

# Use of Synagogues by Christian Groups

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## שאלה

May synagogue space be rented or loaned to Christian groups for religious purposes? Specifically,

1. Which space, if any, may a synagogue make available to a church? At what times?
2. To what extent does the use to which the church will put the space matter? In other words, does it make any difference if the Christians want to use the space for classes, religious services, social functions, social action, etc.?
3. If Christians are to be permitted to use space in the synagogue, may they bring their ritual objects into the synagogue?
4. If it is permissible to loan space to Christians, is it also permissible to rent them space?

## תשובה

In questions such as this, the fact that we are the Committee on Jewish Law and Standards becomes crucial, for the question asks for standards of propriety as much as it seeks a decision on strictly legal grounds. Consequently, after addressing the legal matters involved, I shall turn to issues of strategy and taste.

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*The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.*

## **A. The Rationales for Permitting Christians to Use a Synagogue**

As a matter of general principle, Jewish law requires that we do that which will assure the long-term good will of non-Jews towards us (מפני דרכי שלום) and/or will avoid their enmity (משום איבה). The *locus classicus* for this principle is in the following tannaitic statements: Mishnah, Gittin 5:8:<sup>1</sup>

We do not prevent the non-Jewish poor from gathering the gleanings, the forgotten sheaves, and the corner [of the field] to promote the interests of peace.

Tosefta, Gittin 3:18:<sup>2</sup>

We support poor non-Jews along with the poor of Israel, and we visit sick non-Jews along with the sick of Israel, and we bury dead non-Jews as well as the dead of Israel in the interests of peace.

Later Jewish sources make it clear that the non-Jews need not be accompanied by Jews for these obligations to apply and that we are to support their poor even at the expense of supporting our own poor as fully as we would like.

Conversely, one is to refrain from acts which will generate animosity toward a specific Jew, or toward Jews and Judaism in general. The Talmud states, for example, that even though the leaders of the community would normally fast when it was their turn to recite the special statements concerning the sacrificial offerings (the מעמדוה rite), they would not do so on Sundays because, among other reasons, one did not want to anger the Christians by fasting on their holiday. Moreover, the Talmud and later codes permit a Jew to violate a number of rabbinic enactments, including delivering the baby of a non-Jew (under certain circumstances, even on the Sabbath), saving a non-Jew from a pit, and doing business with a non-Jew on their festival day.

Related concepts are קידוש השם (sanctification of God's name) and חילול השם (desecration of God's name): one is required to do that which will enhance the reputation of God and His People and avoid that which will sully it. Thus, according to the Palestinian Talmud, some authorities prohibited robbing a gentile, but all permitted a Jew to keep that which a gentile lost. Nevertheless, Simon ben Shetaḥ would return such objects so as to cause the gentile to say, "Blessed is the God of the Jews." Simon ben Shetaḥ's action later became the rule, and Maimonides, in codifying it, specifically links the concepts of sanctifying God's name and acting in the interests of peace:

It is permitted to keep the lost article of a gentile, as it is written (Deuteronomy 22:3), “the lost article of your brother [you must return, but not that of non-Jews].” Whoever does return it commits a transgression because he strengthens the hand of the wicked of the world. But if he returned it to sanctify the Divine Name so that Jews might be praised and gentiles will know that Jews are trustworthy, that is meritorious. Where there is any possibility of the profanation of the Divine Name, keeping a gentile’s lost property is forbidden, and one is obligated to return it. In all circumstances a gentile’s articles are to be hidden away from thieves in the interests of peace.

Other medieval rabbis also apply the tannaitic and talmudic sources broadly. According to Rashi, for example, even where there is no specific law requiring a given action, one should do it if it will advance the cause of peace. The author of *Sefer Hasidim*, although going far beyond the Talmud’s restrictions on idolatry in warning against any contact with Christianity and its ritual objects, nevertheless admonishes Jews to behave in a scrupulously ethical manner toward them lest God’s name be desecrated. Similarly, despite a social atmosphere saturated with Christian contempt, repression, and persecution of Jews, Rabbi Moses of Coucy wrote:

We have already explained concerning the remnant of Israel that they are not to deceive any one, whether Christian or Muslim. Thus, the Holy One, blessed be He, scatters Israel among the nations so that proselytes shall be gathered unto them; so long as they behave deceitfully toward them [non-Jews], who will cleave to them? Jews should not lie either to a Jew or to a gentile, nor mislead them in any matter.

As we shall discuss later, we Jews, of course, do not consider Christianity a correct interpretation of God’s will, and some Jews have even categorized it as idolatry. Christians, however, have said equally nasty things about Judaism—indeed, in some ways we deny the essence of their faith even more than they deny the essence of ours – and yet many Christian churches have extended help to Jewish groups seeking a place to worship. If they can overcome theological objections to be compassionate and beneficent, we should too. Failure to do so seems to be a clear case of **חילול השם**.

Another strong motivation for permitting Christians to use our facilities is the element of **יושר**, of doing “what is good and right in the sight of the Lord.”<sup>3</sup> It is no secret that, during their formative years, many Jewish groups have enjoyed the use of churches, and in some cases that arrangement has continued for a long time. It seems downright

mean-spirited, let alone unfair and inequitable, to deny Christians reciprocal use of our facilities as they struggle to form their congregations, just as they have aided us in that process.

