

## SUCCESSION IN LEADERSHIP POSITIONS

### Inheritance of Positions of Authority

*Horayos* 11b teaches that although a Kohen Gadol, who is the son of a Kohen Gadol, requires anointing, we do not anoint an incoming king, who is the son of the outgoing king. The pasuk in *Devarim* 17:20 promises that if the king will fear HaShem and faithfully perform the commandments, his reign and those of his descendants will be lengthy. The Gemara expounds the words *וְאַרְיךָ יָמִים עַל מֶמְלָכָתוֹ הוּא וָבָנָיו – יַרְשֵׁה הַיָּא לְהֶם*, he will prolong the days of his kingdom, he and his sons, and since monarchy is an inheritance, the son does not require anointment. Rashi explains that the words “his kingdom” in conjunction with “he and his sons” imply that his kingdom will transfer over to his children in the same way that a person’s estate passes as inheritance to his children. The Sifri on this pasuk adds: this refers to a king, but how do we know that the same applies to all positions of communal service that a son succeeds a father? The pasuk says: *הָוּא וָבָנָיו בַּקָּרְבָּן יִשְׂרָאֵל*, he and his sons in the midst of Yisrael – anyone involved in leadership of Yisrael has his son standing in his stead. We also find this concept with the position of Kohen Gadol, where the Gemara *Yoma* 72b derives from the pasuk in *Shemos* 29:29: *וּבְגִדֵּי הַקְדָּשָׁה אֲשֶׁר לְאַהֲרֹן הַיּוֹ לְבָנָיו אַחֲרָיו*, and Aharon’s sacred vestments shall be passed to his descendants after him – that the Kohen Gadol’s son succeeds him.

### IS SUCCESSION INHERITANCE?

On the basis of these teachings, the Rambam rules that whoever has precedence for inheritance likewise has precedence for kingship. The Rambam then adds, and not only with regard to the monarchy, but also all positions of authority and public appointments in Yisrael is an inheritance for his son and grandson forever, providing the son qualifies for the position regarding his wisdom and fear of HaShem. If he is sufficiently G-d fearing but does not match his father’s wisdom, one still appoints him to replace his father and he requires training (*Rambam, Hilchos Melachim* 1:7). Similarly, the Rambam writes: When a king, Kohen Gadol or other appointed person dies, one appoints his son or other person entitled to his inheritance, whoever has priority in line of succession, provided he qualifies for the position in wisdom and fear, even if he is not as clever as his father (*Rambam, Klei HaMikdash* 4:20). Another source for this is found in *Megillah* 13b: Rabbi Elazar said: When HaShem awards greatness to a person, He awards it to him, to his children, and his children’s children, continuing for all generations. But if they become haughty because of their greatness, then they will be punished with suffering and poverty. It is strange that both the Gemara and Rambam use the expression “inheritance”, yet succession does not follow the usual rules of inheritance, which only relate to tangible assets, but not to intangibles. Also, succession sometimes arises even in the father’s lifetime, but inheritance is only on death. Rambam does not bring this halachah in *Hilchos Nachalos*. Furthermore, the inheritance process involves dividing assets between the various beneficiaries, whereas succession is indivisible – only one person can receive the position. Clearly, the expression inheritance is being used in a borrowed sense and succession has its own rules, based on *ברא כרעה זאובקה*, the son is an extension of the father. Perhaps the most controversial issue is whether it also applies to positions such as city Rabbanim, Roshei Yeshivos and Rebbes.

### RAV NEEDS TO BE SLIGHTLY WISE

The Rema writes: One who has an established position as city Rav, even if he was self-appointed, may not be removed from his position even if someone greater arrives. His son and grandson will have first right of succession, provided they are regarded as a comparably G-d fearing substitute and that they are somewhat wise. Where it is customary to commit the Rav to fixed period contracts or there are procedures to elect a Rav according to the will of the community, they are permitted to follow such practice (*Yoreh De’ah* 245:22). This Rema is certainly based on the above quotations from the Rambam, especially the peculiar reference to the Rav only having to be slightly wise, which according to the Rambam indicates that he has the capacity to be trained. *Teshuvos HaRashba* (s. 300) responds to a question regarding an elderly chazzan who wanted his son to lighten his burden by filling in for him on occasion, even though his son’s voice was not as pleasant as the father’s. The Rashba ruled that the son had priority in acting as assistant chazzan over outsiders and the congregation cannot object. The importance of this case is that the son was stepping into his father’s shoes already in his lifetime. This case is codified by Rema in *Orach Chaim* (53:25). It would appear from the discussion in the Rashba that this practice was customary, so that it would be regarded as a condition of employment when the chazzan was first taken on, that the shul would pay for an assistant as the chazzan aged, similar to committing to paying a pension.



