

## *Entering a Sanctuary for Hatzalat Yisrael: An Exchange*

By: MICHAEL J. BROYDE and KENNETH AUMAN

### I. Introduction

On January 5, 2009, Rabbi Haskel Lookstein participated in the National Inauguration Prayer Service, at the invitation of President Barack Obama. Rabbi Lookstein recited verses from Tanach during the course of the worship service held at the National Sanctuary, an Episcopalian Church. Shortly thereafter, the propriety of this action came into question. Rabbi Lookstein wrote a letter explaining his conduct to the members of the RCA, which prompted Rabbi Michael Broyde and Rabbi Kenneth Auman to engage in a detailed dialogue discussing the various halachic issues raised by this conduct. With some editing for the sake of clarity, this exchange is reproduced for the readers of *Hakirah*.

### II. Letter from Rabbi Haskel Lookstein

Fellow RCA Members:

The RCA recently issued a press release criticizing my participation in the National Inauguration Prayer Service at the National Cathedral held the morning following Barack Obama's inauguration. I write to explain why I participated in this service, even though it was in the National Cathedral, an Episcopalian Church.

First, I am very much in agreement with the RCA's view, derived from the writings of the Rav, זצ"ל, which opposes interfaith dialogue and theological compromise. Indeed, I have been in the rabbinate

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more than fifty years, and I have never participated in such an event. I followed these guidelines throughout my tenure as president of (the now defunct) Synagogue Council of America.

Nevertheless, I feel that not only was it permissible to participate in this event, but it was necessary and proper for someone in the responsible Orthodox rabbinate to do so.

Herewith, my explanation for my colleagues:

This event was not an interfaith dialogue or meeting. It was an invitation from the new president of the United States—a man of incredible importance to the fate of our holy community in the land of Israel and here in America—to meet and join him in prayer. Many clergy were invited, and I feel that it would have been a disservice to the interests of the Orthodox community had no one from our community participated.

The *Shulchan Aruch* notes in *Yoreh Deah* 178:2 that a person who needs to be close to the government may wear even the Torah-prohibited garments of a gentile in order to represent the Jewish community well. The prohibition to enter a church is grounded in the desire to avoid the appearance of impropriety, rather than an actual impropriety—indeed, wearing garments of gentiles is a Torah prohibition and entering a church is generally thought to be a rabbinic one.

It is well known that many chief rabbis of England have gone into Westminster Abbey when summoned there by the king or queen, and many other great rabbis have done the same to represent our community. The chief rabbis of Israel have engaged in similar activities, and, most recently, the chief rabbi of Haifa, Rabbi Shear Yashuv Cohen, was involved in similar activities. In fact, he attended the funeral of the late Pope John Paul II.

Rabbi Michael Broyde told me that he was once asked by the Israeli government to represent the government of Israel on a very serious matter at an event in a church during a time of worship. He spoke to the Tzitz Eliezer about this issue, and the Tzitz Eliezer told him directly that if it was a matter of significant importance to the Israeli government, then he should go wearing his *kippah* and looking as rabbinic as possible.

Of course, such events are few and far between, and, in most situations, I and other RCA members would never participate in such events. But I feel that Orthodox participation in this important na-

tional event, combined with the opportunity to say a few words directly to the president of the United States and thus begin to develop a relationship with the most powerful man in the world, is a chance that our community can ill afford to miss. Indeed, when I spoke to President Obama, I thanked him for his support of Israel and I urged him to remember the unforgettable statement he made in Sderot, where he said, “If anybody would shoot rockets into my house while my daughters were sleeping, I would do anything in my power to make sure they wouldn’t do it again.”

The president responded with a clear assent. Maybe this will save a life or two in the future and maybe it will not; but I feel that this was not an assignment I could—or should have—turned down.

### **III. First Letter from Rabbi Michael Broyde to Rabbinical Council of America Members**

Fellow RCA members:

Since Rabbi Lookstein made mention of me in his post, I feel a need to elaborate.

Let me note that I am in basic agreement with the approach that Rabbi Lookstein articulated, albeit with a different focus. Interfaith prayer activities are generally *assur* and entry into a church is generally prohibited.<sup>1</sup>

However, most of us in our Torah lives rarely confront matters where we are actually asked to involve ourselves in something of national importance to the Jewish community. Some of us receive such requests with some frequency,<sup>2</sup> while most of us never do, even when the need is thrust upon us. Cases of national importance are unique, and *halachah* recognizes this with the category called *karov lemalchut*, or ‘close to government.’

