

# Priestly Predicaments: Analysing *Sof Tuma Latzet* According to Maimonides

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*Science takes things apart to see how they work. Religion  
puts things together to see what they mean.*

(JONATHAN SACKS, *THE GREAT PARTNERSHIP*)

**T**he Great Partnership” of science and religion, the challenge this integration presents, and the beauty that emerges from this confluence is what I aspire to explore, ponder, and attempt to understand each day. Rabbi Sacks’s vision in championing the necessary integration of the worlds of Jerusalem and Athens by respecting the complementary differences that each provides is a guiding light. With his clear formulations, astute observations, and penetrating insights he has shaped attitudes and crafted an atmosphere where religious thought is not only seriously considered but actively sought out for meaningful guidance. We are fortunate that it is on the shoulders of giants such as Rabbi Sacks that we stand.

Standing in stark contrast to the grandiose and almost magical description of the Kohen Gadol's service on Yom Kippur are the mournful lamentations of the Temple's destruction, immediately following its recitation. Many of the losses described in this part of the Yom Kippur liturgy relate to the Temple and communal activities, but there is at least one aspect that used to permeate the life of every halakhically abiding individual, and for which current Judaism has almost no appreciation – *tuma* and *tahara*. Loosely translated as impurity and purity, the concepts of *tuma* and *tahara* are far richer than their translated counterparts (and the Hebrew terms will therefore be used throughout). Visiting the Temple, eating and even coming into contact with sacrifices, separating and handling *teruma* (priestly tithes) all demand a state of *tahara*. Being cognizant of one's state required sensitivity to a plethora of detailed rules and regulations, many of which may appear somewhat foreign to modern students of halakha. Nonetheless, a full order of the Mishna is devoted to the many details and principles that govern such conduct. This essay explores one facet of these laws still practical in our time, its potential pervasiveness, and an argument for leniency in particular situations.

#### **TUMAT MET**

Today, one of the only vestiges of *tuma* and *tahara* relates to kohanim, who are prohibited from becoming *tamei* through *tumat met*. *Tumat met* refers to any type of *tuma* ultimately emanating from a corpse, be it a full corpse, an olive's volume of flesh, a complete skull, a quarter *log* of blood, or a complete *log* of bones, among other manifestations. A person becomes *tamei* from *tumat met* in one of three ways: direct contact (*maga*) such as touching; indirect contact (*masa*) such as carrying *tuma* without touching it directly – both familiar from many other types of *tuma*; as well as *ohel* (lit. tent), unique to *tumat met*.

Contracting *tuma* via *ohel* occurs through one of two mechanisms: *maahil* and *ohel hamshakha*. *Maahil* refers to a person or other object hovering directly above or directly below a source of *tumat met*, while *ohel hamshakha* generally refers to being under the same ceiling or roof as the corpse. The ceiling or roof that a person or other object shares with the *tamei* object is called an *ohel* and the *tuma* spreads throughout the entire area sharing that contiguous roof, making *tamei* anything in that airspace. The requirements for a room to qualify as an *ohel*, the intricacies of defining what it means to share a roof, and the technicalities of how *tuma* practically spreads throughout the *ohel* are vast, explored in exquisite detail in Mishna Ohalot.

From a kohen's perspective, avoiding *maga*, *masa*, and *maahil* with respect to *tumat met* is straightforward. While it necessitates a certain sensitivity to one's surroundings, with appropriate training and awareness it can be practised easily,

since becoming *tamei* through *maga*, *masa*, or *maahil* usually requires a conscious effort. Avoiding *ohel hamshakha*, however, is far more complex and difficult.

Modern architecture and today's multi-story buildings often create convoluted and complicated structures that may qualify as an *ohel*. It is frequently not apparent to somebody standing in the lobby of a building how far the *ohel* that person is under actually extends. Locations that pose the greatest difficulty are often hospitals and museums. Hospital sources of *tuma* include not only recently deceased patients on hospital floors, but frequently also morgues that house the corpses until funeral arrangements can be made, pathology labs with various specimens, surgical suites performing amputations, and many more. Depending on the type of museum, exhibits may house mummies, skeletons, bone-derived tools, and other preserved body parts. All of these may pose problems for kohanim.

Before delving further, it is important to draw attention to an early debate as to the source of the *tuma*. Briefly, Maimonides (Rambam) claims that only Jewish corpses can impart *tumat ohel*,<sup>1</sup> while Rabbenu Tam argues that even non-Jewish corpses do.<sup>2</sup> The *Shulḥan Arukh* quotes the stringent opinion, ruling that “it is appropriate [for kohanim] to be careful” and avoid travelling through non-Jewish cemeteries,<sup>3</sup> while Rabbi Moses Isserles (Rema) notes both opinions and concludes, “it is appropriate to act stringently”. Practically, modern halakhists are divided on the matter, some permitting entirely,<sup>4</sup> others opting for a stringent approach,<sup>5</sup> and some advocating the middle path of permitting relying on Rambam's approach only when particularly necessary.<sup>6</sup> This essay will not attempt to adjudicate between these positions.

### **SOF TUMA LATZET**

There is an additional factor to consider when analysing *tumat ohel* that has the potential to significantly transform the pervasiveness of this form of *tuma*, namely, *soft tuma latzet* (the realization that *tuma* will eventually spread beyond its current confines). Under normal conditions *tuma* spreads throughout an *ohel* – meaning any area bound by a contiguous roof or ceiling – until the airspace is no longer contiguous. For example, *tuma* in an apartment will cause all objects and people in that apartment to become *tamei*, but if the door to the apartment is closed, the

1. *Hilkhot Tumat Met* 1:13.

2. *Tosafot Yevamot* 61a, s.v. *mimaga*.

3. *Shulḥan Arukh*, *Yoreh De'a* 372:2.

4. Rabbi Ovadia Yosef, *Ḥazon Ovadya, Aveilut* ii. 52.

5. Rabbi Moshe Gross, *Taharat HaKohanim KeHilkheta*, 69.

6. Rabbi Aaron Felder, *Yesodei Semaḥot* (New York, 1976): 66.

*tuma* will not spread into the lobby. Although the lobby and the apartment might share a ceiling, the closed door blocks the contiguity of the airspace beneath the two ceiling areas. The door is described as a *ḥatzitza* (partition), blocking the spread of *tuma*. Broadly speaking, two *ohalim* are considered contiguous if there is as little as a square *tefaḥ* of contiguous airspace between the two. Mishna Ohalot deals extensively with which substances qualify as a *ḥatzitza*, how it must be constructed, and its necessary size and shape, among many other details.

The principle of *sof tuma latzet* states that even though *tuma* is currently blocked from spreading into a second space because of some *ḥatzitza*, if it will eventually travel through that second space, the latter is considered *tamei* as of now. In the example above, although *tuma* cannot spread from the apartment into the building lobby because the door is closed, if it will eventually travel through the lobby (perhaps on the exit of the *tamei* object from the building), the lobby is *tamei* already now (even while the apartment door is still closed) by virtue of *sof tuma latzet*. As *sof tuma latzet* is effectively an expansion of *tumat ohel*, it functions in much the same way. When one area becomes *tamei* through the principle of *sof tuma latzet*, the *tuma* spreads through that area in the same way that ‘standard’ *tuma* would, causing everything beneath that roof to become *tamei*. It does not go on forever, though, spreading *tuma* throughout any and all buildings that a particular *tamei* object will enter. Rather, it is limited to all adjacent *ohalim* that are only separated from each other by some division that will eventually be moved or removed, so that the *tuma* can pass through.<sup>7</sup> There cannot be any gap, big or small (a small space or the distance between buildings), open to the outside separating the two *ohalim*. Any such break in contiguity will force *sof tuma latzet* to stop at that point.

