

SURVEY OF RECENT HALAKHIC PERIODICAL LITERATURE

PERMITTING USE OF A *MIKVEH* FOR NON-ORTHODOX CONVERSION

With the possible exception of a small number of *mikva'ot* housed in Jewish Community Centers, virtually all—if not all—*mikva'ot* in this country were constructed and continue to be maintained under Orthodox auspices. Since other facilities are seldom available, Conservative clergymen and the few Reform clergymen who demand immersion in a *mikveh* as part of their conversion rituals must perforce utilize those *mikva'ot*. Many years ago, the late Rabbi Moses Feinstein was asked whether it is proper for Orthodox rabbis and communal leaders to permit the use of their facilities for this purpose. In a brief response published in *Iggerot Mosheh, Yoreh De'ah*, II, no. 125, Rabbi Feinstein draws a distinction between officiants who have contributed financially (presumably, either personally or through their Temples) to the construction of the *mikva'ot* they are desirous of using and those who have not. Rabbi Feinstein counsels that non-Orthodox clergymen who have not participated financially in the building of the *mikveh* should not be permitted the use of such facilities for purposes of conversions that are invalid in the eyes of Jewish law. Regarding those who have provided material support for the construction of a *mikveh*, Rabbi Feinstein writes, “. . . it is impossible to prevent them [from utilizing the *mikveh*] and the administrators of the *mikveh* have no responsibility for [the] acts [of such persons].” Rabbi

Feinstein advises that, in order to avoid friction and to dispel ill will, it be explained that the *mikveh* is intended for, and made available as a community service to women, without exception, for post-menstrual immersion, but that the *mikveh* is available for other purposes only to those who have participated in its construction. A second responsum by Rabbi Feinstein confirming the basic nature of this ruling is included in the last volume of *Iggerot Mosheh, Hoshen Mishpat*, II, no. 24.¹

Although, to this writer's knowledge, no article or halakhic responsum taking issue with Rabbi Feinstein's position has appeared either in the periodical literature or in scholarly works, the *de facto* policy adopted in many communities has been at variance with this ruling. In at least one city the matter recently became an issue of contention within the Orthodox community. A number of rabbinic authorities were approached for a definitive ruling with regard to this question. The response of Rabbi Natan Gestetner of Bnei Brak appeared in *Am ha-Torah*, Second Series, no. 11 (5746), and that of Rabbi Aaron Soloveichik was published in the Elul 5746 issue of *Ha-Darom*.

Despite impressions in many circles to the contrary, the concerns underlying this question—as well as those underlying the analogous controversial “Who is a Jew?” issue—are not predicated upon institutional or denominational rivalries.

Totally absent from the discussions of rabbinic scholars who have addressed this issue is any consideration of preserving a monopoly of power or privilege. Nor are the concerns expressed intended in any way to diminish the fraternal bonds which unite all Jews and which render every Jew responsible for the spiritual as well as the material welfare of each of his fellow Jews.

The specific halakhic problem arises from the fact that conversions performed under non-Orthodox auspices are *ipso facto* invalid for two reasons: (1) a proper "acceptance of the yoke of the commandments" is lacking; and (2) non-Orthodox clergymen are disqualified from serving as members of the Bet Din required for the acceptance of proselytes.

The earliest discussion of the question of "acceptance of the yoke of the commandments" in this context is that of R. Chaim Ozer Grodzinski, *Teshuvot Ahi'ezer*, III, no. 26, dated Winter, 1912. The Gemara, *Bekhorot* 30b, and the *Mekhilta*, *Parshat Kedoshim* 19:34, stipulate that a prospective convert must accept all commandments without reservation or exclusion. Acceptance of the commandments "with the exception of one thing" renders the conversion null and void. *Ahi'ezer* asserts that this condition is not met in conversions supervised by non-Orthodox officiants. *Ahi'ezer* reasons that since their knowledge of the commandments is obtained "from the interpretation of reformers in accordance with their false ideologies" the candidates' acceptance of *mitsvot* is deficient and "is comparable to [acceptance] 'with the exception of one thing.'" As early as 1929, and reiterated in 1950, Rabbi Feinstein, *Iggerot Mosheh*, *Yoreh De'ah*, I, nos. 157 and 160, declared that, in his opinion, even a conversion carried out before an Orthodox Bet Din is a nullity when it is evident that the candidate for conversion is insincere in acceptance of *mitsvot* and such lack of sincerity is evidenced by subsequent non-observance of the commandments. Conservative conversions, rules Rabbi Fein-

stein, are *a fortiori* invalid because a) no attempt is made to examine the candidate's seriousness of intent with regard to scrupulous observance of the entire corpus of *mitsvot*, and b) the members of the Bet Din themselves "do not observe many of the laws of the Torah and will not demand of converts that [the converts] observe more than they themselves observe."

