

The author of this essay regularly contributes discussions of halakhic issues in one of TRADITION's most popular features, "A Survey of Recent Halakhic Periodical Literature." Excerpts from these columns were recently published in his book, *Jewish Law Faces Modern Problems*. Rabbi Jakobovits, formerly Chief Rabbi of Ireland, is now spiritual leader of the Fifth Avenue Synagogue in New York City.

## A MODERN BLOOD LIBEL —

### *L'Affaire Shahak*

#### I.

There is nothing more hideous and perverse in the blood-stained history of anti-Semitism than the repeated "blood libels" against the Jewish people. Time and again the Christian rabble was aroused to murderous frenzy by the fantastic charge that Jews practiced "ritual murder" in order to secure the blood of Christians for religious observances. To substantiate this diabolical libel, the Jew-baiters—usually themselves apostates from Judaism—scanned the pages of the Talmud for out-of-context quotations allegedly "proving" the callous disregard of the Jewish religion for the lives of non-Jews. Thus exposed, the evil "Talmud Jew" provided ample justification for the mob terror against the Jewish community.

Often the requisite "quotations" could not be found. In that case they were simply fabricated. The most notorious instance of such a forgery is the infamous *Protocols of the Elders of Zion*, still widely used by rabid anti-Semites in pursuit of their nefarious trade.

For the first time in Jewish history, all three classic incendiaries of Jew-baiting—blood libel, fabrication, and charges of

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Talmudic discrimination against non-Jews—have been used by *unbaptized* Jews to denigrate Jews and Judaism. Having exhausted their conventional weapons against Jewish traditions, the fanatical Jewish secularists have now torn a few pages from the most virulent text-books of anti-Semitism. In methods reminiscent of Rohland’s *Der Talmudjude* and Streicher’s *Der Stuermer*, a vitriolic campaign of denunciation by libel and falsification has been unleashed against religious Jews. As in other anti-Semitic campaigns, it was not long before the most “respectable” people and organs of public opinion joined in the “fun” of this scurrilous religious Jew-baiting.

The wretched story began with the publication last December of a letter in Israel’s prestigious *Ha-aretz* by a Dr. Israel Shahak charging that according to “Orthodox” Jewish law it was forbidden to violate the Sabbath to save the life of a non-Jew. To “prove” his inflammatory charge, he subsequently “revealed” that he had himself witnessed an incident in which an Orthodox Jew had refused to allow his telephone to be used to call for help for a non-Jew who had collapsed nearby. Shocked, he asked the rabbinate for a ruling, and they had, so he claimed, confirmed that the Sabbath could indeed be violated only to save a Jewish life.

These “revelations” aroused a storm of public indignation in Israel and throughout the Jewish world. Editorials, suitably embellishing the story, fumed against the “medievalism” and “the utter absurdity and inhumanity” of the rabbis. In all the excitement it was almost overlooked that Dr. Shahak, challenged to substantiate his personal “testimony,” was eventually forced to admit that the Orthodox Jew he had “witnessed” refusing the use of his telephone simply did not exist. The whole incident had been fabricated in true *Protocols* style. Equally overlooked was the circumstance that the rabbinate, far from having confirmed Dr. Shahak’s allegation, had in fact ruled that the Sabbath must be violated to save non-Jewish no less than Jewish lives.

Indeed, Chief Rabbi I. J. Unterman published a lengthy responsum to explain his ruling. But this refutation of the blood libel against religious Jews only further infuriated the secular-

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ists. To the *London Jewish Chronicle*, for instance, long an articulate leader of the anti-Orthodox crusade, the rumpus provided welcome grist to the mill of Jewish self-immolation. Hailing Dr. Shahak's "exposure" of the rabbis long after his mendacity had been exposed, a columnist (or calumnist) in that journal (May 20, 1966) proclaimed that "the Halakha abounds in such abominations . . . [which are] in conflict with the humane instincts with which anyone raised in Jewish tradition is imbued." That columnist, blinded by his own prejudice, sees nothing amusing in his suggestion that the rabbis, in contrast to himself, are not raised in this Jewish tradition, and he "explains" the continued presence of these "abominations" in the sources of Jewish law "in terms of the weakness and pusillanimity displayed by the Ashkenazi Chief Rabbi of Israel, Rabbi Unterman."

### II.

Let us turn now to the issue itself by means of a concise abstract of Rabbi Unterman's responsum (published in the rabbinical journal *Kol Torah*, Jerusalem, Nisan 5726).

