

Should Bakeries Which are Open on Shabbat Be Supervised? A Response to the Rabinowitz-Weisberg Opinion

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This paper was submitted as a response to the responsum written by Rabbi Mayer Rabinowitz and Ms. Dvora Weisberg entitled "Rabbinic Supervision of Jewish Owned Businesses Operating on Shabbat" which was adopted by the CJLS on February 26, 1986.

שאלה

Should rabbis offer rabbinic supervision to bakeries which are open on Shabbat?

תשובה

(1) The food itself is indeed kosher after Shabbat, once the time required to prepare it has elapsed.¹ The halakhah is according to Rabbi Yehudah and not according to the Mishnah which is Rabbi Meir's opinion.

(2) While a Jew who does not observe all the mitzvot is in some instances deemed trustworthy, this is never the case regarding someone who flagrantly disregards the laws of Shabbat, especially for personal profit. Maimonides specifically excludes such a person's trustworthiness regarding his own actions.² Moreover in the case of מחלל שבת (a violator of Shabbat) Maimonides explicitly rejects his trustworthiness.³

No support can be brought from Moshe Feinstein who concludes, "even if the proprietor closes his store on Shabbat, [since it is known to all that he does not observe Shabbat], we assume he only wants to impress other observant Jews so they will buy from him."⁴ Previously in the same responsum R. Feinstein emphasizes that even if the person in

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question is well-known as being trustworthy we do not rely on his credibility except in extraordinary circumstances.

Moreover for rabbis to promote kashrut at the expense of aiding and abetting שבת מחללי is bad policy. The *Mishnah* states: שאין מחזיקין ידי עוברי עבירה – “Help may not be given to them that commit transgression.”⁵ Abraham Gumbiner elaborates:

ואסור להשאיל לאדם כלי מלאכה אם הוא חשוד לעשות מלאכה בשבת לא שיש לתלות שיעשה בה מלאכת היתר ודוקא בדבר המצוי אבל בדבר שאינו מצוי אסור אם לא מפני דרכי שלום.

And it is forbidden to lend someone a work implement if he is suspect to do מלאכה (prohibited labor) with it on Shabbat except if it is reasonable to assume that he will do only permitted labor with the implement... And this applies only to a common implement, but with an uncommon implement it would be forbidden except when the prohibition would have to be overridden for the principle of maintaining the peace.⁶

The rabbis also shuddered at the thought of a Jew benefiting from his sins: כדי שלא יהא חוטא נשכר – “A sinner should not profit (from his sin).”⁷ Maimonides codifies this principle in the laws of יבום and חליצה 2:19.

If she is only betrothed to another man she does not become forbidden to her *levir*; rather the stranger who has betrothed her must give her a *get* and her *levir* may then either marry her or submit to חליצה. If her *levir* is a priest who may not marry a divorcee she must be dismissed by the stranger with a *get* just the same in order that the sinner should not be rewarded and the *levir* must then submit to חליצה.

Finally the rabbis laid down the principle: אין אומרים לאדם חטא כדי – “We do not tell a person, ‘Sin, in order that your friend may profit.’”⁸

CONCLUSION

What is to be gained from our being a party to public שבת חלול? The wisest answer is privately to permit such baked goods into our synagogues when no other more reliably kosher goods are available. We must at the same time steer clear of any public recognition of such food as being kosher or under rabbinic supervision.

NOTES

1. *Shulḥan Arukh*, O.Ḥ. 318:1. The source-text is *Mishnah Terumot* 2:3. See *Talmud Bavli Gittin* 53b; *Bava Kama* 71b; *Ḥulin* 1 5a; *Ketubot* 34a; *Shabbat* 38.
2. *Hilkhot Eduṭ* 7:11.
3. *Hilkhot Sheḥitah* 4:14; *Hilkhot Ma'akhlot Asurot* 12:26; 3:20-21. See *Shulḥan Arukh*, Y.D. 2:5.
4. *Iggrot Mosheh*, Y.D. 2:43.
5. *Shevi'it* 5:9; *Gittin* 5:9; *Avodah Zarah* 4:9. And in the *Mishneh Torah Hilkhot Bikurim* 8:13; *Shemitah Ve-Yovel* 8:8; *Terumot* 12:10.
6. Magen Avraham to *Shulḥan Arukh*, O.Ḥ. 347. *Se'if Katan* 4.
7. *Mishnah Ḥallah* 2:7; *Bavli Ketubot* 36b, 39b; *Gittin* 55b; *Sottah* 15a; *Bava Kama* 38a, 39a; *Avodah Zarah* 2b; *Niddah* 4b.
8. *Tosefta Ḥallah* 1:9; *Bavli Shabbat* 4a; *Kiddushin* 55b; *Menahot* 58a. See *Encyclopedia Talmudit* I: 575-578.