Even more fundamental is the question of the qualification of non-Orthodox clergymen to serve as members of a Bet Din. Failure to accept the divinity and the binding authority of the Oral as well as of the Written Law in and of itself constitutes a disqualification from serving as a member of a Bet Din, as does the absence of a commitment to be bound by the commandments in their entirety. Such a requirement is not at all surprising. In most countries a judge cannot sit on the bench without first being sworn to uphold the laws of the land. In the absence of such a commitment his judicial decisions are legally meaningless, regardless of whether or not they reflect the law correctly. Jewish law does not require an oath—other than the one sworn by every Jew at Mount Sinai—but it does posit unequivocal acceptance of the teachings of the Torah as a precondition for holding judicial office. In a host of responsa spanning many decades Rabbi Feinstein has repeatedly and unequivocally declared that non-Orthodox clergymen do not meet this requirement.² In a number of these responsa Rabbi Feinstein makes it absolutely clear that Conservative as well as Reform clergymen are disqualified on these grounds. Thus, even if the requirements of Halakhah were to be scrupulously followed in performance of the formalities of the conversion ritual itself, the conversion is void by virtue of the disqualification of the officiants. Rabbis Feinstein, Soloveichik and Gestetner are unanimous and firm in their opinion that candidates converted under Reform or Conservative auspices remain non-Jews in the eyes of Jewish law.

In a separate responsum addressing another matter, appearing in *Ha-Pardes*, Heshvan 5747, Rabbi Aaron Soloveichik argues that even a Conservative clergyman who is not only scrupulously observant but also "believes with absolute faith in the Written Law and the Oral Law . . . and is highly knowledgeable, proficient in Talmud and Codes" is disqualified from serving on a Bet Din. The Gemara, *Sanhedrin* 26a, relates that Resh Lakish sought to disqualify R. Hiyya bar Zarnuki and R. Shimon ben Yehotsadak from serving on a Bet Din convened to add an intercalary month to the year. Resh Lakish criticized a number of individuals whom he observed performing acts which, ostensibly, were violations of restrictions pertaining to the observance of the sabbatical year. R. Hiyya bar Zarnuki and R. Shimon ben Yehotsadak attempted to defend the actions of those persons. Thereupon Resh Lakish sought to disqualify those scholars from serving on the Bet Din on the grounds that, in defending sinners, they had entered into a "*kesher resha'im*," a confederacy of transgressors. Rabbi Soloveichik opines that the Gemara herein posits an otherwise unidentified disqualification from holding judicial office, viz., defense of, and hence identification with, transgressors. Accordingly, concludes Rabbi Soloveichik, even assuming the Conservative clergyman in question to be a person of exemplary faith and piety, he is disqualified on the grounds that his identification with the Conservative movement and its ideology constitutes participation in a "*kesher resha'im*." However, since none of the codifiers of the Halakhah cite identification with transgressors per se as a disqualification for holding judicial office, Rabbi Soloveichik's interpretation must be regarded as novel. Resh Lakish may well be understood as contending that one who defends a violator of the laws of the sabbatical year is himself suspect with regard to such matters and is disqualified from serving as a member of a Bet Din because he

himself is suspected of having committed similar infractions. Insofar as Conservative clergymen are concerned, the point is entirely academic since, as stated by Rabbi Feinstein, *Iggerot Mosheh*, *Yoreh De'ah*, I, no. 160, "Whosoever bears the . . . appellation 'Conservative' must be presumed to be wantonly unconcerned with regard to many prohibitions and to deny many principles [of faith]" (*be-hezkat mufkar le-harbeh issurim ve-likefirah be-harbeh ikkarim*). Rabbi Gestetner echoes those sentiments in writing ". . . for if they were believers and fulfilled all the commandments they would then not adhere to the aforementioned sects, but to the fearers of God. Their very membership in the aforementioned sects indicates that they have excluded themselves from the category of God-fearers and that they do not fulfill all the commandments of God and do not believe in all the commandments of the Torah in accordance with the manner in which it has been transmitted to us by the Sages of blessed memory. Accordingly, they are disqualified from giving testimony and judging."

