

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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**CHEREV KE-CHALAL - THE INTENSITY OF TUM'A IN METAL
UTENSILS**

In general the transfer of tum'a is characterized by descending levels. Halakhic impurity (tum'a) can be conveyed by physical contact, by the impure item being moved (even indirectly) – known as 'heseit,' or through 'ohel' – location within the same 'tent' (or any other canopy-like structure) of an impure item. Though tum'a can be transferred item-to-item, its intensity tends to diminish. For example, a dead body is known as 'avi avot ha-tum'a' - the "grandfather" and first source of tum'a - capable of conveying impurity to any item through the above mentioned tracks. The recipient of this tum'a is referred to as 'av tum'a' - literally a "parent" (though itself a child of the grandfather). An av tum'a can convey tum'a to another item but cannot recreate an av tum'a. Instead, that item itself will be referred to as a rishon (a 'first' level). This classification, however, is somewhat misleading since the rishon is actually the third possible logical level of tum'a. A rishon's level of tum'a is less in that:

- a) only one day of tum'a applies instead of seven
- b) a rishon can no longer confer tum'a to a person or to a utensil- only to food or drink.

In other words, the general trend of tum'a is for a derivative to be - in some way – a less intense form of tum'a than its parent. This week's shiur will address an exception to that rule – the principle of cherev harei hu ke-chalal.

When the Torah enumerates the items capable of conferring seven day tum'a to their recipients (Bamidbar 19:17) it mentions a chalal cherev (literally a body slain by the sword). This cannot refer to the actual body since the same pasuk explicitly mentions a dead body. Evidently, the Torah is indicating an additional and parallel form of tum'a. From this redundancy the gemara in several locations (see Nazir 53b, Pesachim 14a) induces the

principle "cherev harei hu ke-chalal" - a sword is like a dead body for tum'a purposes. In other words, a sword which came into contact with a corpse maintains and conveys tum'a in a manner which is equal to the corpse's capacity. If a PERSON were to touch a corpse he would become an av tum'a – impure for 7 days but incapable of conveying that same tum'a to another person; instead, the second person who touches the first person an 'av' (who himself touched the corpse) becomes a rishon – impure for only a day and incapable of conveying tum'a to a third person. These descents are, as mentioned earlier, consistent with the general pattern of tum'a. A cherev is different. When coming into contact with a corpse, it ITSELF becomes an AVI AVOT TUM'A - just like the corpse. A person who touches it becomes an AV tum'a – impure for seven days and capable of conveying tum'a to a second person. The cherev acts precisely as the corpse would act even though it RECEIVED its tum'a from the corpse is its derivative.

An interesting question can be drawn from the manner in which this halakha was phrased. Does the cherev actually become an 'independent' first source of tum'a like a corpse? Are we to assume that the Torah specified two parallel forms of AVI AVOT Ha-tum'a - a corpse and a cherev. Or do we see the cherev as receiving tum'a from the corpse in the usual manner of conveyance but deviating from the norm of tum'a transfer in that the level of tum'a is not reduced? How literally do we take the comparison between a corpse and a cherev? Linguistically, this question revolves around one letter – the 'kof' in the word ke-chalal. Is a cherev exactly like a dead body or does it merely behave (in terms of its level of tum'a) like a chalal?

I. Distinctions between a corpse and a cherev:

One possible application of this question could be the consequences for a nazir who comes into contact with this 'cherev.' Though a nazir is prohibited from coming into contact with any form of tum'a he doesn't shave his head for all forms. See Mishna Nazir 7:2-3 for the details. In general, a nazir only shaves his head after contact with a dead body. What would happen if he received tum'a from a cherev? Would this be tantamount to receiving tum'a from a dead person and would gilul'ach (shaving) be required? The Rabenu Tam (cited in Tosafot in Nazir 53b and the Rishonim in Ohalot 1:2) claimed this to be the case; contact with a cherev demands gilul'ach in the same manner as contact with a corpse. The mishnayot themselves in Nazir might suggest otherwise, limiting shaving to actual contact with corpses and

clearly stating that contact with impure utensils - assumably even a cherev – would not require shaving(see Nazir 54b). The Rabenu Tam reinterprets these mishnayot as referring exclusively to utensils which are not categorized as cherev - an issue soon to be discussed.

A parallel question might pertain to the issue of sprinkling on the 3rd and 7th day. Even if we assume that a nazir must shave his head for a cherev since it 'stems' from a corpse, would we force him – or, for that matter, anyone else to undergo the sprinkling of the para aduma (red heifer) mixture of water and ashes as we would someone who was tamei through an actual corpse? The Ramban in his commentary to Chukat and in his commentary to Bava Batra (20) claims that the sprinkling ceremony only applies to people who were tamei through a dead person. If the tum'a was transferred through a cherev - even though it is ke-chalal - like a chalal – no sprinkling ceremony applies. Evidently, the Ramban felt that a cherev merely RECEIVES ITS TUM'A from a dead corpse but does not ITSELF becomes halakhically designated as a corpse.