There is a long-standing disagreement among the medieval commentators as to the status of *sof tuma latzet*, whether it is of Torah or rabbinic origin, and it is extensively discussed elsewhere.<sup>8</sup> Regardless, the general consensus appears to be that kohanim are indeed prohibited from contracting this form of *tuma*.

Taking *sof tuma latzet* into consideration greatly expands the scope of *tumat met* in many contexts. In hospitals, for example, it is not just the room of a recently deceased patient that is *tamei*, but even if the door to the room is closed, the adjacent lobby, waiting areas by the elevators, and perhaps even the elevators themselves<sup>9</sup> and the floors they open up to, as well as any other area

7. Ohalot 11:1; *Shulḥan Arukh*, YD 371:4.

8. *Petaḥ HaOhel*, kelal 1:1.

9. See R. Jacob Jaffe and David Shabtai, “Kohanim in Hospitals: Does *Tuma* Enter the Elevator Shafts?” (Heb.), *Assia*, 85–6 (2009), 122–54.

that the deceased will pass through upon exiting the hospital are all *tamei*. The same also applies to museum exhibits containing sources of *tumat met* that will eventually be moved to a different location, whether within the same museum, to storage, or to another facility.<sup>10</sup>

On the face of it, the concept of *sof tuma latzet* is quite novel, inasmuch as it manages to essentially spread *tuma* beyond its otherwise natural boundaries. *Sefer Petah HaOhel*, by Rabbi Hayim Meshulam Kaufman HaKohen – one of the first books dedicated entirely to analysing questions of *tumat met* in essay form – offers two approaches (*kelal* 1:1) to understanding the nature of *sof tuma latzet*. Either it means that we view the *tuma* as already present in all of the locations through which it will eventually travel (bearing in mind the limitations mentioned previously) or that we view all those closed doors and other divisions that currently prevent it from spreading into adjacent areas as being open. Offering a glimpse into the phenomenal scope of his learning, Rabbi Kaufman proceeds to list countless potential proofs and disproofs for both positions, culling from Mishna Ohalot, its commentaries, and well beyond, ultimately concluding that *sof tuma latzet* means viewing the *tuma* as currently present in the *ohalim* into which it will eventually travel.

## MAIMONIDES

While prevalent throughout rabbinic literature and assumed to be a normatively halakhic principle, interestingly, nowhere does Rambam ever cite the phrase *sof tuma latzet*, neither in his *Commentary on the Mishna* nor in his *Mishne Torah*. On its own, this is not particularly significant, as the phrase is similarly entirely absent from Mishna Ohalot. It is the commentators who introduce the term to explain various cases and rulings of the Mishna – almost all of the commentators refer to it, except Rambam. Consistently, in both works, in almost each and every case where the other commentators invoke *sof tuma latzet*, Rambam either offers an alternative explanation or describes the case (or makes certain assumptions about it) differently than most of the others. This subtle omission may indeed have wide-ranging practical ramifications.

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10. As essentially an expansion of *tumat ohel*, it is interesting to explore whether *sof tuma latzet* applies to *tuma* from non-Jewish sources, for those who believe that *tuma* from a non-Jewish source is also subject to *tumat ohel*. Although this question is not explicitly addressed by the early commentators, several of the later halakhists allow for leniency (*Tiferet Yisrael*, *Ohalot* 16, *Boaz* 5; *Petah HaOhel*, *kelal* 1:6), while others take a lenient approach only in the presence of other mitigating factors (Rabbis Yisrael Belsky, Moses Heinemann, Solomon Miller, and Samuel First, cited in Rabbi Mordechai Millunchick, *Midarkei HaKohanim* [Chicago, 2009], Hebrew section, p. 14).

Before continuing, it is important to realize that Rambam's position on non-Jewish sources of *tuma* is independent of his approach to *sof tuma latzet*. These are distinct positions and must be analysed individually. Therefore, even those halakhists who disagree with the first premise and argue that non-Jewish sources of *tuma* do indeed engender *tumat ohel* may very well need to contend with Rambam's positions on various technicalities and particulars regarding the spread of *tumat ohel*. But rejecting Rambam's approach with regard to non-Jewish sources of *tuma* and favouring Rabbenu Tam's in no way necessitates, and should certainly not be taken to mean, a rejection of Rambam's other rulings regarding *tumat met* and its spread through *ohalim*. Therefore, Rambam's positions regarding *sof tuma latzet* are of prime importance, even when not necessarily referring to Jewish corpses or other sources of *tuma*. This caveat is of particular importance because many questions and situations arising from Rambam's (other) rulings may often involve non-Jewish sources of *tuma*.

Addressing this apparent anomaly results in two general approaches. The majority approach looks at each instance where Rambam omits mention of *sof tuma latzet* in isolation, assuming all the while that, like the other halakhists, he agrees to the principles of *sof tuma latzet*. Each case is then analysed individually as to whether Rambam's unique explanation employs the concept or some derivative thereof even though not stating so explicitly, or instead, whether in this particular instance he relies on other principles, although accepting *sof tuma latzet* otherwise.

The second view, advocated by Rabbi Yehiel Mikhel Epstein in his *Arukh HaShulhan HeAtid*, takes a broader view of Rambam's general approach. Although not explaining what led him to differ from the other commentators, he claims – as radical as it may appear – that Rambam simply did not accept the principle of *sof tuma latzet* as normative halakha. Assuming that Rambam endorsed *sof tuma latzet* as halakhically relevant but for some reason chose never to utilize the term requires localized explanations for each instance, resulting in a patchwork that does not evince an underlying theory. A smoother and simpler approach might be to assume that Rambam never cites the phrase because he does not accept the principles of *sof tuma latzet*. The reason that he consistently offers different readings and explanations for these contested cases than the other commentators is that the latter are willing to employ *sof tuma latzet* as halakhically relevant while Rambam is not.

Before analysing the particular representative instances, there is a more general challenge with which to contend. Several times, the Mishna uses the

phrase *derekh hatuma latzet ve'ein derekh hatuma lehikanes* – it is the way, manner, or characteristic of *tuma* to exit.<sup>11</sup> Rambam quotes this particular phrase in various contexts.<sup>12</sup>

Some of the commentators assume that *derekh hatuma latzet* is sometimes synonymous with *sof tuma latzet*. However, despite the similarity in formulation, in some other cases almost all admit that this need not be true and use the phrase with that in mind.<sup>13</sup> What this amounts to is a tacit admission that the mere usage of the phrase *derekh hatuma latzet ve'ein derekh hatuma likanes* does not necessarily prove that any particular principle is at play. Therefore, a strong case can be made for completely distinguishing between the terms.

Whereas *sof tuma latzet* looks to the future, *derekh hatuma latzet* deals with the present. Classically understood, *sof tuma latzet* refers to the potential future location of *tuma*, assuming that where it will be in the future has ramifications for the present. *Derekh hatuma latzet* describes the direction in which the *tuma* currently spreads. Depending upon the particular configuration, *derekh hatuma latzet* means that what otherwise appear to be distinct *ohalim* are considered as one *ohel*, since in some circumstances it is the nature (*derekh*) of one *ohel* to be subsumed in the other.<sup>14</sup>

In judiciously avoiding invoking – or at least explicitly mentioning – *sof tuma latzet*, Rambam must still deal with those many rulings and instances in the Mishna which the other commentators explain as dependent upon *sof tuma latzet*. In doing so, he introduces two novel principles: an expanded view of *kever satum* (a sealed grave) and a unique understanding of the relationship between *ohalim* subsumed within one another. Examples of Rambam's substituting these two principles in instances where the other commentators invoke *sof tuma latzet* can be found throughout the *Commentary on the Mishna* and *Hilkhot Tumat Met*.