And finally, there is the Messianic strain in our tradition. After the recent, devastating earthquake in San Francisco, about 200 members of the Korean Presbyterian Church, whose building had been condemned due to the damage it sustained, began worshipping on Sundays at Temple Emanu-El. In explaining the temple's action, Rabbi Robert Kirschner said: "The Hebrew Bible says that 'My house shall be called a house of prayer for all peoples' (Isaiah 56:7). At this time of crisis, we take that to mean we should open our doors to our fellow San Franciscans so they, too, may worship in their own way." He also noted that after the 1906 earthquake, several local churches offered their facilities to Emanu-El, whose building had been virtually destroyed. "Nearly a century later, we have the opportunity to reciprocate."

As a Reform rabbi, Kirschner did not need to concern himself with the halakhic ramifications of this action. Moreover, to judge by their context, Isaiah's words concerned "the foreigners who attach themselves to the Lord, to minister to Him, and to love the name of the Lord, to be His servants – and who keep the Sabbath and do not profane it, and who hold fast to My covenant" (Isaiah 56:6). Although Christians, who see themselves as the new Israel, would undoubtedly interpret these words to describe them, Jews would certainly not apply Isaiah's language to those who had embraced what is, in our view, another faith (Christianity). Instead, Jews understand Isaiah to refer to those who had effectively converted to Judaism. Kirschner himself indicates this when he says that "At this time of crisis, we take this to mean we should open our door to our fellow San Franciscans so they, too, can worship in their own way." Furthermore, he invokes the argument of fairness, noted above, to give greater strength to his position.

Nevertheless, the prophetic tradition is certainly as much a part of Conservative Judaism as it is of Reform Judaism, and Isaiah's words, even if meant more narrowly by the prophet, cannot help but ring in our minds too with something very close to Kirschner's interpretation. Indeed, a part of us feels embarrassed if we cannot extend ourselves to neighbors in need. None of us, I take it, would deny the obligation to help such earthquake victims with physical needs like food and housing; it is ironic and, frankly, disconcerting that it is precisely providing for their religious needs where we have scruples. And one wonders whether it should take an emergency like an earthquake to make us generous.

## **B. Possible Halakhic Objections**

The general principles briefly described above prompt us to try to accommodate a request by Christians to use our synagogues for their purposes. There are, however, some grounds for objecting to doing this.

1. Idolatry. One might think that we must deny their request because they would be using Jewish property for idolatrous purposes. The law, indeed, is quite clear in refusing to extend the principle of *מפני דרכי שלום* to helping idolaters engage in their idolatry.

In the Middle Ages, except for certain practical purposes, most interpreters did indeed classify Christianity as idol worship (*עבודה זרה*). Even then there were rabbis who thought otherwise, though, and between the sixteenth and the eighteenth centuries, as Jews felt a growing need to adapt their laws to ever-increasing business contacts with Christians, the differentiation between Christianity and idolatry became more widely applied.

Christians do associate other names with God in the same sentence (= the original meaning of *שיתוף*) – specifically, Jesus Christ and the Holy Spirit – and they may even believe in the duality of the Godhead (= the later meaning of *שיתוף*) – although most Christians would emphatically deny this. None of this makes any difference, however, because, according to a strong strain of halakhic opinion beginning with Rabbenu Tam and Rabbi Menahem Ha-Meiri and continuing with Rabbi Moses Isserles and others, while the seven commandments incumbent upon all children of Noah prohibit non-Jews from engaging in idolatry, they do not proscribe *שיתוף*. Jews may not practice *שיתוף* in either of its meanings; Jewish monotheism must remain absolutely pure. Non-Jews, however, can engage in *שיתוף* without violating the Noahide stricture against idolatry.

This means that many of the restrictions in Jewish law on Jewish relations with idolaters, according to the authorities just cited, do not apply to Christians. As Meiri wrote, “In our times, no one observes these practices, neither gaon, rabbi, sage, pietist, nor pseudo-pietist.” The *Tosafists* generally exclude Christians from the laws against idolatry by reinterpreting the talmudic sources relevant to specific prohibitions to demonstrate that they do not apply to Christians. Rabbi Menahem Meiri, on the other hand, applied the principle categorically, ruling that Christians (and Muslims) are “peoples disciplined by religion” and are therefore to be regarded as Jews in all social and economic matters.

One can understand, however, that when it came to religious matters, rabbis were considerably more reticent to break down the barriers between Christians and Jews. Meiri himself stopped short of explicitly permitting Jews to trade in Christian sacred objects, and in other ways,

too, he sought to reinforce the social and religious divisions between Christians and Jews.

Nevertheless, the distinction between Christianity and idolatry was also applied to religious matters to some degree. So, for example, the *Tosafot* say that it is not a violation of the rabbinic reading of Leviticus 19:14, “Do not put a stumbling block before the blind,” to enable Christians to engage in their worship – by, for example, allowing them to use a synagogue for their services – because they would be engaging in practices which, although prohibited to Jews, are permitted to non-Jews. In the words of the *Tosafot*:

... since they [the Gentiles] swear by their scriptures, sacred to them, known as Evangelium, which they do not regard as a deity, and although they mention the name of Heaven, meaning thereby Jesus of Nazareth, they do not, at all events, mention a strange deity, and moreover they mean thereby the Maker of Heaven and Earth too; and despite the fact that they associate the name of Heaven with an alien deity, we do not find that it is forbidden to cause others [i.e., Gentiles] to make an association (לשתף). Likewise, no transgression of the prohibition, “Do not place a stumbling block before the blind” is involved since such שיתוף (association) is not forbidden to the Sons of Noah.