Rabbi Gestetner argues that, since the conversions in question are null and void, any person assisting in such a conversion ceremony transgresses the prohibition "and before a blind man you shall not place a stumbling-block" (Leviticus 19:14). It might well be assumed that the "stumbling-block" in the situation under discussion lies in the fact that the non-Jew will be inadvertently accepted by the community at large as a Jew for all halakhic purposes, including eligibility to marry a person of Jewish birth. According to such an analysis, it is the members of the community at large who are "blind" and who may stumble. Rabbi Gestetner, however, argues that the "stumbling" is of a nature which is both immediate and certain, viz., making the *mikveh* available for the act of immersion constitutes a stumbling-block placed before the officiants at the conversion. Rambam, *Guide of the Perplexed*, Book III, chapter 41, states that

every transgression which assumes the form of a denial of the veracity of the Torah constitutes a transgression of a prohibition couched in the words "the Lord does he blaspheme" (Numbers 15:30). Acceptance of converts without proper commitment on their part to observance of the commandments, argues Rabbi Gestetner, constitutes denial of one of the principles of the Oral Law. Since immersion of such a candidate by the Bet Din is *ipso facto* a denial of a principle of the Oral Law involving a transgression of "the Lord does he blaspheme" any assistance rendered in performing such an act, rules Rabbi Gestetner, constitutes the placing of a stumbling-block before the blind.

The more obvious "stumbling-block" in such situations lies, of course, in the fact that an invalid conversion ceremony will in all likelihood lead to intermarriage. Rabbi Soloveichik presents the counterargument that no infraction of this prohibition is incurred in circumstances in which the untoward result will occur in any event, i.e., in situations in which there are others who are prepared to proffer the requisite assistance. Although this is indeed the view of R. Abraham Samuel Benjamin Sofer, *Teshuvot Ketav Sofer, Yoreh De'ah*, no. 83,³ an earlier authority, *Mishneh la-Melekh, Hilkhos Malveh ve-Loveh* 4:2, demonstrates that when such aid can be provided only by a Jew, the Jew who in fact provides the assistance incurs the transgression. *Mishneh la-Melekh's* position finds support in the comments of *Tosafot, Hagigah* 13a, and *Tosafot, Baba Metsi'a* 75b. In point of fact, this consideration is not always germane with regard to making a *mikveh* available for invalid conversions since in many locales no other facility is available.

Another mitigating consideration is that the transgression of placing a stumbling-block is incurred only when the "stumbling-block" provided constitutes a proximate cause of the ensuing transgression. When, however, a supervening

event is required in order to commit the transgression (*lifnei de-lifnei*) no biblical infraction is incurred in the placement of the stumbling-block. Rabbi Soloveichik, however, cites the comments of *Tosefot Rid, Avodah Zarah* 14a, which are significant with regard to this point. The Gemara, *Avodah Zarah* 14a, declares that incense used in idol worship may be sold to a non-Jew for purposes of resale. No infraction of the prohibition against "placing a stumbling-block before a blind man" is incurred in the original sale since the incense will not be used by the immediate purchaser. Yet, the Gemara, *Niddah* 61b, declares that it is forbidden, under all circumstances, to sell a garment containing a concealed mixture of linen and wool to a Jew. In light of the ruling formulated in *Avodah Zarah* 14a, it would be anticipated that selling a garment containing a mixture of wool and linen for purposes of resale should not be regarded as involving a transgression of "placing a stumbling-block before the blind." *Tosefot Rid* distinguishes between the two cases by pointing to the fact that the sale of incense involves no misrepresentation by the first purchaser to the second, whereas a wool garment containing a concealed linen thread is not identified to the second purchaser as a garment which may not be donned. Rabbi Soloveichik cogently explains this distinction as predicated upon the bifurcated nature of the prohibition against placing a stumbling-block before the blind. As clearly stated by Rambam, *Hilkhos Rotseah* 12:14–15, the prohibition enjoins two distinct forms of conduct: 1) offering ill-advised counsel; and 2) facilitating a transgression. Only with regard to the latter is a distinction drawn between *lifnei* and *lifnei de-lifnei*, i.e., only with regard to facilitating a transgression is the infraction limited to rendering assistance with regard to the proximate cause of the transgression. Offering infelicitous advice is forbidden even when the advice is only remotely associated with the untoward outcome. Merely providing the opportunity for