#### KEVER SATUM

המת בבית ובו פתחים הרבה, כלן טמאין. נפתח אחד מהן, הוא טמא וכלן טהורין.  
 חישוב להוציאו באחד מהן או בחלון שהוא ארבעה על ארבעה טפחים, הציל על  
 הפתחים.

11. Ohalot 3:7, 4:1–3, 9:10.

12. *Hilkhot Tumat Met* 18:4, 19:3, 20:8.

13. Rash on Ohalot 5:1, s.v. *ve'eino*; *Responsa Tashbetz* 3:1; Ramban on Hullin 125b, s.v. *hakhi garsinan*; *Kesef Mishne, Hilkhot Tumat Met* 6:9, 18:4; *Nimukei Yosef* on Rif's *Hilkhot Tuma* 2a (Rif pagination, s.v. *i hava meta*). However, see *Responsa Hatam Sofer, Yoreh De'a*, no. 340.

14. *Arukh HaShulhan HeAtid, Hilkhot Tumat Met* 17:9.

If there is a corpse in a house with numerous entranceways, each of the entranceways becomes *tamei*. If one entrance opened, that entranceway is *tamei* and all the others are *tahor*. If there was intention to remove the corpse through one of the entrances or a window that is four square *tefaḥim* [that entranceway is *tamei* and] it protects the other entranceways [from being *tamei*].<sup>15</sup>

In his commentary on Mishna Ohalot, Rash (Rabbi Samson of Sens) explains that any place from where *tuma* may eventually exit is considered *tamei* already now, since *sofo shel met latzet derekh sham* – the corpse will eventually make that area *tamei*.<sup>16</sup> In a location with multiple exits, all are considered *tamei*, until such time that one is selected for removal of the corpse. Although arguing as to the particular status of this *tuma*, Rabbi Asher ben Yehiel (Rosh), in Ohalot 7:3, as well as the later commentators, all invoke *sof tuma latzet* to explain the mechanics of the Mishna.<sup>17</sup>

Deviating from this approach, Rambam interprets the Mishna completely differently.

אם היו כל הפתחים נעולים נעשה הבית כולו כקבר. ולפיכך מתטמא כל מי שישב בו וכך אמרו בית סתום מטמא מכל סביביו. ואם פתח אחד הפתחים, או חשב להוציא את המת מפתח מסויים ואף על פי שלא פתחו עד כה... הרי זה הציל על הפתחים כולם.

If all the entranceways are locked, the entire house becomes similar to a grave. Therefore, anybody who sits in its entranceways becomes *tamei*. And this is what they said, “A sealed house imparts *tuma* to all of its surroundings.” And if he opened one of the entrances or thought about removing the corpse from a particular entrance, even though they have not yet opened that entrance ... this protects all of the other entranceways [from being *tamei*].<sup>18</sup>

Making no mention of *sof tuma latzet*, Rambam arrives at the same practical conclusion as the other commentators, even while utilizing a completely separate set of assumptions. Similar to them, he assumes that the doors to the home in

15. Ohalot 7:3.

16. Ohalot 3:6, cited in Rash on Ohalot 7:3.

17. Rabbi Obadiah Bartenura (ad loc., s.v. *kulan*), *Melekheth Shelomo*, *Tosefot Yom Tov* (ad loc., s.v. *uveit*), and *Tiferet Yisrael* (ad loc., Yakhin 7:34).

18. *Commentary on the Mishna*, Ohalot 7:3.



which the corpse is lying are closed. While the closed doors prevent *tumat ohel* from spreading beyond the confines of the house,<sup>19</sup> the other commentators claim that *sof tuma latzet* causes the rooms behind the doors to be *tamei* as well. Rambam, however, believes that the house in question is similar to the “sealed home” (*bayit satum*) of Bava Batra 12a, which in and of itself is considered a primary source of *tuma*. He explains that the *tuma* of a *bayit satum* is parallel to the Mishna’s discussion of mausoleums (*nefesh atuma*).<sup>20</sup>

The Mishna describes two types of structure: the first is closed and built directly above a corpse, with no airspace between the body and the structure, similar to a large coffin. Considering that there is no effective *ohel* above this corpse (an *ohel* requires a cubic *tefaḥ* of space), the rules of *tuma retzutza* (lit. smashed *tuma*) become applicable: only people hovering directly above (or below, if it were physically possible in this case) are rendered *tamei*; merely touching the sides of the structure, however, does not transmit *tuma*.<sup>21</sup>

The second type of mausoleum contains an airspace of at least a cubic *tefaḥ* around the corpse, and the Mishna compares this structure to a *kever satum* – a sealed grave. In contrast to the previous case, the Mishna declares that touching any part of the structure, even the sides and roof not directly above the corpse, transmits *tuma*. Rosh explains the difference in that, although merely containing *tuma*, a *kever satum* is considered itself to be a primary source of *tuma*.<sup>22</sup> Similarly, in codifying the laws of tombs, Rambam also describes a *kever* as transmitting *tuma* via *ohel*.<sup>23</sup>

A standard *kever satum* engenders *tuma* to all of its surroundings because it is completely sealed and the *tuma* is considered to be ‘distributed’ equally among its outer surfaces; there is no one location that is more likely than another for *tuma* to exit. As such, the *kever* itself becomes an expanded manifestation of the *tuma*. However, a house with doors significantly differs in that the *tuma* will certainly only exit through one of those entranceways; the ‘distribution’ of the *tuma* is therefore limited to those outer surfaces of the house that provide access to its interior, namely the doorways. A careful reading of *Hilkhot Tumat Met* (7:1–2)

19. Whether or not doors qualify as *ḥatzitzot* is a matter of disagreement between *Taz* (YD 371, sec. 3) and *Shakh* (*Nekudat HaKesef* ad loc., s.v. *rotze*), with the halakhic consensus strongly favouring *Shakh*’s approach that closed doors can block the spread of *tuma*.

20. Ohalot 7:1.

21. The regulations regarding *tuma retzutza* can be found in Rambam’s *Hilkhot Tumat Met* (7:5) and are beyond the scope of this essay.

22. Commentary on Ohalot 7:1.

23. *Hilkhot Tumat Met* 2:15.

reveals that a house with closed doors is thus parallel to a *kever satum* only inasmuch as the actual doorways themselves are *tamei*. Just as in a classic *kever satum* the outside surfaces of the structure transmit *tuma* both via direct contact as well as through *ohel*, so too a building with closed doors.

Rambam explains that, when the doors of the house containing the corpse are locked, the house is comparable to a *kever satum*. The Mishna is clear that even the outside surfaces of a *kever satum* are *tamei*, and, based on Rambam's understanding, are also 'primary' sources of *tuma* to transmit *tuma* via *ohel*. Since the outside surfaces of all of the doors transmit *tuma* via *ohel*, all objects in the adjoining hallways – those that are part of the *ohel* of which the doors are vertical components – are *tamei* by virtue of being in the same *ohel* as these doors.<sup>24</sup>

### A SUBSUMED OHEL

The second substitute principle Rambam appears to utilize is a unique understanding of the relationship of two *ohalim* to each other. Generally, just as an *ohel* allows for the spread of *tuma* (*mevi et hatuma*) within the contiguous airspace beneath it, so too, it prevents the spread of *tuma* (*hotzetz bifnei hatuma*) beyond its confines.<sup>25</sup> Rambam codifies this principle in *Hilkhot Tumat Met* 12:1.