Moreover, one must recognize that, as the tradition developed, renting facilities to non-Jews, even those who would introduce idolatrous images into the rooms owned by Jews, became permissible. Lest tithes not be collected (the Babylonian Talmud’s interpretation) or to prevent non-Jews from benefiting from the land of Israel (the Palestinian Talmud’s understanding), the Mishnah restricts the rights of a Jew to sell land in Israel to non-Jews. For fear that leasing to non-Jews will ultimately lead to selling to them, Rabbi Meir forbids renting buildings and fields to them as well, but Rabbi Yose permits renting buildings to them, even in Israel. Outside the land of Israel, both rabbis permit both selling and renting property to non-Jews. However, in fulfillment of the verse, “You must not bring an abhorrent thing into your house, or you will be proscribed like it; you must reject it as abominable and abhorrent, for it is proscribed,”<sup>4</sup> the Mishnah rules that “Even where they permitted renting, it was not living quarters which they permitted because he [the non-Jew] would bring in idolatry.”

In the Middle Ages, though, observant Jews, apparently without compunction, were selling and renting facilities to “idolaters,” even as living quarters, and Rabbenu Asher (the “*Rosh*”) and the *Tosafists*, followed by Rabbi Jacob b. Asher, author of the *Tur*, sought to defend

this practice. They suggest that permission to do this is based upon a *Tosefta* which specifies that it is only in cases where the non-Jew would regularly bring idols into the property that Jews may not rent to them, but the idolaters “in our time” only introduce an idol into their homes when a person dies or is about to die there, and even then they do not worship it.

The *Rosh* suggests another justification, to which the *Tosafists* object but which Joseph Karo embraces. Specifically, since Jews living in the Diaspora had to pay taxes to non-Jewish governments, Jews were not fully in control of what they owned, and therefore even if the non-Jew introduced an idol into the rented space, it was not really “your home” and therefore not covered by the Torah’s prohibition. Karo notes a source according to which renting homes to Greek gentiles was permitted even though they were fully committed to idolatry, and this moves him to see this second defense of the permission to lease homes to non-Jews as the crucial one.

Similarly, Rabbi Shabbetai b. Meir ha-Kohen (the “*Shakh*”), in remarkably frank language, objects to permitting leases of homes to non-Jews on the first ground because “we see that they [non-Jews] indeed bring idolatry into their homes, even on a regular basis, and it is forcing matters to claim that since, in our time, they are not really idolaters, their idols are not to be categorized as idols.” He therefore strongly argues for basing the permission on the second of the two reasons mentioned above. Moreover, in the twentieth century some rabbis who generally do not consider Christians to be idolaters, nevertheless rule stringently on some matters to guard against any blurring of the lines between Christians and Jews. Rabbi David Zvi Hoffmann (1843-1921), for example, who is known for his leniencies in helping observant Jews adjust to their increased contacts with Gentiles in the newly free, Enlightenment Germany of his time, nevertheless rules that it is forbidden for Jews to contribute money to help build a church because even if שיתוף is permitted to non-Jews, it is forbidden to Jews. Similarly – although here less surprisingly – Rabbi Solomon Leib Tabak (1832-1908) of Hungary rules that Jews may take money from non-Jews for building a synagogue, but he worries that maybe they, in turn, will ask us for contributions when it comes time for them to build a church!

In sum, then, while Christians are increasingly distinguished from idolaters in Jewish sources in economic matters, there is considerable reticence about extending that view of them to religious concerns. I would argue, though, that in our day, we should. This is certainly not because we are free of former social risks of religious contact between the two groups. Quite the contrary, the dangers inherent in the contact

between Jews and non-Jews, including intermarriage and assimilation, are far more prevalent in our day than in times past. This latter factor, however, must be addressed directly, as I do below.

The reason I would argue that renting a synagogue to Christians for their services does not aid and abet idolatry is, instead, philosophical. The Meiri, the *Tosafists*, and their followers were simply right in concluding that Christianity is more accurately described as שיתוף than as idolatry. Even those Catholics (primarily in places other than North America) who ascribe virtually magical powers to some of the icons or ritual objects in their churches ultimately worship the God of Israel. We, of course, disapprove of their manner of doing so, and hence we are Jews and they Christians, but it simply is false to assimilate their beliefs to those of polytheists.

All of these arguments would hold even more strongly if Jews were thinking of renting synagogue facilities to Muslims, for Islam's commitment to monotheism is even less questionable than Christianity's is. This responsum specifically does not, however, address the rental of facilities to Hindus and others who may be more plausibly considered idolaters.

