

Tumeah of a Kohen: Theory and Practice

Rabbi Alfred S. Cohen

Among the more recondite aspects of the Jewish religion is the concept of *Tumeah*, which is usually translated, for lack of a better term, as "spiritual or ritual impurity." Most of the laws of *Tumeah* are delineated in the Book of Leviticus, and many of them concern the special level of purity mandated for kohanim, the priests involved in the Temple service. With the destruction of the Temple, (Beth Hamikdash,) some nineteen hundred years ago and with the elimination of the sacrifices and rituals which required the high level of purity, many of the laws of *Tumeah* have lapsed, all the more so since the means of purification from *Tumeah* have in many cases ceased to be available. Consequently, the awareness of *Tumeah* has all but vanished from the daily lifestyle of even the observant Jew.

But one of the few requirements concerning *Tumeah* which has definitely not been suspended by the destruction of the Beth Hamikdash concerns the biblical injunction that a male kohen not come in contact with a corpse or limb of a dead person.¹ This prohibition is not connected with the Temple service and is not

1. ויקרא כא: "לנפש לא יטמא בעמיו."

Rabbi, Young Israel of Canarsie; Instructor of Talmud,
Yeshiva University High School.

dependent on the requirement for a kohen to serve any ritual function. It is, and has always been, a special requirement for male kohanim not to become *Tameh* (defiled) through contact with the dead. (The only exceptions sanctioned by the Torah are for his father, mother, brother, unmarried sister, wife, son, or daughter.²) This special mitzvah of kohanim is one which they have taken care, throughout the ages, to observe meticulously.

As stated in the Torah, the *issur* teaches that it is forbidden for a kohen not only to touch a dead body,³ but even to be in the same room. From the sheer volume of rabbinic responsa which have been written on the subject, we may conclude that this prohibition can at times present considerable difficulties for the kohen. Recent decades have brought some surprising permutations to questions which had been raised in an earlier, simpler age.

The present study will address a number of these problems as well as the more novel situations which have arisen, and report the opinions of the Torah scholars as to how the kohen should proceed. Special attention will be given to some of the unexpected problems presented by travel in the jet age. Among the other topics to be covered herein are medical training for a kohen, potential pitfalls in seeking medical attention, employment limitations. Through analysis of the very complex issues involved and suggested solutions, hopefully there will emerge a heightened appreciation for the ingenuity, scope, and preciseness of the halachic process.

Fortunately, death is not such a common occurrence that the prohibition to be under the same roof as a corpse need present an inordinate burden to a kohen. Under ordinary circumstances in the past, it often amounted to little more than an occasional restriction or modification of his lifestyle. But myriad changes wrought in our

2. But he may only attend their funerals if the body is whole. What if the deceased had an amputated limb? Is the body "whole" if some internal organ has been removed? See אגרות משה יו"ד רנ"א; חלק ב, קס"ה.

Is he permitted to go to the burial if other people are buried nearby? See אגרות משה יו"ד רמ"ט & רנ"ב.

3. רמב"ם הלכות טומאת מת, פרק ב.

everyday living patterns in recent decades require a reassessment of even the most mundane activities, for hidden halachic pitfalls crop up in unexpected ways. Within the past few years, the Orthodox Jewish world has been made aware of potentially serious difficulties in an area which had seemed quite innocuous — travel. Specifically, the question has been raised whether a kohen may fly in an airplane!

One may well ask, what problem could there be in flying? Yet there are two which might be major: if the plane flies over a cemetery, it might constitute a violation of the purity which the kohen is bound to maintain. Secondly, in the past few years much more than in the past, people are choosing the option of burial in Israel,⁴ and the almost universal mode of transport is via airplane. More often than not, El Al is the carrier chosen. May a kohen who wants to visit Israel fly with El Al? Does he have to be concerned that there may be a body in the aircraft hold?⁵ Does he have to make inquiries prior to boarding?

To explain the problem a bit more fully, we should note that although the coffin is carried in a separate cargo area of the plane, it may nevertheless be *assur* for the kohen to be on board because, according to most rabbinic opinions, the kohen must not come under the same roof as a dead person (*Tumeat Ohel*). Since halacha considers that *Tumeah* "rises", then even if the body is in the underbelly of the aircraft it may render the entire plane *Tameh* as far as the kohen is concerned.

The issue of airplane flight for a kohen has been raised only recently, with the result that not many *poskim* have responded to it in writing. Consequently, it is difficult to establish specific guidelines. It is reported that a Rav in Bnei Brak permitted kohanim to fly El Al, relying on the reasoning that since most planes do not carry coffins,⁶ a kohen is entitled to proceed on the assumption that

4. This is not the place for a full discussion of the wisdom of such a practice, although we should note that at times Rav Moshe Feinstein did express opposition to this practice.

5. See, שערם מצוינים בהלכה ר"ב אות ו,.

6. On this point, of going according to the majority, see

his plane is free of any problem. But the premise upon which this ruling is based seems highly questionable: the public relations department of El Al estimates that during the winter, when there are fewer flights per week, some 80% of the planes leaving New York for Israel have a body aboard; in the summer, when flights are more frequent, the percentage is about 60%.

This author has been told that one of the *Roshei Yeshiva* in Baltimore allegedly ruled that a kohen may fly in an airplane without concern, because there is a separation between the cargo area and the seating area — the carpet on the floor. (The deck itself, being made of metal, cannot serve as a barrier to the *Tumeah*, as will be explained later.) This carpet becomes a barrier which prevents the *Tumeah* from "rising" any further; consequently, the kohen is not "together" with the dead body.

