

VEBDE REBDE

Netilat Yadayim from a Chipped Cup

Question: *I have a cup for netilat yadayim that has a few small chips on the top of the cup. Is it kosher for that purpose?*

Answer: The gemara (Chulin 107a) provides some of the rules for the kli (utensil) used for netilat yadayim, including that it must be able to hold a reviit of water. Potentially pertinent for your question, it says that it is unfit for use if it has a hole of a kones mashkeh (i.e., not only is the hole big enough for water to seep out through it, but water would even seep into the cup through the hole from an external pool of water.)

There is a machloket Rishonim as to the reason for the disqualification (see Beit Yosef, Orach Chayim 159). According to the S'MaG, a cup with a hole of that size is not considered a kli (utensil) in regards to various halachic matters including netilat yadayim. According to the Rosh, the cup is generally a kli, but the area above the hole is considered beyond the confines of the kli (as it does not reliably hold water above that point). The issue is that the water must be poured onto the hands from the walls of the kli. One practical difference between the opinions is whether one can pour water onto the hands from the hole, not from the top of the cup.

According to the Rosh, that is fine because you are pouring from the top of the kli-part of the cup (the cup should be able to hold a reviit up to the height of the hole). According to the S'MaG, the cup is totally lacking in status due to the hole, and it does not matter how high the hole is or from where the water is being poured. The Shulchan Aruch (OC 159:2) rules like the lenient Rosh that one can do netila through the hole. On the other hand, many Acharonim are machmir if the cup is made from pottery (ceramics) (Mishna Berura 159:10). (We imagine your cup is ceramic, as metal and plastic ones rarely "chip".) Your case has elements of relative leniency and of relative stringency if the chips are big enough to be considered a hole. On the one hand, if there are only small chips on the top of the cup, it is hard to believe that this would disqualify the cup from being a kli, as it does not impede the use of the cup to hold liquid in any serious way. On the other hand, as opposed to the case of a hole in the middle of a cup, where the water will only go through the hole, from where will you pour the water? If you do it randomly or purposely from the not chipped places, then you are pouring from a place that extends beyond the height of a complete circumference of cup, which, based on what we have seen should be a problem. The Mishna Berura (159:12) says that while it is not ideal to use a cup with a piece missing on top, if that is the only available cup, one should pour out

from the chipped part, which is lower. Practically speaking, though, unless it is a broad or deep chip, it will be hard to pour only or even mainly through the crack.

Perhaps the following will help. The Eshel Avraham (to Magen Avraham 159:4) says that if the height of the cup is not uniform but that fact is not clearly recognizable to the eye, it is not a problem to pour from the higher side. His main logic is that "the Torah was not given to angels", who can be exact. He also points out that, anyway, the surfaces upon which a cup normally sits are not exactly straight, so that slightly higher and lower is meaningless. Piskei Teshuvot (159:10) says that the same thing is true for slight height differences due to a chip. It is not clear to me how far one can take this comparison. If there is a slight dent in a plastic or metal cup, it is indeed hard to tell the height difference. Regarding ceramics, though, it is much more common for even small chips to make the area of the chip noticeably lower than the area right around it.

Therefore, in general, the best thing to do is to insert a filler material to more or less reverse the chipping. Although some sources discuss using filler of the same material (see Taz, OC 159:1), anything that works securely should be fine (see practical approach of Chazon Ish, OC 21:5).

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Calling a Kohen Who is a Katan

Question: *We sometimes have only one adult kohen and his son, who is under bar mitzva, doing Birkat Kohanim. In that case, should we call out "Kohanim"?*

Answer: The halacha that you are assuming, that someone calls "Kohanim" before Birkat Kohanim only when there are at least two kohanim, is derived by the gemara (Sota 38a) from "say to them" (Bamidbar 6:23) in the context of Birkat Kohanim. Several Acharonim relate to your case, when there are two kohanim but only one of them is a gadol.

The Mabit (I:64), apparently the first major posek to discuss it, says that one does not call out in such a case. The first of the Mabit's working assumptions is that the role of the katan is less than regarding most mitzvot, as a katan is not even supposed to do Birkat Kohanim by himself, just that he goes up along with adult kohanim (Tosafot, Chulin 24b; Shulchan Aruch, Orach Chayim 128:34). The second assumption is that calling out is done to create an obligation for the kohen to do Birkat Kohanim (see Tosafot, Menachot 44a; Tur and Beit Yosef, OC 128). Since the katan is not going to be impacted by the call of Kohanim, there is no point in doing it due to his presence.

The gadol will remain uncalled and will fulfill the mitzva of Birkat Kohanim without the standard obligation. He adds that there is also a problem of hefsek if the chazan decides to unnecessarily call out Kohanim during chazarat hashatz. Finally, he says that it is a disgrace to the tzibur to be dependent on the katan (see Rashi, Megila 24a).

Several Acharonim, including the Magen Avraham (128:13) accept the Mabit. The Pri Chadash (OC 128:10), though, disagrees on all his grounds and rules to call "Kohanim" in that case. First, he says that although the katan does not do Birkat Kohanim alone, when he does it, it is the fulfillment of a mitzva like any other of a katan's actions. Once calling is appropriate, there is no problem of hefsek. Finally, he posits that calling out is not a charge to bless, but is instruction to the kohanim to turn around, and thus it does not disgrace the tzibur. He also points out that according to the Yerushalmi (B'rachot 5:4), we should call even to one kohen (with there being a machloket whether to say "Kohen" or "Kohanim"), and therefore it is unlikely that the Bavli would forbid it.

The majority of Acharonim hold like the Mabit (see Kaf Hachayim, OC 128:64, Yalkut Yosef 128:18). However several Acharonim raise the following very pertinent distinction, according to the prevalent minhag of Ashkenazim in this context. While for Sephardim, the chazan recites only the

word "Kohanim" after finishing the b'racha of Modim, the Rama (OC 128:10) prefers the minhag that the chazan says quietly the short prayer of "Elokeinu ... barchenu babracha ...," just that he says the included word of "Kohanim" audibly. As such, the call is not a hefsek. Many, including the Pri Megadim (Eshel Avraham 128:13), Mishna Berura (128:38), and the Kaf HaChayim (ibid.) say that according to this minhag, there is no problem saying Kohanim for one adult and one minor kohen. This is all the more so according to the prevalent minhag in Israel that the chazan is not the one to call out Kohanim at all. When we recall that according to the Yerushalmi, it is always proper to call out for one kohen, the idea makes a lot of sense. (Admittedly, the Mabit himself had other reasons for not saying Kohanim other than hefsek, but apparently many Acharonim felt that the other reasons are weaker.)

One could claim that it is not just possible but important to say Kohanim even in this case, because the obligation to perform Birkat Kohanim is predicated on that invitation of the tzibur (see our column of Ki Tavo 5774). However, I did not see that factor raised by the poskim. That is apparently because according to most, an inappropriate call to Birkat Kohanim is inconsequential. Also, the significance of calling Kohanim and the possibility that it creates an obligation is not as great as one might think. We

discussed these points in that column.

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