YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

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**Shiur #25:**

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**Second Lebanon War**

**Part I**

In May 2000, after 18 years, the IDF pulled out of southern Lebanon. As a result of the withdrawal, Hezbollah spread its forces in the area and continued its terror attacks against Israel.

In July 2006, Hezbollah terrorists attacked Israeli forces on the border, killing three Israeli soldiers and kidnapping two.

Israel responded with [airstrikes](https://en.wikipedia.org/wiki/Airstrike) on Lebanese infrastructure. These clashes led to an Israeli ground invasion of southern Lebanon. The IDF called up thousands of reservists, and thus began the Second Lebanon War. Hezbollah attacked Israel with thousands of rockets, targeting civilian population centers.

It was during this war that the courageous act of Roi Klein *Hy”d* shook up the entire country. Major Klein was leading a group of his soldiers into battle when a hand grenade was thrown at them. With the cry of “*Shema Yisrael!”*, he saved his soldiers by throwing himself on the grenade and sacrificing his life.

The fighting ended, after 34 days, on 14 August. In the conflict, Israel lost 121 soldiers and 44 civilians.

In the beginning, the war was supported by a wide and strong consensus amongst the Israeli population. However, as time went by and the number of casualties rose, the support dwindled and turned into fierce criticism of the government and even the IDF for not being prepared for the conflict. The claims were that the reservists were ill-equipped and that the forces lacked proper training.

Over the next year-and-a-half, an official investigation by the Winograd Commission found fault in the army’s and the government’s conduct before and during the war.

After the war, my father, Rav Binyamin Tabory, was approached by one of his students who had fought in it. This soldier, who was a *kohen*, had found himself in a difficult situation. His commanding officer was killed in action, and the soldiers were informed that there would be no helicopter evacuation. The soldiers would have to carry their officer on a stretcher. This soldier was part of a small group (of approximately eight) given the order to carry the officer’s body to a safe area.

Normally a *kohen* would avoid coming into contact with a dead body unless the situation were considered *pikuach nefesh*. However, in this case, although there were enough soldiers to carry the stretcher, the soldier felt a need to participate with his comrades-in-arms, paying his last respects to his commanding officer. Should this have been permitted?

In today’s *shiur*, we will discuss questions regarding a *kohen* serving in combat.

Regarding the main question, I would like to emphasize that I have no intention to give a *pesak halakha;* rather, I wish to share thoughts and dilemmas connected to this question.[[1]](#footnote-1)

**The Tribe of Levi During War**

Are *kohanim* obligated to fight in war? the Rambam writes that the *kohanim* are exempt from serving in the army:

Why did the Levites not receive a portion in the inheritance of *Eretz Yisrael* and in the spoils of war like their brethren? Because they were set aside to serve God and minister unto Him and to instruct the people at large in His just paths and righteous judgments...

Therefore, they were set apart from the ways of the world. **They do not wage war like the remainder of the Jewish people.[[2]](#footnote-2)**

Some commentators questioned the source of this halakha[[3]](#footnote-3).Rav Shimon Federbosh (1892-1969), Chief Rabbi of Finland, expresses his surprise as it seems to be an explicit verse in the Torah[[4]](#footnote-4)*.* In the beginning of *Bamidbar,* Moshe counts the people of Israel from every tribe. However, regarding the tribe of Levi, Moshe is commanded:

Only the tribe of Levi you shall not number, and you shall not reckon their sum among the Israelites. But you shall appoint the Levites over the Tabernacle of the Testimony, over all its vessels and over all that belong to it; they shall carry the Tabernacle and they shall minister to it, and they shall encamp around the Tabernacle.[[5]](#footnote-5)

Rav Federbosh quotes commentaries on the Torah who point out that the purpose of the census is to prepare for war; thus, the tribe of Levi is not counted along with everyone else, as its members are exempt from fighting.