On the face of it, this argument bears a superficial resemblance to the position expressed earlier in the century by Rav Tzvi Pesach Frank,⁷ which was itself based on the advice which Rav Diskin gave to a kohen who had to ride in a wagon which was to pass over a cemetery. He told him that a plain wooden board (פשוטי כלי עץ) placed underneath the body of the wagon would constitute an effective barrier between the *Tumeah* of the cemetery and the interior of the wagon. However, Rav Shlomo Zalman Auerbach⁸ takes exception to a comparison of the wagon and the plane. A wooden plank, being of a material which does not itself "absorb *Tumeah*" (מקבל טומאה), can be an effective barrier. However, the plane is made entirely of metal, and metal certainly does absorb and transmit *Tumeah*. The carpeting on the floor of the cabin is held in place by the metal underflooring, and because of this cannot be considered as constituting a barrier between the cargo hold and the seating area of the aircraft.

as well as פרי מגדים סי' קי"י פ"ד אם בדרכן צריך לברר או אוליין בתר רוב שערים מצוינים בהלכה ר"ב אות ח' חלק ד'

7. הר צבי יו"ד ר"פ.

8. אהלות ו"א based on the Mishnah in שלמה ע"ב ד"ה עוד בענין הנ"ל. This is the same reason that one may not rest the *S'chach* of a *Succah* on metal supports — metal "receives" *Tumeah*.

TUMEAT KOHEN

Some kohanim have tried the expedient of calling the airline before the flight to ascertain whether there will be a coffin transported. However, this too is not a fail-safe maneuver. Very often, El Al does not know until an hour or two before takeoff whether there will be a body on board, and this leaves the traveler in limbo. Furthermore, Rav Breisch seriously doubts whether one can rely on the airline personnel to be strictly candid in responding to such a question. Since some passengers might be squeamish about flying on a plane carrying a dead body, they may well decide to suppress such information. "It is well known that the administrators of the airline hide this information from the passengers so that they will not know that a corpse is also flying with them."⁹ Accordingly, some kohanim have taken to calling the undertakers who arrange for burial in Israel, to find out if a body will be transported on a particular flight.

In response to the need for clarification of the issue and in order to obviate any problems which might arise for a kohen, the Institute of Science and Halacha in Israel has proposed that if the coffin were encased in a large plastic box or sheath in the cargo hold, the problem would be eliminated,¹⁰ for the sheath would function as a barrier blocking the *Tumeah* from rising. It is reported that El Al has purchased one thousand such boxes, but only time will tell if these tactics will be considered adequate in the eyes of halachic authorities.¹¹

We have noted that a basic problem for the kohen in travel derives from the halachic principle that *Tumeah* "rises" or "spreads" from the dead body (or part thereof). Accordingly, there would be a problem not only in a plane *carrying* a corpse, but also for one *flying over* a cemetery, or for that matter, for a train or bus

9. חלקת יעקב חלק שני ק"ט ד"ה אבן; משפט עחיאל יו"ד ב' קכ"ג.

10. The Institute for Science and Halacha has published a book (see note 13) which suggests solutions for the problems of Kohanim in hospitals. Some of the solutions will be appropriate for other situations as well.

11. Rabbi Auerbach has serious reservations about accepting this lenient ruling. See מנחת שלמה ע"ב.

crossing a bridge which traverses a cemetery.

In assessing the halachic difficulties, it is necessary to get some definitions of the situation, to understand the scope and extent of the difficulties. Some specific questions have to be asked: How far does *Tumeah* rise? How is it contained? How have cognate situations been handled in the past?

In *Berachot* 19b, the Gemara tells about kohanim in Jerusalem who, in their great desire to get a glimpse of the king, used to "jump over the coffins" so as to get a closer look. How were they allowed to do this, wasn't there *Tumeah* rising from the coffins? Here the Gemara explains that there was the space of a *tephach* (about 3-5 inches) between the body and the top of the casket, and this space created a barrier to the spread of *Tumeah*. From here we learn that if there is the space of a *tephach* separating the dead from a wall or other partition, that puts a stop to the spread of *Tumeah* — but only insofar as biblical law (*d'oraitha*) is concerned. For fear that a kohen might not be careful enough, the rabbis enacted an additional regulation to the effect that even if there does exist a *tephach* space between the dead person and a wall, the *Tumeah* spreads anyway. However, this *Tumeah*, being rabbinic and therefore of lesser potency, may be waived for the sake of a mitzvah — in the talmudic case, to see the king.

Moreover, this precedent is not sufficient for us to be able to consider the *Tumeah* emanating from a casket as only rabbinically but not biblically forbidden. Tosafot¹² comment that the kohanim were permitted to "skip over the caskets" because these were undoubtedly not entirely closed. If the container or room in which a dead person lies is completely closed, a different rule applies: it is then considered a "sealed grave," a "*kever satum*" from which *Tumeah* does most definitely rise. Nor does a *tephach* within the container halt the spread of *Tumeah*.¹³ Since all caskets nowadays

12. ברכות יט:.

13. Differing opinions on a "*Kefer Satum*" are discussed by R. Levi Yitzchak Halperin in טהרת פתחים (*Purity of the Gates*), Institute for Science and Halacha, Jerusalem, 1978, p. 80. An additional extension of the *Tumeah* of a

are shut tight, we cannot employ this rationale in seeking a lenient ruling. In fact, most if not all *poskim* conclude that *Tumeah* does rise from a coffin and from a cemetery, and this *Tumeah* is probably biblical in degree.

How, then, can *Tumeah* be contained? The operative principle which is most germane to a solution of this problem is that any material which does not itself "absorb" the *Tumeah* can serve as an effective barrier to its spread. But if the object itself receives the *Tumeah*, it cannot be efficacious as a barrier. In the words of Ramo:¹⁴

כל דבר המקבל טומאה אינו חוצץ

Anything which receives *Tumeah* cannot separate [the *Tumeah* from its surroundings].