When the Bet Yosef is called upon to explain the *halachah* as found in the Rambam<sup>3</sup> allowing one who is close to the government

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<sup>1</sup> See Rabbi Joseph B. Soloveitchik, “Confrontation,” *Tradition* 6:2, 5–29 (1964) and *Shulchan Aruch, Yoreh Deah* 149:1.

<sup>2</sup> I am surely not such a person.

<sup>3</sup> *Rambam, Avodah Zarah* 11:3.

to wear gentile garments in order to fit-in and allow his voice to be heard, he states in his commentary on the *Tur*:

Let me ask: Since according to Torah law this conduct is prohibited, and even lashes are given for its violation, where did the rabbis find the authority to permit a Torah prohibition to those who are close to government? I answer: For the sake of saving the Jewish people, one can permit the violation since when there are Jews in government standing in the breach, evil decrees can be annulled...<sup>4</sup>

It is extremely important to understand what Bet Yosef claims as a matter of *halachah*. Of course, it is permissible to violate almost any area of *halachah* in order to save those in immediate, life-threatening danger.<sup>5</sup> This much we know. But *halachah* also recognizes that sometimes, the only way to save those in danger is through a long-term prophylactic strategy. For example, one's long-term involvement is necessary in certain types of politics to allow a person access and influence in a time of need. In many of the most crucial areas of politics, if one is not close **all the time**, it will be impossible to become close when a need arises. Thus a Jew may join the government service and wear, despite the Torah prohibition, gentile clothes every day, for decades, so that if a day comes when he can save G-d's chosen people, he is already wearing the right clothes, and is in the right place, at the right time. This conduct is *mutar*. The *Shulchan Aruch YD* 178:2 quotes this *halachah* directly, and as far as I know, no one significant argues with this formulation. The *Taz* and the *Levush* limit the allowance to sins that are not explicit in the Torah.<sup>6</sup> For example, eating *treif* would be excluded, but going into a church (a rabbinic prohibition)<sup>7</sup> would be acceptable under this principle.

That rationale, I am sure, explains why many a chief rabbi has attended events in churches (which is what Westminster Abbey is)<sup>8</sup> and

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<sup>4</sup> Bet Yosef, commenting on *Tur YD* 178 *s.v. mi shekarov*.

<sup>5</sup> See *Shulchan Aruch, Yoreh Deah* 157:1–3.

<sup>6</sup> See *Taz*, *YD* 178:5 and *Levush* 178:2.

<sup>7</sup> See *Shach YD* 149:1–2.

<sup>8</sup> For example on March 12, 1991, the *London Times* stated:

The Queen was present at the Commonwealth Day Observance service held yesterday in Westminster Abbey. The Prince of Wales attended. The Dean of Westminster officiated and the Rev Dr William Davies, Modera-

why Rav Shear Yashuv Cohen was sent to the funeral of the pope (which is a Catholic Mass).<sup>9</sup> These are not isolated incidences; history is replete with similar examples.

As Rabbi Lookstein notes, I was once approached by the Israeli government to do something that the government believed was very important and which required that I go into a church during worship. Initially, I replied to the person who approached me by saying that “this cannot be so important, and I think it is a severe violation of Jewish Law. If it is really that important, have a member of the Israeli cabinet call and speak with me.” A day and a half later, a religious

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tor of the Free Church Federal Council, read the lesson... Among others present were: High Commissioners and Agents General and their escorts, Mrs Anyaoku, the Lord Chamberlain and the Countess of Airlie, Lord Jakobovits (Chief Rabbi), Lady Waddington . . .

Or on April 5, 1990, the *London Times* stated:

The Queen and the Duke of Edinburgh attended a service of thanksgiving held yesterday in Westminster Abbey to mark the 150th anniversary of the founding of King’s College Hospital, London, and its Clinical Medical School. Princess Alice Duchess of Gloucester was present. The Lord Mayor of Westminster attended... The Bishop of Oxford preached the Sermon. The Chief Rabbi was robed and in Quire and Canon Colin Semper, the Rev Paul Ferguson, Chaplain and Sacrist, and Canon Anthony Harvey were robed and in the Sacarium.