According to the Mishnah (*Gittin* 59b), the non-Jewish poor are not to be prevented from collecting the gleanings, the forgotten sheaves and the corner of the field "because of the ways of peace." The Talmud adds: "One feeds the poor, visits the sick, and buries the dead of the non-Jews with those of the Jews, because of the ways of peace" (61a). In practice, this law requires such services to be rendered to non-Jews even if they are not together "with Jews" (*Yoreh De'ah*, 151:12; *a.l.*, 19). In fact, the wording "with the Jewish poor" may imply that indigent non-Jews must be supported even out of funds collected for distribution to poor Jews. Maimonides (*Hil. Melakhim*, 10:12) bases this rule on the verses "The Lord is good to all; and His tender mercies are over all His works" (Ps. 145:9) and "Its ways are the ways of pleasantness, and all its paths are peace" (Prov. 3:17). In the Talmud, too, the latter verse is used to establish major Torah laws (*Yevamot* 87b). Rabbinical enactments to ensure "the ways of pleasantness and the

paths of peace” are thus an integral part of Jewish ethics, and their fulfillment characterizes the observant Jew as much as the performance of any other rabbinically ordained law.

The same objective, to secure harmonious human relations, motivates several ordinances enacted by the rabbis “on account of enmity,” that is, to prevent jealousy and disharmony. For this reason, for instance, the rabbis assigned property found by children, even if they have reached their majority, to their father, so long as “they eat at his table” (*Bava Metzi’a* 12b).

Following these introductory remarks, Rabbi Unterman turns to the subject of Sabbath observance. Strictly speaking, the Sabbath, because of its supreme importance as the foundation of Judaism, should be an absolute law, to be observed even at the cost of life, like the three other cardinal laws of idolatry, incest and bloodshed. Indeed, since the Sabbath testifies to the existence of God, desecration of the Sabbath carries the same supreme penalty as idolatry, and the two offenses are often compared to each other because they both involve a denial of God’s creation (see Tosaphot, *Sanhedrin* 78b). Hence, the rabbis sought some express sanction in the Torah to warrant the violation of the Sabbath for the sake of saving life (*Yoma* 85a and b), a sanction which could not otherwise be assumed. The principal verse cited by several sages in the Talmud to provide this sanction is: “And the children of Israel shall keep the Sabbath to observe the Sabbath” (Ex. 31:16), which they construed to mean: “Desecrate one Sabbath for him (i.e., a dangerously sick person), so that he may [survive to] keep many Sabbaths [later]” (*Yoma* 85b; *Sabbath* 151b; *Mekhilta, Tissa*). Accordingly, the whole sanction to violate the Sabbath for the preservation of life is founded on the superior value not of life itself but of the prospect to observe “many Sabbaths” afterwards, so that the Sabbath can be suspended only for the sake of a person who himself observes the Sabbath. Otherwise the Sabbath would have to be considered just like the other cardinal laws which demand martyrdom rather than their violation for the sake of life. (In this respect, then, non-Jews would be in the same category as non-observant Jews.—*I.J.*)

But this principle applies only to Sabbath work involving a

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Biblical transgression, whereas work of merely rabbinical status may be performed to save even non-Jewish lives, according to most authorities. Nevertheless, even Biblical violations of the Sabbath are warranted for non-Jews "on account of enmity," i.e., if the refusal to render such aid may imperil Jews. This stipulation is explicitly made by R. Moses Schreiber (*Chatam Sopher, Yoreh De'ah*, no. 131; cited in *Pitchei Teshuvah, Yoreh De'ah*, 154).

Quite obviously, any discrimination between Jews and non-Jews in this matter would inevitably lead to such "enmity" today, and it cannot therefore be sustained in Jewish law. The threatening repercussions which resulted from the fabricated story of a single individual bear sufficient testimony to the reality of such "enmity" and its perilous consequences.

Therefore, anyone who knows how to interpret the Sabbath laws properly can easily avoid all misunderstanding and ill-will. The Talmud counseled Jews to explain: "For us who observe the Sabbath, its violation is sanctioned" (*Avodah Zarah* 26b); as elaborated above, this lies quite logically in the very nature of the special character of the Sabbath and its Biblical definition. But where such an explanation is unacceptable or cannot be appreciated, one is in duty bound to use the permissive ruling of the *Chatam Sopher* without any hesitation. Similar considerations prompted R. Moses Isserles to rule in the *Shulchan Arukh* that there is no difference between Jewish and non-Jewish property in extinguishing a fire on the Sabbath (*Orach Chayyim*, 334, end, gloss.).

In sum, then, "the ways of peace," as a basic ingredient of the ethics of Judaism, motivated the Talmudic sages in their legislation no less than they compel our religious obligations today.

### III.

There is nothing new in Rabbi Unterman's conclusion that in practice the Sabbath must be set aside even for the saving of a non-Jewish life. Whatever the legal difficulties were in theory, this has been the accepted practice of Jewish physicians for many centuries.