Included in this category of "ineffective barrier" is anything made of metal, even if it is only plated with metal.¹⁵ Furthermore, a vessel or receptacle, no matter how large, cannot act as a screen to stop the flow of *Tumeah*.

However, there is a potential mitigating factor of great import in the present circumstance and, for that matter, in many of the questions concerning *Tumeah* for a kohen: there is substantial

corpse mentioned in פרק 1 אהליות, is the principle לצאת לטמא. Ultimately, the body will have to exit the room, to be buried. The pathway which will be taken by those transporting the body out of the room also becomes *Tameh*, even before the body is carried out. However, in a plane the coffin will be removed via the cargo door, so this will not affect the status of the passengers. However, in a ship or a hospital, the body may have to be taken through halls, stairs, decks, and elevators, spreading the *Tumeah* considerably. There is discussion among the *poskim* whether this applies to all the doorways and halls the body passes through, or maybe all the possible exit ways. Some question whether the principle affects the status of the kohen at all. See ערוך השולחן שע"א:ט: שדי חמד ערך ט, כלל מד הר צבי משה, אגרות משה, אבן העזר חלק ד' סי' ל"ד. See also last paragraph of יו"ד רפ"ג.

14. יו"ד שע"א - א.

15. חזון חזון איש ר"א:ט. Some question whether the principle affects the status of the kohen at all. See ערוך השולחן שע"א:ט: שדי חמד ערך ט, כלל מד הר צבי משה, אגרות משה, אבן העזר חלק ד' סי' ל"ד. See also last paragraph of יו"ד רפ"ג.

rabbinic opinion to the effect that the corpse of a non-Jew does not convey *Tumeah* at all, or at least not to the extent of a Jewish corpse. It is evident that resolution of this point of law is crucial in arriving at a halachic decision on the matter.

Already in the Gemara¹⁶ there is recorded a debate on this very issue, although no conclusion is offered. The *Shulchan Aruch*, while indicating that it is not forbidden for a kohen to be in contact with the body of a non-Jew, nevertheless warns that "it is proper to be careful"¹⁷ and the Ramo in his gloss adds "and it is proper to be strict."¹⁸ Because these are worded as *admonitions* and not *rulings*, it is clear that the two major halachic decisors do *not* consider the body of a non-Jew as rendering *Tumeah*, however desirable it might be to avoid it. Consequently, this diminishes the extent of the problem of flying over a cemetery, since the overwhelming majority of them will not be Jewish.



The problems which have been discovered in airplane flight, while novel, are really just a new twist in the perennial problems which travel has raised for kohanim. These problems have proliferated over the decades and centuries, but there does not seem to have evolved a uniform rabbinic resolution to them.

In the last century, Rabbi Yitzchak Elchanan Spector (the Kovno Rav) wrote that he would be willing to sanction a kohen's traveling on a train which passed through a cemetery, if two other rabbis would concur with the ruling.¹⁹ A mitigating factor, as far as he was concerned, was that the cemetery in question was not a Jewish one. As we have seen, many *poskim* tend to be lenient on this point. Writing about a kohen's flying over a cemetery in a plane, Rav Breisch comments that "it seems that people are not

16. יבמות ס"א.

17. יו"ד שע"ב ב'.

18. שם.

19. מלמד להועיל יו"ד קלג אות ג; חזון איש יו"ד ר"א אות ח; הר צבי יו"ד ר"פ; שואל ומשיב חלק ג' ב"מ"ג.

careful about this, and they have [adequate precedent] upon which to rely."²⁰

Despite this trend, there have been outstanding *poskim* who disagree: the *Chazon Ish* forbade it²¹ and there were others who objected to the ruling of the Kovno Rav.²² When a new highway was being built over an ancient burial ground in the nineteenth century, the Maharam Schick advocated exhumation and transfer of the coffins — ordinarily a very strict prohibition — rather than permit a road to be constructed in a place where kohanim would be exposed constantly to the *Tumeah*.²³

A further complication to the whole question of travel in a bus, train, or plane which pass through or over a cemetery is the fact that a moving object (such as the vehicle), according to some opinions, is not a sufficient barrier to the *Tumeah*. The controversy arises from a discussion in the Gemara²⁴ concerning an *eruv techumim*. On Shabbat a Jew is not permitted to walk beyond the city limits more than 2000 *amah* (about 7/8 mile), unless before Shabbat he deposited some articles of food along the road — an *eruv techumim*. If he has done so, he is able to continue for another 2000 *amah*. However, the food for the *eruv* must be accessible to the person; in the particular talmudic case, the person was a kohen and the food was deposited in a cemetery adjacent to the road. Was it a valid *eruv*, since the kohen could not enter the cemetery and thus would not have access to it? R. Yehudah opines that it was still valid because theoretically, if the kohen were transported into the

20. חלקת יעקב ח"א ס' יב אות ח.

21. יו"ד ר"א אות ט.

22. See also *ציץ אליעזר* יב - ס"ב, ס"ג שם, מלמד להועיל, שם. See also *האלף לך שלמה* יו"ד שו שם: החתם סופר שם: האלף לך שלמה יו"ד שו שם; whether this situation is similar to two cars in a train is discussed in *שערי מצוינים בהלכה* ר"ב, שערים מצוינים בהלכה ר"ב, who also raises the question if the kohanim must leave the shul if someone dies in the adjoining house. See also *קלי"ו* תשובה קל"ו.

23. מהר"ם שיק יו"ד שנייג.