So too, on July 1, 1979, the *London Times* noted:

No one remarked on it at the time, but the discreet visit of the Chief Rabbi to the lying in state of Cardinal John Heenan at Westminster Cathedral in 1975 was in this context a most remarkable gesture by Britain’s leading Orthodox Jew to the memory of one of the “righteous Gentiles.”

At each of these events, a Christian service was clearly taking place, if read closely, except for maybe the last one, which is merely a lying-in-state.

(I could, in fact, show dozens of other articles from the *London Times* that note the presence of the Chief Rabbi Lord Jakobovits in Westminster Abbey during services. I could show the same for Chief Rabbi Brodie before him, and Chief Rabbi Hertz before him. I could show, if it is important to see, articles which note that chief rabbis of other countries have done the same.)

<sup>9</sup> See <[http://en.wikipedia.org/wiki/List\\_of\\_dignitaries\\_at\\_the\\_funeral\\_of\\_Pope\\_John\\_Paul\\_II](http://en.wikipedia.org/wiki/List_of_dignitaries_at_the_funeral_of_Pope_John_Paul_II)>.

member of the Israeli cabinet was explaining to me why this particular task really was so important. When he finished speaking, he told me that he would go with me to Rabbi Eliezer Waldenberg (the Tzitz Eliezer), ז"ל, who, at the time, was already very old. I accepted his offer and the Tzitz Eliezer listened to both the minister's explanation and to my concerns. He then told me very clearly and very directly that I should do what the government had asked of me.<sup>10</sup>

An opportunity to become close with the president of the United States, and thus be able to affirm to him the need to help Israel in its wars, is a classic case of *karov lemalchut*. An opportunity of this magnitude to be *karov lemalchut* is hardly ever presented to anyone, but on those rare occasions when such extraordinary opportunities present themselves, we should not criticize those who undertake to be involved in the long-term saving of Jewish lives by becoming *karov lemalchut*.

Let me add one other thing that is worth noting. Rav Herzog notes that *bemakom tzorech gadol lerabim*, one may rely on the view of the Me'iri that even Catholic churches are not *avodah zarah*.<sup>11</sup> He states this with regard to allowing churches to be built in Israel, as he fears that if the Israeli government does not permit the building of churches, Israel will not survive, due to international pressure. Even if this assertion of *halachah* is incorrect,<sup>12</sup> there is a clear and significant difference between *halachah's* treatment of Catholic Christian and non-Catholic Christian belief when determining the status of *avodah zarah*, both in terms of the faith itself and, even more importantly, whether the place has the status of a "place of *avodah zarah*" according to *halachah*.<sup>13</sup> Many non-Catholic Christian denominations are

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<sup>10</sup> The story has an ironic conclusion, but it is not for now. Of course, most of us do not head down the path of *karov lemalchut* as our chosen profession and I understand that, indeed. I do not wish it to be my chosen path, either, and I do not seek out these types of public service.

<sup>11</sup> *Techukah LeYisrael al-peh Torah*, volume 1, pp. 14–15.

<sup>12</sup> This article is certainly not the place to discuss the correctness of the view of the Me'iri, or even the authenticity of his view. For more on this, see Rabbi J. David Bleich, "Divine Unity in Maimonides, the Tosafists and Me'iri," in Lenn E. Goodman, ed., *Neoplatonism and Jewish Thought* (Albany, 1992).

<sup>13</sup> Other than for the censor, almost nothing has been written on the status of non-Catholic Christianity from the perspective of Jewish law,

clearly monotheistic (consider, for example, Unitarians), whereas the status of Catholicism is more ambiguous. While the communal practice is not to draw these distinctions for routine decision making within *halachah*, as it is hard to accurately assess all the numerous Christian denominations at any given time, it is well known that many *poskim* have and do rely on this distinction in times of urgent need. An opportunity to be *karov lemalchut* might well qualify as a situation that merits such a distinction be drawn. Based on something the Tzitz Eliezer said to me, I think this was part of his calculations, although he did not give me a firm reason for his *psak*.

We should be blessed to live in times wherein these struggles do not take place. But if we must live in our real world, *halachah* has a category for dealing with it, and I think that this case is within that category.