transgression to a person who recognizes the forbidden nature of the deed does not constitute encouragement. When the illicit nature of the act is known, providing the opportunity is not construed as an attempt to overcome constraint. However, according to a person the opportunity for committing an inadvertent transgression is tantamount to advising him to commit the transgression. Since the person is unaware of the forbidden nature of the contemplated act the opportunity serves as encouragement. Hence, merely providing the opportunity constitutes the placing of a "stumbling-block" of the genre of offering infelicitous counsel and is biblically forbidden under all circumstances. Similarly, R. Betzalel of Orlow, *Teshuvot Rabbenu Betsalel*, no. 3, rules that although no biblical transgression is incurred in proffering a glass of wine to a Nazarite when both parties are positioned on the same bank of a river (and the situation is such that the Nazarite could have obtained the wine without assistance), nevertheless, an infraction is incurred if the Nazarite is unaware of the fact that the cup contains wine. Offering the cup is tantamount to encouraging consumption of its contents and hence constitutes a stumbling-block in the form of ill-advised counsel rather than simply a stumbling-block in the form of assisting in a transgression. Thus, assistance in performance of an invalid conversion constitutes "placing a stumbling-block" in the sense of offering unsound counsel. Since the candidate for conversion is frequently unaware of the inefficacy of the procedure any assistance offered constitutes "ill-advised counsel" and is forbidden.

Moreover, points out Rabbi Soloveichik, *genevat da'at*, i.e., misleading an individual, even a non-Jew, is a violation of the prohibition "Thou shalt not steal" (Exodus 20:13). Accordingly, assistance in misleading a gullible individual constitutes the placing of a stumbling-block before the perpetrator of the fraud. Furthermore, *Targum Yonatan*,

Leviticus 20:3, regards all such assistance as intrinsically proscribed by the prohibition "Thou shalt not steal." According to *Targum Yonatan* the prohibition encompasses not only the act of theft *per se*, but also any action from which theft results.

On the basis of a somewhat different line of argument, Rabbi Gestetner similarly rules that it is forbidden to permit use of a *mikveh* for invalid conversions because of the likelihood of subsequent infractions of Jewish law. The Gemara, *Gittin* 61a, permits a woman to lend utensils used in the preparation of flour to a neighbor even though the neighbor is suspect with regard to observance of the restrictions of the sabbatical year. The stated reason is "because of the ways of peace" (*mipnei darkhei shalom*), i.e., in order not to disrupt harmonious relationships. Despite consideration of "the ways of peace" the Gemara prohibits the same woman from personally assisting in the actual preparation of the flour. Rabbenu Shimshon and *Tosefot Yom Tov*, in their respective commentaries on the Mishnah, *Shevi'it* 5:9, demonstrate that the lending of utensils to suspected transgressors is permitted "because of the ways of peace" only when there is at least some possibility that they are to be utilized for a legitimate purpose. Similarly, *Magen Avraham*, *Orah Hayyim* 346:4, forbids the lending of implements which may be used for activities forbidden on the Sabbath to a person suspected of being a Sabbath violator unless the implements are also commonly used for permissible activities. When considerations of *darkhei shalom* pertain, *Magen Avraham* permits the lending of such implements even when they are not commonly used for permissible activities, provided, however, that there is at least the possibility that the implements will be put to a legitimate use.

In situations in which such a loan is forbidden the prohibition is predicated upon the consideration that "one dare not strengthen the hands of trans-

gressors" (*ein mahzikin yedei overei aveirah*). The prohibition against performing acts included in this category is generally regarded as rabbinic in nature. The prohibition is designed to proscribe certain activities which are excluded from the ambit of the biblical prohibition against "placing a stumbling-block before the blind" by virtue of the absence of an intrinsic cause-and-effect relationship between the assistance rendered and the resultant transgression. Rabbi Gestetner, however, cites the statement of Rambam, *Commentary on the Mishnah, Terumot* 6:3, to the effect that the prohibition against such action is rooted in the biblical admonition, "Do not put your hand with the wicked" (Exodus 23:1).