24. ערובין כו:.

cemetery in a box, he could retrieve the food. At that point, the Gemara objects that a moving barrier cannot be considered an adequate divider (קסבר אהל זרוק שמי אוהל). However, another viewpoint recorded in the Gemara maintains that even if the box or screen is moveable, it might nevertheless qualify as a barrier and the kohen remain undefiled inside the container.²⁵

The latter opinion is not accepted by the majority of rabbis, neither in the Talmud nor in the Codes; in writing his compilation of Jewish law, the Rambam rules²⁶

הנכנס לארץ העכו"ם בשידה תיבה ומגדל הפורחים באויר
טמא, שאהל זרוק אינו קרוי אהל

if someone enters a forbidden area in a "box or tower that move through the air" he becomes *Tameh*, because a moving container (אהל זרוק) cannot qualify as a sufficient barrier, and thus he is not shielded from the *Tumeah*.



When rabbinic scholars approach a question of Jewish law, they often do not address it from one angle only. Rather they are apt to take into account also other general principles of halacha which transcend the specific issue. These general principles of halachic jurisprudence require deeper explication than is possible here, but we shall allude to one which has been discussed in the context of the *Tumeah* of a kohen.

25. See also נה שם, ל: . It is interesting to note that this law is not codified in the *Shulchan Aruch*. Tosafot consider that the debate in the Gemara is only about a moving container after it comes to rest whether it can separate the *Tumeah* from others. Tosafot consider that all agree that while it is in motion it cannot serve as a barrier. In this respect it is like a flying bird as discussed in Mishnah *Oholoth*, chapter 8, first mishnah.

26. רמב"ם, הלכות נזירות ו"ט . Also הלכות טומאת מת י"ה.

See רמב"ם, הלכות אבל ג"ו; נזיר מג; משנה למלך י"א; פני יהושע . See also עירובין ר"י if this is a biblical or a rabbinic stricture.

It is contrary to Torah law to get any pleasure or benefit whatsoever from idolatry. In *Pesachim* 25b, the Gemara takes up the question of a person who passes by an idolatrous temple and whiffs the aroma of its incense, which is a forbidden pleasure. Is he liable for sniffing the aroma? It depends, responds the Gemara: **מִכּוּוִין וְקָא אִפְשֵׁר**— if he could have gotten to his destination by taking a different route and, when he passed by the altar, if he intentionally sniffed its incense — then he is definitely guilty of a transgression. Even if **לֹא אִפְשֵׁר וְקִמְיִכוּוִין** he could not have gone by a different path but nevertheless, when he passed by he did intend to enjoy the aroma, once again he is culpable. However, **לֹא אִפְשֵׁר וְלֹא קָא מִכּוּוִין** if there was no other way he could go and he had no intention or desire to sniff the incense, then it is permissible for him to go, and he incurs no sin.

In their analysis of the talmudic text, the Tosafot limit these terms somewhat: **אִפְשֵׁר** “It was possible for him to go another way” means that he could have found an alternate route without excessive bother (**טוּרָח**). And as concerns his “intent”, there cannot be any question about a person’s intent if a situation is inevitable (**פְּסִיק רִישָׁה**). If the result is automatic and inevitable, it is considered that the person intended it to happen. These refinements of the terms by Tosafot are accepted as the proper meaning of the talmudic passage.

Rav Breisch and Rav Gifter, of the Telzer Yeshiva in Ohio, engaged in an extensive exchange of letters, debating to what extent the talmudic passage cited above impacts on the situation of a kohen’s difficulties in travel, and whether we may draw some halachic precedents from it.²⁷ Does the kohen really have a choice about his mode of travel, or his selection of carrier? Does he have to go by boat or train, or switch planes a few times, in order to avoid the problem of flying in an El Al plane? Is it really his intent to be on the same plane with a coffin, and does that make any difference in the halacha?

Rav Breisch was inclined to see the lack of viable alternative

27. חלקת יעקב חלק ב, קע"ח - קע"ט.

methods of travel as well as lack of any benefit for the kohen in traveling on the same conveyance with a coffin as mitigating factors, which might permit such travel for a kohen. Rav Gifter, however, was adamant in refusing to accept this rationale as an excuse to permit a kohen to fly in the same plane as a coffin.

Safek Tumeah

In most issues of Jewish law, if an element of doubt arises concerning the facts, we tend to be strict if infringement of a biblical requirement is involved (ספק דאורייתא לחומרה) but more lenient if the doubt exists on some issue of rabbinic enactment. The one exception to this rule is *Tumeah*. When there is a question about *Tumeah*, the principle which determines whether to be strict or lenient depends on the *location*. If the doubtful situation arises in a private domain (רשות היחיד) then the person is considered definitely *Tameh*,²⁸ but if it occurs in the public domain, he is "pure" (*Tahor*).²⁹

Now, then, what type of "domain" is a bus or a plane? On the one hand, it fits the description of a "private domain" since it is an enclosed place. Yet, in a different sense it is a "public domain", for the Gemara rules that if three or more people are present, it is public.³⁰ If the latter designation applies, it would result in more lenient rulings, for "in case of doubt of *Tumeah* in a public place, it is permitted." In practice, however, there has been a certain degree of hesitancy on the part of rabbis to accept and apply this leniency categorically.³¹

Moreover, it is important to note that this leniency can pertain only to the question of passing over a cemetery in a conveyance and

28. תוספות, חולין ט: ד"ה התם.

29. See טוטה כח: Tosafot regarding the application of this halacha, and נזיר לו: who maintain that if it occurs at night, we are always more strict.

30. נזיר נו.

31. Rav Breisch writes to R. Mordechai Gifter that even if the three persons are women or non-Jews, the rule holds true.

has no effect on the separate issue of flying or riding in a vehicle which contains a deceased person.

