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Survey of Recent Halakhic Periodical Literature

THE ZEBU PROBLEM

The issues surrounding recognition of the zebu as a kosher animal were reviewed in this column in the Spring, 2001 issue of *Tradition* in conjunction with discussion of the *kashrut* of the giraffe. The controversy dates to the late 1950s when an opportunity arose to import zebu to Israel from Madagascar. The then Chief Rabbi of Israel, Rabbi Isaac ha-Levi Herzog, ruled that the zebu was a kosher breed of cattle and was acceptable for kosher slaughter. That view was vigorously contested by Rabbi Abraham I. Karelitz, renowned as *Hazon Ish*. Assuming that the zebu differed markedly in its physical characteristics from other bovine species, *Hazon Ish* contended that no species can be accepted as kosher in the absence of a received tradition regarding its *kashrut*. In deference to *Hazon Ish*, the Israeli Chief Rabbinate declined to sanction the Madagascar source of supply and for decades nothing further was heard with regard to the matter.

That controversy erupted again shortly before Purim 5764 with a report that meat imported by Israel from South America is actually the meat either of the zebu itself or of hybrid cattle resulting from the cross-breeding of the zebu with other species. It has been alleged that virtually all of the Israeli *kashrut* authorities, including those of the *glatt* kosher market, were slaughtering such animals. That contention met with a wide range of reactions. Some *kashrut* authorities vehemently denied the charges and, in one case, published a document issued by a meat-processing company certifying that that particular company deals only in Hereford and Angus cattle. Others responded with a candid acknowledgement that they did indeed slaughter zebu and had been doing so for a considerable period of time. They contended either that they rely upon the opinion of the many authorities who disagree with *Hazon Ish* or that the zebu they import is not the same species banned by *Hazon Ish*. Indeed, one animal physiologist, Dr. Lawrence Shore, a member of the faculty of the Weizmann Institute of Science, has claimed that the animal of which *Hazon Ish* spoke was not the zebu but the bison. One writer

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has claimed that the "zebu" and the South American "cebu," the Spanish term for zebu, are, in actuality, the names of different species.

In the wake of those conflicting reports, Israel's preeminent halakhic decisor, Rabbi Yosef Shalom Eliashiv convened an *ad hoc* committee and charged its members with investigating the factual basis of the allegations. In the interim, based upon a variety of considerations, he ruled that meat already on the market might be consumed but that no future slaughter of animals from the herds in question be undertaken pending clarification of the matter.

The primary anatomical distinction of the zebu is the presence of a hump-like protrusion behind the head on its shoulders.[1] In fact the term "zebu" connotes humped cattle. The origin of the zebu as a distinct species is traced to India. It was introduced into Brazil at a rather early date and resulted in the development of an Indo-Brazilian species. The animal is hardier than other breeds of cattle and, unlike some breeds, thrives in warm climates. The Brahman, perhaps world wide the most popular breed of cattle, is one of the major zebu breeds. Brahmin have loose, saggy skin with sweat glands that enable them to sweat freely through the pores of the skin, an adaptation that contributes materially to heat tolerance. They are also capable of walking long distances to obtain water. Apparently, however, the meat of the zebu is rather tough and hence it is often bred with other species. Early American settlers found the zebu to have advantages lacking in the cattle they brought from Europe and so a gradual process of interbreeding occurred. If the claims of the International Association of Zebu Breeders are to be accepted, crossbreeding with the zebu is extremely prevalent.[2] If so, there are few cattle in either North or South America that can be presumed to be totally free of zebu ancestry, although in most cases the distinctive hump is no longer manifest. Indeed, Dr. Shore has asserted that, if *Hazon Ish* ate meat, he must have partaken of the meat of such animals because all meat available in Israel during his lifetime was derived from those hybrids. Hence Dr. Shore's contention that *Hazon Ish* was actually speaking of the bison.

The controversy has been widely reported in the Israeli *haredi* press, including *Yated Ne'eman*, *Yated ha-Shavu'a*, 26 Adar 5764, pp. 21-24; *Ha-Shavu'a be-Yerushalayim*, 28 Adar 5764, pp. 16-17; *Mishpahah*, 18 *Adar* 5764, pp. 2-3 and 25 Adar 5764, pp. 2-16 and p. 26; *Sha'ah Tovah*, *Parashat Ki Tisa*, 5764, pp. 7-9 and *Parashat Va-Yakhel-Pekudei*, 5764, pp. 12-24 and pp. 64-67; *Hadashot ba-Kehillah*, 25 Adar 5764,

pp. 34-37; *Yated Ne'eman*, *Shabbat Kodesh*, *Parashat Va-Yikra*, pp. 10-11; and *Ha-Edah*, *Parashat Va-Yakhel-Pekudei*, 5764, p. 10 as well as in the *Jerusalem Post*, March 19, 2004, p. 45. The halakhic sources are reviewed in detail by R. Pinchas Eliyahu Eisenthal in the newspaper published by the Belz community, *Ha-Mahaneh ha-Haredi*, *Parashat Va-Yakhel-Pekudei*, 5764, pp. 36-37, and reprinted in its *kashrut* journal, *Ha-Mehadrin*, pp. 51-58.

The halakhic issues have already been examined in detail in conjunction with this writer's earlier discussion of the *kashrut* status of the giraffe in *Tradition* 35:1 (Spring 2001), and need be only be briefly summarized. Rema, *Yoreh De'ah* 82:3, rules that the talmudic criteria that once served to distinguish the twenty-four scripturally identified forbidden birds and all others that are kosher can no longer be relied upon and hence no bird may be eaten unless there exists a received tradition with regard to its identity as a kosher species. *Shakh, Yoreh De'ah* 80:2, as understood by *Hokhmat Adam* 36:1; *Arukh ha-Shulhan*, *Yoreh De'ah* 80:10; *Erekh ha-Shulhan*, *Yoreh De'ah* 11:4-5; and *Hazon Ish*, *Iggerot Hazon Ish*, I, no. 99,[3] *Iggerot Hazon Ish*, II, no. 73 and *Iggerot Hazon Ish*, III, no. 113,[4] maintains that, despite the fact that Scripture explicitly spells out the identifying criteria of kosher four-legged animals, these animals also may not be consumed in the absence of a tradition with regard to the *kashrut* of the species. *Pri Megadim*, *Siftei Da'at* 80:1, however, understands *Shakh*'s comment as limited to the need for a tradition establishing that a particular species is a *hayyah* rather than a *behemah*.[5] The primary difference is that the *helev*, i.e., the fatty portions of the hindquarters of a *behemah*, are forbidden while those of a *hayyah* are not. According to *Pri Megadim*, no tradition is necessary to establish the fundamental *kashrut* of an animal having split hoofs. *Pri Megadim*'s understanding of *Shakh* is accepted, *inter alia*, by *Kaf ha-Hayyim*, *Yoreh De'ah* 80:5, *Bet Yizhak*, *Amudei Zahav* 80:3, and, more recently, by R. Samuel Ha-Levi Woszner, *Teshuvot Shevet ha-Levi*, X, no.114.[6] The controversy, of course, is of no relevance to Sephardim who follow the views of *Shulhan Arukh* and do not accept Rema's stringency even with regard to birds.

