



Is Immersing Utensils Biblical?

To understand the root of any halacha in Torah, we look at the source, which is either *deorayta* (from the written law), *derabanan* (oral law) or a *minhag* (custom). The status of a halacha is critical in understanding the logic behind Jewish law as well as its applications and expansions, which are all derived from the source. Regarding *tevilat keilim* (immersing utensils), the applications of who may immerse utensils is determined based on whether the source is *deorayta* or *derabanan*.

The Talmudic discussion of *tevilat keilim* is found in Tractate *Avodah Zara* (75B). The Gemara brings a verse from *Bamidbar* (31:23):

כָּל־דָּבָר אֲשֶׁר־יָבֵא בְּאֵשׁ תַּעֲבִירוּ בְּאֵשׁ וְטָהַר אֵלָּךְ בְּמֵי נְדָף
יִתְחַטֵּא וְכֹל אֲשֶׁר לֹא־יָבֵא בְּאֵשׁ תַּעֲבִירוּ בְּמַיִם:

Everything that passes through fire, you shall make it go through the fire, and it shall be clean: nevertheless it shall be purified with the water of sprinkling and all that does not pass through the fire shall you make to go through the water.

The source for immersion of utensils comes from the word “וטהר” (cleaned or purified). The verse comes to teach that after one kashers (the process of removing the non-kosher remnants) a utensil, it requires immersion in a kosher mikveh. Most early authorities (*Rashi*, *Rashba* and *Or Zarua*) refer to this Gemara as a proof that the mitzvah of *tevilat keilim* is based in biblical law (*deorayta*). Other authorities argue that the application of the verse is not direct, but rather is a reference that is derived by our Sages. According to this opinion, the obligation to immerse utensils is rabbinic in nature (*Ramban*, *Tosfot Rid*). Authorities also disagree regarding the *Rambam’s* opinion (see *Kesef Mishna*, *Ma’acholot Asurot* 17:5).

The practical applications between these two opinions relate to two major halachic situations. The first is in regards to a child below the age of bar or bat mitzvah immersing a utensil. In general, children are not relied upon to carry out mitzvot that are biblical in nature. Authorities explain that since a child is not always responsible, a child may not be sent on his own to burn *chametz* or to set up an *eruv*. However, regarding rabbinic mitzvot, there may be room to be lenient as the level of obligation is lower. Another application of this dispute is regarding utensils used as collateral. There is a



dispute regarding who is the owner of property used as collateral for a loan or business agreement. Regarding the immersion of utensils used as collateral, the Gemara (Ibid) discusses whether a utensil which was given to a Jew by a non-Jew as collateral has to be immersed before use. Is the utensil considered the property of the Jew regardless of its status as collateral, thus requiring immersion, or is it exempt, since it can still be considered the property of the non-Jew? If the mitzvah to immerse utensils is biblical, then the halacha would be stringent and require immersion before use. However, if the mitzvah is rabbinic, then there is room to be lenient and exempt the utensil from immersion.

Both topics - immersion by children and immersion of utensils used as collateral are found in the Rav Yosef Karo's *Shulchan Aruch*, in which he rules (YD 120:14) that children below the age of bar and bat mitzvah are not trustworthy regarding *tevilat keilim*. In his *Beit Yosef* he cites the *Trumat Deshen* (257) as the source to not rely on children, as the immersion of utensils is of biblical status. Regarding utensils used as collateral, the ruling (YD120:9) is that immersion is required.

This is based on the *Rashba* (Responsa 3:255) who states that since *tevilat keilim* is *deorayta*, we are stringent in cases of doubt with biblical commandments. It is apparent from these two rulings that Rav Yosef Karo's holds that immersion is biblical in nature (see *Taz* YD 120:16 and *Shach* YD 120:21).

Another interesting application is the immersion of utensils by a Jew who does not generally keep mitzvot. There is a general rule that in halachic matters a non-religious Jew cannot be relied-on to properly perform or adhere to halachic standards. The question would apply to a worker who is not religious immersing utensils for an establishment. If the source of the mitzvah is rabbinic, there might be room to be lenient and allow a non-religious worker to immerse utensils. However, most authorities rule that *tevilat keilim* biblical, and that a non-religious worker would therefore not be permitted to perform this task unsupervised. Regarding *tevilat keilim* the OU is stringent that either a religious *mashgiach* immerse the utensils or that he be present to supervise the process. ■

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