Ultimately, on the question whether a kohen may enter a plane on which there is a good chance that a body is being transported, lenient rulings are not easy to come by. Rav Moshe Feinstein writes:³²

It is forbidden for a kohen to enter there, because all the airplanes... have a place underneath where the packages are placed, and a corpse [might] be there... It is all one vessel, and it is made of metal which absorbs the *Tumeah*, and consequently [the metal] does not separate the *Tumeah*, and thus the kohen becomes *Tameh*.

Parenthetically, we should note that Rav Feinstein himself suggests a possible argument which would attenuate his strict position, but he refuses to accept it because he finds no precedent for it in the Talmud: One could argue that since the Torah enumerates specific metals — gold, silver, copper, iron, stannum and lead — only these metals and none other acquire the *Tumeah* which they enclose. One could theorize that a plane constructed of aluminum or some other metal not listed by the Torah does not absorb *Tumeah*. However, Rav Feinstein rejects this rationale,³³ and Rav Breisch concurs that this cannot be the basis for a *heter*.

What should a kohen do if in the middle of his trip he discovers that a body is being transported along with him? Must he disembark at the first possible stop? Obviously this is not a modern dilemma only, and could easily have arisen in the past. In fact, much has been written on it. Rabbenu Tam³⁵ rules that a kohen

32. Regarding an *Ohel Zaruk* and whether it serves as an enclosure, Rav Feinstein in קני"ד תו אגרות משה י"ד"ב, קני"ד תו says very little need be said, since the Kohen boards the plane when it is not in motion and becomes *Tameh* right away. See

שערים מצוינים בהלכה ר"ב, אות ח' ד"ה ואי מותר לכוון.

33. שם.

34. חלקת יעקב חלק ב' ק"כ.

35. שבועות י"ז, נויר מב.

who knowingly remains in contact or on a vessel with a dead body, thereby violates his priesthood. Ramo writes³⁶ that "if a kohen is sleeping and a person dies in the same house, others must wake him and tell him so that he can leave." These dicta clearly indicate that the traveler must leave his conveyance at the first feasible opportunity. However, many rabbis note that if the traveler will be stranded on the road or if it is very cold outside, he might rely on the opinion of the *Shach* who considered it an *issur* of rabbinic (and not biblical) origin, which is of less severity. In cases of great discomfort or inconvenience, therefore, the regulation might be waived.³⁷

Our study of rabbinic writings leaves no room for doubt that the *issur* for a kohen to travel in a vehicle with a dead body has been universally accepted. *Poskim* even debate whether the kohen needs *kapara* (atonement) if he unwittingly found himself in such a situation.³⁸ They conclude that formal *kapara* is not required, based on the position of the *Shulchan Aruch*³⁹ that *kapara* is due only if the person knew that he should take precautions and failed to do so.⁴⁰

Taking the issue one step further, for many *poskim* it is so obvious that flying on a plane with a body is *assur* for a kohen that they go so far as to question whether *any* Jew is permitted to put a body on a plane — inadvertently causing a kohen to transgress. Since no Jew may do anything which could cause a fellow Jew to

36. שע"ב - א.

37. פתחי תשובה שע"ב; שו"ת מהר"י חיות כג, שער הזקנים חלק ב' דף צ"ו.
See also ד"ס אות 18; שם, אות ד'. There he discusses whether one must inform a *chazan* who is a Kohen, and leading the services on Yom Kippur, that someone has died in the synagogue. Perhaps he should be allowed to continue without being informed? Similarly, he discusses whether Kohanim should remain in shul to "*duchan*" if suddenly someone dies.

38. חלקת יעקב ב"ק"ט, ד"י"ג.

39. יו"ד קפ"ה.

40. Whether or not we can apply this lenient ruling to flying on planes bound for Israel in this day and age is questionable.

sin (לפני עור), would it not be a violation to place a coffin on a plane?

In answer to this question, Rav Breisch⁴¹ permits it, based on a precedent set by the *Taz*, who ruled that "it is permitted to give charity to a poor person even if he is in doubt whether the beggar will wash his hands before eating, for the doubt [whether the beggar will fulfill the mitzvah of washing] cannot exempt one from the certain obligation to fulfill the mitzvah of *Tzedaka*."⁴²

We see from this that one may take a chance on being the instrument for causing another person's sin, if in doing so, he will fulfill a mitzvah himself. In the plane situation, there also exists a doubt — maybe there won't be a kohen on board — and arranging for the burial of the dead is a great mitzvah;⁴³ therefore, one may proceed without qualms.

There is one further "escape hatch" which has to be considered in dealing with laws for kohanim, relating not just to travel situations, but to all the problematic situations which the kohen might encounter: maybe the kohanim of today are not "real" kohanim?

In past ages, many Jewish families proudly maintained their "family tree", a detailed genealogical list which was passed on from generation to generation, to substantiate their lineage. At that time, it was felt that a kohen could prove without doubt his unimpeachable descent. Today, however, it is rare for a kohen to be

41. חלקת יעקב חלק ב' ק"ט.

42. See also מן אברהם, שם who even permits giving charity and food to a beggar even if one knows that he will not wash his hands prior to eating, due to ignorance. See also ציץ אליעזר חלק ב' ס"ג who discusses whether a restaurant owner may sell food to customers who he knows will not wash their hands before eating.

