

KOHEN WHO KILLED

Is he disqualified for Bircas Kohanim?

Towards the end of the forty years' travel in the *midbar*, the neighboring people of Moav and Midyan sent their women to seduce Jewish men. Many fell prey to their seduction and to the idolatry which accompanied it, and *HaShem* punished them with a plague that killed 24,000 people. The plague did not end until Pinchas slew Zimri. Through his righteousness and courage in the slaying of Zimri, Pinchas was rewarded with *kehunah*.

PINCHAS IS MADE A KOHEN

Zevachim 101b cites another opinion that sets the appointment of Pinchas as a *Kohen* later, in the time of Yehoshua. The tribes living on the east bank of the river Yarden erected a huge altar, and the other tribes, thinking it was an idolatrous altar, prepared to wage war against them. Pinchas managed to avert war by showing that there was no idolatrous intent; instead, it was a symbol that even though they were on the other side of the Yarden, they were still part of the Jewish people. On that occasion, Pinchas is named "Pinchas the *Kohen*" as opposed to other places where he is called "Pinchas the son of Elazar the *Kohen*," indicating that he was blessed with *kehunah* only then. *Tosafos* (s.v. *hahu*) addresses this problem and answers that the Jewish people initially refused to perform the formal induction ceremony, anointing him wearing the priestly garments, together with a *chavitim* offering, because he had murdered a princely leader. This had to wait until Yehoshua's time, when the Jews realized his genuine motivation for peace. *Moshav Zekeinim L'Baalei HaTosafos* (*Bamidbar* 25:13) explains that they initially thought that a *Kohen* who kills someone is forbidden to bless *Bircas Kohanim*, and the same disqualification should apply to service in the Beis HaMikdash. An exception was made for Pinchas because of his exceptional righteousness and courage in the killing of Zimri.

BLOOD ON YOUR HANDS

The source for this rule that a *Kohen* who killed may not *duchen* is an explicit statement in *Berachos* 32b: Rabbi Yochanan said: Any *Kohen* who has killed a person may not raise his hands (and say *Bircas Kohanim*), as it says: וּבְכַרְשִׁיכֶם כְּפִיכֶם אֶעֱלִים עֵינֵי מִכֶּם גַּם כִּי תִרְבוּ תַּפְלָה אֵינִי שֹׁמֵעַ יְדִיכֶם דְּמִים מְלֹאוּ, when you spread your hands, I will hide my eyes from you ... your hands are full of blood (*Yeshayah* 1:15). This teaches that "spreading your hands" to say *Bircas Kohanim* is not acceptable if your hands are full of blood, i.e., if you have been responsible for the death of another. The Shulchan Aruch (*Orach Chaim* 128:35) rules that a *Kohen* may not say *Bircas Kohanim* even if he caused death accidentally and does *teshuvah*. The Rema disagrees and rules that repentance would allow the *Kohen* to return to his previous status. What is the contention underlying this dispute?

CONTRARY YERUSHALMI

While discussing a series of *halachos* regarding *Bircas Kohanim*, the Yerushalmi (*Gittin* 5:9, 31b) teaches: In order that you should not say: "Ploni, a *Kohen*, commits adultery and murder, and he is the one who blesses us?" *HaShem* therefore declares: Who is the one who actually blesses you? Is it not I Who blesses you? As the *pasuk* says: וְשָׂמוּ אֶת שְׁמִי עַל בְּנֵי יִשְׂרָאֵל וְאֲנִי אֲבָרְכֶם, Let them (the *Kohanim*) place My Name upon the Children of Israel, and I shall bless them (*Bamidbar* 6:27). Accordingly, there is nothing amiss with a *Kohen* who is a sinner reciting *Bircas Kohanim*, for ultimately it is *HaShem* Who actually bestows the blessings upon the Jewish people. The Rishonim ask that this contradicts the *Bavli* statement cited above from *Berachos* 32b that a *Kohen* who has killed may not raise his hands to confer the Priestly Blessing. Rambam regards this as a dispute between the two Talmuds and rules, like the *Bavli*, that a *Kohen* who kills is disqualified; the Shulchan Aruch above follows his view.

RECONCILING BAVLI AND YERUSHALMI

The Ravyah, a contemporary of the Rambam, rules that an adulterer and a murderer are not disqualified from *Bircas Kohanim* in accordance with the Yerushalmi, but notes that the *Bavli* disqualifies them (*Ravyah, Teshuvos*, vol. 1, 151, p. 154). He attempts to reconcile the two divergent rulings. First, he suggests that the *Bavli* disqualification is only *lechatchilah*, but if the *Kohen* goes up to *duchen*, we do not object. Secondly, he explains that essentially, he is permitted to *duchen*, for the reason given by the Yerushalmi, but it is not appropriate to do so because he has blood on his hands. The Ravyah expands on this in *Hilchos Nesiya Kapayim* (vol. 4, p. 267), stating that the disqualification applies only when he kills repeatedly and is widely known as a murderer. He adds that he found a Geonic responsa (*Chemdah Genuzah* 54), saying that an apostate who repented should not *duchen*. The Ravyah comments that perhaps repentance does not help in the case of