Granting permission for the use of a *mikveh* when such use will ultimately result in intermarriage, argues Rabbi Gestetner, is entirely analogous to lending utensils for purposes of preparation of forbidden produce or for use on the Sabbath in a proscribed manner. Rabbi Gestetner rules that, since the immersion in question serves no legitimate purpose, facilitating such immersion is forbidden even for considerations of *darkhei shalom*, just as lending utensils for use in association with forbidden activities is prohibited even on grounds of *darkhei shalom* when it is known with certainty that the utensils will not be used for a legitimate purpose. Granting permission for such use, argues Rabbi Gestetner, is forbidden even though immersion in the *mikveh* is not an intrinsically unlawful act but serves only to facilitate subsequent intermarriage. Assistance in preparing the flour, which is prohibited by the Gemara, *Gittin* 61a, is also not intrinsically unlawful; it is only the subsequent consumption of the foodstuff under improper conditions which constitutes the infraction. Nevertheless, even acts preparatory to the transgression are forbidden when no legitimate purpose can be ascribed to such acts.⁴ Of course, if granting permission to use the *mikveh* constitutes a violation of the biblical

prohibition against placing a stumbling-block before the blind because it is tantamount to counseling intermarriage, as Rabbi Soloveichik asserts, considerations of *darkhei shalom* are entirely irrelevant. Such considerations, when applicable, serve to obviate a rabbinic prohibition but are irrelevant insofar as a biblical prohibition is concerned.

Rabbi Soloveichik further argues that permitting the use of a *mikveh* for invalid conversions constitutes the violation of yet other biblical prohibitions. Ramban, in his *Commentary on the Bible*, Leviticus 19:29 and Deuteronomy 23:18, as well as in his glosses on Rambam's *Sefer ha-Mitsvot, shores* 5, and *mitsvot lo ta'aseh*, no. 355, declares that the verse, "There shall not be a prostitute from among the daughters of Israel, nor shall there be a prostitute from among the sons of Israel" (Deuteronomy 23:18), and the verse, "and the land shall not be filled with licentiousness" (Leviticus 19:23), constitute admonitions to the Bet Din forbidding it to allow liaisons between persons who cannot contract a valid marriage. Rabbi Soloveichik asserts that, according to Ramban, the prohibitions are not addressed solely to the members of the Bet Din, but devolve upon any person capable of preventing the acts in question. Hence, any person who facilitates a forbidden liaison of such nature is guilty of violating these two prohibitions. Permitting use of a *mikveh* for an invalid conversion serves to provide sanction for a conjugal relationship between a Jew and a person who, in reality, is a non-Jew and hence, concludes Rabbi Soloveichik, constitutes a violation of these prohibitions.

It appears to this writer that there are two additional considerations which would bar permitting a *mikveh* to be used for purposes of an invalid conversion:

1) The issue in question poses concerns which are identical with those that led to the *issur* against membership in the Synagogue Council of America and

the New York Board of Rabbis promulgated by a group of eleven leading *Roshei Yeshivah* in 1956. Membership in such organizations, it was contended, confers, or appears to confer, legitimacy upon groups and individuals who misrepresent the teachings of Judaism and implies recognition of the equal validity of sectarian ideologies. Any such recognition or legitimization constitutes a negation of the authenticity of the Sinaitic nature of both the Written Law and Oral Law in their entirety. Even those who fail to adhere to that *issur* do not dispute the premise the any such conferral of legitimacy is prohibited; their sole contention is that membership in such organizations is not to be construed in such a manner.

Granting permission for use of a *mikveh* for purposes of conversions performed by non-Orthodox clergymen certainly constitutes a more obvious conferral of legitimacy upon the "Batei Din" convened for those purposes than mere admission to membership in a professional or communal organization. Surely, the observer will not assume that religious authorities have consented to the use of their facilities for a procedure that is a mere charade. As Rabbi Soloveichik notes in a different context, the same authorities would assuredly not

make *mikveh* facilities under their control available to non-Jewish groups for religious purposes. Hence the impression conveyed is that full faith and credit is being extended to the acts—and ideology—of a non-Orthodox Bet Din. Granting such legitimacy is, in and of itself, a negation of fundamental principles of Jewish belief.

2) Fees are commonly charged for use of a *mikveh*. In cases of conversion, the fee is paid by the candidate for conversion or, not infrequently, by the prospective Jewish marriage partner. Certainly, were the *mikveh* itself to be halakhically defective, acceptance of a fee for its use would constitute fraud. The concerned parties are frequently unaware of the fact that a conversion performed under Conservative auspices will not be recognized by Orthodox Jewry. Were the candidate to be aware of this fact, it is quite likely that he or she would not undergo such a procedure. Hence, although Rabbi Soloveichik dismisses this contention without elaboration, acceptance of a fee for use of the *mikveh* without informing the concerned parties of the lack of efficacy of the contemplated immersion may, at least in some circumstances, constitute an act of fraud.