As this writer has previously noted, the identical issue surrounds acceptance of the American buffalo as a kosher animal. The American "buffalo" is not at all a buffalo but a bison indigenous to the North American continent with regard to which, unlike the European buffalo, there is no tradition.[7] The subject of Rabbi Woszner's responsum is,

in fact, the bison rather than the zebu. As noted earlier, Dr. Shore has also pointed out that bison are much more dissimilar to cattle than are the zebu.

It may also be noted that *Hazon Ish* was somewhat less than absolute in his assertion that a zebu requires an independent tradition of *kashrut*. *Hazon Ish*'s hesitation was based on the fact that he did not examine a zebu and hence was somewhat unsure of whether its characteristics differ sufficiently from other species of cattle to trigger that requirement.[8] That question can also be raised with regard to other species such as elk, antelope and bison as well.

One further point should be noted. It is evident from *Kovez Iggerot Hazon Ish*, III no. 113, that, in his second letter to *Hazon Ish*, Rabbi Herzog claimed that there was a *mesorah* or tradition with regard to the *kashrut* of the animal in question in the locale from which it was to be imported. *Hazon Ish* responded to that assertion with the observation that the *mesorah* of one country is of no avail in another country. Thus, *Hazon Ish*'s concern was only with regard to importing the "Indian ox" to Israel. Accordingly, in countries in which the local zebu were accepted as kosher before dissemination of the comment of *Shakh*, it is certainly arguable that consumption of the meat of the zebu presents no problem even according to *Hazon Ish*.

WHEELCHAIRS ON SHABBAT

Transporting a person through a public thoroughfare who is himself capable of walking constitutes a rabbinic rather than a biblical offense. Nor is there a biblical infraction in transporting such a person while he or she occupies a bed because the bed is regarded as an appurtenance of the person. However, if the person is incapable of walking, carrying that individual through a public thoroughfare on *Shabbat* constitutes a biblical transgression.[9] Thus, it is clear that a person who cannot walk may not be pushed through the streets on *Shabbat* in a wheelchair.

R. Zevi Pesach Frank, *Teshuvot Har Zevi*, *Orah Hayyim*, I, no. 170, examines the interesting question of whether such a person may push his own wheelchair on *Shabbat*. The Mishnah, *Shabbat* 65b, declares that an amputee is free to walk with a prosthesis because, as Rashi explains, the prosthesis is regarded as his "shoe." For the same reason *Shulhan Arukh*, *Orah Hayyim* 301:16, rules that an amputee may walk

on leather pads. Similarly, it may be argued, with regard to a person who is not ambulatory, the wheelchair is tantamount to his "feet."

Nevertheless, Rabbi Frank rules that use of a wheelchair on *Shabbat* in a public thoroughfare is forbidden. A prosthesis, cane or pad is designed to assist a person in using his own physical power in walking. Those items make the process possible and have the status of shoes which may be worn on *Shabbat* because they are articles of clothing and, as such, are appurtenances of the body. A wheelchair does not assist its user in walking and does not have the status of a shoe; since a wheelchair is not worn on the body it is not an item of clothing. Accordingly, Rabbi Frank concludes that a person may not wheel himself on *Shabbat* just as others are not permitted to push the wheelchair.

R. Shimon Grunwald, *Teshuvot Maharshag*, II, no. 13, makes the identical point with regard to the status of a wheelchair. *Maharshag* argues that even if the person occupying the wheelchair is capable of walking, and hence carrying or pushing him is merely a rabbinic infraction, pushing the wheelchair itself constitutes a biblical transgression because the wheelchair cannot be considered to be comparable to an article of clothing.

Maharshag, quite understandably, forbids allowing the wheelchair to be pushed by a non-Jew even for purposes of a *mizvah* such as public prayer in a synagogue. Moreover, *Maharshag* prohibits employment of a non-Jew for this purpose even in an area in which carrying is only rabbinically forbidden.[10] In doing so, *Maharshag* rules in accordance with the authorities cited by *Shulhan Arukh*, *Orah Hayyim* 307:5, who maintain that it is forbidden to direct a non-Jew to perform a rabbinically proscribed act even when the act is undertaken for purposes of fulfilling a *mizvah*. However, the consensus of opinion among latter-day authorities is in accordance with the permissive view cited by *Shulhan Arukh* sanctioning employment of a non-Jew for performance of a rabbinically proscribed act when such is necessary in order to fulfill a *mizvah*.

R. Moshe Feinstein, *Iggerot Mosheh*, *Orah Hayyim*, IV, no. 90, adopts a position directly at variance to that of Rabbi Frank and Rabbi Grunwald in ruling that a wheelchair is the "shoe" or "garment" of a person incapable of walking. Accordingly, *Iggerot Mosheh* has no reservation with regard to permitting a person to wheel himself in a wheelchair on *Shabbat*.

R. Yitzchak Ya'akov Weisz, *Teshuvot Minhat Yizhak*, II, no. 114, is in agreement with Rabbi Frank and Rabbi Grunwald in declaring that a

wheelchair cannot have the status of a "shoe" since it does not serve as an aid in self-ambulation. He nevertheless tentatively advances another consideration that would serve to render use of a wheelchair permissible. *Minhat Yizhak* takes it for granted that, were such a situation logically conceivable, there would be no prohibition against a person carrying himself even if that person is physically unable to walk. *Minhat Yizhak* suggests that the wheelchair may be regarded as an appurtenance of the person *(tafel)* and hence a person may "carry" his wheelchair just as he may carry himself. That consideration is based upon the statement of the Mishnah *Shabbat* 93b, indicating that transporting a person reclining upon a bed into a public thoroughfare on *Shabbat* involves no biblical infraction because the bed is *tafel* to the person. A similar argument is presented by R. Yeshoshua Neuwirth, *Shemirat Shabbat ki-Hilkhatah*, 2nd edition (Jerusalem, 5739) 34:27, note 103, in the name of R. Shlomoh Zalman Auerbach. The only area of doubt, according to *Minhat Yizhak*, is whether the wheelchair is indeed *tafel* to the person. Even though early-day authorities speak not only of a bed but also of a chair as being *tafel* to the person, *Minhat Yizhak* suggests that the reference may be limited to the type of chair that is used in the home on a regular basis for ordinary activities but that a chair used only for purposes of transportation may not be *tafel* to the body. Although the two matters are not entirely identical, *Minhat Yizhak* compares the question of the wheelchair to the rule with regard to a cane. A cane that is needed for assistance in walking both at home and abroad has the status of a "shoe;" a cane that is needed for walking in the street but not at home is not regarded as a "shoe."