2. The Sanctity of the Sanctuary and Classrooms. A more serious obstacle to lending or renting synagogue facilities to Christians concerns the sanctity of the synagogue itself. Normally, we use the sanctuary only for services and our other, related religious and educational purposes. In North America, where synagogues of all movements have indeed become "synagogue centers," as Mordecai Kaplan envisaged, there are some rooms which are regularly used for classrooms, others for social gatherings, and, in some synagogues, some for athletic purposes. Would it be a violation of the sanctity of the synagogue to permit Christians to use it for their religious and educational aims? If so, should all rooms in the building be excluded from such use, or only the sanctuary and/or the classrooms?

On the principle that "we may rise in states of holiness but not descend," the Mishnah<sup>5</sup> establishes the rule that townspeople may sell a town square to buy a synagogue, and, in turn, sell the synagogue to buy an ark. This implies that the synagogue has a lesser, but independent sanctity from that of the ark. Clearly, then, at least the sanctuary, the room where the ark is housed, has a measure of holiness of its own.

One would assume that it is easier to justify the rental of rooms other than the sanctuary, and that is certainly true for the social hall, office space, etc. The rental of classrooms, however, may be even more difficult to defend. The Mishnah, Talmud, and later codes make it clear that a בית מדרש, a room used for public study, is of greater sanctity than a בית כנסת, a room used for assembly and prayer.



If the Mishnah were the last word in Jewish law, it would be hard to find a way to permit the usage of the sanctuary or classrooms for Christian services. Later developments in Jewish law, however, provide an opening. The Gemara, in the name of *Rava*, makes all of these rules concerning the sale of the synagogue dependent upon the leaders of the community (or, in our context, the synagogue's Board of Directors). If the leaders decide to sell the synagogue, they may, even for dishonorable uses, like a tavern, bathhouse, tannery, or lavatory. In line with another passage in the Talmud, though, the major codes restrict this power of the leaders to selling the synagogue, since then the sanctity of the synagogue can transfer to the money gained from its sale. Renting it, however, would not be permitted for non-sanctified purposes, even if initiated by the community leaders, "because it still remains in its state of sanctity, for there is nothing else on which the holiness can rest."

*Rabbenu Asher* (the "*Rosh*"), however, understands the prerogatives of the leaders to be so powerful and broad that they may even rent the synagogue for a secular purpose. The case before him concerned a synagogue which the rabbi originally used also for purposes of study. The members then built two more stories on the building, designating them as spaces for study (that is, as a *בית מדרש*). They now want to rent the upper stories as apartments (*לדירה*) and have the rabbi revert to the room used as the synagogue for his study and teaching. *Rabbenu Asher* answers:

Since the leaders of the city agreed to change it, they have the power to do so, even for a permitted [and not a sacred] use (*לדבר הרשות*), as we learn in the [talmudic] chapter, "The People of the City" [26a]: "Rava said: They taught [these restrictions on the sale of the synagogue] only where the seven leaders of the city in the presence of the people of the city did not sell it, but if the seven leaders of the city in the presence of the people of the city sold it, even for a tavern, the sale is valid." And even though [the sanctity of] a school is more stringent than that of a synagogue, that is regarding the rule that one should not transform a school into a synagogue, but all of these rules are not so stringent that the people of the city cannot change them. Moreover, the statement of Rava applies to everything mentioned in the Mishnah, including even things [whose holiness is] more stringent than a synagogue [e.g., a Torah scroll]: with regard to all of them Rava said that the people of the city can change their status.

Later sources disputed how broadly to apply this. Their views, in general, depend upon their understanding of the source of the sanctity of the synagogue in the first place. Some think that the sanctity derives

from the Torah itself since they apply Leviticus 19:30, “You shall venerate My sanctuary,” to synagogues as well as to the Temple in Jerusalem. Others think that the Torah only intended to include the Temple and that the synagogue’s holiness is a rabbinic extension of this. Still others (beginning with Nahmanides) think that the synagogue’s sanctity, like that of the citron and palm branch during the Festival of Sukkot, derives completely from its use, during which time we must not defile it, but after usage it retains no special status – and therefore can be sold, just as the citron and palm branch, after use during the Festival, are discarded. Based upon the last of these opinions and *Rabbenu Asher*, some *Aḥaronim* even permit the leaders of the community to rent the synagogue for secular purposes. If we follow those who do not classify Christianity as idolatry, renting a synagogue to Christians for their worship would at least be no worse than renting it out for secular uses; in light of the command to promote good will and avoid enmity toward Jews, it may well be better.

Still, as Rabbi Avram Reisner pointed out in commenting on an earlier draft of this responsum, the *Rosh* and those who rely on him may be talking only of long-term rentals, in which Jews were taking a building out of service to the Jewish community for an uninterrupted and extended period of time. The case which the *Rosh* discusses is clearly one of this sort. When Christians rent a synagogue’s facilities, however, the usual arrangement is that the Christians use the facilities at given times during the week and the Jews at others. Under such conditions the Jews involved have never completely renounced the sanctity of their building, and so perhaps the *Rosh’s* responsum cannot serve as a basis for the kind of “drop-in” use we are talking about.

The point is a good one, but I think it can be met. The very nature of a rental involves the intention eventually to reclaim the property as one’s own. This, indeed, is why the Talmud prohibited rental of a synagogue for secular purposes, arguing that its sanctity has not ceased. Even so, the *Rosh* finds grounds to allow this in the power granted to the leaders of the community. In our case, the intention of the leaders to maintain their building as a synagogue is yet clearer since the building reverts to the status of the synagogue periodically throughout the week. Nevertheless, each time the synagogue is being used by Christians, it is at the discretion of the Board of Directors and their appointees, and so the arrangement can be viewed as a collection of separate agreements for small periods of time, each covered by the precedents of the *Rosh* and his followers.

