**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**TALMUDIC METHODOLOGY**

**By Rav Moshe Taragin**

**Shiur #05: *Mumar* Status for Someone Who Violates Shabbat**

The *gemara* in *Chullin* (5a) invalidates the *shechita* of a *mumar*, someone who has violated one of two fundamental cornerstones of Judaism – Shabbat or the prohibition of *avoda zara* (idol worship). The disqualification of an idol-worshipper is based on his theological heresy and the subsequent effect upon his status. Presumably, he is no longer Jewish (or his Jewish status is severely altered), and his *shechita* is thus comparable to the invalid *shechita* of a gentile. However, the disqualification of a Shabbat violator is far less obvious.

Rashi (5a s.v *ela lav*) comments that Shabbat desecration is theologically tantamount to actual idol worship. Since Shabbat commemorates Divine creation, violation of Shabbat ignores or flaunts that belief. Essentially, the Shabbat violator has denied a basic tenet of religion and his status as a Jew is therefore similarly impaired.

This explanation evokes a similar statement of Rashi (*Yevamot* 48) regarding a *ger* *toshav*. Although he has not fully converted to Judaism, a *ger toshav* has disavowed paganism and is prohibited from idol worship. The *gemara* determines that he must also abide by the Shabbat laws. Rashi comments that denying Shabbat is equivalent to worshipping idols; since the *ger toshav* is forbidden to serve idols, he must similarly observe Shabbat.

This position of Rashi invites a famous question: Even complete gentiles are prohibited from worshipping *avoda zara*; shouldn’t they then be enjoined to adhere to Shabbat?! Yet the *gemara* is very critical of a gentile who observes Shabbat, even subjecting him to a death penalty. Although we will not address this question in the present *shiur*, it is important to note that Rashi's equation between Shabbat and *avoda zara* creates this contradiction.

Unlike Rashi, the Rambam (Hilkhot Shabbat 30:15) bases the *mumar* status of a Shabbat violator upon the severity of the actual crime. He cites a Yerushalmi which asserts that Shabbat observance is equivalent to the entire Torah. By violating Shabbat, a person has committed a cardinal crime and has severely compromised his Jewish status. Thus, whereas according to Rashi Shabbat violation is tantamount to idol worship due to the common theological heresy, according to the Rambam, it is Shabbat’s status as a SEVERE sin that makes its violation affect the mumar’s status.

The most obvious implications of this question are two issues raised by R. Akiva Eiger (*Derush Ve-Chiddush*, section 3). First he considers the question of a person who has rejected Yom Kippur. Would this denunciation be similar to Shabbat denunciation in rendering the person a *mumar* and invalid for *shechita*? Presumably, Rashi would not equate Yom Kippur denial to Shabbat denial, as Yom Kippur does not carry the same theological connotations as Shabbat. However, the Rambam would be more inclined to equate the two, since Yom Kippur similarly constitutes a cardinal *mitzva* the rejection of which would render the person a SEVERE OFFENDER, and thus a *mumar*. In fact, the Rambam's comments in *Hilkhot Geirushin* (3:19) imply that denial of Yom Kippur is tantamount to denial of Shabbat. He implies that a *get* drafted intentionally on Shabbat or Yom Kippur is invalid since its manufacture entails a violation of those days. The violator is then deemed a *mumar*, who, like a gentile, is disqualified from drafting a *get*.

Interestingly, the Rambam does NOT equate Yom Tov violation with Shabbat and Yom Kippur desecration, explicitly distinguishing between the two. Consequently, a *get* drafted on Yom Tov is NOT disqualified because violating Yom Tov DOES NOT render the state of *mumar*. Yom Tov does not constitute a cardinal sin in the same way that Shabbat and Yom Kippur do and therefore would not confer "*mumar*" status. By contrast, the Ohr Zarua (part 1, *siman* 367) asserts that suspending Yom Tov adherence WOULD render the violator a *mumar* in the same way that Shabbat violation would. Presumably, he would claim that the *mumar* status stems from THEOLOGICAL CORRUPTION, and not from violation of a cardinal sin. Since Yom Tov violation does not yield capital punishment, it cannot be considered a CARDINAL sin. However, since it represents the unique bond between *Ha-Kadosh Barukh HU* and the Jewish People, its denial MAY constitute heresy.

A second element of this question surrounds the TYPE of Shabbat prohibition which, if violated, would confer *mumar* status. The Be'er Heitev (*Yoreh De'ah* 2:15) states that a transgression of a Rabbinically prohibited Shabbat violation would also confer *mumar* status. Presumably, such a violation is not considered a cardinal sin in the same manner that violation of a Biblical prohibition may be deemed. Nevertheless, conscious and deliberate violation of any Shabbat prohibition entails *mumar* activity – regardless of the severity of the action – because by flagrantly violating ANY aspect of Shabbat, a person has trivialized the theology behind Shabbat.

A similar question is raised by the Pri Megadim in his introduction to the laws of Shabbat. If someone ignores the laws of *techumim* on Shabbat or flaunts the rules of *mechamer* (the prohibition of causing one’s animals to work on Shabbat), would this constitute *mumar* activity? On the one hand, he is desecrating the Shabbat experience by displaying non-interest in a Shabbat *halakha*. However, these are not cardinal violations of Shabbat as they are not integrated in the system of the 39 *melakhot*. In fact, according to many authorities, causing an animal to work is not even a *lo ta'aseh* (negative commandment). If the *mumar* status is a result of violating a cardinal sin, perhaps violation of peripheral Shabbat laws does not confer *mumar* status.

An interesting discussion among the *Rishonim* yields additional stipulations about a *mumar* for Shabbat. The *mishna* in *Chullin* (14a) claims that a *shechita* performed on Shabbat or Yom Kippur would still render the meat kosher. Even though these activities are forbidden, the resulting *shechita* is unaffected. Tosafot question this: given the fact that *shechita* on Shabbat transforms someone into a *mumar*, the *shechita* should be invalid and the meat unacceptable. Tosafot’s second answer asserts that only after REPEATED Shabbat violations does *mumar* status obtain. This *mishna* refers to the a person who performs *shechita* on Shabbat as a first offense. Presumably, Tosafot believe that the theological heresy behind the violation is what causes *mumar* status, and not the fact that the act constitutes a severe violation. Perhaps the first two offenses do not convey theological sacrilege since the violations can be imputed to carelessness or disinterest. If the severe sin itself is what conveys *mumar* status, it would be difficult to envision a difference between the first offense and repeated offenses.

The Ran asserts a different reason that the *shechita* performer in the *mishna* is not a *mumar*. Since the complete *aveira* only occurs as the *shechita* is concluded, only the person becomes a *mumar* for the NEXT *shechita*, but not the first one he completed. The Ran assumes that *mumar* status is only achieved once the COMPLETE *AVEIRA* has been performed, which in this case occurs at the END of the *shechita* process. Presumably, this technical requirement suggests that THE ACTUAL *aveira* violation is what confers *mumar* status. If it were the theological heresy BEHIND the *aveira* that is responsible for this status, it is unlikely that a complete act of an *aveira* would be necessary for this status to apply.