*The Kesav Sofer succeeded his father, the Chasam Sofer as Rav, Av Beis Din and Rosh Yeshivah of Pressburg in 1839 when he was just 24 years old.*

## **TEACHER OF TORAH – IS IT A POSITION OF AUTHORITY?**

The Chasam Sofer, who through his many talmidim shaped the scene of Rabbonus across Europe, attempted to prove that a kehillah Rav was not a position of authority from the situation of the appointment Moshe Rabbeinu's successor (*Teshuvos Chasam Sofer, Orach Chaim* 12). He quoted the Midrash which notes that Moshe Rabbeinu requested from HaShem that his sons be appointed as his successors following the ruling that the daughters of Tzelofchad inherited the portion of their father. Moshe argued: If daughters inherit their father in the absence of sons, so too should my sons inherit my position, even if they are not the most suitable replacements. HaShem responded that Yehoshua was preferable because of his constant involvement in Torah study (*Midrash Rabbah, Pinchas* 21:14). The Chasam Sofer argues that there was no mention that Yehoshua was more suitable for the leadership position, only a reference to his Torah study. Therefore, we see that *yerushah* does not apply to leadership as teachers of Torah. The Rama MiPano writes that all appointments of Torah leadership are judged on the basis of the scholarship merits of the applicant alone and should not be influenced by other entitlements. However, he noted that from the time of Hillel it became the custom to adopt a hereditary system of succession. This was in order to introduce stability and permanence into Torah leadership at a time when the system of appointing successors had become corrupt, such as purchasing the rights (*Asarah Mamaros, Mamar Chikur Din* 2:19). We see here local custom playing a part, as we see in the above Rema's reference to customary election procedures in the community. However, he states clearly that there is no principle of inheritance with regard to Rabbanus, and several later poskim follow this view.

## **CHASAM SOFER RETRACTS**

About ten years after writing *teshuva* 12 in 1820, in the following *teshuva* (13) the Chasam Sofer had second thoughts on the matter and modified his view towards that of the Rema that inheritance does play a part in selecting a Rav's successor. He writes that the services that a Rav was required to perform had changed from the sacred expounder of Torah in Chazal's times. Today a Rav is employed to perform many communal services which give him a status closer to the chazzan discussed in the Rema, notwithstanding his commitments to also teach Torah. We saw that from the time of Hillel they introduced monarchy style succession, and that is also required for the present-day Rav. His son, the Kesav Sofer confirms that his father retracted and in his later years he introduced the custom of *yerushah* throughout Hungary. Once it is customary, it becomes an implied condition of employment. The Mishnah Berurah writes that all communal appointments are subject to rules of succession and brings the above dispute in the poskim whether the position of Rav is included in this category.

## **COMMUNAL AGREEMENT**

The Maharam Shik, a close talmid of the Chasam Sofer also confirmed his change of opinion but adds two important conditions. Firstly, even according to the view that there is no *yerushah* with Rabbonus, that only applies if there is someone greater or more suitable than the son, but if they are equal, then the son has automatic priority. Secondly, the community must agree to the appointment, but the community should be aware that they have an obligation to agree to his appointment. If they still object, then that appointment will have no success in any case, and in such circumstances inheritance considerations fall away (*Teshuvos Maharam Shik, Yoreh De'ah* 228). The Avnei Nezer discusses the above issues at length, including the issue whether a son-in-law has similar rights, and sides with the opinion that there is *yerushah* with Rabbanus, but stresses the importance of the Rav having the support of a substantial majority of the congregants (*Teshuvos Avnei Nezer, Yoreh De'ah* 312). The issue of son-in-law was very common because a daughter often moved in with an elderly Rav to provide assistance in his old age. It was difficult for a son to do so because of yichud problems. As a result, the son-in-law often began fulfilling many of the Rav's functions in his lifetime and was a natural successor.

## **ROSHEI YESHIVAH AND REBBES**

Similar controversy has arisen in connection with Roshei Yeshivah and Chassidic Rebbes. In both these cases, the positions carry with them financial implications which involve tangible assets and that would certainly be subject to *yerushah* regulation. There are usually also administrative functions, which go beyond the sacred teaching of Torah, and therefore although in earlier times these positions were not hereditary, nowadays the stability offered by the hereditary system is important for the continuity of the institution.