43. See חתם סופר ח"מ ר"ב if the prohibition of לפני עור applies in a case where it is לאו שאינו שוה בכל.

See also שערם מצוינים בהלכה ר"ב אות ח ד"ה והמובילים מת באוירון. However, one should note his caution in אות כ, to a Kohen not to enter a tunnel if he knows that there is also a hearse in the tunnel, transporting a body.

able to do so. It is possible that two or three generations ago a grandfather of the kohen might have married a woman forbidden to him, and doubt arises whether his offspring are indeed entitled to be considered pure kohanim.⁴⁴ Should we take this element of doubtful lineage into account in applying the laws to kohanim today? Some rabbis bristle at the very suggestion: "G-d forbid that we spread calumny about the lineage of kohanim in this age."⁴⁵ On the other hand, there are quite a number of rabbis who do take the element of doubt into account in weighing their decisions regarding kohanim.⁴⁶



Let us turn now to other areas of concern for the kohen in trying to preserve his "pure" status in the modern world. In some ways, this has become more difficult in the complex, urbanized society in which we live in the twentieth century. The following discussions are intended only to highlight some new areas of concern for the kohen.

Hospitals

Since invariably some of the people who are treated in

44. Do the laws of a Kohen apply to a Kohen-mamzer?

See אבן העזר ט"ז וי"ד; דבר אברהם כ"ו; שו"ת עונג יום טוב ק"כ. If a Kohen has a physical blemish which would have disqualified him from serving in the Temple, he is nevertheless definitely included in all the regulations for Kohanim. However a *chalal* is definitely not (a *chalal* is the child of a Kohen who married a divorcee or some other woman forbidden to him).

45. שרי חמר מערכה ב' כלל צ"ב.

46. שאילת and שרי חמר חלק ג 183-188; חלקת יעקב אי"ב. חתם סופר יו"ד קצ"א. *אי* challenge the notion that we should consider Kohanim today as "doubtful" concerning their lineage (and therefore be lenient about the laws of *Tumeah*). If we consider a Kohen as only possibly a true Kohen, we ought to apply the same standard to a female Kohen, and say that if the daughter of a Kohen gives birth to a son, he must have a *pidyon haben* because maybe he is not descended from a Kohen. Since we don't do this for a female, we cannot cast doubt only on the males.

hospitals do not recover, these are considered as places where a dead body is likely to be found. Does this mean that a kohen should not check into a hospital for treatment (of a *non-life* threatening illness), since there might be a body in the morgue? Even if no one has died that day, difficulties can arise from limbs which are amputated or which may be in the hospital lab, for parts of a body convey the same *Tumeah* as the corpse itself. (Of course, if his life is in danger, there is not the slightest question that he may seek treatment). This is a practical question whose solution is of primary concern for every kohen.

We have already noted that most *poskim* have concluded that the presence of a non-Jewish corpse does not render a kohen *Tameh*; this conclusion opens the way for permitting kohanim to utilize hospitals freely for (certainly outside the land of Israel) the majority of patients there are not Jewish. Relying on the majority rule, we posit that the bodies in the morgue are probably not Jewish, thus removing any problem.⁴⁷

Another basis for being lenient in this regard derives from the position of the *Shach*⁴⁸ who contends that if the kohen is not in the same room with the dead but only in an adjacent one, albeit under the same roof, a violation of rabbinic law takes place, but not of biblical law; while most *poskim* do not accept his contention, at times they do let it serve as a contributing factor for a lenient ruling. In order to abide by a rabbinic enactment, a person is not obligated to expend extraordinary amounts of money, such as would be required for equivalent medical care at home, nor does he have to endanger his health, as he would have to do if he could not enter the hospital for treatment. (If it were a biblical violation, his health or wealth would not necessarily be sufficient reasons for waiving the *issur*).⁴⁹

47. שבות יעקב א"ח; אגרות משה יו"ד ב"ק סי' י; חלקת יעקב א"כ.

48. ש"ך יו"ד שע"ב.

49. For discussion of the question of the wife of a Kohen giving birth in a hospital, see א ויקרא כא: א and the commentaries thereon, as well as אר"ח שמי"ג with particular attention to the אברהם.

Kohen-Doctor

In all cultures and in all ages, the medical profession has been revered and admired. Small wonder, then, that many young Jewish persons aspire to join this noble calling. Are there any grounds for condoning a kohen's becoming a doctor? Not only does the training require him to dissect cadavers, but he will also constantly be exposed to (at least to risk of) dead bodies in the hospital where he practices. There is virtually no rabbinic authority who sanctions medical training for a kohen, despite the hardship this decision may bring.

A number of years ago, a certain *kuntress* (pamphlet) was published on this question and came to the attention of Rav Shimon Schwab of Washington Heights, who sent it to Rav Moshe Feinstein for comment. Rav Feinstein at first refused to read it, vehemently rejecting the very premise of the *kuntress* that medical training for a kohen might be permissible.⁵⁰ His immediate reaction was that it is so obviously forbidden that even were the greatest rabbis in the world to try to permit it, we would not consider their opinion. He compared it to a passage in the Gemara (*Yevamot* 104) which declares that even if the Prophet Elijah himself appears and expounds a law contrary to our prevailing custom, we are not to listen to him.

At first, Rav Feinstein was under the impression that the author's thesis was that since all Jews nowadays are considered to be unavoidably *Tameh* anyway, there is no reason not to increase their *Tumeah*; this premise he dismissed as totally unacceptable.⁵¹

50. אגרת משה יריד ג, קנ"ה.

51. The Raavad, contemporary of the Rambam, expresses the notion that once a person is *Tameh* he is totally *Tameh*, and there is no addition to it. This would mean, then, that since every Jew today is considered as being unavoidably *Tameh*, the Kohen would not need to be careful about the laws of *Tumeah*. None of the early rabbis (*Rishonim*) and none of the later ones (*Acharonim*) accept this position. Interestingly enough, however, some rabbis were willing to take his opinion into consideration as a mitigating factor (although never the deciding one) in ruling for a Kohen.

ראב"ד פרק ה' מניירות י"ז; משנה למלך, אבל, ג"א; כתר כהונה אות ב"י"ד. See

However, finally he acceded to the request to respond to the specifics of the *kuntress*.