However, elsewhere Rambam notes a severe limitation of this idea. Based upon Tosefta Kelim 6:6 (noted in *Kesef Mishne* ad loc.), he lists situations in which objects that share an *ohel* with *tuma* are nonetheless protected from becoming *tamei*: items 'swallowed' (*belu'in*) or absorbed in another object, items contained within a *tzamid patil* (tightly sealed container), and items contained within an inner *ohel*.<sup>26</sup> Elaborating on these categories, Rambam explains that something completely absorbed within another object is considered to be in a separate area. Whereas a quarter *log* of blood from a corpse within a room engenders *tumat ohel*, when the blood is completely absorbed into another object, the room remains *tahor*. Similarly, while liquids located within an *ohel* that contains *tuma* become *tamei*, if the liquids are completely absorbed within another item, they remain *tahor*.

Rambam contrasts these 'swallowed' items with those contained within a tightly sealed container or an *ohel*. Whereas the swallowed items are considered

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24. On the apparent contradiction with Bava Batra 12a, see Rash, Commentary on Ohalot 7:3; *Responsa HaRemez* 14; *Responsa Mikhtam LeDavid* 1, *Yoreh De'a* 51; *Mayim Tehorim* on Ohalot 7:3.

25. Ohalot 3:7, 6:1–2, 8:1, 9:3, 10:4–5.

26. *Hilkhot Tumat Met* 20:1.

to be completely separate from the room in which they are found, the container and inner *ohel* are only half as effective. Essentially, these latter two categories function like a ‘one-way valve’ – they prevent *tuma* from entering (and thereby protect *tahor* items contained therein from becoming *tamei*) but cannot prevent *tuma* from exiting. In other words, when a sealed container or small *ohel* is located within a larger *ohel* that contains *tuma*, they protect any *tahor* objects they are housing from becoming *tamei*. However, *tuma* located within a container or small *ohel* spreads beyond those smaller structures to the larger room (*ohel*) in which they are found.

Rabbi Joseph Karo explains the unidirectional flow of *tuma* by invoking *sof tuma latzet*.<sup>27</sup> Since removing the *tamei* object from the smaller *ohel* requires traversing the airspace of the larger one, *sof tuma latzet* declares the larger *ohel* to be *tamei* even prior to the actual removal.<sup>28</sup> However, Rabbi David Pardo strongly disagrees with this approach and finds it very difficult to read this argument into the text of *Hilkhot Tumat Met*.<sup>29</sup> He also notes that Rabbi Karo’s suggestion is actually a restatement of Rabad’s position, which explicitly disagrees with Rambam’s view of the relationship between smaller and larger *ohalim*.<sup>30</sup> Rabbi Pardo views the suggestion in *Kesef Mishne* as so implausible as to be absolutely incorrect. In fact, Rabbi Karo himself merely offers this approach as a possibility, ending his comment with the ever-present caveat that the matter “still needs further review”.

Building upon the analysis in *Shoshanim LeDavid*, Rabbi Gershon Ḥanokh Leiner resolves the contradiction by accepting both premises.<sup>31</sup> He explains that normally *tuma* can only spread within an *ohel*, but not beyond its confines. The relevant question is whether *tuma* contained within a smaller *ohel* is also considered to be within the ‘jurisdiction’ of the larger *ohel* in which this smaller *ohel* is found, such that the *tuma* should spread throughout the larger *ohel* as well. When located within a larger *ohel*, the inner *ohel* is less significant, inasmuch as anything contained within it can be described as also within the larger *ohel*. The spatial relationship between the two *ohalim* is such that the airspace of the inner one

27. *Kesef Mishne, Hilkhot Tumat Met* 20:6.

28. Conversely, since removing a *tamei* object from the outer *ohel* does not necessarily require traversing the airspace of the smaller one, *tuma* does not spread from the outer *ohel* into the inner one.

29. See *Shoshanim LeDavid* on Mishna Ohalot 15:5.

30. See Rabad’s glosses to *Hilkhot Tumat Met* 20:1.

31. *Sidrei Taharot* 87a, s.v. *tzamid*.

can be said to be subsumed within the outer one's space. The opposite, however, is not true and *tuma* does not spread from the outer *ohel* inwards.

In completely rejecting any relationship this notion may have to *sof tuma latzet*, both Rabbi Pardo and Rabbi Leiner agree that Rambam's ruling applies to any smaller *ohel* subsumed within a larger one, even when there is a way to remove the *tuma* from the smaller *ohel* without traversing the larger *ohel*. Such a situation could arise if an exit from the smaller *ohel* was located flush against an exit from the larger one. Since the exits line up, the *tamei* object could be removed from the smaller *ohel* without it ever entering the airspace of the larger one. In light of the rules of *sof tuma latzet*, the *tuma* would not spread into the larger *ohel*, which would thus remain *tahor*. According to this expanded understanding of Rambam's approach, however, the locations of the exits are not relevant to the *tuma* status of the larger *ohel*. So long as the relationship of the two *ohalim* is such that one is subsumed within the other, any *tuma* contained within the inner *ohel* is considered to have spread throughout the outer *ohel* as well.

By introducing this particular approach to the relationship between an inner *ohel* subsumed within a larger one, Rambam may again be read as avoiding the invocation of *sof tuma latzet*.

#### A SPLIT HOUSE

ד. בית שחצו בנסרים או ביריעות מן הצדדים או מן הקורות, טומאה בבית, כלים שבחצץ טהורים. טומאה בחצץ, כלים שבבית טמאין...  
ה. חצו מארצו, טומאה בחצץ, כלים שבבית טמאים. טומאה בבית, כלים שבחצץ, אם יש במקומן טפח על טפח על רום טפח, טהורים. ואם לאו, טמאין, שארצו של בית כמוהו עד התהום.

4. A house that has been split [separated into two] with wooden boards or with sheets, whether [suspended] from the sides [i.e. the divider was placed horizontally beneath the roof, such that the two areas are located above one another] or from the roof [i.e. the divider was placed vertically, such that the separated areas are located beside each other]: if there is *tuma* in the house, utensils located in [or behind] the separation are *tahor*; if there is *tuma* in the separation, utensils in the house are *tamei*...