Shemirat Shabbat ke-Hilkhatah quotes Rabbi Auerbach as having raised another objection. When a person reclining upon a bed is transported by others their intention is to carry the person and the bed is incidental to the person transported thereon. However, the invalid who pushes himself in a wheelchair is, in fact, primarily propelling the wheelchair and in doing so takes advantage of the opportunity to move with the wheelchair. In effect, argues Rabbi Auerbach, the invalid becomes an appurtenance to the wheelchair. Rabbi Auerbach further suggests that the same consideration should apply in situations in which the wheelchair is pushed by others. *Shemirat Shabbat ke-Hilkhatah* relies upon the permissive opinion in ruling that an invalid may propel his own wheelchair but only in areas in which carrying is merely rabbinically forbidden.

Minhat Yizhak further suggests that even if the chair itself is *tafel* to the person, nevertheless, the wheels designed for use with the wheelchair are not intrinsic to the chair itself and hence are an appurtenance of the chair rather than an appurtenance of the person. Consequently, since the wheels are not an appurtenance of the person, *Minhat Yizhak* argues that the wheels may not be transported on *Shabbat*. To this writer, that objection would seem germane only in the case of a chair to which wheels have been added as an appendage. A conventional wheelchair, however, has no feet and hence, were the wheels to be removed, would be unusable. It is difficult to understand why, under such circumstances, the wheels need not be regarded as the feet of the chair and hence integral to its function as a chair.

Nevertheless, since *Minhat Yizhak* regards the status of a wheelchair to be a matter of doubt, he is willing to permit the use of a wheelchair on *Shabbat* under extremely limited conditions. If two people, each of whom is capable of performing an act of labor independently of the other, perform the act together, the infraction is rabbinic, rather than biblical, in nature. Hence, if the occupant of the wheelchair is capable of walking, the act of carrying or pushing such a person is only rabbinically prohibited. Accordingly, argues *Minhat Yizhak*, a non-Jew may be requested to carry an ambulatory individual for purposes of a *mizvah*. However, directing a non-Jew to push a wheelchair in which a person is seated constitutes a directive ordering the non-Jew to perform a biblically prohibited act. *Minhat Yizhak* innovatively suggests that asking the non-Jew to push the wheelchair is nevertheless permitted if the occupant pushes the wheelchair together with the non-Jew, provided that the occupant is capable of propelling the wheelchair himself without assistance. Since the Jew and the non-Jew are both performing the act of "labor" simultaneously, the non-Jew is being requested to perform an act that is only rabbinically prohibited.[11] In ruling in this manner *Minhat Yizhak* espouses the view that it is permissible to direct a non-Jew to perform a rabbinically forbidden act for purposes of fulfilling a *mizvah* such as public prayer or the like. *Maharshag*, whose negative ruling regarding employing a non-Jew to perform a rabbinically proscribed act for purposes of fulfilling a *mizvah* was cited earlier, would disagree and refuse to sanction use of wheelchairs even under such conditions.

Minhat Yizhak fails to cite the discussion of the Sephardic scholar, R. Joseph Chaim ben Elijah, *Rav Pe'alim*, I, no. 25. The Gemara, *Beizah* 25b, declares that a palanquin or sedan-chair may not be used for transportation on *Yom Tov*. Somewhat surprisingly, *Tur Shulhan*

Arukh, *Orah Hayyim* 301:19, includes a reference to the rabbinic prohibition against use of a sedan-chair that is formulated by the Gemara with regard to *Yom Tov* among the laws of *Shabbat*. *Tur* also records an exception to that prohibition in the instance of a person whose presence "is required for the benefit of the multitude" *(rabbim zerikhim lo)*. *Bet Yosef*, *ad locum*, notes that earlier codifiers omit any reference to that prohibition in their codification of the laws of *Shabbat*. The obvious explanation of such omission is that they regard use of a sedan-chair on *Shabbat* to be forbidden under all circumstances because of the Sabbath prohibition against carrying in a public domain. *Tur*, however, explains *Bet Yosef*, maintains that the rabbinic prohibition against carrying a person who is himself capable of ambulation is also suspended when the person's presence is "required by the multitude." Accordingly, since *Tur* maintains that, in at least some circumstances, it is permissible to transport a person in a sedan-chair on *Shabbat*, it was necessary for *Tur* to record the regulations pertaining to use of sedan-chairs in his codification of the laws of *Shabbat*.

Rav Pe'alim cogently observes that *Bet Yosef*'s comment serves to explain *Tur*'s view with regard to carrying the person but fails to account for the permissibility of carrying the chair itself. Consequently, *Rav Pe'alim* astutely infers that *Bet Yosef* must have regarded the sedan-chair as no different from a bed or an ordinary chair which are regarded as appurtenances of the body and hence, for purposes of carrying on *Shabbat*, have the same status as the person himself. There can be no question, he asserts, that, if a sedan-chair is regarded as an appurtenance of the body, a wheelchair must be regarded as an appurtenance of the body as well.[12]

In a responsum addressing the permissibility of riding a bicycle on *Shabbat*, *Rav Pe'alim*, I, no. 25, draws attention to the earlier-cited statement of the Gemara, *Beizah* 25b, forbidding use of sedan-chairs other than by a person whose presence was necessary "for the benefit of the multitude." The most obvious explanation of the rule is that such activity is forbidden by rabbinic decree as a weekday or excessively laborious activity but that an exception was built into the edict permitting such activity when necessary "for the benefit of the multitude." That explanation is reflected in the ruling of R. Ezekiel Landau, *Teshuvot Noda bi-Yehudah*, *Mahadura Tinyana*, *Orah Hayyim*, no. 11 and *Mahadura Tinyana*, *Orah Hayyim*, no. 28. However, the same author, in his commentary on *Beizah*, *Zlah*, *ad locum*, maintains that the rule is based upon the prohibition against carrying in a public domain.