The upshot of all of this is that a synagogue board may decide to rent its sanctuary and classrooms to Christians for their worship without impugning the sanctity of these facilities. The board may rely on the

*Rosh* directly, as we have interpreted him, or, if they are wary of doing so in the light of the contrary opinion of the preponderance of the codes or the long-term status of the rental he was discussing, they may transform the rental into a conditional gift (“a gift on condition that it be returned”), as we do with a palm branch and citron (*lulav* and *etrog*) on Sukkot. One opinion in the Talmud, after all – the one followed by the codes – permits a gift of a synagogue to someone on the grounds that “if he [the giver] did not derive some benefit from the act, he would not give it, and so in the end the gift is equivalent to a sale.” One could also convert the rental into a conditional sale, as some Jewish owners do with their businesses on Sabbaths and Festivals.

Even though the particular regulations in Jewish law regarding the sanctity of the synagogue can be accommodated in one or another of these ways, the rabbi and synagogue board should not underestimate the value underlying these rules. Specifically, they should seriously take into consideration their own feelings of the sanctity of the synagogue as well as those of the congregants they represent. This requires no less than a thoughtful discussion about whether their conception of its sanctity includes or excludes Christian worship of God within its walls. Indeed, I have consulted a few colleagues – including some on the right wing of our movement – whose synagogues have, in fact, rented facilities to Christians for purposes of worship, and they report that a number of the laypeople had much stronger objections to this than the rabbi did. Perhaps, the weaker one’s own Jewish identity is, the more one feels threatened by the blurring of the lines which this arrangement entails in the minds of some.

If the board does decide to rent its facilities, it may, but need not, distinguish between the sanctuary and the other rooms of the synagogue, permitting the rental of the latter but not the former. If the board permits the rental of the sanctuary, it should follow the practice of our Ramah camps and many synagogues (especially smaller ones) whose leaders wish to make multiple uses of the rooms used for services: specifically, the ark should be closed off with a curtain or some other barrier to demarcate the room as something other than a Jewish sanctuary during the time it is not being used as such.

3. Encouraging Intermarriage. A third concern is the degree to which allowing Christians to use the synagogue may inadvertently encourage intermarriage. Our ancestors, after all, went to great lengths to prevent this, both socially and legally. Drinking wine made by gentiles, for example, even outside their presence, was prohibited lest it somehow lead to socializing with non-Jews.

Intermarriage is indubitably a crucial and widespread concern for our community. The question, though, is whether Christian use of a

synagogue will, in and of itself, add appreciably to the probability of intermarriage. Since Jews and non-Jews freely mix in all sorts of settings in our society, I do not think that the danger of intermarriage is appreciably increased by allowing Christians to use a synagogue. There will be increased contact between some Jews in the synagogue and some Christians in the group gaining space there, but the danger entailed in these increased contacts is not sufficient, in my view, to outweigh the positive effects of permitting Christians to use the space they request. This concern is sufficient, though, to require us to institute policies and schedules which aim to minimize, if not eliminate, the potential for any intermarriages arising out of this. Intermarriage happens extensively despite our efforts; we certainly do not want to aid and abet it. This halakhic concern will have an effect on the standards we set for permitting Christians to use the synagogue, as indicated below.

### **C. Concerns Arising from American Law**

In the only other official statement on this subject by the Committee on Jewish Law and Standards, recorded in its report included in the Proceedings of the Rabbinical Assembly of 1964, Rabbi Ben Zion Bokser, z”l, chairman of the Committee at that time, stated that “Renting space in the synagogue is inconsistent with the laws governing a tax-exempt institution which may accept contributions for the use of its facilities, but not a rental fee.”

In 1964 that may have been a plausible interpretation of the law, but much has happened since then to sharpen our understanding of what is, and what is not, permissible for a tax-exempt institution to do. Professor Arthur Rosett, with whom I team-teach at the U.C.L.A. School of Law, and Professor Michael Asimow, who teaches tax law there, assure me that the tax-exempt status of a synagogue that rents space to a church would definitely not be undermined, and, moreover, the income from such rental would, in most cases, not be taxable.

Synagogues are tax-exempt under Section 501 (c)(3) of the United States Internal Revenue Code. The income of such organizations is taxable only when it is “unrelated business taxable income” (cf. Sections 512 and 513). The definition of such income included in the law, however, specifically excludes “all rents from real property” [Section 512(b)(3)(A)(i)]. Moreover, it should be noted that in these sections the law is concerning itself with income which derives from activities which are normally taxed, and it permits tax-exempt institutions to rent their real property for such purposes free of tax to the tax-exempt institution; how much the more so would the exemption apply when one tax-exempt

institution is renting real property to another for its own, tax-exempt functions.

In fact, one could even argue that renting property to a Christian group is within the religious purposes of a Jewish organization, based upon our own religious principles of *משום איבה* and *מפני דרכי שלום*, and that this activity is thus actually related to the purposes of the synagogue. Such an argument is unnecessary, however, in light of the law's specific exclusion of rents of real property from taxable, unrelated business income – especially when the renter is itself a tax-exempt organization.