My grandfather, a *Kohen*, served in the German army during the First World War and was hospitalized after self-inducing an illness to avoid being cannon fodder on the front lines. He related that he would shoot over the heads of the opposing Russians to avoid killing Jews who were present there.

apostasy. This implies that aside from the more extreme case of apostasy, *teshuvah* should help, because he is not visibly a sinner. This inference is reflected in the *Or Zarua* (11:412), the Ravyah's *talmid*, who quotes him as explaining the Bavli prohibition to *duchen* as relating to before *teshuvah*. This also ties with the view of Tosafos, who reconciles the murder disqualification for *Bircas Kohanim* with his permit for other Temple service, saying that essentially a Kohen is permitted to *duchen*, as per Yerushalmi, and the Bavli prohibition is merely a stringency because he has blood on his hands (*Sanhedrin* 35b, *Yevamos* 7a, both s.v. *she'ne'emar*). The Ravyah sees Rabbi Yochanan's statement in the context of a series of *aggadic* statements promoting the importance of *Bircas Kohanim* rather than as a purely legal ruling. He therefore prefers to adopt the legal ruling of the Yerushalmi, but explains the Bavli with the reason that it is unbecoming for him to *duchen*. These Ashkenaz Rishonim form the basis for Rema's allowance to *duchen* after *teshuvah*. *Poskim* explain that repentance in this context means expressing remorse publicly, plus fasting, giving charity, and praying for the benefit of the victim. Even where death was accidental, a person must realize that such an incident is a wake-up call from *HaShem*.

RAMBAM'S APPROACH

The Rambam treats this as a regular dispute between Bavli and Yerushalmi and therefore rules like the Bavli (*Aruch HaShulchan*, *Orach Chaim* 128:52). The Rambam disqualifies him even in the case of accidental death or where the Kohen did *teshuvah*, but excluding the case of one who killed in unavoidable or compelling circumstances (*Hilchos Tefillah* 15:3). *Acharonim* suggest that the Rambam holds like the alternative answer in the Tosafos cited above, which explains the reason that a Kohen who kills is disqualified is because *אין קטגור נעשה סניגור*, the prosecutor cannot become the advocate. This would explain why Rambam held that *teshuvah* does not help, as the very hands that killed cannot be used to bless the people. The Beis Yosef interprets the Rambam's approach to the Yerushalmi as referring to a case where unsubstantiated rumors are circulating that the Kohen killed someone. The Or Same'ach (*Hilchos Tefillah* 15:3) explains that Rambam himself alludes to the Yerushalmi in subsequent paragraphs (15:6-7) where he writes that where rumors against the Kohen must be counterbalanced against his Torah obligation to bless the people, the rumors are disregarded. This is where the Rambam echoes the Yerushalmi's concept, that the blessing comes from *HaShem*, not from the *Kohanim*.

PRACTICAL APPLICATIONS

Later *poskim*, in attempting to apply these principles in practice, consider several issues:

1. Although the life of every human being is valuable to *HaShem*, would the killing of a non-Jew impact disqualification in the same way? The Pri Megadim (128:51) rules that disqualification applies equally to non-Jewish victims, as one is accountable in Heavenly judgment.
2. Where someone was compelled to kill, or death resulted from an unavoidable incident (*oness*), would that still be considered as accidental death, which is included in Shulchan Aruch's disqualification, but permitted by the Rema?
3. In the case of a Kohen terminating the life of a fetus, the *Mishneh Berurah* (128:29) rules that he may *duchen* because there is no death penalty for a fetus. This indicates that disqualification is not contingent on Heavenly punishment and thus he would permit *duchening* in the case of a non-Jewish victim. Is a doctor performing abortions as part of his hospital duties considered compelled by his job?
4. Is a soldier who kills in warfare guilty in any way? Rav Moshe Sternbuch argues that wars are the natural order of the world, in which killing is not considered murder, especially when he is compelled to serve in the army (*Teshuvos Vehanhagos* 1:131). Rav Ovadia Yosef points out that *poskim* were concerned regarding soldiers returning from war, because there were Jews conscripted on both sides. Killing in the course of a war to protect *Klal Yisrael*, the *mitzvah* of saving lives would exempt any casualties from any guilt (*Yechaveh Da'as* 2:14). Some *poskim* are lenient even where a Jew is killed by friendly fire without negligence.
5. Rav Ovadia Yosef discusses a fatal car accident with a Jewish victim, which may have involved a level of negligence. He ruled that *Sefardim* would be bound by the Shulchan Aruch and a Kohen would be forbidden to *duchen* even after *teshuvah*, and even if there was insufficient evidence to convict him. *Ashkenazim* would follow the Rema's ruling that, where he did *teshuvah*, he is permitted to *duchen*. However, where the accident was unavoidable, such as where there was full compliance with driving regulations, but someone ran into the path of the car, *Sefardim* would also be permitted to *duchen* after appropriate *teshuvah*. If the casualty did not die until after several days, Rav Ovadia was likewise lenient after sincere repentance (*Yechaveh Da'as* 5:16).