Rav Feinstein notes that the author attempts a lenient ruling based on the argument of *pikuach nefesh* — that the kohen-doctor would be able to save lives. This reasoning, too, he rejects as “emptiness and nonsense” (הבל ושטות). One is only obligated to heal the sick if he knows how; there is no requirement for any person to go out and study medicine so that he will be able to practice it! In the same way, one is not obligated to go out and earn money to become rich so that he will have what to give a poor man; rather, if he has money when a beggar asks, then he must give him.

He also responds to the contention that many leading kohen-rabbis in the Middle Ages (*Rishonim*) were practicing physicians⁵² by noting that in those days, medical training and practice did not entail dissection of bodies nor treatment of the ill in hospitals.⁵³ Consequently, medieval medical practice did not necessitate exposure to the many halachic prohibitions which would be presented to the kohen today.

In the early part of this century, Rabbi David Z. Hoffman wrote that he was asked whether a kohen who was presently studying in medical school could receive the synagogue honor of

Furthermore, the *Mishneh LeMelech* and the *Nodah Biyehudah* maintain that it was never the intention of the Raavad to permit a Kohen to add *Tumeah* to his previous *Tumeah*. Rather, he only meant that the Kohen does not receive the punishment of *malkot* (lashing) for doing so. This conclusion is based on the Raavad's *Tamim Deah* 236.

52. A comprehensive list of early rabbis who were doctors although they were Kohanim can be found in *Jewish Medical Ethics* by Rabbi Immanuel Jakobowitz, chapter 20, footnote 27.
53. For an elaborate discussion of the topic of a kohen in medical school, see the כ"ב כל בו על אבלות, סימן ה', אות כ"ב where the author finds no justification for any lenient ruling. יד רמה יו"ד קכ"ט forbids a Kohen to attend any school where there is a skeleton present (quoted by כ"ג אות כ"ג), although not everyone agrees that it is forbidden for him to be in the same room as a non-Jewish body.

being called up to the Torah as a kohen.⁵⁴ In his responsum,⁵⁵ Rabbi Hoffman expresses reservation about how strong a protest ought to be made about the kohen's attendance in medical school, since we may be fairly certain he will not change his ways, convinced as he is that his undertaking is noble. Furthermore, Rabbi Hoffman distinguishes between one who is presently in school and one who has already completed his studies, for if we honor a person who is currently violating the halacha, it may look as if we are giving credence to his (mistaken) belief that he is allowed to attend. However, the situation is not analogous for the one who has already graduated; in this case, Rabbi Hoffman feels we may be lenient.

The question of training for dentistry, while presenting similar difficulties, is not quite the same. Dental practice itself scarcely poses any danger that the kohen will have to come in contact with the dead, but the training does usually involve extensive dissection of cadavers. However, possibly one could argue that if the kohen had a lab partner who did all the physical dissection while he watched, it might be permissible, since the cadavers are almost certainly those of non-Jews. However, many *rabbanim* advise kohanim not to undertake such a course of action.

If despite the negative indications about medical training, a kohen has nevertheless completed his studies, he is faced with additional painful decisions in the conduct of his practice. Is he permitted to enter the room of his patient who is in death throes? May he enter after the demise in order to certify the cause of death?

54. The question of refusing to call the medical student up as a Kohen for the reading of the Torah does not hinge upon his open violation of Torah law; if he were a known eater of bacon there would still be no question about calling him up to the Torah as a Kohen. But a Kohen who openly violates the laws regarding his status as Kohen is not entitled to be given the honor of a Kohen. Other questions such as this have also been addressed by halachic decisors: May a non-Sabbath observant Kohen go up to the *Duchan*? אגרות משה או"ח א"לג. May a non-believer get an *aliyah* או"ח א"לג. ציץ אליעזר י"א ט' ח"ו. Also גיב, בא, כב ואו"ח ד' 89.

55. מלמד להועיל או"ח ל"א.

Are conscientious Jews permitted to call in a kohen-doctor to examine the body for the purpose of signing a death certificate, or would they be guilty thereby of tempting a fellow Jew to violate the Torah, which is in itself a transgression for them (לפני עור)?

Everyone agrees that until the patient is actually dead, there is no *Tumeah* in the room. Nevertheless, the Gemara (*Nazir* 43) debates whether by merely entering the room where a person is about to die, the kohen has not desecrated his priestly status. In the *Shulchan Aruch*,⁵⁶ the law is codified that

מ"מ אסור ליכנס לבית שיש שם גוסס

It is forbidden [for a kohen] to enter a house wherein someone is dying.

Here the Ramo adds,

Although there are those who permit it, it is good to be strict on this.

However, there is no dispute that if the kohen enters the room with the intent and hope of treating the ill person, he may do so. This is true even if there is another physician available, for the patient's own personal doctor is always preferred above any other, his treatment being considered most effective and desirable for the patient.⁵⁷

But once the patient has died, the kohen must definitely avoid entering his room. Only if the government will not allow the dead to be buried without a medically certified death certificate and there is no one else who can do it, may Jews call him in to perform this task. In this case, the dispensation arises from the great disgrace of leaving a Jew unburied — the Torah commands even the High Priest to defile himself in order to attend to the burial of a *met mitzvah*, a body which will not be buried without his personal intervention.⁵⁸

56. שלחן ערוך יו"ד ש"ע 56.