Although the Gemara refers to *Yom Tov* activity, carrying in a public domain is forbidden even on *Yom Tov* unless such carrying is undertaken for some need. Accordingly, *Zlah* understands the Gemara as applying that principle in forbidding the carrying of a sedan-chair unless "the multitude" require the presence of the person being carried, i.e., the transport is for satisfaction of some need.[13]

Rav Pe'alim accepts the usual explanation that the Gemara's statement reflects an edict banning weekday activity and is concerned with whether or not that edict includes riding a bicycle as well. *Minhat Yizhak* raises the identical concern with regard to a wheelchair.[14] If so, there is reason to assume that use of a sedan-chair is forbidden even in areas enclosed by an *eiruv* in which there is no problem with regard to carrying but in which use of a sedan-chair may yet be a "weekday activity." R. David ibn Zimra, *Teshuvot Radvaz*, V, no. 2,163, does regard the prohibition against use of a sedan-chair to be in effect even in a locale in which there in an *eiruv*. However, R. Joseph Saul Nathanson, *Sho'el u-Meshiv*, *Mahadura Tinyana*, III, no 74, contends that carrying from place to place in a private domain involves no desecration of *Shabbat* or *Yom Tov* and the Sages did not seek to ban any form of carrying in a private domain on the grounds that it is a "weekday activity." Nor, argues *Sho'el u-Meshiv*, did the Sages prohibit any form of carrying in an area enclosed within an *eiruv*. Hence, *Sho'el u-Meshiv* finds no objection to use of a sedan-chair in an area circumscribed by an *eiruv*.[15]

Rav Pe'alim himself assumes that the concern with regard to "dishonor of the Sabbath" that prompted the rabbinic edict is cogent only with regard to a trip of significant length. Accordingly, he distinguishes between a sedan-chair that is carried by others and a bicycle which is pedaled by the rider. *Rav Pe'alim* further distinguishes between a sedan-chair that is designed to accommodate multiple passengers and hence is used for transportation over relatively long distances and a bicycle seating only one person which, contrafactually, he contends is used only for short trips. *Keren le-David*, no. 96, employs a similar distinction in permitting use of baby carriages on *Yom Tov* and on *Shabbat* within an area surrounded by an *eiruv*[16] on the grounds that carriages are used only for short distances. *Minhat Yizhak* applies *Keren le-David*'s distinction to wheelchairs in stating that the rabbinic prohibition is not applicable to wheelchairs because a wheelchair is generally used to traverse only a short distance.[17]

Rav Pe'alim further contends that "the need of the multitude" is not the sole exception to the prohibition against use of a sedan-chair.

Rav Pe'alim asserts that use of a sedan-chair for the purpose of any *mizvah*, including attendance at synagogue services, is similarly permitted. That is also the position of *Teshuvot Yesamah Lev*, no. 4. However, *Sedei Hemed*, *Asifat Dinim*, *Ma'arekhet Yom Tov*, no. 1, sec. 32, contends that the exclusion is limited to the "need of the multitude" and that there is no exception to the edict for purposes of fulfilling a *mizvah*.

Minhat Yizhak is somewhat more lenient in permitting the use of a wheelchair in an area enclosed by an *eiruv*. Citing *Taz*, *Orah Hayyim* 622:3, *Minhat Yizhak* infers from *Taz*' comments that a person who cannot walk may push his own wheelchair because the rabbinic edict does not apply to a person transporting himself in situations in which he cannot otherwise move from place to place. Accordingly, *Minhat Yizhak* rules that a person may push his own wheelchair in such an area even for a purpose other than fulfillment of a *mizvah*.

Minhat Yizhak also recognizes, as did *Sho'el u'Meshiv*, that there is no rabbinic decree banning the carrying of a person either on *Yom Tov* or on *Shabbat* within an area enclosed by an *eiruv*. Accordingly, *Minhat Yizhak* further implies that, if the wheelchair is to be regarded as an "appurtenance" of the person's body, pushing a wheelchair is no different from carrying the person and the clothes he is wearing and, if so, others may push the wheelchair as well, provided, of course, that the wheelchair is used only within the *eiruv*. *Minhat Yizhak*, however, regards the status of a wheelchair as an "appurtenance" of the body to be a matter of doubt but nevertheless rules that, since the matter involves a rabbinic prohibition, a permissive ruling is warranted in instances of doubt. As noted earlier, *Rav Pe'alim* and *Maharshag* would have no reservation with regard to use of wheelchairs on *Shabbat* within an area circumscribed by an *eiruv*.

THE "ROLL-A-BOUT"

A relatively new device known as a "Roll-A-Bout" has appeared on the market. That device is designed to replace crutches for any person who has sustained an injury below the knee. In essence, it is a walker on wheels with a platform attached to the midsection. The patient bends his injured leg at the knee and places it on the platform so that the the knee and ankle rest on the foam cushions attached to the platform. Body weight is distributed evenly between the healthy foot and

the upper portion of the injured foot resting on the platform. The patient grasps the device with one hand and propels himself with the healthy foot.

This device has significant advantages over crutches in that it provides greater mobility, stability and comfort. The "Roll-A-Bout" eliminates pressure upon the palms and armpits, distributes body weight over both sides of the body rather than upon the healthy foot alone and allows for more rapid ambulation.

In this writer's opinion, the halakhic status of the "Roll-A-Bout" is identical to that of a prosthesis, crutch or cane and its use is permissible on *Shabbat*. The device has no function or purpose other than as an aid in walking. Even if one accepts *Minhat Yizhak*'s contention that use of a wheelchair on *Shabbat* is problematic because, even if the chair itself is a *tafel* to the person, the wheels that propel it are not intrinsic to the chair and hence are an appurtenance of the chair rather than of the person, that consideration is not germane with regard to the "Roll-A-Bout."

A chair serves a utilitarian function *qua* chair; hence wheels attached to the chair are, arguably, an appurtenance of the chair rather than of the person. A "Roll-A-Bout" from which the wheels have been removed could not be used for any utilitarian purpose. Since the device without wheels is devoid of function, its wheels are integral to the device and hence, even according to *Minhat Yizhak*, since they serve as an integral part of the device, should be considered to be an appurtenance of the person rather than an appurtenance of the device.

CHOOSING BETWEEN THERAPIES: A PAINFUL DILEMMA

The widely-acclaimed Jerusalem Institute of Technology, of which the late R. Shlomoh Zalman Auerbach was a guiding spirit, has, for the past number of years, been compiling and publishing an annual volume of essays devoted to topical halakhic issues pertaining to technology and medicine. Those volumes, bearing the title *Ateret Shlomoh*, are published in memory of Rabbi Auerbach.

