

# שו"ת מהרש"ם

## THE MAHARSHAM PROJECT

*Weekly Teshuvah Insights from the Maharsham of Brezhan*

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### A FIRE IN THE CITY

Non-Jewish Workers, Shabbos, and the Boundaries of Chillul Hashem

A Jew owns a building that houses a government courtroom. A fire destroys the roof. The judge wants his courtroom back and demands the work be done on Shabbos. Some local rabbis are ready to allow it.

**The Maharsham is asked: can the pressure of the authorities ever justify public Shabbos desecration?**

**To the great and distinguished  
Rav, Av Beis Din of [an unnamed  
community].**

Translator's Note: The Maharsham does not name the city or the rav who wrote to him. He sometimes does this when the case involves embarrassment to the community involved.

### THE QUESTION

A Jew owned several buildings in the city. One of them was rented out to the government as a district court. A fire broke out and the roof was badly damaged. The owner hired a Jewish contractor to fix it, and the contractor brought in non-Jewish laborers.

The local judge who worked in that building wanted his courtroom back. He demanded to know why the work wasn't getting done. When they told him it was because of Shabbos, he didn't want to hear it. He insisted the work continue, Shabbos or not.

This put the Jewish community in a difficult spot. There is a concept in halachah called eivah: Jews should be careful not to anger the authorities. There was plenty of antisemitism already. Having the government upset at the Jews for refusing a direct demand would only make things worse.

Some of the local rabbis wanted to find a way to allow the work. They came up with a three-part plan: - Make a public announcement in shul. Bang on the bima, have the shamash announce that an exception was being made with rabbinic approval. - The actual labor would be done by non-Jews, on behalf of the judge who demanded it. - The halachic basis would be kabblanus: the non-Jewish workers would not be employees of the Jewish contractor but independent subcontractors, working on their own terms.

The Rav of the city (whose name we don't know, as the Maharsham kept it private) refused. He wrote to the Maharsham explaining that the other rabbanim were wrong. How could eivah apply here? When December 25th comes around, the non-Jews close their stores too. They don't work on their own religious days. They have something like this in their own culture, lehavdil. A Jew should be able to say, "This is our holy day, we don't work," and they would understand. And since the whole city would see the violation, it's chillul Hashem, a desecration of God's Name.

## **So the question is simple: Can fear of the government justify public chillul Shabbos?**

### **THE MAHARSHAM'S ANALYSIS**

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#### **1. Eivah Cannot Justify This**

The Maharsham brings an additional source. He says: look, eivah is for situations where you're truly stuck, where there's no way out. Like a midwife who can't refuse to deliver a baby. But that's not what's happening here. Here, you can just explain yourself. They have their own holidays. They get it.

He takes it a step further. If a Jew can get out of a difficult situation even when it touches on avodah zarah, the non-Jew's own religion, then certainly when it comes to Shabbos, where they themselves take days off, it should be even easier.

#### **2. Not All Chillul Hashem Is Equal**

The Rav had argued that chillul Hashem is always a Torah-level prohibition. The Maharsham says: not exactly. There are different levels. Some cases involve financial behavior toward non-Jews, and those are only derabannan. Others, where the violation is public and visible, are Torah-level.

Here? Jews having work done on Shabbos on a government building, in full view of the whole city? That's chillul Hashem at the Torah level. No question.

#### **3. Announcements Don't Fix What the Whole City Can See**

What about the plan to bang on the bima and make an announcement? The Maharsham says it's worthless, for three reasons:

- Even those who hear it will catch the leniency but miss the conditions. They'll walk away thinking Shabbos work is generally okay.

#### **4. The True Authorities on Building on Shabbos**

The Maharsham caps his ruling by citing two harsh precedents.

The Divrei Chaim (Mahadura III, end of siman 121) rebuked a rav who permitted building through a non-Jewish subcontractor, and "shamed him greatly."

The Chasam Sofer (Likutei VI:43) ruled that a synagogue could not use non-Jewish workers on Shabbos. Their reasoning: since the workers' own holidays would come and they would stop anyway, there was no valid reason to permit Shabbos work.