The one exception to the rule that rents are not taxable occurs in Section 514 of the Internal Revenue Code. Under that section, if a synagogue is mortgaged, as most are, the rental income would be partly subject to income tax. However, there is an exception to the exception: the rent is not taxable if “substantially all” of the facility is devoted to uses related to the purposes for which the synagogue's tax exemption was granted (that is, Jewish religious and educational functions) [Section 514 (b)(1)(A)(i)].

The Internal Revenue regulations define “substantial” on the basis of all the facts and circumstances, including the time and space used for the rental activity as compared to the time and space used for all of the synagogue's exempt functions. In any event, the test is satisfied if 15% or less of the facility's use is devoted to the rental activity [Reg. 1.514 (b)-1(b)(1)(i) and (ii)]. In most cases this 15% test can be met. Even if it cannot be satisfied, it is unlikely that a synagogue would fail to meet the “substantial” test simply because it rents out its facility for non-Jewish religious uses when it is not being used for Jewish purposes – especially since the renter is also engaged in tax-exempt activities. In any case, a synagogue concerned about the tax status of such rental income can get a private ruling from the Internal Revenue Service (which costs a few hundred dollars) to determine whether the income from the specific rental it is contemplating would be taxable.

Thus, in summary, synagogues without mortgages may rent space to Christians for religious or educational purposes on a tax-free basis without restriction as to the percent of the synagogue's use devoted to that purpose. Those with a mortgage must qualify under the “substantially all” test to avoid tax on a portion of the rental income. The test is clearly satisfied if 15% or less of the facility's use is devoted to the rental function, and it is probably satisfied even if the 15% test cannot be met. In any event, even if the rental fees are taxable, the tax-exempt status of the synagogue itself (apart from taxation of the rental income) would not be jeopardized.

A few caveats are in order. All of the above discussion is rooted in federal laws and regulations at this time. Although states generally follow the federal government on these matters, states' policies may differ. The same is true for real estate taxes: although local governments generally exempt non-profit institutions from such taxes and use the same definition of "non-profit" as the federal government does with regard to income taxes, a synagogue should check the local laws before renting its facilities. Moreover, tax laws are subject to change, and so synagogues are well-advised to seek professional counsel so that they know the tax implications, if any, of entering into such a relationship according to the current laws in force at the time. And finally, while some of the same reasoning may be relevant, none of this discussion applies directly to congregations outside the United States.

#### **D. Standards Governing Such Rentals**

As Rabbi Bokser noted in 1964, the synagogue's response to a Christian group's request involves "primarily a conception of the sanctity of the synagogue, rather than specific halakhic precedents." I should now like to turn to policies which grow out of our sense of the synagogue's sanctity and our other relevant concerns.

First a word about the context of the standards I suggest below. The proposed arrangement poses questions for us, in the first place, because we are not happy with either of the two alternatives. On the one hand, to refuse to allow Christians to rent our facilities would be mean-spirited and, in light of Christians' willingness to rent to Jewish groups, unfair. As such, it would be a desecration of our name and God's. Moreover, we cannot reasonably expect Christians to shun bigotry toward us if we ourselves display bigotry toward them – or at least appear to do so.

On the other hand, Christian religious, educational, and social activities held in a synagogue pose real problems for us. Their services and some of their social activities, after all, are undoubtedly open to the public and not just to their members, and so nothing prevents Jews from attending and meeting marital partners there. For that matter, one can easily imagine a mixed marriage between a Jew and a Christian being celebrated by the Christian congregation on the synagogue's premises. To add insult to injury, people afterward might well say that the wedding was held in, and presumably condoned by, the synagogue. Moreover, Christianity by its very nature is missionary, and that raises important questions about our own survival and integrity.

In the end, if Christians ask us to use our facilities for their religious purposes, we must allow them to do so. We simply have no choice. Indeed, in that situation, we should be gracious and cooperative.

In doing this, however, we should not delude ourselves. There inevitably will be problems over and beyond those of a usual rental. If handled properly, these incidents can be learning and growing experiences for everyone concerned. Still, in light of the sensitive nature of this kind of arrangement, the rental contract, if possible, should take the form of one-year, renewable leases so that the synagogue (and the church) can end the arrangement, if necessary, with a minimum of rancor.

Of course, advanced planning to avoid disquieting events is even better. Toward that end, I suggest below a number of standards which should govern the decision of whether to rent to a given group and, if so, the conditions for the rental. Clearly, we cannot know or control all these factors, either in making the decision to rent or thereafter. These elements, however, should be part of our thinking in making the decision and part of our mutual discussions with the Christians involved at that time and, as necessary, throughout the time of the agreement.

