

May a Synagogue Sponsor a “Shabbat Bus”?

A congregation has asked whether it might be permissible for a synagogue to hire a bus driven by a non-Jew to drive a set route on Shabbat morning with set stops on a fixed schedule so that Jews who would otherwise be unable to walk to synagogue might be able to attend services without violating Shabbat.

The late Sephardic Chief Rabbi of Israel, Rabbi Ben Zion Uziel, answered an inquiry in the 1930's from a rabbi in Bombay as to whether Jews could be permitted to ride a tramcar on the Sabbath and Festivals to and from synagogue services. It was understood that the tramcar was driven by a non-Jew, that no stops were specifically made to pick up Jewish passengers, that the tramcar went through predominantly non-Jewish neighborhoods, and that the Jewish passengers did not have to pay a fare or carry a ticket. Rabbi Uziel permitted this practice (see *Mishpetei Uziel, Orah Hayyim* I, no. 9) under the above conditions only. Later, however, in the 1940's he reversed his decision, although no halakhic reasons are given for this reversal (see *Mishpetei Uziel, Orah Hayyim* II, no. 41). One can only surmise that either he discovered this permission was being abused, or he discovered great opposition to his act by other rabbis, who themselves were convinced that it would be abused (see Rabbi David Novak, *Law and Theology in Judaism*, 1974, pp. 27ff.).

The Panel does not believe that the use of a Shabbat bus is permissible even on the basis of the earlier responsum of Rabbi Uziel. The main difference between the current proposal and the Bombay situation is that a bus would be run by the synagogue and the driver would be acting under the orders of Jews to drive a vehicle on the Sabbath, which is a scripturally prohibited act for Jews themselves (see

Rabbi David Novak, *op. cit.*, pp. 24ff.). This is the case even if the orders are given to the non-Jew before the actual commencement of the Sabbath (see Maimonides, *Laws of the Sabbath* 6:1 and Rabbi Vidal of Tolosa, *Maggid Mishneh ad locum*, subparagraph 1). Hence, the act entails the prohibition of "telling a Gentile to do work for a Jew on the Sabbath." The application of this prohibition to the situation you propose requires elaboration.

Although there were some authorities who seemed to believe that this prohibition is itself scriptural (see, e.g., *SeMaG*, Neg. no. 75; *Mekhilta*, Bo, ed. Horovitz-Rabin, 30–31 on Ex. 12:16), most authorities follow Maimonides and consider it to be Rabbinic. Maimonides' reason for this prohibition is important to ponder: "This matter is prohibited by the sages so that the Sabbath not become something trivial for Jews and they themselves will come to do these acts themselves" (*Laws of the Sabbath* 6:1). It is worth remembering that, in the opinion of Maimonides, every Rabbinic decree has an explicit reason and, indeed, that is why Rabbinic decrees are much more intelligible than scriptural decrees (see *Laws of Rebels* 2:1; *Gittin* 14a and parallels).

The whole institution of the "Shabbes Goy" has been discussed extensively by halakhists; I refer you to the discussion in *Encyclopedia Talmudit*, vol. 2, pp. 40ff., and the recent book by Prof. Jacob Katz of the Hebrew University, *Goy shel Shabbat* (English translation: *The "Shabbes Goy"*, published by JPS, 1989). The most lenient view on the whole subject is that of Rabbi Moses Isserles. Contrary to Maimonides, who only permits *amirah le-nokhri* (instructions to a Gentile) for the sake of a mitzvah if the act being requested is *not* a scriptural violation (see *Laws of the Sabbath* 6:9), Rabbi Isserles writes: "There are some who say that it is permitted to tell a Gentile to kindle a lamp for the Sabbath meal because they are of the opinion that it is permitted to request a Gentile to perform an act which is a total labor (*mel' akhah gemurah*, viz., a scripturally prohibited Sabbath labor) for the occasion of a mitzvah (RaN to Alfasi, *Shabbat*, Chapter 19, end, in the name of the *Ittur*). Because of this, many have come to be lenient on the occasion of a mitzvah...and they should not be stopped" (Shulhan Arukh, *Orah Hayyim* 276:2). Rabbi Abraham Gumbiner (*Magen Abraham ad locum*) notes that Rabbi Isserles is not permitting this practice *ab initio*, but is only suggesting that since it cannot be stopped, it ought not be stopped (see *Baba Batra* 60b and *Tosafot*, s.v. *mutav*). This is consistent with other halakhic rulings of Rabbi Isserles (see, e.g., *Responsa Rema*, ed. Ziv, no. 124).

From this it is clear that even according to the most lenient opinion, one can only rationalize after the fact, but one cannot suggest a new permission, one which the people themselves are not already practicing. There is, moreover, the problem of "bad appearance" (*mar'it ayin*), which is especially important when dealing with people who are not learned, let alone who are not observant. Our late revered

teacher, Prof. Boaz Cohen once said that halakhic concern with *mar'it ayin* is in direct proportion to the amount of ignorance in a community. (For the source of this prohibition, see Jerusalem Talmud, *Shekalim* 3:2, 47c; for its application, see *Avodah Zarah* 12a-b; and for its most pertinent application to the situation at hand, see Shulhan Arukh, *Orah Hayyim* 244.1). Although the actual prohibition of vehicular travel on the Sabbath is not riding per se, but what is inevitably connected with it (see *Betzah* 36b), in the minds of most people, a *shomer Shabbat* is someone who does not ride on the Sabbath. Therefore, the consequence of permitting what is proposed will lead to exactly what Maimonides gave as the original reason for the prohibition of *amirah le-nokhri*, that is, a further breakdown of the sanctity of Shabbat. People will, no doubt say, "If the Synagogue encourages worshippers to ride to prayer services, I may drive my car, or ride in someone else's car."

Although a halakhic case could be made, at least in theory, for permitting a Shabbat Bus and that possibility is mentioned in the first volume of *Tomeikh kaHalakhah* (no. 10), upon further reflection on this whole complicated issue, the Panel of Halakhic Inquiry has now decided that such permission would entail a number of insurmountable practical problems. It has, therefore, ruled against it.

Rabbi David Novak for the Panel of Halakhic Inquiry.