5. If he separated [the house into two] from the ground [i.e. the divider was placed horizontally, such that the separated areas are above one another]: if there is *tuma* in the separation, utensils in the house are *tamei*; if there is *tuma* in the house and utensils in the separation – if the utensils are located in an area of [at least] one cubic *tefah*, they are *tahor*; if not [i.e. they are

in an area smaller than one cubic *tefah*], they are *tamei* since the ground level of a house and downwards has the same status as the house [under which it is located] [*artzo shel bayit kamohu ad hatehom*].<sup>32</sup>

These two *mishnayot* describe situations in which two parts of a house are separated. The segment located at the rear of the house or nearer to the ceiling (referred to as “in [or behind] the separation”) is completely separated from the outer or lower segment (simply referred to as “the house”). The exit of the house is presumed to be found in the outer and lower segments, respectively.<sup>33</sup> While the mishna is ostensibly discussing the status of utensils and *tuma* found within the actual separation itself, *Tosefot Yom Tov* already quotes Maharam of Rothenburg (not found in the standard Vilna edition of Mishna), who interprets the passage as referring to utensils or *tuma* located on either side of the separation.<sup>34</sup> While Rambam initially also refers to utensils or *tuma* located within the actual partition,<sup>35</sup> he subsequently states that, insofar as the conclusion is concerned, there is no practical difference whether they are located within the actual partition or behind it.<sup>36</sup> In fact, in *Hilkhot Tumat Met* he makes no mention of cases in which the utensils or *tuma* are located within the separation, describing only instances when they are on either side of the barrier.<sup>37</sup>

The simpler case discussed is where the *tuma* is located in the rear or upper section of the house. Following the classic approach, Rabbi Israel Lipschutz explains that, since the only way to remove the *tuma* from the inner segment is by traversing the outer section of the house, utensils in the outer segment are *tamei* by virtue of *sof tuma latzet*.<sup>38</sup> The converse case, where the *tuma* is located within the outer or lower segment, is also easily understood according to this approach. Since the *tuma* can exit the house without traversing the rear or upper segments, there is no reason that they should become *tamei*. Rabad, discussed below, adopted a similar approach, many centuries earlier.

32. Ohalot 15:4–5.

33. *Sidrei Taharot* 185b, s.v. *tuma babayit*.

34. See *Tosefot Yom Tov* on Ohalot 15:4 s.v. *kelim*.

35. *Commentary on the Mishna*, Ohalot 15:4.

36. *Ibid.* 15:5.

37. 20:6, 24:2.

38. *Tiferet Yisrael*, Yakhin 34.

Rambam, in line with his consistent avoidance of referring to *sof tuma latzet*, explains that, regardless of where the *tuma* is found, the barrier causes the rear and upper areas to qualify as independent *ohalim*. As *ohalim*, they are only effective in preventing *tuma* located in the rest of the house from penetrating the barrier but cannot prevent *tuma* located behind the barrier from spreading beyond its confines. In his *Commentary on the Mishna*, Rambam explicitly quotes Tosefta Kelim 6:6, and even while not making the direct reference, in each of these cases described in *Hilkhot Tumat Met*, he refers to his previous discussion of the relationship between inner and outer *ohalim*.<sup>39</sup>

In several of the instances where Rambam refers to this principle, Rabad strongly disagrees.<sup>40</sup> As noted earlier, Rabad adopts the ‘standard’ approach that endorses the applicability of *sof tuma latzet* and rejects Rambam’s understanding.<sup>41</sup> He interprets each case presented by Rambam in one of two ways: either as referring to instances in which the only possibility for removing the *tuma* from the inner *ohel* is by traversing the larger *ohel* and invoking *sof tuma latzet*, or by positing that the inner *ohel* containing the *tuma* is constructed from material which itself is liable to becoming *tamei*, invoking the principle that any object that is itself liable to becoming *tamei* cannot prevent the spread of *tuma*.<sup>42</sup> As Rambam makes no explicit reference to Tosefta Kelim 6:6 in *Hilkhot Tumat Met*, Rabad admits to finding no source supporting Rambam’s contention, concluding that “a great man erred in this matter [*ve’adam gadol ta’ah bazeh*]”.<sup>43</sup>

#### CHEST WITHIN A HOUSE

א. מגדל שהוא ... עומד בתוך הבית, טומאה בתוכו, הבית טמא. טומאה בבית, מה שבתוכו טהור, שדרך הטמאה לצאת ואין דרכה להכנס ...

39. On the possible discrepancies between Rambam’s recording of these *mishnayot* (*Hilkhot Tumat Met* 20:6, 24:2), see *Tiferet Yisrael*, *Ohalot* 15, *Yakhin* 40, and *Hiddushei Rabbenu Hayim HaLevi al HaRambam*, *Hilkhot Tumat Met* 20:1. A careful reading of these *halakhot* may reveal a further distinction as to whether the barrier is considered to be part of the ceiling (*mikelapei hakorot* in 24:2) or part of the flooring (*mikelapei artzo* in 20:6).

40. *Hilkhot Tumat Met* 20:1, 6; 24:2.

41. Other commentators (Rash, Rosh, R. Obadiah Bartenura, *Ohalot* 15:4) all explain the *mishna* along similar lines, although invoke language of subsumed *ohalim*. However, as *Mishna Aharona* (*ibid.*) explains, when these commentators cite the principle of an inner *ohel* being unable to contain *tuma* within its walls or compare an inner *ohel* to a sealed container, they are merely using coded language for *sof tuma latzet*.

42. Bava Batra 19b.

43. Rabad on *Hilkhot Tumat Met* 20:6.

ג. היה עומד בתוך הפתח ונפתח לחוץ, טומאה בתוכו, הבית טהור. טומאה בבית, מה שבתוכו טמא, שדרך הטמאה לצאת ואין דרכה להכנס.

1. A [wooden] chest located in a house: If it contains *tuma*, the house is *tamei* [as well]; if there is *tuma* in the house, that which is in the chest is *tahor*, since it is a property of *tuma* to exit and not to enter [*shederekh hatuma latzet ve'ein darkah lehikanes*]...

3. If [the wooden chest] is located in the entranceway [*betokh hapetaḥ*] with its opening facing outwards and is open to the outdoors: If it contains *tuma*, the house is *tahor*; if there is *tuma* in the house, that which is in the chest is *tamei*, since it is a property of *tuma* to exit and not to enter [*shederekh hatuma latzet ve'ein darkah lehikanes*].<sup>44</sup>

As an apparent prime example of *sof tuma latzet*, many commentators explain these *mishnayot* according to that principle.<sup>45</sup> Completely omitting any mention of *sof tuma latzet*, Rambam interprets these *mishnayot* somewhat differently. He describes the chest located within the house as an “*ohel* within an *ohel*”, repeating his oft-quoted explanation, “it is a principle by us that if one *ohel* is subsumed within another [*ohel betokh ohel*] and *tuma* is located within the inner *ohel*, the outer *ohel* is *tamei*,” referring the reader to Tosefta Kelim 6:6.<sup>46</sup> When the *tuma* is located within the chest, the house is considered the outer *ohel* and is *tamei*. Conversely, when the *tuma* is located in the house, the inner *ohel* – the wooden chest – can prevent the spread of *tuma* into its space. Rambam seems to find this notion so pervasively important that he exhorts the reader to “pay attention to this [*sim lev lazeh*] since it is an important fundamental principle [*yesod gadol*].” He codifies the Mishna’s ruling in *Hilkhot Tumat Met* 18:4 without much elaboration.

The third mishna, though, appears to present difficulties for Rambam’s approach. Interestingly, in the *Commentary on the Mishna*, he makes no comment on this section but instead focuses exclusively on a later section. In *Hilkhot Tumat Met* 18:4, he cites the Mishna faithfully without any explanation. Reflecting on his interpretation of the first mishna, it is somewhat perplexing why this mishna records that when *tuma* is found within the chest the house is not *tamei*. Regardless of where the chest is located within the house, it should appropriately be

44. Ohalot 4:1–3.

45. Rash and Rosh on Ohalot 4:1, s.v. *shederekh*; Maharam ibid., s.v. *hava*; Obadiah Bartenura, ibid., s.v. *habayit*; Tiferet Yisrael, Yakhin 8.

46. *Commentary on the Mishna*, Ohalot 4:1.

identified as the inner *ohel* with the house proper as the outer *ohel*. One might have in fact expected the opposite conclusion – when *tuma* is in the chest, the house is *tamei* and when the *tuma* is in the house, objects within the chest are *tahor*.