II. Through which transfer can a cherev become 'like' a 'chalal:'

A third question might pertain to the manner in which a cherev can receive its tum'a. The most extreme position in this regard is cited in the name of the R"i Mi-simpont (one of the members of Tosafot whose position is cited in the commentary of the Rash to Ohalot 1:2). A cherev only becomes an avi avot ha-tum'a if it was used to kill a person. Contact with a dead body or other classic forms of conveying tum'a do not classify this cherev as a chalal. Evidently, according to this position, a cherev can actually become AS a corpse. The sword which was used to kill a person has the exact same status as that corpse. Had the cherev ke-chalal halakha merely reflected a transfer of tum'a without any mitigation of intensity we certainly could not limit the halakha only to the sword which slayed. Any sword which would have received tum'a from a corpse - in any of the standard forms of transferring tum'a - would become impure to the exact same degree.

A similar question can be glimpsed in a famous machloket between Rabenu Tam and Rabenu Chayim as to which types of utensils acquire the status of 'chalal.' Though the Torah employs the example of a sword, all Rishonim (with the exception of the R. Mi-simpont) assume that a broader

range of keilim (utensils) is intended. The Rabenu Tam assumed that all metal utensils would be candidates for this halakha. In a very moving and poetic response Rabenu Chayim (himself a kohen) wrote a response to Rabenu Tam in which he exclaimed 'eizeh bayit asher tivnu li ve-eizeh makom menuchati.' This passage (taken from Yeshayahu 56:1) and referring to the Beit Hamikdash, literally means "which house would you build for me and where would my resting place be?" Rabenu Chayim paraphrased this verse in his response to the Rabenu Tam. Assuming all metallic utensils are susceptible to cherev ke-chalal then a kohen (like Rabenu Chayim) may not enter any house. It is quite possible that nails or other metal parts used in house construction were once part of a structure which housed a dead person, received tum'a (through the conveyance of 'ohel'), would now be defined as 'chalal' and would therefore prevent a kohen from entering the new house. Where should a kohen live?

One might answer this quite disturbing question in the following manner. Although we do not adopt the extreme position of the R. Mi-simpont (who ruled that a utensil only becomes like a chalal if it slew the dead person) we still require a direct physical contact between the utensil and the corpse. In general, tum'a can be conveyed through manners in which no physical contact occurs. However, turning a cherev into an avi avot ha-tum'a is more serious than just conveying to it a form of tum'a which is not reduced. Instead, we define the cherev as a pseudo-chalal, as something which can only occur through direct contact. Indeed, a kohen cannot enter a house containing items which were in direct contact with a corpse; these are considered tamei with the full force of a corpse. However, utensils which never touched a corpse would not necessarily be defined as a chalal. Assuming that a 'cherev' (according to Rabenu Tam defined as any metal utensil) doesn't receive tum'a from a corpse but becomes a pseudo-corpse, we might require direct contact between cherev and corpse and not merely tum'a-transfer through ohel.

Though this solution to Rabenu Chayim's concern is logically feasible, the Rabenu Tam himself specifically rejects this notion. In his comments cited in Tosafot Bava Batra 20a s.v. Be-chavit, he clearly states that a cherev can achieve a status of chalal even if it received its tum'a through the process of ohel. The question remains according to the Rabenu Tam's position - where should a kohen live?

An interesting perspective on cherev ke-chalal can be gleaned from a Tosafot in the beginning of Bava Kama. The beginning of Bava Kama addresses the phenomenon of avot and toladot. In a few rare situations, Halakha allows for the extension of biblically defined issurim. These extensions – also biblical in nature are derivatives of the biblically delineated rule. They differ slightly with the original model but share many similar characteristics. The classic example of course is Hilkhhot Shabbat in which 39 distinct categories of Shabbat violation, though not explicitly enumerated in the Torah, are derived from the actions performed in the mishkan. These and only these actions are referred to as avot while similar actions are called toladot. The gemara recognizes the hierarchical structure of tum'a as reminiscent of avot and toladot - sources and derivatives of tum'a. It also reminds us that toladot of tum'a are always different from their source-avot as was outlined in the beginning of this shiur. The transfer of tum'a to a tolada is always accompanied by declining levels of tum'a. Tosafot (Bava Kama 2b) question this unequivocal definition of toladot - isn't there one tolada in which the spin-off is similar to the parent: 'cherev' - which acts exactly like a chalal - its parent? Why doesn't the gemara recognize that the world of tum'a contains both toladot which depart from their parent and those that remain identical?

How does the label 'tolada' as applied to a cherev influence our issue? Clearly, if the cherev condition reflects standard tum'a transfer without the usual tum'a-level reduction, we would easily classify it as a tolada. If, however, cherev represents a completely new form of tum'a - basically assigning metal utensils which come into contact with corpses as the corpse themselves we might not view the cherev as a tolada. Instead, we might view it as an av - structurally parallel to a corpse!!! Did this Tosafot view cherev ke-chalal as a typical tum'a transfer?