Finally, the Divrei Chaim (OC, end of 48) stated flatly that there is "no side of leniency whatsoever" to build even on *Chol HaMoed* through a public announcement. He called it a *heter shel shtus*, a foolish leniency, and rebuked the rabbi who permitted it.



## THE P'SAK

Every proposed leniency collapses: eivah doesn't apply, announcements don't help, and kabblanus is a fiction.

The Maharsham agrees with the Rav on every point, and rules firmly against the rabbanim who wanted to allow it.

He writes: "There is no side of leniency in this. It should be buried and never spoken of again."



## HISTORICAL CONTEXT

A government courthouse has burned. The local judge is leaning on the Jewish community. And some of the community's own rabbis are ready to cave.

What makes this ruling especially striking is the Maharsham's reputation. He was well known for not being unnecessarily machmir, in many ways similar to Rav Moshe Feinstein in our generation. If there was room for leniency, he would find it. So when he says there's no room here, it tells you something about how clear-cut this case really was.

Here, he does not give weight to the political consequences. He doesn't ask what might happen if the judge retaliates. The question is about halachah, and that's what he answers.

**His words toward the rabbis who proposed the scheme are sharp: heter shel shtus. A foolish leniency. He had no patience for legal fictions designed to give cover to what everyone in town knew was Shabbos desecration under Jewish auspices.**

### KEY TERMS

**Kabblanus** – Independent contract work, as opposed to day labor; a key halachic distinction when non-Jews do work for a Jew on Shabbos

**Amirah l'akum** – Asking a non-Jew to do forbidden work on Shabbos on your behalf

**Chillul Hashem** – Desecration of God's Name; can be a Torah-level or derabannan prohibition depending on context

**Eivah** – Hostility from the authorities; sometimes invoked to justify otherwise prohibited actions to keep the peace

### FOR THE SHABBOS TABLE

- At what point does keeping the peace with the authorities become a betrayal of principle?
- Would you have stood against the judge, knowing there could be consequences for the entire Jewish community?
- What would that "announcement scheme" look like today? Can you think of a modern equivalent?





## WHO WAS THE MAHARSHAM?

Rabbi Shalom Mordechai HaKohen Schwadron (1835–1911) served as the Rav of Brezhan in Galicia for over 40 years. He is best known for his seven-volume *Shut Maharsham*, containing thousands of teshuvos on every area of halachah, and his *Da'as Torah* commentary on *Shulchan Aruch*. Regarded as one of the foremost poskim of his generation, his rulings are cited in halachic works to this day.

**Coming next week: A flash flood destroys a village, and a wife waits to learn if her husband survived.**

## PRINCIPAL SOURCES CITED

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Gemara: Avodah Zarah 16a, 19b, 26a; Yevamos 119a; Kiddushin 81a; Eruvin 64a; Bava Metzia 42a, 87b; Bechoros 13b; Bava Basra 42a

Rishonim: Tosafos (AZ 19b, 26a; BM 87b; Bechoros 13b); Rambam (Peirush HaMishnayos, AZ 1); Rif Shulchan Aruch & Nosei Keilim: Rema (OC 243); Magen Avraham (OC 246); Machatzis HaShekel (OC 244:8); Chelkas Mechokek (EH 28:21); Beis Shmuel (EH 28:5); Tosefes Shabbos (OC 539); Sma (CM 234:2)

Acharonim: Chasam Sofer (OC 59, 60, 61; Likutei VI:43); Divrei Chaim (OC III:121, OC 48); Maharam Schick (OC 100); Mahari HaLevi (brother of Taz, siman 10)

When the law is clear, no amount of communal pressure or creative restructuring can manufacture a heter. The posek's role is sometimes to say no: firmly, publicly, and without apology.

**This translation is presented for Torah study and enrichment purposes only. It is not intended as halacha l'maaseh. The translator has made every effort to render the Maharsham's words faithfully, but this English adaptation may contain errors or imprecisions. For any practical halachic question, consult your own Rav.**

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