Volume IV (Adar 5759) of that series features an article by the highly regarded head of the Institute, R. Levi Yitzchak Halperin, devot-

ed to a heart-wrenching medical problem. The hypothetical case involves a child afflicted with a malignant brain tumor that would almost certainly be fatal if left untreated. The tumor in question can be treated in one of two ways: 1) Chemotherapy can be used in treating this form of cancer and will he successful in approximately 60% of all cases. 2) The tumor can also be treated by whole-brain radiation which is effective in virtually all cases. The problem with the latter form of treatment is that, in a pediatric patient whose brain is not fully developed, there is a strong likelihood that the patient will suffer loss of neural function so severe that it will render the child a *shoteh*, i.e., the child will suffer extreme mental retardation. For purposes of analyzing the problem it must be assumed that radiation cannot be held in abeyance until it is determined whether or not chemotherapy will be successful.

Assuming that there is no cogent reason to fear that radiation poses a risk of foreshortening life, there is little question that, were radiation the sole therapy available, it would be obligatory to treat the patient in that manner even were resultant severe mental retardation to be a certainty. The issue in the case described is whether a statistically less efficacious therapy may be employed in the hope of not compromising quality of life.

This writer has consulted a number of medical specialists in the fields of pediatrics, oncology, neurology and radiology in an attempt to identify the type of tumor for which these possible modes of therapy are accompanied by the statistical risks described. That effort did not meet with success. It must be presumed that the discussion refers to a hypothetical situation. The fact that, as presented, the dilemma is not actual in no way diminishes the importance of the issue involved. The halakhic principles to be applied are applicable in many other situations as well.

Rabbi Halperin frames the question in terms of the consideration that it will become impossible for the mentally incompetent patient to perform *mizvot*. Framed in those terms, the issue is whether or not a person may accept a significant degree of risk, not in order to effect a cure, but to be assured of the ability to perform *mizvot*. The broader question is whether a person may accept a significant degree of risk in order to improve, or prevent a deterioration of, quality of life. The dilemma as posed by Rabbi Halperin is whether severe mental retardation must be accepted as the cost of improving chances of survival. The broader question is whether severe physical incapacity such as, for example, paralysis or blindness, must be accepted as the cost of improving chances of survival.

Rabbi Halperin tentatively suggests that there may be no obligation of rescue in situations in which the person whose life is saved will remain mentally incompetent. The Gemara, *Sanhedrin* 73a, bases the obligation to preserve the life of one's fellow upon the obligation to return lost property: Since a person is obligated to return lost property, *a fortiori*, he must be obligated to restore a person's life no less so than he is obligated to restore that person's property. However, as recorded in *Shulhan Arukh*, *Hoshen Mishpat* 261:4, there in no obligation to restore the property of a person who willfully abandons or attempts to destroy his property. The fact that the Gemara derives the obligation of rescue from the obligation to restore lost property prompted *Minhat Hinnukh*, *Komez Minhah*, no. 237, and R. Yerucham Perlow, in *Mahari Perlo*, his commentary on R. Sa'adia Ga'on's *Sefer ha-Mizvot*, *mizvot aseh*, no. 28, s.v. *u-milevad zeh*, to reach the astonishing conclusion that there is no obligation to intervene in order to prevent a would-be suicide.

Surprisingly, but on the basis of the same line of reasoning, R. Shlomoh Kluger, *Hokhmat Shlomoh*, *Hoshen Mishpat* 426:1, asserts that there is no obligation to save one's fellow from imminent death if the act of rescue would involve humiliation or embarrassment to the rescuer. *Hokhmat Shlomoh* argues that the exemption from taking custody of and returning lost property in such circumstances extends to preservation of life.[18]

Rabbi Halperin applies a similar parallelism in the medical context. The Gemara, *Bava Mezi'a* 30b, establishes that a person must trouble himself to return another person's property only in situations in which he would devote similar time and expend similar effort in preserving his own property. Apparently assuming that the same exemption exists in a situation in which the owner of the property would not deem it worth his while to preserve his own property, argues Rabbi Halperin, there is no obligation to provide life-prolonging treatment for a person who does not wish to live. Such an individual would not seek to preserve his own life; hence, argues Rabbi Halperin, according to the earlier-cited authorities, it is not incumbent upon others to do so on his behalf.[19]

That argument fails for a number of reasons. A person has no obligation to prevent his property from becoming destroyed. The prohibition of *bal tashhit*, i.e., wasteful or wanton destruction of property, prohibits only wanton acts of destruction but does not mandate conservation of resources. Hence, a person may legitimately decline to preserve property facing imminent destruction, particularly when

intervention would involve expenditure of time and effort not commensurate with the value of the endangered property. Not so with regard to life. According to Rabbenu Nissim, a person is under obligation to preserve his own life even if he prefers death because failure to do so is tantamount to suicide. It then follows that, since a person is obligated to preserve his own life under any and all circumstances, others are similarly required to engage in acts of rescue on his behalf regardless of his desires.

Moreover, as Rabbi Halperin himself concedes, the positions of *Minhat Hinnukh*, *Mahari Perlo* and *Hokhmat Shlomoh* are rejected by the consensus of rabbinic authorities. The Gemara, *Sanhedrin* 73a, posits a further obligation to preserve the life of one's fellow based upon the verse "Nor shall you stand idly by the blood of your fellow" (Leviticus 19:16). That negative commandment seems to be quite independent of the obligation regarding restoration of property—and of the *a fortiori* obligation to rescue life—and, accordingly, does not admit of any of the exclusions attendant upon the obligation to restore lost property.[20]

Even if the earlier-cited authorities are correct in assuming that the prohibition "Nor shall you stand idly by the blood of your fellow" is limited to situations in which intervention is mandated by "and you shall restore it to him" (Deuteronomy 22:2) and does not establish an entirely independent obligation, the conclusion reached by those authorities is not compelled. A person's life, unlike his property, does not belong to himself but to the Creator.[21] Accordingly, argues R. Yo'av Yehoshu'a Weingarten of Kintzk (Konskie), in a responsum included in R. Issachar Berish Graubart's *Teshuvot Divrei Yissakhar*, no. 168, the obligation to preserve life is not a duty owed to the potential victim but to the Deity and that duty is shared equally by the rescuer and the person rescued.[22] In a responsum of which the earlier-cited authorities were apparently unaware, R. Meir of Rothenberg, *Teshuvot Maharam ben Barukh* (Prague, 5368), no. 39, rules unequivocally that an individual must be rescued from potential death even if he protests and vehemently demands that there be no intervention. A similar rebuttal is offered by R. Meir Dan Plocki, *Klei Hemdah*, *Parashat Ki Teze*, sec. 6.[23]

By far the sharpest language employed in rejecting those views is that of R. Moshe Feinstein, *Iggerot Mosheh*, *Yoreh De'ah*, II, no. 174, *anaf* 3:

> . . . with the forgiveness of these illustrious scholars, it is clear that it is absolute error, may their Master forgive them! Heaven forefend that

> the words of *Hokhmat Shlomoh* be uttered, for if the honor of Heaven is set aside . . . for the sake of saving the life of even the most inferior person . . . certainly the honor of a mortal, even of the greatest of the great, must be set aside.