57. For various opinions, see שרי חמד אבלות ק"א.

58. פתחי תשובה ש"ע א. A *Met Mitzvah* is a corpse which has no one to take care

Employment

Are there any reasonable grounds for a kohen to accept employment in a hospital, even not as a doctor? Indeed many *poskim* forbid a kohen from taking such a job. R. Moshe Feinstein⁵⁹ opines that even if it is "only" a rabbinic *issur*, there is still no sanction for violating a precept just to earn a living. However, he would allow him to take the position provided he could leave the building as soon as someone died there. There are others⁶⁰ who consider it *assur* because of the limbs or body parts that are often in the hospital; however, outside the land of Israel, one could probably be lenient on this point, since the majority of bodies or limbs would be those of non-Jews; as we have noted, most *Acharonim*⁶¹ rule that we can be lenient regarding the cadavers of non-Jews.

A different approach to this question also appears in other responsa: when the kohen starts working on his shift, we may assume that there are no dead bodies in the hospital, and he is permitted to be there. If in the course of the day people died and the kohen were obliged to leave, his departure would endanger the welfare of the patients in the hospital; this would justify his staying on the job. However, this line of reasoning only applies to a kohen whose work is essential for the welfare of the other patients, and the rationale cannot be extended to all kohanim.⁶² The *Kol Bo*, however, does find grounds to justify a kohen's taking employment in a large hospital⁶³ and even permits him to accept a chaplaincy there.⁶⁴

of its burial. Jewish law requires that the first person who passes by even if it is the *Kohen Gadol*, the high priest, must immediately see to it that the body is buried.

59. אגרות משה יו"ד רמ"ח.

60. שערים מצוינים בהלכה רב - ג'.

61. דגול מרבבה שע"ב - ב; ערוך השולחן ה'; תשובות רעק"א ח; אבני נזר יו"ד תכ"ח.

62. שו"ת טוב טעם ודעת, ספר ג' חלק ב', רי"ב.

63. כל בו על אבלות א"ו.

64. שם, אות ד'.

Transplants

A question which could not have been asked forty years ago is potentially of great concern for kohanim: is it permissible for a kohen to get an organ transplant? Halachically this might present a major problem even if the organ were removed from a live donor, for once removed, the organ is considered "dead" and thus transmits *Tumeah*.⁶⁵ In an undated responsum, without indication to whom he is writing, Rav Feinstein addresses this problem; after lengthy examination of the principles involved he does permit the transplant, explaining that since the organ will be placed within the body cavity, there will only be "*Tumeah be-luah*", *Tumeah* which is covered up and hence no longer subject to the ordinary rules of *Tumeah*. He follows a somewhat different line of reasoning for a transplant which will not be internal, such as a cornea, but he does ultimately permit it.⁶⁶

Rav Unterman, at the time he was Chief Rabbi of Israel, expressed his opinion that an organ that can "come alive" again after transplantation cannot logically be considered "dead" and therefore transmits no *Tumeah*.⁶⁷

Kohen-Soldier

While the establishment of the State of Israel has brought untold benefit to millions of Jews, the creation of a totally Jewish society has engendered novel situations which the halacha must address. One of these concerns the kohen in Israel, where universal conscription makes it virtually inevitable that a goodly number of kohanim will serve on the front and be involved in warfare. The *Shulchan Aruch* teaches that a kohen who has killed someone, even

65. According to the נודע ביהודה יו"ד ר"ט the prohibition for a Kohen to come in contact with a dead limb extends even to his *own*! The only exception is a tooth. See משנה אהלות ג"ג as well as הר צבי יו"ד רע"ו.

66. See also הר צבי יו"ד רפ"א.

67. שבט יהודה שער ראשון כ"א.

accidentally, may no longer go up to the *Duchan* to bless the nation:⁶⁸

בחן שהרג את הנפש אפילו בשוגג לא ישא את כפיו אפילו
עשה תשובה.

However, Ramo amends this ruling somewhat.⁶⁹

ויש אומרים שאם עשה תשובה נושא כפיו... ויש להקל על
בעלי תשובה שלא לנעול דלת בפניהם, והכי נהוג.

There are those who say that if he did *teshuva* [repented] he may [recite the blessing]... and we should make it easy for those who repent, not to shut the door in their faces; and this is the custom [i.e., to allow them to go up to the *Duchan*].

If the *Shulchan Aruch's* dictum were to be followed stringently, it would have the effect of imposing a severe penalty on kohanim who have served on active duty in the Israeli army. In seeking redress for this problem, the *poskim* have to determine whether the law applies regardless of whether a Jew or a non-Jew is killed, what is the "repentance" which is required, and whether the reality that the kohen was acting in self-defense makes any difference in the ultimate halacha. A most exhaustive study of the entire problem was undertaken by Rabbi She'ar Yashuv Cohen in *Techumin*,⁷⁰ where he explains the viewpoints of numerous rabbis who find reason to allow the soldier to go up to the *Duchan*. Rabbi Ovadia Yosef, in dealing with the question, arrives at similar conclusions.⁷¹

68. או"ח קכ"ח ל"ה.

69. שם.

70. Volume 6 (תשמ"ה)

71. יחזקאל דעת חלק ב י"ד. In חלק ה', ט"ז. He also discusses the status of a Kohen who accidentally killed a fellow Jew while driving a car. Here the situation is not so simple: a great deal will depend on the culpability or negligence of the driver, whether he was the cause or contributing cause to the fatality, or whether it was totally beyond his control. The judgment of the secular court in determining guilt is also to be taken into consideration.

This brief survey of the laws of *Tumeah* as they pertain to a kohen in modern times is certainly not intended to be an exhaustive study. It has been our intention simply to draw attention to some new variations of an age-old situation. In reviewing these problems, we are stirred by the hope that the time will soon come when "death will be vanquished forever," and these laws will become obsolete. At that time, kohanim can look forward to learning and implementing those other laws which are given exclusively to them — the laws of *Avodah* (service) in the Beth Mikdash.