#### IV. First Letter from Rabbi Kenneth Auman to the Rabbinical Council of America

I must respectfully take issue with Rabbi Broyde's halachic analysis for the following reasons:

First, Bet Yosef provides two answers to his question of how *Chazal* could permit a *karov lemalchut* to violate *bechukotehem*.<sup>14</sup> The first one is the one mentioned by Rabbi Broyde. However, the second answer that he gives has no application whatsoever to the case at hand, as it is limited to the *issur* of *bechukotehem* (as Bet Yosef explains that since the *issur* of *bechukotehem* is vague, the matter is given over to the rabbis to decide when and where it applies). It is this answer that appears to be accepted *lehalachah* by Taz.<sup>15</sup> Bach provides yet a third response to the question, again one that would only make sense with

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and this article is hardly the place to change that practice. Much detailed leg work would have to be undertaken to distinguish between an analysis of the theology and an analysis of the iconography of the various non-Catholic Christian sects. Some might still be polytheistic, but have no idols present; some might have idols (like Enosh) but be monotheistic in theology. Of course, some might be neither and some might be both.

<sup>14</sup> Bet Yosef, commenting on *Tur YD* 178 *s.v. misbekarov*.

<sup>15</sup> *Taz, Yoreh Deah* 178:5.

regard to the *issur* of *bechukotehem* and not with regard to entering a church.<sup>16</sup>

Second, even according to the first answer of Bet Yosef (the one cited by Rabbi Broyde) the *heter* given is not *pikuach nefesh* but rather *hatzalat Yisrael*. This might very well be a *heter* for things that *pikuach nefesh* does not permit.<sup>17</sup> So the analysis that Rabbi Broyde presents for the case of an immediate opportunity for *pikuach nefesh* in the future might be correct with regard to *hatzalat Yisrael* but it is not necessarily correct for every case of *pikuach nefesh*.

Third, the *heter* given was for a *karov lemalchut*. This would be an individual who must frequent the king on a regular basis and therefore must dress accordingly. These are the people who are able to:

- (A) be aware of any impending difficulty confronting the Jewish people in the political arena, and
- (B) have access to the leadership to attempt to overturn these difficulties.

They were the *shtadlanim* of old. If indeed there were a modern-day version of *karov lemalchut*, it would be the Malcolm Hoenleins<sup>18</sup> and the Nathan Diaments<sup>19</sup> of the world, not the rabbis who do not fit the job description at all. Indeed, to assume that anyone who wishes to establish cordial relations with the *malchut* would fall under this *heter* is in my view quite a stretch.<sup>20</sup>

Finally, the Tur, at the end of *Yoreh Deah* chapter 157, quotes the opinion of the Rosh saying that it is permitted to run into a place

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<sup>16</sup> Bach, commenting on Tur, *Yoreh Deah* 178.

<sup>17</sup> See, for example, R. Zevin in *Leor HaHalachah*, pp. 16–17, who quotes R. Kook on this matter.

<sup>18</sup> “Malcolm Hoenlein is the executive vice chairman of the Conference of Presidents of Major American Jewish Organizations since June 1986. He was the founding executive director of the Greater New York Conference on Soviet Jewry and the Jewish Community Relations Council of New York.” See [http://en.wikipedia.org/wiki/Malcolm\\_Hoenlein](http://en.wikipedia.org/wiki/Malcolm_Hoenlein).

<sup>19</sup> “Nathan J. Diament is the Director of the Institute for Public Affairs of the Union of Orthodox Jewish Congregations of America (the nation’s largest Orthodox Jewish umbrella organization), where he develops and coordinates public policy research and initiatives on behalf of the Jewish community.” See <http://www.jlaw.com/About/ndiament.html>.

<sup>20</sup> As these basic categories do not reflect the American Jewish experience.



where idols are worshiped to seek asylum to avoid losing one's life. Thus the license to enter such a place is explicitly given only for actual life-threatening situations (*pikuach nefesh*). This is the opinion that is accepted *lehalachah*, and it should be noted that this is the lenient view.<sup>21</sup> Bet Yosef quotes the *Tur* in *Yoreh Deah* 149 that even to save one's life it is *assur* to enter a church.<sup>22</sup> To stretch the *heter* more than what is stated clearly and apply it to cases where there is no current *pikuach nefesh* but merely the potential for the need of *pikuach nefesh* in the future, would appear unwarranted.

## V. Second Letter from Rabbi Michael Broyde

Thank you, Rabbi Auman, for writing back. Exchange on matters of *halachah* is central to what we all do, and I appreciate the fact that you read and responded. This post will fill in more gaps in my last post.