Iggerot Mosheh argues that although preservation of personal dignity may be a consideration sufficient to negate the obligation to restore lost property, it cannot be invoked to excuse oneself from the obligation of rescuing life: God, in permitting violation of His commandments for purposes of *pikuah nefesh* has waived His own honor; *a foriori*, the dignity of a mortal cannot represent a value that might serve to abrogate the duty of rescue.

Iggerot Mosheh further argues that one must conduct oneself *vis-à-vis* another person's lost property as one would conduct oneself *vis-à-vis* one's own and hence one must act the same way with regard to preservation of the life of another. *Iggerot Mosheh* argues that since a person would seek to save his own life under any and all circumstances he cannot plead humiliation as an exception from the obligation to save the life of another. *Iggerot Mosheh* adds that even if the individual in question

> is a person to whom dignity is preferable to life, behold it is forbidden to die because of [avoidance of] demeaned dignity. Therefore that the person would be [willing to be] wicked is meaningless in terms of exempting him from rescuing others because of his wickedness. Besides, no person has credibility to declare that his dignity is preferable to him over his life.

Rabbi Halperin advances another consideration relevant solely to the particular situation be addresses, *viz.*, potential mental incompetence. As a rationale for the principle that Sabbath restrictions are set aside for preservation of life, the Gemara, *Shabbat* 151b and *Yoma* 85b, advances the argument: "Better that they desecrate one Sabbath on his behalf so that he may observe many Sabbaths." Rabbenu Nissim, *Yoma* 82a, offers that rationale, *inter alia*, in ruling that Sabbath restrictions must be set aside in order to preserve the life of a fetus even in the earliest stages of development. Rabbenu Nissim clearly maintains that this consideration is both normative and independent of other considerations in terms of setting aside halakhic restrictions.

Rashba, cited by *Bet Yosef*, *Orah Hayyim* 306, apparently disagrees. Rashba addressed a question involving a person whose daughter was abducted on *Shabbat* and faced forced apostasy. The interlocutor sought

advice with regard to the propriety of engaging in acts ordinarily forbidden on *Shabbat* in an attempt to rescue his daughter. Rashba replied that the matter requires further study but that he was inclined to the negative. Since an apostate will surely desecrate the Sabbath, acts of rescue could readily be justified on the basis of the rationale "Better that they desecrate one Sabbath in order to observe many Sabbaths," were that consideration to be considered normative.[24]

Nevertheless, both *Taz*, *Orah Hayyim* 306:5, and *Magen Avraham*, *Orah Hayyim* 306:29, understood Rema, *Hilkhot Shabbat* 328:10, as ruling that Sabbath prohibitions may be ignored in order to save a Jew from apostasy for precisely that reason, i.e., so that he may continue "to observe many Sabbaths." If so, argues Rabbi Halperin, it would follow that Sabbath restrictions may also be ignored in order to cure a person of lunacy or mental incompetence "so that he may observe many Sabbaths." Actually, that point was made much earlier by R. Iser Yehudah Unterman, *Shevet me-Yehudah*, I (Jerusalem, 5715), 49 and 64. Rabbi Unterman, however, declares that the Gemara posits that rationale only in situations in which the undertaking is assured of success so that the observance of "many Sabbaths" is a certainty.

Moreover, the argument is inherently flawed. The notion that a single Sabbath may be set aside in order to gain the observance of many Sabbaths reflects the notion that a certain degree of risk-taking *vis-à-vis* Sabbath observance is warranted in order to gain maximum Sabbath observance. It does not at all follow that even *hayyei sha'ah*, i.e., ephemeral longevity, may be ventured solely for the sake of maximizing Sabbath observance.

Rabbi Halperin also notes that mental incompetence is regarded by Halakhah as itself constituting a life-threatening condition. A person afflicted in that manner poses a danger to himself as well as to others and certainly lacks the mental capacity to avoid situations of danger. In support of that contention Rabbi Halperin cites a statement of *Bet Yosef*, *Yoreh De'ah* 228, in the name of Rashba. That responsum is published in *Teshuvot ha-Rashba ha-Meyuhasot le-ha-Ramban*, no. 281.

The earliest reference to mental disease sufficiently grave to imperil the life of the afflicted occurs in *Issur ve-Hetter he-Arukh*,[25] attributed to Rabbenu Yonah of Gerondi. *Issur ve-Hetter he-Arukh* cites a specific query addressed to an earlier authority, Maharam, concerning an epileptic who sought advice concerning the permissibility of partaking of a forbidden food reported to possess medicinal properties capable of curing his illness. The decision, in which Ramban acquiesces, is in the affir-

mative, provided that the efficacy of the remedy has been established. That decision is predicated upon a determination that epilepsy constitutes a danger to life since, at times, an epileptic may endanger himself by "falling into fire or water." R. Israel Meir Mizrachi,[26] *Teshuvot Pri ha-Arez*, III, *Yoreh De'ah* (Jerusalem, 5665), no. 21, relies upon the decision of Ramban in ruling that insanity also constitutes a danger to life and accordingly permits an abortion when it is feared that the mother may otherwise become mentally deranged. Rashba, cited by *Bet Yosef*, *Yoreh De'ah* 228, also regards mental incompetence as life-threatening in nature.[27] This position is also adopted by R. Mordecai Winkler, *Teshuvot Levushei Mordekhai*, *Hoshen Mishpat*, no. 39, who is cited by R. Waldenberg, *Ziz Eli'ezer*, IX, no. 51, *sha'ar* 3, chap. 3, sec. 9. Other authorities, including *Teshuvot Admat Kodesh*, I, *Yoreh De'ah*, no. 6; *Teshuvot Pri ha-Arez*, II, *Yoreh De'ah*, no. 2; *Birkei Yosef*, *Shiyurei Berakhah*, *Yoreh De'ah* 155; *Teshuvot Nezer Mata'ai*, I, no. 8; *Iggerot Mosheh*, *Even ha-Ezer*, I, no. 67; *Ziz Eli'ezer*, IV, no. 13, sec. 3; and R. Yosef Shalom Eliashiv, as cited by R. Yitzchak Silbertstein, *Assia*, no. 42-43 (Nissan 5746), pp. 26f., also maintain that mental incompetence constitutes a threat to life.[28]

NOTES

1. In *Kovez Iggerot Hazon Ish*, III, no. 113, *Hazon Ish* refers to Rabbi Herzog's report that the horns of the "Indian ox" are different from those of kosher *hayyot*. The various sources seen by this writer remarking upon the idiosyncratic hallmarks of the zebu fail to speak of distinctive horns.

