

WHAT'S A KOHEN (GADOL) TO DO?

by Rabbi Yitzchok Adlerstein

The assembly shall return him to his city of refuge where he had fled. He shall dwell in it until the death of the Kohen Gadol.

Be'er Yosef: Rashi, taking his thought from the gemara,² explains why the Torah links the forced exile of the one who killed inadvertently to the Kohen Gadol. One of the expectations of his job is that he daven fervently for the good of all his flock. Had he fulfilled that responsibility properly, no one "on his watch" would die through human error. The Kohen is thus implicated in the circumstances that led to the killing.

What if the Kohen Gadol passes away after the killing, but before sentence is pronounced? According to the same gemara, the killer must wait for the death of the successor-kohen, the one appointed to replace his predecessor. But how could he be implicated in the victim's death, since he was not the Kohen Gadol at the time of the event? The gemara explains that the new Kohen Gadol could have influenced the proceedings, causing a more favorable outcome for the killer. What he could have done is davened that the court should have adjudged the killer to be innocent. The court, then, contributed to his sentence; the Kohen Gadol could have prevented that sentence had he davened more effectively. His guilt is marked by linking the length of the exile to the life of the Kohen. Upon his death, the killer's exile comes to an end.

This thought surprise us! Should the Kohen Gadol have davened for a faulty conclusion by the court? The killer did kill. He deserved to be exiled!

Based on this question, R. Elazar Flekels³ argues that a feature of the law that governs murder applies as well to inadvertent homicide. The law provides that an accused murderer must be acquitted if no one on his court finds for innocence. A unanimous vote for conviction is grounds for acquittal! Similarly, argues R. Flekels, a unanimous vote to exile the inadvertent killer results in his being absolved of any responsibility to go into exile. For the sentence of exile to be pronounced, at least one member of the tribunal had to have (erroneously) voted for acquittal. The Kohen Gadol, had he davened properly, could have prevented a member or members of the court from arriving at an erroneous decision to acquit. His improper davening, therefore, directly caused the sentence of exile.

This finding is certainly novel! Even if true, however, it does not satisfy us. Why should the Kohen

Gadol be faulted for not preventing the pronouncement of a sentence of exile upon the killer! The killer deserved that exile. Moreover, the exile is in his best interest, because it affords atonement for the sin of manslaughter, of inadvertent homicide. Escaping the exile leaves him without atonement!

We begin to solve this problem by looking at a gemara. ⁴ "The shirt [of the kohen] atoned for bloodshed...the pants for gilui arayos....the me'il for idolatry." Some see this as referring to intentional sins without forewarning, or intentional sins accompanied by repentance. ⁵ Maharsha and Iyun Yaakov, however, see the gemara as applying to aveiros done inadvertently.

Now, it seems to me that the gemara does not mean that merely donning the priestly vestments atones for these sins. Rather, it was the duty of the Kohen that as he dressed himself with each garment, he was to remember what aveirah was linked to it, and to fervently daven for kaparah for those who had violated inadvertently. Thus, as he donned the kesoness, he was meant to plead with Hashem that He should fully forgive those who had inadvertently been involved with taking a life.

What happened next depended on the quality of the Kohen Gadol's prayer. If his davening was effective, the killer beshogeg was forgiven. Because he was forgiven, he did not deserve exile. Nor did he require it for his atonement - he was already forgiven! And since the Divine Presence joins the judges in a din Torah, He would ensure that enough judges found some reason to acquit the accused.

If, on the other hand, the Kohen Gadol's tefillah fell short of its mark, his donning of the kesoness provided no kaparah for the manslaughter, and the killer required an alternate means of winning atonement. Divine Providence would see to it that he would be sentenced to galus. In

1. Based on Be'er Yosef, Bamidbar 35:25 2. Makos 11A 3. Shut Teshuvah Me-Ahavah, vol.1, #194 4. Zevachim 88B 5. Rashi, Tosafos
