

למען יתקיימו דברים אלו... ואלו הן הדברים אשר יעשו... ואלו הן הדברים אשר יעשו... ואלו הן הדברים אשר יעשו...

למד

למד לראות: נמצא בפרק זה... ואלו הן הדברים אשר יעשו... ואלו הן הדברים אשר יעשו...

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The "Shahak affair" — called a "modern blood libel" by Rabbi Jakobovits in TRADITION'S Summer 1966 issue — led to a responsum by Chofel Rabbi Uterman of Israel stating that the Sabbath must be violated if necessary to save the lives of non-Jews as well as Jews. In this article, Rabbi Nachum Rabinovitch analyzes the basic legal concepts implicit in this responsum. Rabbi Rabinovitch's most recent contribution to these pages was his essay on "Chameiz and Matzah" in our Spring 1966 issue.

Nachum L. Rabinovitch

A HALAKHIC VIEW OF THE NON-JEW

Purpose determines style. Thus the manner of presentation and the organization of the arguments in a responsum are radically different from the approach used in a purely expository discussion. It is not only a matter of traditional practice but often essential to the validity of the conclusions, that the style of a *Teshuvah* is usually what we might call inverted. One treats at length all the arguments that might be advanced against the conclusion to be established; the most far-fetched negative argument is eliminated first and one proceeds until all are rejected. The intended decision then remains as the only possibility, and the arguments for it are often dismissed in just a few words.

The purpose of a responsum is not primarily to explain why the law holds in a particular case. It is rather to prove that no matter how we look at a particular issue, the decision could not be otherwise. Thus one accepts for the sake of argument hypotheses which are not really justified in order to show that even if they were, the validity of the decision would be not affected. Naturally, when it comes to explaining the real motivations for the decision, the responsum may be downright misleading because the positive reasons for the law may not be adequately stressed.

Principles of Providing Medical Care on Shabbat

in this matter. Furthermore, he notes that Maharatz Chayes⁷⁷ and R. Meir Dan Plotsky⁷⁸ believe that a non-Jew is considered a *ger toshav* (with regard to the *mitzvah* of saving the non-Jew's life) even without taking a pledge in front of three Jews. R. Ahron Soloveichik⁷⁹ similarly quotes R. Yaakov Emden⁸⁰ who believes that contemporary non-Jews are considered *gerai toshav* with respect to some matters, including life-saving; the requirements that *yovel* be in effect and that the non-Jew made a declaration in front of three Jews are relevant only with regard to other, specific *halakhot*. R. Ahron Soloveichik also believes that this is the opinion of the Meiri,⁸¹ who wrote that there is a difference between the non-Jews of his time and those of Talmudic times who were not "*gedurim be-darkeit ha-dar*," "restricted by the ways of religion," as well as those authorities who came afterward who espoused similar opinions.⁸² Though R. Soloveichik does not directly discuss violating *Shabbat* in writing, he is cited by his students as advocating for violating *Shabbat* to save the life of a non-Jew for fundamental reasons, rather than because of *eiuvah*.⁸³ Similarly, R. Joseph B. Soloveichik and R. Aharon Lichtenstein are both cited as arguing that one should violate *Shabbat* to save the life of a non-Jew for fundamental reasons.⁸⁴ It must be stressed that regardless of whether one accepts this position, all contemporary authorities agree that one must violate *Shabbat* to save the life of a non-Jew, regardless of whether one foresees any negative consequences.⁸⁵

- 77 *Kuntzas Acharon, Minchat Kena'ot* (in *Kol Kitvei Maharatz Chayes*, p. 1036).
- 78 *Chemdai Yisra'el, Ner Mitzvah*, 43.
- 79 "Be-mayan Mevakrin Cholei Akum Mipenei Darkeit Shalom," *Od Yisra'el Yosef Beni Chai*.
- 80 *She'elot Ya'avezt*, responsa 1:41. He also notes that even if it were not true that *shituf* is not considered idol worship for non-Jews, Christians living outside of Israel are not full-fledged idolaters since "*minhag avoteihem be-yedeihem*," "they follow the ways of their ancestors." According to this argument, we lower expectations of non-Jews living outside of Israel, and they are not considered accountable for any idolatrous practices they adopt from their parents. R. Soloveichik notes that this is also the opinion of the aforeradavaz (responsa 4:526), and compares this to the opinion of the aforeradavaz mentioned Rambam writing with regard to Karaites.
- 81 *Avodah Zarah* 26b; *Bava Kamma* 37b; *Bava Kamma* 113a; *Bava Metzia* 59a.
- 82 *Be'er Ha-Golah, Yoreh De'ah* 266; *Tzemach Tzedek, Yoreh De'ah* 83.
- 83 See R. Dov Karoll, "Laws of Medical Treatment on Shabbat," *Verapo Yerape* vol. 1, p. 220, footnote 30.
- 84 R. Dov Karoll, *ibid.*, p. 219.
- 85 The only possible practical difference between this more fundamental position and the alternative position is that those who permit violating *Shabbat* to save a non-Jew due to *eiuvah* argue that one should avoid putting oneself

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