   Curiously, the biographers of *Hazon Ish*, Shlomoh Cohen, *Pe'er ha-Dor*, IV (Bnei Brak, 5733), 226, and Zevi Yavrov, *Ma'aseh Ish*, I (Bnei Brak, 5759), 122, report that the animal prohibited by *Hazon Ish* had but one horn. Since the zebu has two horns either 1) the biographers were in error; 2) the animal in question was not the zebu; or 3) *Hazon Ish* was misinformed.
2. See www.cowmans.com/izba.htm.
3. Reprinted in R. Isaac ha-Levi Herzog, *Pesakim u-Ketavim*, IV, *Yoreh De'ah*, no. 21.
4. Reprinted in *Pesakim u-Ketavim*, IV, no. 22.
5. There is a similar ambiguity inherent in the comment of Ibn Ezra, Deuteronomy 14:5. Ibn Ezra notes that there are a total of seven species of kosher *hayyot* of which "the sheep and the deer are known; the five remaining species require a tradition." In all likelihood, Ibn Ezra intends to indicate—as does *Shakh*—that a *mesorah* is necessary in order to establish the *kashrut* of the species as one of the remaining five kosher *hayyot*. Ibn Ezra's words, however, might be construed as indicating only the requirement of a tradition to the effect that the animal in question is a *hayyah* rather than a *behemah*.
6. R. Isaac ha-Levi Herzog clearly differed with *Hazon Ish* regarding this matter. Unfortunately, only a fragment of this responsum is extant and appears in *Pesakim u-Ketavim*, IV, *Yoreh De'ah*, no. 20.
7. Cf., R. Israel Belsky, "Be-Din 'Bison,'" *Mesorah*, no. 20 (Adar 5764), pp. 66f., who suggests that *Hazon Ish* would have sanctioned consumption of buffalo since the buffalo is an "ox." However, that statement is unfounded. Both scientifically and in the eyes of the beholder, the zebu is far more similar to a cow than is the bison. Cf., *Halacha Berurah*, published by Zeirei Agudath Israel, vol. 7, no. 3, p. 3 and p. 4, note 24, in which Rabbi Belsky himself acknowledges that consumption of the meat of the American bison would not be sanctioned by *Hazon Ish*.
8. In responding to a second letter sent to him by Rabbi Herzog, in which Rabbi Herzog apparently argued that the zebu did not possess distinctive characteristics of material significance, *Kovez Iggerot Hazon Ish*, III, no. 113, *Hazon Ish*, referring to Rabbi Herzg's original letter writes: "There was no discussion in the [first] letter of whether the distinctiveness of the ox is sufficient to create doubt that it may be a species other than the common ox; rather it was determined that one must treat this as a new species that has come before us."
9. See *Mishnah Berurah, Bi'ur Halakhah* 308:41, *s.v. she-lo*.
10. Use of a wheelchair within an area in which carrying is permissible would seem to be entirely permissible. Cf., however, R. Yechiel Ya'akov

Weinberg, *Seridei Esh*, II, no 25. *Seridei Esh* addresses the question of use of a "wagon" within an area enclosed by an *eiruv*. Rema, *Orah Hayyim* 305:18, rules that it is forbidden to ride in a horse-drawn coach on *Shabbat* even when the coachman is a non-Jew for two reasons: 1) such an act involves rabbinically proscribed "use of an animal;" and 2) the rabbinic injunction prohibiting riding on the back of an animal lest the rider sever a branch from a tree in order to spur the animal applies also to riding in a wagon or a carriage drawn by an animal. *Seridei Esh* cryptically comments that, in the case of the "wagon" used by a paralyzed person, the sole applicable prohibition is the rabbinic injunction "lest he repair (*shema yetaken*)." Accordingly, he rules that a sick person may be taken to the synagogue, but only to the synagogue, in a wagon driven by a non-Jew since, on the Sabbath, a non-Jew may be directed to perform a rabbinically proscribed act in order to facilitate performance of a *mitzvah*.

Seridei Esh is certainly not referring to transportation by means of a horse-drawn wagon since Rema rules that, in such a situation, the Jew seated in the coach himself transgresses two rabbinic prohibitions. Indeed, in discussing use of a "wagon" on *Shabbat*, *Seridei Esh* posits a rabbinic prohibition not cited by Rema with regard to use of a horse-draws coach, *viz.*, "lest he repair." Presumably, then, the "wagon" to which *Seridei Esh* refers is a wheelchair. That prohibition is not cited by Rema because, although the Sages did forbid playing musical instruments on *Shabbat* "lest he repair" the instrument should it malfunction, they did not issue a blanket edict forbidding use of all utensils. To this writer's knowledge, no one has suggested that use of a wheelchair within a dwelling is forbidden on *Shabbat* as a violation of a rabbinic prohibition based upon the consideration "lest he repair." If so, there is no apparent reason why a wheelchair may not be pushed for any purpose, even by a Jew himself, within an area in which carrying is permissible. See the note of R. Shlomoh Zalman Auerbach included in the Jerusalem, 5759 edition of *Seridei Esh*, I, no. 32.

11. *Minhat Yizhak*, however, concedes that such a procedure would be difficult to execute and, moreover, would arouse astonishment in the eyes of onlookers who might be misled in assuming that use of a wheelchair even in a conventional manner is permissible.
12. The comment of *Rav Pe'alim* is, of course, not germane with regard to *Minhat Yizhak*'s reservation regarding the wheels of a wheelchair.
13. *Keren le-David*, no. 96, quite cogently objects that, if *Zlah*'s analysis is correct, use of a sedan-chair should be permitted even for the benefit of the passenger since the passenger's benefit or convenience is certainly a "need."
14. *Maharshag*, however, refuses to forbid use of a wheelchair as a proscribed "weekday activity." *Maharshag* cites *Teshuvot She'ilat Ya'akov*, no. 45, who forbids use of a bicycle even within an *eiruv* on such grounds, and *Teshuvot Pnei Mevin*, no. 71, who similarly forbids use of what appears to have been a rickshaw-like conveyance, but dismisses the contention that use of a wheelchair should be banned as a "weekday activity" with the remark that "We cannot create edicts and prohibitions of our own accord." *Rav Pe'alim* and *Minhat Yizhak* were, however, concerned that use of a bicycle and/or a wheelchair might fall within the ambit of the formal rabbinic pro-

hibition against use of a sedan-chair. That contention is not at all considered by *Maharshag*. Indeed, bicycles and wheelchairs are readily distinguishable from the sedan-chair that was the subject of rabbinic interdiction.