NOTES

1. In the latter responsum, written in the form of a brief letter addressed to the administrators of a *mikveh* erected, at least in part, with funds contributed by members of a Conservative congregation, Rabbi Feinstein advises against an attempt to forbid use of the *mikveh* in conjunction with conversion ceremonies performed under non-Orthodox auspices. Rabbi Feinstein deems such an attempt to be inadvisable and notes two considerations: (1) In the general area in which the *mikveh* was located other facilities would have been made available for such purposes. Moreover, the Conservative congregation might well build its own *mikveh*. Hence, maintains Rabbi Feinstein, permitting them to utilize the *mikveh* involves no transgression of "placing a stumbling-block before the blind." (2) Denying them the use of existing facilities might prompt the Conservative congregation to construct its own *mikveh*. In all likelihood such a *mikveh* would not satisfy the requirements of Jewish law and would be used by women for purposes of their monthly immersion. The net result would be an increase in inadvertent transgressions. Nevertheless, Rabbi Feinstein, by means of a reference incorporating *Iggerot Mosheh*, *Yoreh De'ah*, II, no. 125, reaffirms his earlier position and thereby reiterates that the *mikveh* facilities be made available for conversions performed under Conservative auspices only when funds for construction of the *mikveh* have been derived from such sources.

The point made by Rabbi Feinstein regarding the absence of the prohibition concerning “placing a stumbling-block before the blind” in situations in which others are quite prepared to facilitate the same transgression is a matter of controversy among latter-day authorities. See *infra*, note 4 and accompanying text. Rabbi Feinstein’s concern regarding the ability of the Conservative congregation to construct its own *mikveh* does not appear to be at all germane. Such construction would certainly require time and, if other facilities were not made available, would occasion a considerable delay in carrying out the conversion ceremony. Assuming that the “stumbling-block” in question is facilitating what is, in effect, an intermarriage and illicit cohabitation consequent thereupon, it follows that facilitating early conversion *ipso facto* facilitates additional acts of forbidden intercourse and hence constitutes the placing of a “stumbling-block before the blind.” Rabbi Feinstein’s point regarding the possibility that construction of a *mikveh* by a Conservative congregation might also lead to its use by women for their monthly immersion is cogent only upon an assumption that no transgression of “placing a stumbling-block before the blind” is attendant upon making the facility available for an invalid conversion. Moreover, the concern does not appear to be rooted in fact. Observant women would no more rely upon Conservative supervision of a *mikveh* than they would rely upon Conservative supervision of food products used in their kitchens. Unfortunately, the number of Conservative women who avail themselves of a *mikveh* on a regular basis is minute.

2. See *Iggerot Mosheh, Yoreh De'ah*, I, no. 160; *Yoreh De'ah*, II, nos. 125 and 128; *Yoreh De'ah*, III, no. 77; *Even ha-Ezer*, I, no. 135; *Even ha-Ezer*, II, no. 17; *Even ha-Ezer*, III, no. 3; *Even ha-Ezer*, IV, no. 13, sec. 3, and no. 78. See also, *Iggerot Mosheh, Even ha-Ezer*, I, nos. 76, 77 and 82; and *Yoreh De'ah*, II, nos. 100 and 132. Cf., *Iggerot Mosheh, Yoreh De'ah*, III, no. 107.
3. See also R. Shlomoh Kluger, *Teshuvot Tuv Ta'am va-Da'at, Mahadura Telita'a*, part 2, no. 32.
4. Cf., however, *Teshuvot Ketav Sofer, Yoreh De'ah*, no. 83, s.v. *ve-yesh siyu'a la-zeh*; *Teshuvot Bnei Zion*, no. 15; and *Teshuvot Ahi'ezer*, IV, (Bnei Brak, 5746), no. 5, who maintain that the rabbinic prohibition applies only to assistance rendered at the time of actual transgression. *Ketav Sofer*, citing Rashi, *Gittin* 61a, describes assistance in the actual preparation of flour as assistance at the time of transgression while *Ahi'ezer* acknowledges the difficulty of explaining that prohibition. The earlier-cited ruling of *Magen Avraham* also appears to contradict that distinction.