There are three basic views on the *halachah* of what a person who is *karov lemalchut* may do, and all three are noted by the three primary commentators on the *Tur*. Bet Yosef insists that this *halachah* is grounded in saving lives, and that all is permitted;<sup>23</sup> *hatzalat Yisrael* is the reason. Bach insists that this *halachah* is grounded in the fact that *bechukotehem* is an offense for which one must have a certain state of mind to imitate gentiles, and this person does not.<sup>24</sup> Drisha rules that this *heter* is limited to cases where the *issur Torah* is not explicit and it is given to *Chazal* to establish guidelines.<sup>25</sup>

Taz in one place adopts the view of Drisha.<sup>26</sup> This is somewhat contradicted by Taz himself in another place.<sup>27</sup> More significantly, *Shulchan Aruch* codifies the *halachah* in accordance with the *Tur*'s rule in the *Bet Yosef*<sup>28</sup> and changes the language of the Rambam that he quotes to reflect the fact that this is a general *heter* and not a limited

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<sup>21</sup> *Shulchan Aruch, Yoreh Deah* 157:3.

<sup>22</sup> *Tur, Yoreh Deah* 149.

<sup>23</sup> That is *Bet Yosef's* first answer and it explains his change of the formulation of the Rambam.

<sup>24</sup> Bach, commenting on *Tur, Yoreh Deah* 178.

<sup>25</sup> Drisha, commenting on *Tur, YD* 178.

<sup>26</sup> *YD* 178:5.

<sup>27</sup> *YD* 181:1, by a somewhat more speculative Taz.

<sup>28</sup> *YD* 178:2.

one.<sup>29</sup> This view is challenged by *Shut Panim Me'erot* 2:79 and by others as well. Some adopt the compromise view and permit only *issurai derabanan*.<sup>30</sup> There is an extensive literature on this in the *she'elos ute-shuvos*. Certainly, however, many *poskim* adopt the view of *Shulchan Aruch*, that all is permitted.

In my view, it is certainly reasonable to adopt the view of the Bet Yosef in cases where the *issur* is not explicit in the Torah, providing an overlap of both the reasoning of Drisha and Bet Yosef. (This is even truer because the view of the Bach is not generally accepted on the nature of *bechukotehem*.<sup>31</sup>) Thus, it would be a bigger act of *bachra'ah* by a *posek* to permit a person who is *karov lemachut* to eat *chametz* on Pesach if need be (such a case is hard to imagine) than to wear gentile clothes. I think the prohibition to enter a church is in the category of not explicit in the Torah and thus this overlap applies.<sup>32</sup>

Furthermore, the rationale of *hatzalat Yisrael* is greater than *pikuach nefesh*, not less, and the fact that the normative *halachah* is that one can enter a church in cases of *pikuach nefesh* makes it even more clear that one may do so for the sake of *hatzalat Yisrael* generally. I suspect that, for many years, court Jews have relied on this rationale to enter churches. (Rabbi Auman's analysis leads one to the conclusion that the conduct of these many chief rabbis is without any foundation in *halachah*, which is hard to accept. My explanation is that such conduct is only permitted to people who are actually in the position of *hatzalat Yisrael*, and not every Tom, Dick, and Harry—or every Yisrael, Yosef, and Mattityahu.)

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<sup>29</sup> Thus he writes "*mutar bakol*" in contrast to Rambam's narrower formulation.

<sup>30</sup> See *Darhei Teshuvah* on 178:2.

<sup>31</sup> See *Aruch HaShulchan Yoreh Deah* 178.

<sup>32</sup> See *Shach, Yoreh Deah* 149:2. I do not understand Rabbi Auman's assertion that entering a church is not governed by the *beter*. The exact formulation of the Taz is "*shelo pershab haTorah shum davar*" which certainly seems to be the case for entering a church. Indeed, as is well known, some *Risbonim* and *Acharonim* view the whole prohibition as rabbinic based on *chesbad*. See *Shach, Yoreh Deah* 149:1–2. Certainly, this is not explicit in the Torah. Based on this reasoning, many *poskim* permit one to enter a church when there is absolutely no possibility of *chesbad* or *marit ayin*, such as to vote, or as a firefighter when the church is on fire, or in other cases of truly urgent need where the reality is completely obvious.

