only a natural *chatzitza*, such as the womb or these knots of hair, can be considered *ribitiya*. A cast, salve,

brace, etc., which are artificially placed on the woman, do not qualify for this leniency. The implication of the Mordechai is therefore that even a *chatzitza* whose removal is a danger is still called objectionable (unlike the conclusion of the *Chelkat Yaakov* quoted above). Rabbi Akiva Eiger does emphasize that the case discussed by the Mordechai concerns a *chatzitza* which involves the majority of the hair, which therefore requires the logic of *ribitiya*. But in a case involving only a minor portion of the body or hair, even the Mordechai might agree that danger in removal constitutes מיעוט שאינו מקפיד — an intervention over a minor portion of the body to which the person does not object.

Many *Poskim* reject the validity of all the leniencies we have presented and are generally stringent about immersion with a cast, except in cases of dire emergency when the cast or brace must remain in place for an unusually extended period of time. Rabbi Sheinberg in Israel, in a personal communication to this author, stated that he would be willing to allow immersion if a cast must remain on the limb for a long time. For specific guidelines on how to proceed, the individual must seek personal instructions from his or her halachic advisor.

Immersion With A Permitted Chatzitza

The Ramo¹⁴ notes that ideally (לכתחילה), we don't permit immersion for a woman with a מקפיד lest she also mistakenly immerse with an invalidating *chatzitza*. Rav Wozner questions this ruling in light of the Gemara's statement quoted previously to the effect that the rabbis did not forbid מיעוט שאינו מקפיד — an intervention over a small part of the body which the person doesn't mind because that would constitute a גזירה לנורה — a rabbinic injunction formulated to protect another rabbinic injunction. Rav Wozner explains the halacha as follows: our fear is that in cases of מיעוט שאינו מקפיד, out of simple ignorance a woman might not know how to define "objectionability" for herself, nor

10. עיין שו"ת אגרות ערוך וי"ד קנ"ח ז'

שו"ת כתב סופר סי' צא

11. בימות עיה ע"ב

12. ס'ק ו"ט

13. שו"ת סימן ס'

14. גה"ה סעי' א

might she know if others object even if she does not.

Such an explanation would not preclude objects worn loosely and not impeding contact with the water. As the Ramo notes, this halacha is only לכתחילה and since שעת הרחק בכריעבד דמי, any emergency might permit following a halachic criterion which is less than ideal. Under such circumstance, it might be possible to argue that a loose fitting brace that allows free circulation of the water would not have to be removed before *Tevilah*.

Beit Hasetarim – Areas Not Normally Exposed

Many women find it difficult, if not impossible at times, to immerse without plugging the ears and/or the nose. The permissibility of this relates to the issue of *Beit Hasetarim* – areas not normally exposed.

וידיו לא שטף במים (ויקרא ט"ו י"א) לפי שנאמר ורחץ את בשרו במים יכול אף בית הסתרים ת"ל וידיו, מה דיו בגראה, אף כל בגראה, פרט לבית הסתרים (תוי"ט).

“And his hands he has not immersed in water.” (Leviticus, 15:11). Because the Torah has stated elsewhere that all of one’s flesh must be immersed, are those areas not naturally exposed also included? Here the Torah states that one’s hands must be immersed. Just as one’s hands are naturally exposed, so too those parts of the body naturally exposed, are to be immersed, to the exclusion of those parts not naturally exposed. (*Torat Kohanim* to Leviticus 15:11).

From the discussion above we derive the principle that those parts of the body not naturally exposed (the inside of the mouth, nose and ear canals, etc.), called “*Beit Hasetarim*”, need not be in contact directly with the water. But the Gemara in *Nidah* 66 does add a stipulation מים לא בעינו, מקום הראוי לביאת מים בעינו. Although the water need not actually come in contact with these parts of the body, no intervening substance may preclude the possibility of such contact. Tosafot are of the opinion that this stipulation is a biblical one, while the Ramban and Ritva hold that

this condition is only a rabbinic one.

Rav Moshe Feinstein¹⁵ establishes a novel concept in the halacha of *chatzitza* regarding these “hidden parts” of the body.

The Mishnah in *Shabbat* 64 tells us that among the items permitted for a woman to wear into the public domain on Shabbat are a small piece of cotton in the ear. The Gemara explains that any item which is a *chatzitza* may not be worn into the public domain on Shabbat. Obviously, then, this cotton pad is not a *chatzitza*. Why not? Rav Moshe Feinstein explains that *chatzitza* comes in two forms. A) A *chatzitza* which attaches to the skin and impedes the contact of the skin with water – ointments, creams, nail polish, etc. B) A *chatzitza* which blocks actual contact with the water but is not attached – a tight fitting ring or garment, the firm grasp of another’s hand, etc. The Gemara’s stipulation that those parts of the body designated as *Beit Hasetarim* be capable of being in touch with the water would only preclude the former case, but not the latter category of *chatzitza*. In the latter case the water is not entering the *Beit Hasetarim* – but the area is perfectly clean and capable of contact. This definition is borne out by the halacha that the woman immersing need not open her mouth in order that the water enter. ס' קצ"ח טע' ל"ח: אינה צריכה לפתוח פיה כדי שיכנסו בה המים. Her closed lips block the water’s entrance to the mouth, but as long as her mouth is clean, it is capable of being in contact with the water, and the immersion is valid. Therefore a pad placed deep within the ear canal, would be of the second type of *chatzitza* which the Gemara considered as not a *chatzitza* which could invalidate immersion.