Although these sources seem to indicate that the entire tribe of Levi is exempt from fighting in war, there are other sources which seem to indicate that *kohanim* do indeed serve.

One example is in the Mishna, which lists all those who are released from military service.[[6]](#footnote-6) The Torah releases from military service any soldier who has betrothed a wife but has not yet married her. The Mishna rules that a *kohen* who betrothed a divorcee is not exempt from the fighting. Surely, the commentators note, this proves that *kohanim* fight in Jewish wars!

Therefore, suggest the Poskim, either the Levites participate in the war efforts but not in combat itself; or, although they are exempt, it is permissible for them to volunteer to fight.[[7]](#footnote-7)

***Tumat Kohanim***

During World War I, the British government turned to Chief Rabbi of the United Kingdom Joseph Herman Hertz (1872-1946) and asked his opinion regarding drafting *kohanim* to the British Army.[[8]](#footnote-8) The assumption was that the *kohanim* could not participate in a war, as *kohanim* are not allowed to come into contact with dead bodies except those of close relatives or those found untended by the side of the road (a case known as *meit mitzva*).

Rav Hertz permits the draft, offering several reasons why the prohibitions of impurity (*tuma*) for a *kohen* do not apply in war:[[9]](#footnote-9)

1. A soldier killed in battle is considered a *meit mitzva*.
2. The Chashmona’im, who were all *kohanim* yet went to war, provide a historical precedent.
3. The Torah specifically mentions those who are exempt from fighting in war but does not mention *kohanim*.

Those who disagree argue that the special *halakha* of *meit mitzva* applies only in unique circumstances and cannot be applied to every death in war.

Rav Shemarya Menashe Adler (1869-1959), a prominent *talmid chakham* who emigrated from Poland to England, argued vehemently with Rav Hertz’s justifications.[[10]](#footnote-10) He ended up agreeing with Rav Hertz’s conclusion, but for different reasons.

Rav Yitzhak Ha-Levi Herzog, then rabbi of Belfast (later Ashkenazi Chief Rabbi of Israel), was also attacked by Rav Adler. Rav Herzog argued in a newspaper article that the government should not draft *kohanim.*[[11]](#footnote-11)

***Meit Mitzva* and *Kohanim***

The Mishna teaches us that although a *Kohen Gadol* may never touch the dead, in a case when he is the only one that can bury the dead, he is obligated to deal with the dead body, for the mitzva of burying the dead overrides his prohibition to become *tamei*:

A *Kohen Gadol* and a *nazir* may not become impure for their relatives but may do so for an abandoned dead body.[[12]](#footnote-12)

The Gemara understands that this only applies if there are no other people around who can perform the mitzva.

In some cases, the definition of a *meit mitzva* can be expanded and applied appropriately.

In the Gemara, Rabbi Chiya claims that on the day Rabbi Yehuda Ha-nasi died “*battela kedusha”* “holiness was annulled.”[[13]](#footnote-13) Tosafot mention that one of the Rishonim, Rav Chayim Kohen, understood this passage as permitting *kohanim* to touch the dead.[[14]](#footnote-14) He reads the Gemara as “*battela kedushat* *kehuna,”* “the holiness of priesthood was annulled.” “If I had been alive at the time of the death of Rabbenu Tam,” claimed Rav Chayim, “I would have become *tamei* [to attend his funeral].”

The reasoning is that great people, *tzaddikim* or even national leaders have the status of *meit mitzva* for the purpose of allowing *kohanim* to become *tamei*.

I mention this source as an example how the principle of *meit mitzva* may be applied to include a larger group of people than just a random dead body. However, it is difficult to apply automatically the concept of *meit mitzva* to all soldiers who fall in battle.

Most Poskim hold that the laws of impurity for a *kohen* still apply today;[[15]](#footnote-15) however, there are those who disagree.