Finally, Rabbi Auman makes a point regarding which I am neutral, and about which he may, or may not, be correct. He maintains that this is not the job of rabbis but of the “Malcolm Hoenleins and the Nathan Diaments of the world.” I confess that I do not know if this argument is factually true. (I am not sure if Rabbi Auman actually knows either or is merely speculating.) I do not think that he is correct, as a matter of *halachah*, when he says that being *karov lemalchut* requires that one “(a) be aware of any impending difficulty confronting the Jewish people in the political arena, and (b) have access to the leadership to attempt to overturn these difficulties.” I think, for example, that the Jewish friend of Harry Truman who pressed Truman to recognize the State of Israel fits the bill.<sup>33</sup> To me, this is a question of effectiveness and relationship-building that is governed by the reality of the situation and not by objective halachic rules. I have little actual knowledge of the situation—but I could add (as a mere *sevarah be’alma* from a person who knows little in this area) that once the President decided that he wanted an Orthodox, a Conservative, and a Reform rabbi to speak, it generates *eivah* towards Orthodoxy if no one accepts, and that alone is a consequence to be considered, since avoiding hatred of Jews is a form of *hatzalat Yisrael*.<sup>34</sup>

Let me add one other factor. One who actually watches the service<sup>35</sup> or who reads the literature about the event (which states: “The newly-inaugurated president and vice president of the United States joined with dignitaries and Americans of diverse faiths to celebrate the previous day’s events through prayer, readings, and musical performances. The Rev. Dr. Sharon Watkins was the first woman to deliver the sermon at this traditional Inaugural event.”<sup>36</sup>) might even add as a *limud zechut* that, from the fact that the church’s website directly states that not all prayer at this event is Christian, it does not have the halachic status of a sanctuary at the time of worship. It is clear to all who attended or watched the event that the worship was not exclusively Christian. That factor itself could be of halachic sig-

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<sup>33</sup> Mr. Eddie Jacobson. For more on this, see “A Few Humble Coins and the Making of Israel,” chapter 75, as posted on: <<http://www.ajhs.org/publications/chapters/chapter.cfm?documentID=265>>.

<sup>34</sup> See *Encyclopedia Talmudit*, “Eivah,” 1:488–493.

<sup>35</sup> See <<http://www.nationalcathedral.org/presidents/service.html>>.

<sup>36</sup> <<http://www.nationalcathedral.org/presidents/index.html>>.

nificance, particularly when combined with my final observation in my initial post on this topic regarding the status nowadays of many Christian sects as *avodah zarah*.

## VI. Second Letter from Rabbi Kenneth Auman

Dear RCA Members:

Our differing perspectives on these issues can be divided into two categories: differences with regard to the facts and the realities of the situation, and differences with regard to understanding the basic *halachah* with which we are operating. I would like to address both categories.

Many of the posts raise very interesting points. Regarding who is a *karov lemalchut* today, Rabbi Broyde is quite correct that my position is speculative. No one can adduce proof to either position. However, in my definition of a *karov lemalchut* as people who are able to: a. be aware of any impending *gezerot* against *Klal Yisrael*, and b. have access to the king to attempt to overturn the *gezerot*, I am merely paraphrasing the words of Bet Yosef, “*dikesbeyesb Yisraelim kerovim lemalchut omdim baperetz levatel hagezerot.*” Even more importantly, we are not dealing with Rome or with Tzarist Russia today. I am not even certain that we have to worry about the kind of *gezerot* to which Bet Yosef is alluding. But if preventing anti-Israel policy does qualify, then today, those who are most influential are the lobbyists, such as the Hoenleins, the Diaments, and the political action committees.

Rabbi Broyde is right about the uncertainty: neither of us can prove one way or the other who is really *karov lemalchut*. But my other contention deals with understanding the basic *halachah* at play here—that the category of *karov lemalchut* is not a *beter* for entering a church. And it is that position that I would like to defend here by responding to Rabbi Broyde’s succinct points.

Firstly, just a clarification of facts. There is no dispute between Bet Yosef and Prisha. Both quote the same two answers.