A second problem connected to the principle of *Beit Hasetarim* and commonly raised by many women is immersion with temporary fillings, caps, or bridges. The issue is one of much controversy among the *Poskim*; many basic principles and definitions in *chatzitza* are discussed and clarified in the analysis of this question.

The problem itself is obvious: the filling is not going to remain in the woman’s mouth and should therefore be considered a

15. אג"מ וי"ד חלק א' סימן צ"ח.

chatzitza. The lenient *Poskim*¹⁶ offer the following points in order to permit immersion without removing the temporary filling:

A) Only an item that one removes, or would remove at any time, qualifies as *chatzitza*. A ring, for example, might be removed by a woman any number of times during the day if she engages in kneading, cleaning, washing dishes, etc. The filling, though, is meant to remain in place until the assigned appointment for removal and will not be removed before this time; for the time being, one is not concerned for its removal. (The point is borne out by the law in *Shulchan Aruch, Yoreh Deah 17* mentioned above, that for those who work in dye, the dye splattered on their hands is not considered *chatzitza*, even though they will, clearly, remove the dye from their hands at some point in the future.¹⁷)

B) Since the woman intends to replace the temporary filling with a permanent one, then she is not objecting, in fact, to the presence of a filling.¹⁸

C) Particularity in the mouth, which is a quintessential *Beit Hasterim*, it can be argued that the area exposed through drilling, which was not exposed prior to drilling, is not even in the category of *Beit Hasterim* and need not be capable of coming into contact with the water. R. Moshe Feinstein comes to this conclusion based upon his reading of certain biblical verses. Yet, he is not prepared to permit immersion with a temporary filling on the basis of this re-reading of the verses alone. However, in conjunction with other rationales which the *Poskim* offer, he is prepared to allow it, as explained in the responsum cited above (note 15).

Despite the above arguments, most *Poskim*¹⁹ are quite

stringent in the matter of temporary fillings and require that the filling remain in place for at least a week or preferably for a month, while some say it must be for a month after the immersion. (These time periods are derived from the definition of a "permanent" knot as explained in the laws of the Sabbath.²⁰)

A woman with a glass eye that she normally *does not* remove is permitted to immerse without removing it because 1) Its presence is comparable to hair coloring, that a woman specifically desires to remain in place for its cosmetic value. Here the need is greater because of the embarrassment that the woman would endure in removing the eye. 2) The likelihood exists that should the eye be removed, the woman would shut her eyes tightly, which itself constitutes a *chatzitza*.²¹ 3) The eye socket is certainly considered a "hidden part" and, as mentioned earlier, a *chatzitza* that simply blocks the contact of the water with the hidden part, but does not actually adhere to the area itself, does not constitute an intervening substance.

Stitches that require a physician's removal are similar to the case of a cast that we have discussed above. There is a special leniency applied to stitches that melt or fall off, however; the Ramban in his novellae to *Nidah 6,7*, in explaining why a scab is not a *chatzitza*, mentions that a woman does not normally remove a scab, but rather waits until it falls off by itself. Rashi, too,²² explains that most grime found on glass does not constitute a *chatzitza* for the immersing of utensils, because it will eventually come off on its own. Thus, there is a possibility that one may be lenient about such stitches. In this situation, as in all the questionable scenarios discussed herein, the advice of a competent halachic authority must be sought.

Those insisting on 7 days from immersion:

שיעורי שבת הלוי שם במקום ביטול מ"ד
ס' מחשבת הטהרה שם בשם חלקת יעקב. ופותח ע"ר

ע"ן טור וביני אבות ש"ן 20.

ע"ן ספר מחשבת הטהרה פרק כ' אות ב'ו בהגהות 21.

שבת ט"ו ע"ב בד"ה בכלל וכוונת 22.

16. אצינו שם סי' צ"ג, הר צב"י, שיעור שבת הלוי.

17. ע"ן שו"ת וברון יוסף מובא בפתחי תשובה סי' א', שו"ע באן סי' כ"ג ובט"ז כ"ג, ספר גופי הלכות פתחה לטמן קצ"ח ענפים ג' וד'.

18. שולחן ערוך יורה דעה סימן כ"ב סי' ה'.

19. *Poskim* who insist on a temporary filling remaining 30 days from immersion include

שיעורי שבת הלוי סימן קצ"ח סי' כ"ב אות ב'
בר השולחן שם סי' קע"ט, ס' מחשבת הטהרה פרק כ'. סי' מ"ו בשם הכרעת האחרונים