Rabbi Ḥaym Soloveitchik admits difficulty with resolving this mishna according to his own particular approach and suggests an important limitation on the rules regulating the relationship between inner and outer *ohalim*.<sup>47</sup> Normally, *tuma* contained within the inner *ohel* spreads to the outer *ohel* because the inner *ohel* is considered to be subsumed within the larger one or otherwise insignificant as a meaningful partition, given its location within the larger structure. Rabbi Soloveitchik proposes that, were the inner *ohel* to somehow attain increased significance and no longer be considered subsumed within the larger *ohel*, it would function differently and indeed prevent *tuma* contained within it from spreading beyond its walls. It is only because it is subordinate to the larger *ohel* that *tuma* contained within it is also considered to be present within the outer *ohel*. When that is no longer the case, however, the *tuma* should be limited to the confines of the inner *ohel* and not spread any further.

He suggests that, if removing the inner *ohel* from the house would bring the *tuma* along with it – meaning that the inner *ohel* is a box surrounding and not just covering the *tuma* – then perhaps it should be considered independent of the outer *ohel*. The *tuma* within such an inner *ohel* no longer relates to its immediate covering as a subsumed *ohel* – of presumably lesser status – but rather as an independent *ohel* in which the *tuma* will eventually travel even when no longer found within the larger *ohel*. Therefore, *tuma* located within the wooden chest will not cause the house to become *tamei* and *tuma* within the house will not cause objects in the chest to become *tamei*.

There are several difficulties with this approach, however, which may be why Rabbi Soloveitchik ends off with a caveat that the matter still requires further review. On the most basic level, we need to posit two different scenarios for the two *mishnayot*. The first mishna must refer to a situation in which removing the inner *ohel* will not necessarily cause the *tuma* to travel with it – which would be the case if the chest were merely covering the *tuma* but not housing it within the chest proper – whereas the latter mishna must refer to a situation where removing the chest carries the *tuma* along with it. While not an unheard-of methodology for interpreting the Mishna, it does question the strength of this proposal. Additionally, Rabbi Soloveitchik's assumption that a difference in status

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47. *Ḥiddushei Rabbenu Ḥayim HaLevi al HaRambam, Hilkhot Tumat Met* 20:1.



exists between an inner *ohel* whose removal brings the *tuma* along with it and one that does not can itself be challenged, as it is certainly not universally agreed upon,<sup>48</sup> although this discussion is beyond the scope of the current endeavour.

A second approach to explaining this mishna according to Rambam's view builds on Rabbi Soloveitchik's suggestion that mishna 3 is discussing a case in which the inner *ohel* is not considered to be subsumed within the outer *ohel*, albeit for more structural reasons. A number of later commentators argue that an inner *ohel* located specifically and exclusively within the doorway of a larger *ohel* differs significantly from one located completely within the larger *ohel*.<sup>49</sup> In *Sidrei Taharot*, Rabbi Leiner explains that when the chest – the inner *ohel* – is located in the doorway, it may or may not be considered subsumed within the house (the outer *ohel*). When the opening faces inwards, towards the house, and the chest shares contiguous airspace with the house, it is still considered part of, and therefore subsumed within, the house. As *Darkei Shemuel* makes clear, however, when located in the doorway with its opening facing outwards, the chest is considered a distinct space from the house and no longer subsumed within it; it is not located within, nor does it share any contiguous airspace with, the house.

In fact, a careful reading of the mishna bolsters this approach. According to those who explain this mishna through the mechanism of *softuma latzet*, it should make little difference in which direction the chest opens. When it is located in the entranceway, removing *tuma* from the house necessitates traversing the airspace currently occupied by the wooden chest, regardless of where its opening is facing.

Perhaps, instead, the Mishna emphasized this detail in order to draw attention to the fact that, when all of these factors are taken together – located exclusively within the doorway (and, according to *Kesef Mishne*,<sup>50</sup> encompassing the entire space of the doorway) and with its opening facing outdoors – the chest takes on an independent identity, no longer considered to be subsumed within the larger *ohel*. Highlighting this factor even more strongly, Rambam ends his short explanation not only with “because it is the way [*derekh*] of *tuma* to exit and not enter” – a direct quotation from the Mishna – but introduces that comment with “since [the chest] is open and located in the doorway”.<sup>51</sup> It appears that from Rambam's perspective, the fact that “the manner of *tuma* is to exit and

48. Cf. *Tiferet Yisrael*, Ohalot 4, Yakhin 8.

49. *Hasdei David*, *Ahilot*, *Kuntres Torat HaOhel*, no. 14; *Mayim Tehorim*, Ohalot 4:2, *Harifuta DeNahara* 3, 4:3; *Nahara Upashta*, s.v. *baRam*; *Sidrei Taharot* 88b, s.v. *haya*, and *Darkei Shemuel*, Ohalot 4:16.

50. *Hilkhot Tumat Met* 18:4, s.v. *migdal*.

51. *Hilkhot Tumat Met* 18:4.

not enter” is insufficient to explain these *mishnayot*. Only because of the two additional factors – the location and the direction of its opening – does the chest assume the status of an independent *ohel* and is no longer subject to the rules regulating an inner *ohel* subsumed within an outer *ohel*.

Thus, when *tuma* is located within the chest, it does not spread to the house. So too, at least in theory, when *tuma* is located within the house, the wooden chest should prevent it from entering its airspace, since it is not considered to be subsumed within the larger *ohel*. However, the ‘standard’ text of the Mishna, which is the version that Rambam quotes, rules that, under these conditions, objects located within the wooden chest, in fact, are *tamei*. If the chest is considered to be an independent *ohel*, separate and distinct from the house – the outer *ohel* – why then does *tuma* from the house spread into the chest? According to the previous analysis, the chest should be able to prevent *tuma* from entering its airspace.

Answering this question, Rabbi Epstein takes the view of the wooden chest as an independent entity one step further.<sup>52</sup> He argues that not only is the wooden chest an independent *ohel*, but since it is standing in the entranceway to the house and, as stipulated in *Kesef Mishne*, encompassing the entire airspace of the doorway,<sup>53</sup> it qualifies as the outer *ohel* with the house proper identified as the inner *ohel*. Understood in this light, the standard rules of an inner *ohel* subsumed within an outer *ohel* work quite nicely. When the *tuma* is in the house proper – the inner *ohel*, according to the understanding of *Arukh HaShulhan HeAtid* – the wooden chest (the outer *ohel*) is *tamei*. However, when the *tuma* is in the wooden chest – the outer *ohel* – the house proper is *tahor*, since as the inner *ohel*, it prevents the spread of outside *tuma* into its airspace.

While certainly novel, Rabbi Epstein’s proposal does not address the fundamental question of how to determine when one *ohel* is considered subsumed within another and when the two are merely adjacent. Since it is the particular relationship of one *ohel* subsumed within another that causes the *tuma* contained within the inner compartment to spread to the outer section, accurately identifying those sections is of prime importance. As Rabbi Leiner aptly notes, Mishna Ohalot

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52. *Arukh HaShulhan HeAtid, Hilkhot Tumat Met* 37:16.