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In the 13th century R. Menachem Meiri had stated that the prohibition to desecrate the Sabbath for the sake of Gentiles applied only to “the ancient heathens . . . because they professed no religion at all, nor did they acknowledge their duty to human society” (*Bet Habechirah*, on *Yoma* 84b, and 85a; see also *Shittah Mekubetzet*, on *Bava Kamma* 38a). Later, particularly from the 17th century onwards, numerous rabbis acknowledged that, however strict the letter of the law may be on the subject, even the most pious Jewish doctors did in fact attend to Jewish and non-Jewish patients alike on the Sabbath. Indeed, R. Chaim Halberstam, the celebrated 18th century Chasidic leader, mentions a report that the Jewish “Council of the Four Lands” in Poland had formally permitted the treatment of non-Jews on the Sabbath, though he could not confirm the issuance of such an enactment (for detailed sources, see my *Jewish Medical Ethics*, 1962, p. 63 and notes).

What is novel in Rabbi Unterman’s responsum is his suggestion that the Sabbath in principle belongs to the three cardinal laws and that, as such, it would have to be observed even at the cost of life if the Torah had not expressly sanctioned its violation for the sake of the many Sabbaths observance of which is thereby rendered possible, i.e., for the preservation of a Sabbath-observing life.

Also original is Rabbi Unterman’s emphasis on the “enmity” principle as an integral element in rabbinic ethics. This argument may be capable of further development. Was this principle, as enunciated in the Talmud and expanded by later rabbinical authorities, meant merely to recognize the *force majeure* of attitudes which might embitter or imperil Jewish-Gentile relations, or was it deliberately introduced as a purely ethical counter-indication to laws which might otherwise be conducive to immoral results? In practice there may be little difference between these two alternatives, for they both lead to pragmatic verdicts compatible with amicable Jewish-Gentile relations and with the highest ethical standards. But in moral reasoning, the second alternative would represent a bold and ingenious device of the rabbis to operate an ethical corrective in their legislation even to the extent of overriding Biblical laws conflicting with this

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principle. By averring that the Torah itself stipulated that, to be valid, its laws must accord with "the ways of pleasantness and peace," they would affirm that any law leading to "enmity" is automatically suspended or modified in much the same way as a law (other than the cardinal laws) conflicting with life is set aside because it was given "that man shall live by it" (Lev. 18:5) "and not die by it" (*Yoma* 85b).

### IV.

We have here, then, a classic example of rabbinical endeavors to adjust the Halakhah, within the framework of its own rules, to the exigencies of the times or indeed to the demands of ethical probity. The stringent rules of the Talmud and the *Shulchan Arukh*, however logically sound in themselves, did not deter the rabbis from introducing modifications by using their halakhic ingenuity, reinforced by their lofty concept of Torah ethics, to explain, if not to justify, the practice of Jewish physicians in violating the Sabbath for non-Jewish as well as Jewish patients. Here surely is a case where rigidity was deliberately sacrificed in favor of flexibility in a remarkable effort to align the letter to the spirit of Jewish law.

How odd it is, therefore, to find just this case picked by the detractors of traditional Judaism as evidence for the "abominations" in the Halakhah and the "pusillanimity" of the rabbis! "Hatred corrupts the straight line," says a Talmudic maxim, and perhaps it should occasion no undue surprise if, in their hostility to the Jewish religion and its teachers, these antagonists resort to libel, falsehoods and vituperation, caring little if in the process they provide the most deadly ammunition to the arsenal of anti-Semitism, or if they heap disgrace on their own heritage. But even the excesses born of enmity hardly explain their inconsistency. Here they constantly clamor for rabbinical relaxations, yet they are outraged when the rabbis in fact relax the law. In the light of the facts, what is one to make of the following assault in the afore-mentioned issue of the *Jewish Chronicle* under the provocative heading "Travesty of Brotherly Love"?

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How right . . . is Dr. Shahak in condemning Rabbi Unterman’s feeble, permissive edict, as morally false. If this is the best our rabbis can do to wipe out a declaration which is a stain and a stigma on Judaism, it is high time that overwhelming public opinion forced them to change their attitude or to make way for rabbis of more enlightened, humanistic and Hillel-like opinion.

As corroborated earlier in this article, these un-Hillel-like agitators are forcing a door which has been wide open for centuries.

The whole subject may well merit a good deal more historical research, and interested readers are particularly recommended to study R. David Hoffmann’s classic *Der Schulchan Aruch und die Rabbinen ueber das Verhaeltnis der Juden zu den Andersgläubigen* (Berlin, 1894). But even for those unacquainted with the sizeable literature on Jewish-Gentile relations in Jewish law, one final set of questions must seem inescapable. Assuming that the charges against the Talmud had some substance, and it did contain laws which were “discriminatory,” “inhuman” or “abominable” as alleged. What are today’s rabbis to do in order to “wipe out” such “a stain and stigma”? Other than re-interpret the law, which they in fact did on the basis of the Talmud itself, are they to censor new editions of the Talmud, or perhaps burn it at the stake, as the medieval Jew-baiters did? Or should they, rabbis in Israel, denounce the Talmud as immoral, as Rohland and Streicher did? Or should they brazenly falsify the truth as Shahak did?

The only explanation one can find for this outburst of unreason is that evidently anti-religious Jewish fanaticism is no less irrational than anti-Semitism itself.