15. See also the similar view of R. Ezekiel Landau, *Teshuvot Noda bi-Yehudah*, *Mahadura Kamma*, no. 11, and the comments of R. Eliezer David Grunwald, *Keren le-David*, no. 96, s.v. *ve-hineh*.
16. It is of interest to note that *Keren le-David* concludes his responsum with a report that, his comments notwithstanding, "he heard" that, in Pressburg, God-fearing people did not use baby carriages on *Shabbat*.
17. It must be stated that no hint of this distinction is found in the discussion recorded in *Beizah* 25b. On the contrary, the Gemara reports that R. Nachman bar Isaac carried Mar Samuel "from the sun into the shade and from the shade into the sun" only because "a multitude" needed him. Similarly, an exception to the ruling permitted students to carry Ameimar and Mar Zutra to their seats in the House of Study.

    Nevertheless, two other points must be made: 1) The Gemara forbids use of a sedan-chair only for convenience but not for the sick or the infirm in instances in which the passenger would otherwise be afraid of falling. Apparently, then, the rabbinic prohibition forbids use of a sedan-chair only for convenience but not for the sick or the infirm. See *Taz*, *Orah Hayyim* 622:3. 2) The physical exertion involved in carrying a sedan-chair is far greater and qualitatively different from that required to push a wheelchair or carriage. The former certainly represents a much greater "dishonor of the Sabbath" than does the latter. Hence there is no evidence that the latter were included in the rabbinic edict.
18. R. Meir Don Plocki, *Klei Hemdah*, *Parashat Ki Teze*, sec. 6 (1), rebuts that contention on the basis of the categorization by the Gemara, *Sotah* 21b, of a person who declined to rescue a drowning woman as a "stupid pietist" (*hasid shoteh*). *Klei Hemdah*, *ibid*. 6(2), also notes that prevention of suicide is mandated not only by virtue of the obligation to preserve life but also by virtue of the obligation to prevent a fellow Jew from transgression. The latter obligation admits of no exception because of shame or embarrassment.

    Moreover, a person is exempt from restoring lost property if rescuing such property would cause him humiliation or embarrassment only if he would be willing to suffer the loss of such property were it his own in order to spare himself similar humiliation or embarrassment. It is highly unlikely that a person would decline to rescue a close relative whose life is endangered simply because such rescue would entail a measure of humiliation or embarrassment. See R. Yosef Shalom Eliashiv, *Sefer ha-Zikaron le-Maran ha-Griv Zolti*, ed. R. Yosef Buchsbaum (Jerusalem, 5747), p. 404.
19. The application of this argument to the case under discussion is far from clear. It may well be the case that a mentally competent, fully rational individual would deem a life of mental incompetence worse than no life at all. An infant, however, never having experienced life as a person endowed with reason, has no basis for an aversion to a life bereft of reason. Moreover, lacking mental development, an infant does not have the cognitive capacity to formulate a conscious desire either to survive or not to survive.
20. The notion that the negative commandment is not at all contingent upon the obligation of restoring lost property is developed by Rabbi Eliashiv,

Sefer ha-Zikaron, p. 404, and invoked by him in explaining why a person involved in fulfilling a *mizvah* is not thereby exempt from the obligation of rescuing a person whose life is endangered.

21. See Rambam *Hilkhot Rozeah* 1:4; Radbaz, *Hilkhot Sanhedrin*, 18:6; *Shulhan Arukh ha-Rav*, V, *Hilkhot Nizkei Guf va-Nefesh*, sec. 4; and R. Shlomoh Yosef Zevin, *Le-Or ha-Halakhah* (Tel Aviv, 5717), pp. 222ff. Cf., R. Shiloh Rafael, *Torah she-be-al Peh*, XXXIII (5452), 74-81, reprinted in *idem*, *Mishkan Refa'el* (Jerusalem, 5756), pp. 212-221.
22. Indeed, *Tur Shulhan Arukh*, *Hoshen Mishpat* 261, maintains that willfully abandoned property or property that a person attempts to destroy become *res nullius*. However, Rambam, *Hilkhot Gezelah ve-Avedah* 11:11, maintains that an attempt to destroy one's property does not render it *res nullius* but that, nevertheless, there is no obligation to preserved such property. R. Yo'av Yeshohu'a Weingarten's line of reasoning is cogent according to both positions. See Rabbi Eliashiv, *Sefer ha-Zikaron*, p. 404.
23. See also R. Joseph Chaim David Azulai, *Birkei Yosef*, *Orah Hayyim* 301:6, who rules that Sabbath restrictions are suspended for purposes of saving the life of a would-be suicide. Similar rulings are recorded in *Teshuvot Maharil Diskin*, *Kuntres Aharon*, no. 5, sec. 34, as well as in *Iggerot Mosheh*, *Yoreh De'ah*, II, no. 174, *anaf* 3 and *Yoreh De'ah*, III, no. 90.
24. The parameters of an entirely different principle that might serve as a basis for intervention, *viz.*, "A scholar would prefer to commit a lesser transgression so that an ingnoramous not commit a graver transgression" (*Eruvin* 32b), are discussed by *Tosafot, Shabbat* 4a. Cf., *Magen Avraham*, *Orah Hayyim* 306:29.
25. *Issur ve-Hetter he-Arukh* (Vilna, 5751), no. 59, sec. 35. Cf. also *Hagahot Maimuniyot*, *Hilkhot Ma'akhalot Assurot* 14:15.
26. Cf. *Piskei Teshuvah*, ed. R. Abaraham Pieterkovsky (Pietrokow, 5693), II, no. 261.
27. Cf. *Teshuvot ha-Rashba ha-Meyuhasot le-ha-Ramban*, no. 281; *Magen Avraham*, *Orah Hayyim* 554:8 and *Pri Megadim*, *ad loc.*
28. Cf., however, R. Iser Yehudah Unterman, *Ha-Torah ve-ha-Medinah*, IV, 27, who argues that the instinct for self-preservation is so deeply ingrained and suicide so rare that a suicide complex cannot be considered to be within the category of illnesses that endanger life. That assumption is quite evidently regarded as contrafactual by the many authorities who adopt an opposing view. See also this writer's *Contemporary Halakhic Problems*, I, (New York, 1977), 363.