

Concurrence to Rabbi David Hoffman's Teshuvah, "Building at What Cost?"

Rabbi Elliot N. Dorff

*This paper was submitted, in October 2018, as a concurrence on "Building at What Cost?" by Rabbi David Hoffman. Dissenting and Concurring papers are not official positions of the CJLS.*

I voted for this teshuvah both because its research and reasoning are cogent and also because in the context of the building project of the Jewish Theological Seminary, I think that he weighed the various factors involved correctly.

That said, I think that other institutions (including synagogues, schools, and camps) in other situations might weigh those factors differently and use *kabblanut* to justify allowing non-Jewish contractors to work on those institutions' building projects on Shabbat. There are several reasons that lead me to this conclusion:

- 1) I fully agree that what Jews knew about Jewish law and their degree of adhering to the laws of Shabbat at the time of Rabbenu Tam far outpaces what we can expect of lay Jews in the Conservative movement today. I think, though, that Rabbi Hoffman underestimates the ways of informing Jews today about these issues so that people seeing building of a Jewish institution on Shabbat will understand why it is justified. This can be done not only with the old technology – e.g., a sign in front of the building indicating that the contractor is not Jewish, that payment to the contractor is for the completed project and not calculated on an hourly basis. and that the contractor has chosen to use Shabbat as one of the days to complete the work – but also, and even more extensively, on the internet, including the various ways the institution communicates with its adults, teenagers, and children. In light of the old and new ways of educating, this may in fact become the occasion for some serious Jewish learning about Shabbat, thus increasing respect for it rather than the opposite. After all, lay Jews might say, the fact that the rabbi and lay leaders of the institution had to go to such lengths in thinking about whether to allow this on Shabbat and then to explain it to everyone involved shows how seriously this Jewish institution takes Shabbat.
- 2) Furthermore, in some cases, as in the case that Rabbi David Booth described regarding his synagogue in Palo Alto, California, the new building may not be at the same site as the old one, so it may not even be clear to those passing by the construction site, especially until near the end of the project, that this is a Jewish project at all. In such cases, depending on where the new site is, the prospects of *hillul Shabbat* and even *hillul ha-shem*, and the noise involved disturbing those who want to observe Shabbat, are far diminished.

- 3) I disagree with Rabbi Hoffman that the sources he provides require that *kabblanut* is acceptable only when the non-Jews involved, but not the Jews, benefit from the arrangement. Although Rabbi Hoffman understandably did not want to enter into the whole subject of the various ways of Jews asking non-Jews to do something for them on Shabbat, it clearly is the case, in practice as well as in law, that non-Jews in synagogues, for example, who prepare the food and the drinks (including hot food and drinks) for the Kiddush or lunch on Shabbat are doing so for the benefit of Jews. Yes, they may be asked to drink a cup of coffee or eat a bit as a legal cover for this, but everyone knows that the primary beneficiaries are the Jews.
- 4) It is certainly true that Jewish law requires Jews to spend a great deal in living a Jewish life, including kosher food, tuitions for Jewish formal and informal education, membership fees in synagogues, and much, much more. It is indeed expensive to be a Jew. That said, the Talmud also states that “The Torah has pity on the money of the People Israel” (*ha-torah hasah al mamonam shel yisrael*). In the case of JTS, it may have been true that not much money would have been saved by allowing the contractor to work on Shabbat, but Rabbi David Booth described the situation in his own synagogue where a million and a half dollars are being saved by using *kabblanut* to allow the non-Jewish contractor to work on the new synagogue building on Shabbat. This is not “chump change.”
- 5) The issues involved are not only the money involved in the construction. Forbidding a non-Jewish contractor to build this Jewish institution on Shabbat (as well as other days of the week, of course) may seriously delay the completion of the project, especially if it is a substantial one. This would prevent the institution from offering the Jewish services that it intends to offer there (including worship, education, celebrations of *b’nai mitzvah* and weddings, etc.) for possibly many months. This not only impedes the institution from doing what it was designed to do; it has financial costs of its own in unrealized income.

As I mentioned when Rabbi Hoffman’s teshuvah was first presented, my first introduction to this topic was as a staff member at Camp Ramah in Wisconsin in 1966. Rabbi/Professor Israel Francus taught us during staff week the whole concept of *kabblanut* to explain why the non-Jewish contractors of the new arts-and-crafts building were being allowed to work on Shabbat that week so that the building would be ready when the campers arrived the following week. In that setting, of course, every Jew in camp could be and was informed of the justification for doing so, and the campers’ arrival was imminent, thus making clear the immediate need to provide the services it would provide. I do not know if he would still say the same thing today, but I am still convinced by this reasoning.

In sum, JTS was probably right in forbidding its contractors to work on Shabbat.

Furthermore, any other Conservative Jewish institution that is contemplating using *kabblanut* to justify allowing its non-Jewish contractor to work on Shabbat must seriously take into consideration all the factors that Rabbi Hoffman mentions and may well decide, as

JTS did, not to allow it. That said, in my opinion institutions might make the opposite decision in their particular circumstances, using the mechanism of *kabblanut* to observe Shabbat while still allowing the construction to take place on Shabbat.