53. See Rabbi Meshulam Horowitz of Kremnitz, *Mishnat Hakhamim* (Ohalot 4:3), who disagrees with Rabbi Karo’s contention as being without basis, although this claim is effectively refuted by Rabbi Yehuda Leib Edel in *Mayim Tehorim*, Ohalot 4:3, *Harifuta DeNahara* 3. See also *Hiddushei Rabbenu Hayim HaLevi al HaRambam, Hilkhot Tumat Met* (11:5), where Rabbi Soloveitchik presents an alternative understanding of Rambam’s approach that does not necessitate Rabbi Karo’s assumption.

describes numerous cases (6:4, 10:4–5, 17:5) of two- (or more) story houses, assuming all along that when properly divided, *tuma* cannot spread from one floor to the other; the same is true of adjacent *ohalim* separated by a wall.<sup>54</sup> Only when the inner *ohel* is subsumed within the outer *ohel* can the *tuma* physically contained within the inner *ohel* be considered to also be located within the purview of the outer *ohel*. As such, it is very difficult to accept Rabbi Epstein's suggestion.

Accordingly, from the perspective of the relationship between *ohalim*, the wooden chest should prevent the spread of *tuma* from the house into the chest. However, taking into consideration Rabbi Karo's suggestion that the chest is big enough to take up virtually the entire doorway, objects within the chest may become *tamei* for a completely separate reason. If this is the house's only doorway and the chest is completely blocking the exit, then the chest should rightfully be viewed as a physical barrier blocking passage to and from the house, otherwise known as a door. As such, Rabbi Leiner compares this case to the house with sealed doors of Mishna Ohalot 7:3.<sup>55</sup> Based upon the earlier analysis of Rambam's approach to this mishna, the comparison is all the more appropriate, since Mishna Ohalot 4:3 is describing a house with a sealed entranceway. Therefore, even if *tahor* by virtue of being an independent *ohel*, the chest becomes *tamei* since it is effectively the door of a sealed house. Once the chest is *tamei* (or at the very least the surface of the chest that faces the house) and, as argued previously, engenders *tumat ohel*, the contents of the chest also become *tamei*.

## PRACTICAL RAMIFICATIONS

Taking Rambam's broader view of the relationship between an inner and outer *ohel* and his expansive approach to *kever satum* into consideration, there are significant practical differences between his approach and that of the other commentators. The differences diverge even more when we approach the matter through the lens of the *Arukh HaShulhan*, where Rabbi Epstein argues that Rambam fundamentally denies the principle of *sof tuma latzet*.

- Situations in which a small *ohel* is located flush against the wall of a larger *ohel* and the inner *ohel* has an exit leading directly outside, without needing to traverse the outside *ohel*, will result in divergent rulings. Since removing the source of *tuma* will never cause the outer *ohel* to become *tamei* by virtue of *sof tuma latzet* alone, the outer *ohel* will remain *tahor*.

54. *Sidrei Taharot* 87a, s.v. *tzamid*.

55. *Sidrei Taharot* 88b, *Kuntres*, s.v. *tuma babayit*.

However, since the inner *ohel* is subsumed within the outer *ohel*, according to Rambam, the outer *ohel* will become *tamei*.

- Rambam's expansive view of *kever satum* may also create significant differences. Understanding the case of a corpse within a house with closed doors as in the analysis above, he would declare the outside surfaces of any of those doors to be *tamei* (and spread *tuma* via *ohel*, should there be a roof above them), while through *sof tuma latzet* alone, the outside surfaces of the doors should remain *tahor*, so long as there is no overhang or roof extending above the outside surfaces of those doorways.
- Assuming that Rambam in fact denies *sof tuma latzet* as halakhically relevant, the extent to which *tuma* spreads when housed in an inner room is also a matter of debate. According to Rambam's understanding of *kever satum*, so long as the doors to the room containing the *tuma* are closed (perhaps they must be locked), the outside surface of those doors becomes *tamei* and causes *tuma* to spread via *ohel* into an adjacent room; the spread of *tuma* stops at the next closed door. However, for those who endorse and apply the *sof tuma latzet* principle, *tuma* spreads through all closed doors through which the source of *tuma* will ultimately pass so long as they share a contiguous roof. Practically speaking, an example of this discrepancy would exist in a situation where there are three connected rooms, and the only way to remove the *tamei* object from the third room is by traversing first the middle and then the outer room. According to Rambam, only the innermost room and the immediately adjacent rooms are *tamei*, whereas according to the *sof tuma latzet* approach, all three rooms are.
- Another difference may emerge, as suggested by Rabbi Epstein, in cases where the *tuma* will never actually traverse the outer *ohel*.<sup>56</sup> This might occur when the source of *tuma* will be buried or otherwise destroyed in its current location or dissected into sections so small that when traversing the outer *ohel* individually they will not engender the spread of *tuma*. These limitations effectively nullify *sof tuma latzet* and its ability to render the outer *ohel* *tamei*. According to Rambam, however, these limitations are irrelevant. So long as the inner *ohel* contains *tuma* and is subsumed within the outer *ohel*, the outer *ohel* is *tamei*, regardless of what the future holds for this particular *tuma*.<sup>57</sup>

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56. *Arukh HaShulhan HeAtid, Hilkhot Tumat Met* 37:7.

57. The *Arukh HaShulhan* notes, however, that these examples represent R. Yossi's opinion (*Ohalot* 4:2), who argues that, when a *tamei* object located in an inner *ohel* can be dissected into

From a practical halakhic perspective, almost all codifications of *hilkhot tuma* endorse the principle of *sof tuma latzet*.<sup>58</sup> Typically, though, Rambam's opinion plays an instrumental and significant role in arriving at normative practice in these areas, if not simply for his sheer brilliance then perhaps by virtue of the massive scope of his work, certainly superseding any other medieval or early modern halakhist's works on the topic.

If we accept Rabbi Epstein's thesis that Rambam rejected the principle of *sof tuma latzet*, then relying on Rambam's approach results in significant leniencies. For example, because of various fire safety codes, hospitals frequently have many sets of doors throughout their hallways, intended to contain the spread of a fire. When a patient dies, the corpse can frequently be separated from any visitor areas by several sets of doors. Although the lobby area and visitor waiting areas may become *tamei* via *sof tuma latzet* according to Rambam's perspective, only the room containing the corpse and the immediately adjacent room will be *tamei*. This can have potentially far-reaching consequences for kohanim wishing to visit sick patients, depending upon the architecture and structure of the particular hospital.

Nonetheless, despite Rambam's stature, if we accept the thesis that he rejected the principle of *sof tuma latzet*, it would still appear inappropriate to follow this notion normatively, given not only the presence of strong disagreement with Rabbi Epstein's thesis but also the overwhelming acceptance of *sof tuma latzet* as normative halakha by virtually all other commentators and halakhist.

At the same time, the question may be relevant in the opposite direction. In light of the normative acceptance of *sof tuma latzet*, must one be stringent and relate to areas and objects deemed *tamei* through Rambam's approach as well? One potential area of stringency may be display cases containing human remains in museums.

As noted previously, museums often exhibit various objects that engender *tuma*. This can present problems for kohanim desiring to visit, especially with regard to objects that engender *tumat ohel*, since avoiding *maga* and *masa* is easily accomplished. Each museum needs to be individually investigated as body

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small pieces such that the individual pieces cannot engender *tumat ohel*, the outer *ohel* is *tahor*. Normative halakha rejects R. Yossi's opinion (Rambam, *Hilkhot Tumat Met* 18:4; *Tiferet Yisrael*, *Ohalot, Hilkheta Gevira* 4:2) and therefore it cannot serve as a differentiating case between the various approaches. There may still be room to find differences if there were some other reason that *sof tuma latzet* would not apply in a particular instance.