I believe that Rabbi Broyde is misunderstanding the Bet Yosef’s second answer (what he refers to as Prisha’s position). There are many *halachot* in the Torah that are vague. However, when they are explained by *Chazal*, they then come to have more specific interpretations. So, for example, the formulation of “*lo taaseh melachah*” with regard to Shabbat is vague. However, once *Chazal* explained that it relates to the thirty-nine *melachot* found in the seventh chapter of the

*mishnayot* of *Shabbat*, it is no longer vague. There are other areas of Jewish law, however, where the interpretation of *Chazal* does not appear to be based on a particular *derashah* or clear logical rule (*sevarah*), but rather is left to their discretion, e.g., the categories of forbidden *melachah* on *Chol HaMoed* (according to those *Rishonim* who hold that *melachah* on *Chol HaMoed* is *mi-de-oraisa*).<sup>37</sup> In those cases, *Chazal* have wide latitude to determine the parameters of the prohibition. So the *beter* of *karov lemalchut* according to the second answer of Bet Yosef is not a *beter* for any “vague” prohibition in the Torah. It is merely part of the formulation of the prohibition of *bechukotehem* and can have absolutely no application anywhere else.

Likewise, the first answer of Bet Yosef is also a *beter* for *bechukotehem* alone. Since *hatzalat Yisrael* requires people who can dress like the gentiles, it is permitted. And as Rabbi Broyde very cogently noted, this is not normal *pikuach nefesh*—this is preparing the groundwork for the eventuality of saving lives. Thus it is a *beter* given specifically with regard to these *halachot*. Going into a church on a regular basis is not necessary for governmental contact, nor are many other *issurim* necessary. I do not understand Rabbi Broyde’s contention that the *Shulchan Aruch* is changing the language of the *Tur*. They both say the exact same thing—that for a *karov lemalchut*, *hakol mutar*. Clearly, *hakol mutar* means not every *aveirah* in the world, but merely the ones discussed in this *siman*. That is obvious from both the *Tur* and the *Shulchan Aruch*.

I do not see any contradiction between Taz in *Yoreh Deah* 178:5 and 181:1. To the contrary, I find that they are complementary. In 178:5 he mentions the second answer of Bet Yosef that the *beter* of *karov lemalchut* is based on *mesaro lachachamim*, and in 181:1 he discusses if, in fact, the prohibition of *giluach hapeot* is a subset of *chukot akum* or an independent *issur*. If it is a subset of *chukot akum*, he says, then the *beter* of *karov lemalchut* applies. If it is independent, then the *beter* of *karov lemalchut* does not apply. Thus, in fact, Taz is explicitly stating what I have been contending here: that *karov lemalchut* is a *beter* only for the *issurim* included under *chukot akum*, and nothing else.

Let me return to a point in my original post: There is a section in *Shulchan Aruch*<sup>38</sup> that deals with entering a church. The *beter* there is

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<sup>37</sup> See *Shulchan Aruch*, *Orach Chaim* 530.

<sup>38</sup> *Yoreh Deah* 157:3.

only for actual *pikuach nefesh*, not for the proactive kind we are discussing here. And as I pointed out, that is the lenient view. So by what right do we extend this *heter*?

## VII. Third Letter from Rabbi Michael Broyde

Dear Rabbi Auman (and fellow RCA members):

Thank you for your comments and criticisms. I learn from them, and reformulate in light of your comments.

First, I readily concede that I am agnostic on the factual issues raised. I do not know if someone specific has the status of *karov le-malchut* nowadays or whether such a person can have any influence. I write halachic theory and leave it to other people of good will and expertise to determine the facts.

I do not think that Rabbi Auman is correct in his view that the second answer of Bet Yosef is limited to *bechukotehem*. I will give three proofs to that. The first is textual. The Shulchan Aruch generally takes the language of the Rambam when he can. Here the Rambam explicitly states that a person who is *karov lemalchut* it is “*mutar lillbosh kemalbushan*”<sup>39</sup> but when the Shulchan Aruch cites this *halachah*, he changes the Rambam’s formulation to “*me shehu karov lemalchut vetzarich lillbosh bemalbusbeihem uledamot labem mutar bakol*,”<sup>40</sup> a much broader formulation—all is permitted, referring to the fact that other prohibitions are also permitted. The decision to change the formulation of the Rambam is for a reason.

The second proof—that the formulation of Prisha and Taz is not limited to *bechukotehem* issues—is from the *Darhei Teshuvah* on YD 181:2 where it states explicitly that “*aval legalayach hazakan einu bichlal heter zeh de’issur giluch hazakan hu mefurash baTorah dechtiv...*” From his formulation one sees that he contemplates that other prohibitions that are not explicit in the Torah could be permitted. If it were limited to *bechukotehem*, he should have said that. That also seems logical.