Rav Avraham ben David (Ra’avad, c. 1125–1198, Provence), argues that *kohanim* in our days are permitted to touch the dead because everyone is *tamei* today.[[16]](#footnote-16) His understanding is that since a *kohen* is already *tamei*, there is no prohibition for him to continue being *tamei.*[[17]](#footnote-17)

***Birkat* *Kohanim***

Some Poskim are concerned about allowing *kohanim* in combat, as once they take a human life, they will no longer be eligible to recite *Birkat Kohanim*.

In the Gemara, Rabbi Yochanan prohibits a *kohen* who killed a person from reciting *Birkat Kohanim.*[[18]](#footnote-18) Top of FormThe source for this *halakha* is the prophet’s words:

And when you spread your hands, I will turn My eyes away from you… your hands are filled with blood.[[19]](#footnote-19)

This verse implies that if a person’s hands are “filled with blood,” i.e. if he has killed another human being, God will ignore the blessing he proclaims by outstretching his hands. The rabbis understood from these words that a *kohen* who killed another person should not recite *Birkat Kohanim*, because his *berakha* will not be acceptable.

Rav Yosef Karo rules that this law applies even in the case of accidental killing.[[20]](#footnote-20) However, some Poskim argue that in the case of an accidental death, the *kohen* may recite the *berakha* if he does *teshuva*.[[21]](#footnote-21)

What is the halakha regarding a soldier who kills intentionally in battle? This question is brought up by the Poskim mentioned earlier regarding drafting *kohanim* during World War I.

Rav Shimon Sofer (1850-1944), grandson of the Chatam Sofer and Chief Rabbi of the Hungarian city of Eger (Erlau), discusses whether the returning soldiers from World War I are permitted to recite *Birkat Kohanim*. He concludes that it is allowed because of two reasons:

1. In wartime, one does not know with certainty if he has killed an opposing soldier.
2. In wartime, the killing is done *be-ones*[[22]](#footnote-22)(under duress), so that it is neither accidental nor intentional.

Rav Ovadya Yosef discusses this question specifically regarding IDF personnel who kill the enemies of Israel during battle.[[23]](#footnote-23)

Firstly, he argues there is a *machloket* amongst the Poskim as whether this law applies to the killing of non-Jews as well as to Jews.

Secondly, he quotes Poskim who argue that a *kohen* may perform *Birkat Kohanim* after taking a human life *be-ones*. An Israeli soldier who fights to protect the Jewish people has fulfilled a mitzva by his actions, so he is in a better position than a *kohen* who has killed *be-ones*.

Thus, concludes Rav Ovadya, the veteran *kohen* is allowed to recite the *berakha.*[[24]](#footnote-24)

Rav Hershel Schacter quotes Rav Yosef Dov Soloveitchik, who holds that the halakhic question is not so easily resolved.[[25]](#footnote-25) When discussing our *halakha*, the latter cites God’s words to David.

David said to Shelomo: “My son, I had it in my heart to build a house for the Name of the Lord my God. But this word of the Lord came to me: ‘You have shed much blood and have fought many wars. You are not to build a house for My Name, because you have shed much blood on the earth in My sight. But you will have a son who will be a man of peace and rest, and I will give him rest from all his enemies on every side. His name will be Shelomo, and I will grant Israel peace and quiet during his reign. He is the one who will build a house for My Name. (*I Divrei Ha-yamim* 22:7-10)

The simple reading of this passage is that it is referring to the blood of the enemies of Israel, yet God still prevents King David from building the Temple.

Indeed, the idea that spilling blood leaves a stain on a person even when it is done with permission or even as a mitzva is mentioned in several other sources.

After Pinchas kills Zimri and Kozbi, God declares (*Bamidbar* 25:11-13):

Pinchas son of Elazar, son of Aharon the priest, has turned my anger away from the Israelites. Since he was as zealous for my honor among them as I am, I did not put an end to them in my zeal. Therefore tell him I am making my covenant of peace with him. He and his descendants will have a covenant of a lasting priesthood, because he was zealous for the honor of his God and made atonement for the Israelites.