1. The nature of the Christian group. It clearly is inappropriate for Jews to rent space to groups which are racist or anti-Semitic. I frankly doubt whether such groups would approach a synagogue in the first place, but one nevertheless must check. A more difficult and probable situation is one in which the Christian group is friendly toward Jews but cool toward Israel. A number of liberal Protestant denominations might fit into this category. A group openly hostile toward Israel should not be permitted to use our facilities, both because of our ideological commitment to Israel as a Conservative movement and also because of the likelihood that the rental will inflame relations between the Jews and Christians involved rather than enhance them. In most cases in which this is a question, though, the Christian group will not be "openly hostile," but only unresponsive, and then a judgment must be made. This undoubtedly will be difficult, for what some Jews think are attitudes and behavior inimical to Israel others will not interpret as such. The general rule in making the judgment, though, can be formulated as this: regardless of the Christian group's endorsement of, or opposition to, the specific policies of the current Israeli government, does the group support the existence of a Jewish homeland in Israel, or not?

Another factor relevant to the nature of the Christian group which the synagogue must consider is its attitude toward evangelism among Jews. It is definitely incumbent upon the members of the synagogue to insure that the Christian group in question is not one committed to missionizing among Jews. Preferably, it should be one which has specifically disavowed such activity; but it would be sufficient if it simply, as a matter of fact, does not missionize, even if it has never stated this fact in a formal policy. We certainly do not need a Jewish equivalent of the conquest of Troy!

Similar remarks apply to mixed marriages. Whatever the Christian group's policy has been before, it would be appropriate for the Jewish group to require, as a condition of rental, that no mixed marriages involving Jews be performed by the Christian group – at all, if possible, but at least not on the synagogue's premises. Careful and tactful explanation must accompany such negotiations since to some this demand will inevitably appear bigoted. Our small numbers and our worries about assimilation and survival should be part of this discussion as well as the distinction between being friends and being potential marital partners—a distinction borne out by the fact that the divorce rate in Jewish-Christian marriages is four or five times higher than among couples from the same religious backgrounds. How much these and other points will need to be spelled out will depend upon the particular group, but the Christian partners to this agreement should be made aware of our sensitivity on this issue from the very beginning.

2. The nature of the Jewish congregation. The leaders of the synagogue must also be sensitive to its own constituency. I could easily imagine, for example, that some congregants would consider Christian use of the synagogue a violation of the sanctity of the place they feel most Jewish. Other people might, on the contrary, see it as an enhancement of the facilities' sanctity and of the Jewish members' Jewishness to extend use of the sanctuary to groups to worship God, albeit in another way. And then, of course, there probably are those members who would not be affected significantly one way or the other by this issue.

Along the same lines, if a large proportion of members are Holocaust survivors, the synagogue should determine whether permitting the Christian group to use the synagogue will offend and anger them. Similarly, if a significant percentage of the synagogue consists of Jews by choice, who are struggling to confirm their new, Jewish identity, the synagogue may decide not to rent space to a Christian group for fear of blurring the lines between the religions in the minds of those who grew up as Christians. Depending upon the congregation, the same danger might be significant for the community's native Jews. Moreover, Jews by choice, and even Jews by birth, may use the opportunity to missionize for Judaism, thereby exacerbating relationships with the Christians rather than improving them.

For any given synagogue, these may or may not be serious factors. Even if they are, they must be weighed against the halakhic concerns of enhancing good will and avoiding bad will between Jews and Christians in the wider community. Synagogue leaders should, however, be aware of this element of their decision.

3. The space rented. It would be best to rent the social hall or some other space which is not generally used for Jewish prayer or study. This



may also be best for the Christians since it is usually easier to move things around in social halls to accommodate varying uses than it is in sanctuaries. Moreover, the Christians would not have to cover the Jewish symbols likely to be in the sanctuary but not in the social hall.

Nevertheless, we have seen that there are halakhically acceptable ways to rent the sanctuary for uses other than Jewish religious activities. If the board decides to do this, the ark should be covered with a curtain or partition to indicate that the room is not now functioning as a house of Jewish prayer.

From the tradition's point of view, it is even harder to justify rental of classrooms to Christians, but Jews nowadays generally find this less objectionable (perhaps a comment on the differences between our Judaism and that of our ancestors!). If the classrooms are to be rented, some way should be found to indicate that the rooms in question are not now functioning as Jewish classrooms.

One way to do that is to place a sign in the corridor indicating what is taking place in the room. Actually, this would be good for any space occupied by the Christian group. This will enable the Christians easily to find their services or classes, and it will also prevent misunderstandings on the part of any Jews who happen to pass by at the time the Christians are using the facility.

If the Christian group runs multiple programs in the synagogue structure throughout the week, it would be both proper and clarifying to indicate the church's name at the front of the building so that everyone who enters is prepared to see both Jewish and Christian activities going on. The church's name, though, should be on a sign which is clearly temporary so that everyone understands that this is first and foremost a synagogue. Clear directions posted at the front telling people the places of the various activities operated by the group will help people not only to find their way, but also to avoid unintended involvement in the other faith.

4. The times for which the space is rented. By and large, Christians and Jews should be using the facility at different times. This is not only to avoid conflicts which could arise from the simultaneous use of the building (e.g., loud music from a youth event disturbing the other group's classes), but also to minimize the potential of this arrangement being the cause of interdating and intermarriage. Some ecumenical activities should be scheduled so that mutual understanding can be increased and mutual good will fostered. The separate projects of each group, however, should be held, as much as possible, in the absence of the other party.