Finally, it is worth noting that the *Mishnat Chachamim* in *Hilchot Avodah Zarah* 44 and 53 explicitly addresses the tension between the first and second answers of the Bet Yosef, and certainly does assume that one of the differences is whether other *issurim* can be violated.

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<sup>39</sup> *Avodah Zarah* 11:3.

<sup>40</sup> *Yoreh Deah* 178:2

That is why I think a normal *bachra'ah* is to limit the *beter* to cases where both the Bet Yosef and Drisha agree.

Rabbi Auman's final comment, that *Shulchan Aruch* YD 157 explicitly permits only entering a church to save one's life, seems to me to be misplaced; and I believe the contention that it trumps *karov le-malchut* cases is mistaken on two levels. As Shach notes there, entering a church is generally not an *issur Torah* and thus not something one can do to save one's life. Certainly, I would argue, the general category of *hatzalat Yisrael* of the whole Jewish people permits even more than that—and indeed *Darchei Teshuvah* 178:2 seems to conclude that all rabbinic prohibitions are permitted to someone who is *karov lemalchut*. I do not think that reciting Jewish prayers at a Christian service is an *issur Torah*, either. (Although in normal situations it is completely *assur*.)

Let me add one last thought. To the extent that one wants to limit the rights of someone who is *karov lemalchut*, it would seem logical to include in what can be violated (at the least) all the non-textually explicit prohibitions that prevent a Jew from appearing to be a *goy*. What do I mean by that? The purpose of this *beter* is to allow the Jew to interact with the Christian community around him on their terms, appearing as a gentile, wearing a Christian frock. Entering a church even in times of Christian prayer is not an explicit Torah prohibition and might also be something that a person *karov lemalchut* needs to do.<sup>41</sup>

I apologize if I have inadvertently offended anyone with my views and analysis. I think so well of Rabbi Auman that I know that he understands that we are discussing *halachah* and no personal animus is ever intended.

### VIII. Third Letter From Rabbi Kenneth Auman

Dear Rabbi Broyde:

I still maintain that the *beter* is only for *bechukotehem* when one is close to government. It is true that the *Shulchan Aruch* is not quoting the Rambam, but he is directly quoting the Tur. And from the sum total

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<sup>41</sup> I admit that I have seen no source that states this.

of all his comments in Bet Yosef it seems clear to me that this is all to which he is referring.

With regard to Darchei Teshuvah, I think that what he is saying is that since there are some (e.g., the Taz) who discuss whether or not *giluach* is part of *chukot akum* and might therefore be included in this *heter*, he is maintaining that it is a separate *issur*, because it is mentioned specifically in the Torah, and therefore the *heter* does not apply.

## IX. Final Letter from Rabbi Michael Broyde

Fellow RCA Members:

I wrote my view that *halachah* permits one to go to such events in some circumstances even as I suspected great rabbis might disagree with me, as I am very mindful of the words of Maharatz Chayot on *Gittin* 56a (which Rav Moshe cites so approvingly in *Iggrot Moshe YD* 1:101) that on urgent matters that relate to *hatzalat Yisrael* even mediocre *talmidei chachamim* (like me) ought to voice their views. *Hatzalat Yisrael* is something that should be on everyone's agenda and not just on the agenda of *gedolim*, so writes the Maharatz Chayot:

We see from this that the Rabbis thought that the manner of Rabbi Zecharyah was not proper, as he felt that such sacrifices could be brought [and he should have so stated]... However, because of his great modesty, he did not have the strength to act according to his views *halachah lema'aseh* [and save the Jewish people]; rather, he was afraid that other rabbis would accuse him of permitting activity prohibited by *halachah*, and he did not think of himself as a great enough sage to permit people to act according to his understanding of the *halachah*. He thought that these types of decisions were left only to the wisest of the generation (*gedolei ha-dor*) [when in fact, he should have acted].<sup>42</sup>

Finally, the story of my *she'eilah* to the Tzitz Eliezer is one that I shared with Rabbi Lookstein only after his participation in the Inauguration Day Prayer. ❧

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<sup>42</sup> *Maharatz Chayot, Gittin* 56a. For a discussion of Rav Moshe's use of this *Maharatz Chayot*, see <<http://hirhurim.blogspot.com/2008/08/role-of-chiddush.html>>.