In their commentaries, both the Chizkuni[[26]](#footnote-26) (13th century) and Rav Naftali Tzvi Yehuda Berlin[[27]](#footnote-27) (1816-1893) explain that although Pinchas has done the right thing, a covenant of peace is required to make sure that the stain of the killings does not affect his soul.

*Hashem oz l'amo yiten, Hashem yevoraich et amo bashalom*

Next week we will continue discussing questions that came up during the war

1. My father told me that when he mentioned this question to Rav Hershel Schachter, the response was that under these very specific circumstances, it is permitted. I understand that he is referring to the fact that this entire story occurred during battle, which, as we explained in past *shiurim,* may be a reason for certain leniencies. [↑](#footnote-ref-1)
2. *Hilkhot* *Shemitta* 13:13. [↑](#footnote-ref-2)
3. See *Beit David* Vol.1 #38. [↑](#footnote-ref-3)
4. *Mishpat Ha-melukha Be-Yisrael,* p.194. [↑](#footnote-ref-4)
5. *Bamidbar* 1:49-50. [↑](#footnote-ref-5)
6. BT *Sota* 43a. [↑](#footnote-ref-6)
7. See Rav Eliezer Waldenberg, *Hilkhot Medina,* Vol. 2, Chapter 3; also see Rav Federbosh ibid. p.195. [↑](#footnote-ref-7)
8. See Rav Shelomo Zevin, *Le-or Ha-Halakha,* p. 59. [↑](#footnote-ref-8)
9. *The Jewish Chronicle*, 14/04/1916. [↑](#footnote-ref-9)
10. *Mareh Kohen,* Chapter 147. [↑](#footnote-ref-10)
11. *The Daily Express,* 24/05/1916. [↑](#footnote-ref-11)
12. Mishna *Nazir* 7:1; for the source of this law, see the Gemara ad loc. 47b. [↑](#footnote-ref-12)
13. BT *Ketubot* 103b. [↑](#footnote-ref-13)
14. Ad loc. s.v. *Oto.* [↑](#footnote-ref-14)
15. *Shulchan Arukh,* *YD* 369:1; Rambam, *Hilkhot* *Avel* 3:1. [↑](#footnote-ref-15)
16. The *Poskim* argue whether he permits today touching the dead (Rav Akiva Eger) or holds that that there is still a prohibition today. [↑](#footnote-ref-16)
17. Other Rishonimdisagree and maintain that this is only permitted when the *kohen* is actually in a state of *tuma,* e.g. when he is in contact with one of the seven dead relatives whom he is required to become *tamei* to. Based on this idea, some suggest that *kohanim* who wish to study medicine may do autopsies provided they are in a state of constant *tuma*. See Rav Shelomo Goren, *Torat Ha-refua,* p. 256. [↑](#footnote-ref-17)
18. BT *Berakhot* 32b. [↑](#footnote-ref-18)
19. *Yeshayahu* 1:15. [↑](#footnote-ref-19)
20. *OC* 128:35. [↑](#footnote-ref-20)
21. See Rema ad loc. [↑](#footnote-ref-21)
22. *Hitorerut Teshuva* 4:11. [↑](#footnote-ref-22)
23. *Yechaveh Da’at* 2:14. [↑](#footnote-ref-23)
24. See Rav She'ar Yashuv Cohen, *Techumin* 6, pp.31-44 [↑](#footnote-ref-24)
25. *Nefesh Harav*, p. 132. [↑](#footnote-ref-25)
26. Ibid. 25:12. He cites Rabbi Yochanan’s ruling and explains that God reassures Pinchas that he will still be able to serve as a *kohen* because he acted “in the name of Heaven.” [↑](#footnote-ref-26)
27. *Ha’amek Davar,* beginning of *Parashat Pinchas.* [↑](#footnote-ref-27)