5. The use the Christians will make of the building. It does not seem to me that the use the Christians intend for the space they rent matters

much in the decision of whether to rent to them, assuming, of course, that it is respectable. Renting space for Christians to hold services or classes raises questions about compromising the synagogue's sanctity as a Jewish institution – questions which, as we have seen, can be met if the synagogue leaders do not consider the synagogue's sanctity to be besmirched by such usage. On the other hand, renting the social hall for social activities more strongly raises the specter of intermarriage, but there again provisions can be made to minimize and maybe even eliminate any potential damage on that front. The times at which the synagogue leaders are willing to rent space for one use or the other may differ, depending upon when the Jews need the facility for their own purposes, but the acceptability of renting to Christians in the first place is not affected. Both social and religious uses raise problems, and in both cases the problems can be resolved if the Jews have the will to do so.

As indicated above, the Jews who negotiate the agreement with the Christians should make clear that mixed marriages between Jews and non-Jews will not be allowed on the premises – and, hopefully, would not be performed by the Christian group in any case. The leaders of both groups should also spell out their expectations of the facility and of the other group as clearly as possible to avoid future conflicts.

6. Christian symbols. Christians may – even by halakhic standards – use Christian symbols in their own worship and classes. Indeed, it would be hard to imagine Christian services or education without such symbols. Arrangements must be made, however, to remove and store the symbols after each Christian use of the building. This will help to make it clear to all concerned that the facility is, first and foremost, a synagogue.

7. The Duration of the Lease. Rabbi Bokser, in 1964, stated that “The synagogue might allow some other group to use its facilities on a temporary basis, to aid in an emergency situation, as an expression of good will. But it would be improper to do so on a regular basis.”

I agree with his sentiment: a synagogue, after all, should be the permanent home of Jewish activities, not Christian ones. At the same time, it is important to note that “temporary” does not, in these situations, usually mean a few weeks or months. It could mean less than a year if, for example, a nearby church suffered fire damage and needs space until it can rebuild. More typically, though, the Christians in question are a small group trying to organize a new church, and that task often takes five years or more – just as it takes Jewish groups using churches a number of years to gain the membership and finances necessary to acquire a place of their own. Consequently, while the lease should not be in perpetuity or anything close to that, we must, in all fairness, expect that the Christians involved might want the arrangement to last for a number of years until they can buy a building of their own,

and we should be open to that. As mentioned above, though, it probably is best to shape the arrangement in one-year, renewable contracts rather than long-term ones to provide maximum flexibility for both parties and thus avoid continuing the relationship for a long time if it goes sour.

8. Lending vs. Renting. While it certainly would be magnanimous on the part of the synagogue board to lend their facilities to Christians without charge, there is no need to do this. The synagogue's sanctity is not compromised any more by the one arrangement than by the other.

Indeed, one could even argue that it is preferable to charge rent so that Jewish interests are indirectly promoted by the rental. Moreover, if the lease is for anything more than an emergency period of a few days, the relationships between the Jews and Christians involved will probably benefit by being based on a clear, business footing. Nobody likes to give or receive on a constant basis; tensions and resentments inevitably result when one party is always the contributor and the other the recipient. Therefore, even our interest in promoting *דרכי שלום* is probably best served by charging rent.

## CONCLUSION

This paper has concentrated on the potential problems involved in renting synagogue space to Christians. These problems undoubtedly and properly dissuade synagogue leaders from seeking a Christian tenant. At the same time, when Christians approach a synagogue asking to rent space, the answer, under the conditions enumerated above, should be "Yes."

In light of the much more numerous instances in which fledgling Jewish congregations benefit from using Christian churches, a reciprocal willingness on our part to help new Christian groups is only fair. Moreover, the Jewish values of promoting peace and avoiding enmity should guide us here. Those values may have been used sparingly in the past with regard to non-Jews; but in our own, pluralistic society, in which Jews have benefitted enormously from the open environment created by the Protestant majority, we should apply these values more broadly. Our ancestors, living at best under conditions of toleration in generally hostile political and social environments, nevertheless grudgingly found it permissible and even necessary to set aside some rules to create good will and avoid bad will among their neighbors. We, who live as a majority in Israel and as a minority under historically anomalous conditions of freedom and involvement in most other Western countries, must go out of our way to create and reinforce good relations. In effect, we must go beyond the minimalist concepts of *דרכי שלום* and *מפני מפני* to a fuller *תקון עולם* and *איבה*.

The dangers of doing so are, of course, real, but so are the opportunities. In the case at hand, a synagogue board asked by a Christian group to rent its building must meet the standards enumerated above, at least to the extent that it is capable of controlling the situation. Only then can its leaders insure that the arrangement does not undermine, but rather enhances the underlying Jewish purposes of the synagogue. As long as the above standards are satisfied, however, the synagogue should permit the usage of its facilities, not reluctantly but warmly.

Most importantly, the Jews involved should constantly be aware of the importance of making the negotiations and, if accepted, the rental the source of sanctifying God's Name (קדוש השם) rather than desecrating it (חלול השם). Ideally, the whole interaction should be not only the basis of greater understanding, good will, and cooperation between the Christians and Jews, but also the source of a deeper and broader understanding on the part of the Jews of their own religious identity and mission.

## NOTES

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1. B. Gittin 59b
2. B. Gittin 61a
3. Deuteronomy 6:18
4. Deuteronomy 7:26
5. Megillah 3:1