58. Rosh, *Hilkhot Tuma* 9; *Orhot Hayim*, *Hilkhot Tuma* 5; Rabbenu Yeruham, *Toledot Adam VeHava*, *netiv* 28, *helek* 4; *Sefer Kolbo* 114; *Hokhmat Adam*, *Shaar HaSimha*, *kelal* 159:8.

parts can be present in diverse venues and in multiple areas. In many instances, certain types of *tuma* are contained within display cases and not out in the open. Assuming that these are the only potential sources of *tuma* (something that needs investigation), the permissibility of a kohen visiting the museum may depend on the disagreement between Rambam and the other halakhists.

Display cases present several issues that require analysis, aside from the question of the *tuma*'s origin (mentioned earlier). The composition of the case is of prime importance, since if the case itself is susceptible to *tuma*, then it does not qualify as an *ohel* to prevent *tuma* from exiting under most circumstances, unless permanently affixed to the ground or if it is very large (*haba bemidda*, i.e. larger than 40 *se'ah*).<sup>59</sup> Display glass materials may include plastic, Plexiglas, glass, with parts sometimes made of fiberglass, and other similar materials.

Plastic is a synthetic compound and the general consensus is that only the seven enumerated materials (clothing, sack cloth, leather, bone, metal, wood, and ceramic) are liable to becoming *tamei*, effectively eliminating all synthetic compounds.<sup>60</sup> Plexiglas is similarly a synthetically derived compound.<sup>61</sup>

For the display case to qualify as an *ohel*, it must contain a cubic *tefaḥ* (Ohalot 3:7). Rambam and Rabad disagree, however, as to how to measure the cubic *tefaḥ*.<sup>62</sup> Rambam requires a cubic *tefaḥ* between the source of *tuma* and the roof of the *ohel*, while Rabad allows for including the source of *tuma* in the cubic *tefaḥ*. If there were less than a *tefaḥ* space, either above the *tamei* object for Rambam or even including it, then the *tuma* would qualify as *tuma retzuta*, which penetrates any roof immediately above and enters the room in which the structure is located.

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59. Bava Batra 19b.

60. *Mishne Torah, Hilkhhot Kelim* 1:1.

61. While from a Torah perspective glass cannot become *tamei*, the rabbis added stringency to the matter because of the similarity of origin between glass and ceramic, the latter being subject to *tuma* as stated in the Torah. The generally accepted opinion is that any object that is not susceptible to *tuma* on a Torah level can indeed prevent the spread of *tuma*, including glass (*Tosafot*, Bava Batra 20a, s.v. *ve'oved*; Ran ad loc., s.v. *vegoy*; Ramban ad loc., s.v. *ve'akum*; Rash Ohalot 13:5, s.v. *ufaḥot*; *Responsa Noda BiYehuda, mahadura kama, Yoreh De'a*, no. 96; *Mishne LaMelekh, Hilkhhot Tumat Met* 12:2). Fiberglass is also called glass-reinforced plastic, as it is made from a plastic matrix reinforced by small glass fibres. Rabbi Levi Isaac Halperin argues that since the bulk of the material is in fact synthetic and the minute glass fibres may not even qualify as *kelim* to be subject to the rabbinic regulation, fiberglass should be considered unable to become *tamei* (*Sefer Taharat Petaḥim*, sec. 2, ch. 4).

62. *Hilkhhot Tumat Met* 7:4.

Assuming that a cubic *tefah* of space is present and the material itself is not susceptible to becoming *tamei*, the display case takes on the status of an *ohel*. As such, there are three avenues of potential spreading of *tuma* to explore: *kever satum*, *sof tuma latzet*, and an inner *ohel* subsumed within a larger *ohel*.

Although clearly not intended as a burial spot, a display case may in fact be a long-term resting place for some human remains. Most halakhists require a *kever satum* not only to be a final resting place but also to be constructed in such a way that the entrances to the room containing the source of *tuma* have their doorways removed and those spaces completely sealed off.<sup>63</sup> Assuming such a parallel could exist in a display case, it would seemingly require affixing the transparent sections of the case to its base in a permanent manner. It is hard to know if such a display case would qualify under these rigorous criteria. Rambam's approach, however, as argued previously, allows for laxer requirements for an object to qualify as a *kever satum*. If the exits to the room containing the *tuma* are merely closed, the room may attain such a status, leading to a more easily described parallel by display cases. If this analysis is accurate, the outside surfaces of the display case are *tamei* and will cause *tuma* to spread throughout the room housing that particular display.

The second relevant aspect is that of *sof tuma latzet* and this may depend on the particular nature of the exhibit in question. Often museums will have certain exhibits on permanent display, while others may be more temporary. It is possible that the museum's curator has particular plans as to when a given display case containing *tuma* will be removed. Even if not immediate, this may certainly be sufficient for the *tuma* to qualify as *sof tuma latzet*. However, there are those who argue that even if there are definite plans to move *tuma* at some future point, but it will certainly not happen before a particular time, then *sof tuma latzet* is inapplicable until the point in time when the *tuma* might actually be moved.<sup>64</sup> This suggestion would also certainly help in the case of permanent exhibits. Practically speaking, even those halakhists who are generally stringent about *sof tuma latzet* concerning *tuma* from a non-Jew are cited as being lenient with regard to display cases housing *tuma* in permanent exhibitions.

Although, as argued throughout, Rambam rejects *sof tuma latzet* as halakhically normative, the third concern is uniquely relevant. Even if the *tuma* is completely contained within the display case, with the requisite airspace for the

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63. Rash, Mishna Ohalot 7:3, s.v. *kulan*; Rosh, Mishna Bava Batra 1:43; *Hokhmat Adam*, *Shaar HaSimha*, *kelal* 159:4.

64. *Responsa Maharit*, no. 98.

case to qualify as an *ohel*, since it is situated within the museum, it should rightfully be described as an inner *ohel* subsumed within the larger outer *ohel* of the museum proper. Therefore, as discussed extensively earlier, the *tuma* within the inner *ohel* should spread throughout the museum, prohibiting kohanim from visiting the vicinity.

Out of all of these issues, the classical commentators and halakhists are generally only concerned with *sof tuma latzet*, which, in this case, may very well be inapplicable. It is only Rambam's expanded view of *kever satum* and particular approach to the relationship between inner and outer *ohalim* that result in *tuma* spreading throughout the particular room in the museum. However, even if it is normally appropriate to act stringently in accordance with Rambam's opinion, particularly in areas of *tuma* and *tahara*, there might be significant room to make an exception in this case.

While the *Arukh HaShulhan's* thesis that Rambam rejected *sof tuma latzet* as practically relevant may at first blush seem radical, the preceding analysis has shown significant basis for this conclusion. Accordingly, Rambam introduced his two principles of an expanded understanding of *kever satum* and novel approach to the relationship between inner and outer *ohalim* to interpret those cases in the Mishna that would otherwise be easily explained through *sof tuma latzet*. It is only because he rejected the latter concept that Rambam utilized these novel principles. Therefore, since, as a matter of normative halakha, we do employ *sof tuma latzet*, perhaps we need not concern ourselves with the practical consequences of Rambam's approach and may disregard them as halakhically irrelevant.

It is possible, therefore, that under the circumstances described, even those normally stringent in their approach to questions of *tuma* and *tahara*, and take into account Rambam's often novel perspectives, can assume that *tuma* in display cases does not spread beyond the case itself, allowing kohanim to enter rooms containing such exhibits.